

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

House Bill 80 (Delegate Glassman, *et al.*)
 Environmental Matters

Agriculture - Nutrient Management Plans - Applicability

This bill increases the minimum annual gross income, from \$2,500 to \$10,000, of an agricultural operation subject to the nutrient management plan requirements of the Water Quality Improvement Act (WQIA) of 1998.

Fiscal Summary

State Effect: General fund expenditure decrease of an estimated \$100,400 annually due to a decrease in State cost sharing for nutrient management plans.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	(100,400)	(100,400)	(100,400)	(100,400)	(100,400)
Net Effect	\$100,400	\$100,400	\$100,400	\$100,400	\$100,400

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: Meaningful.

Analysis

Current Law: WQIA of 1998, as amended by Chapter 485 of 2000, provides for a variety of measures aimed at improving water quality throughout the State, including the development of nutrient management plans. Agricultural operations with at least \$2,500 in gross income and livestock operations with at least eight animal units (as defined in accordance with federal regulations) using chemical fertilizer must have a phosphorus-

and nitrogen-based nutrient management plan by December 31, 2001, and must implement it by December 31, 2002. Agricultural operations using sludge or animal manure must have a nitrogen-based nutrient management plan by December 31, 2001, and must implement it by December 31, 2002. Agricultural operations using sludge or animal manure must have a phosphorus and nitrogen-based nutrient management plan by July 1, 2004, and must implement it by July 1, 2005.

Farmers were able to achieve compliance with the first deadline by submitting a nutrient management plan created by a “certified nutrient management consultant” to the Maryland Department of Agriculture (MDA) by December 31, 2001. Farmers may have their plan developed by a University of Maryland Cooperative Extension Service (UMCES) consultant for free. State cost sharing under the Nutrient Management Cost Share (NMCS) program is available to farmers who have their plans developed by private nutrient management consultants. Alternatively, farmers were able to submit to MDA a “Justification for Delay” form signed by a certified nutrient management consultant indicating an approximate time the plan will be completed.

Farmers not meeting the requirements of WQIA are subject to various sanctions, including administrative penalties, repayment of cost sharing funds, and civil penalties. All penalties are paid into the Maryland Agricultural Water Quality Cost Share Program within MDA.

Background: For a variety of reasons, including a dearth of certified consultants and problems with public awareness, many agricultural operations did not meet the December 31, 2001 deadline for submitting a plan or the December 31, 2002 deadline for implementing a plan. MDA estimates that nutrient management plans are required for 9,000 farms covering approximately 1.5 million acres. As of December 31, 2002, MDA had received 3,994 nutrient management plans for the management of 701,245 acres. Additionally 2,710 Justification for Delay forms were submitted covering 582,422 acres. Accordingly, only 44% of farm operations subject to WQIA is technically in compliance with the law.

Several bills were introduced during the 2002 session in an attempt to address the WQIA implementation problems; however, none of them passed. The bills contained provisions that would have, among other things, exempted certain farmers from the plan requirements, extended the deadlines for farmers to develop plans, provided farmers with the opportunity to be taught to prepare their own plans, and/or provided a grace period from penalties.

State Revenues: To the extent that exempting specified agricultural operations from the requirements of WQIA results in a decrease in penalties assessed for noncompliance,

special fund revenues will decrease. Although a significant number of agricultural operations are not in compliance with WQIA, the extent to which MDA will assess penalties under current law is unknown. To date, MDA has not assessed any penalties for noncompliance.

State Expenditures: By exempting specified farms from WQIA, the bill could result in a general fund expenditure decrease of an estimated \$100,400 under the NMCS program. This estimate is based on the following assumptions:

- about 1,858 farmers would become exempt from WQIA (about 2,916 farms generate \$2,500 to \$9,999 in gross income; of these, an estimated 1,058 will remain subject to plan requirements based on the animal unit criteria under current law);
- none of those farmers have developed plans to date;
- an estimated 25% of the farmers (465), in the absence of this bill, would hire private consultants to develop their plans (and be eligible for State cost sharing);
- farms with sales from \$2,500 to \$9,999 average 54 acres in size; and
- average per acre costs of plans developed under the cost-share program total \$4 per acre.

The Governor's proposed budget for fiscal 2004 includes \$871,127 in general funds for the NMCS program.

Legislative Services advises that because the bill exempts an estimated 1,858 farmers from WQIA, costs for MDA with respect to reviewing and enforcing plans could decrease. MDA did not provide any information relating to its current expenditures for those activities; accordingly, any such decrease cannot be reliably estimated at this time.

Small Business Effect: Most farms are small businesses. An estimated 1,858 farmers (those that generate from \$2,500 to \$9,999 in gross income and that do not meet the animal unit criteria under current law) would become exempt from WQIA. The bill could also affect private certified consultants; under this bill, approximately 465 farmers would no longer need their services.

Additional Information

Prior Introductions: HB 984/SB 303 of 2002, among other things, would have increased the minimum annual gross income of farmers subject to WQIA from \$2,500 to \$10,000. HB 984 passed the House and the Senate with amendments but no further action was taken. SB 303 received an unfavorable report from the Senate Education,

Health, and Environmental Affairs Committee. HB 778 of 2002 would have increased the minimum annual gross income threshold from \$2,500 to \$5,000. HB 778 received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Maryland Department of the Environment, Department of Legislative Services

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Analysis by: Lesley Frymier

Direct Inquiries to:
(410) 946-5510
(301) 970-5510