

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

House Bill 1140 (Delegate Conroy, *et al.*)
 Environmental Matters

Natural Resources - Waterway Improvement Trust Fund

This bill: (1) renames the Waterway Improvement Fund (WIF) within the Department of Natural Resources (DNR) as the Waterway Improvement Trust Fund (WITF); (2) expands the allowable uses of the fund to allow DNR to provide grants to private marina operators, related businesses, and commercial boat brokers for the mitigation, containment, and abatement of environmental hazards; (3) beginning in fiscal 2005, prohibits DNR from using more than 10% of the money in the fund for DNR’s general administrative expenses; and (4) provides that proceeds of bonds issued under the State Boat Act may be used for the expenses of issuing, selling, and delivering the bonds.

Fiscal Summary

State Effect: Special fund administrative expenditure increase of \$66,000 in FY 2004, exclusive of grant awards to private entities. Future year estimates are annualized, adjusted for inflation, and reflect ongoing operating expenses. The bill would redirect approximately \$2 million annually in grant funding from public projects to private projects. The impact on State finances of limiting the use of WIF for administrative expenses beginning in FY 2005 cannot be reliably estimated at this time.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	-	-	-	-
SF Expenditure	66,000	62,600	65,900	69,400	73,300
Net Effect	(\$66,000)	(\$62,600)	(\$65,900)	(\$69,400)	(\$73,300)

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

Local Effect: Local revenues from WIF for public boating projects would decrease.

Small Business Effect: Meaningful.

Analysis

Current Law: Except for specified exemptions, the State Boat Act provides that WIF may be used solely for the following projects: (1) marking channels and harbors and establishing aids to navigation in cooperation with and as an extension of operations of the U.S. Coast Guard; (2) clearing debris, aquatic vegetation, and obstruction from waters of the State; (3) dredging channels and harbors and construction of jetties and breakwaters in cooperation with and as an extension of operations of the U.S. Army Corps of Engineers; (4) constructing and maintaining marine facilities beneficial to the boating public; (5) improvement, reconstruction, or removal of bridges, drawbridges, or similar structures over or across waters, if those structures delay, impede, or obstruct the boating public; (6) evaluation of water-oriented recreation needs and recreational capacities of Maryland waterways and development of comprehensive plans for waterway improvements; (7) matching grants to local governments for the construction of marine facilities for marine firefighting, marine police, or medical services and for the acquisition of vessels and equipment for vessels for those purposes; (8) structural and nonstructural shore erosion control; (9) acquisition of equipment and State vessels for firefighting, policing, first aid and medical assistance, and communications; (10) boating information and education; and (11) interest-free loans to a governing body for specified dredging.

Up to \$350,000 of revenues from the vessel excise tax may be used for administration and enforcement of the State Boat Act; the remainder of those funds (less \$225,000 which is paid into the general fund) must be deposited in WIF and used for the purposes specified above. DNR may spend a total of up to \$225,000 from WIF, without legislative approval, for certain small projects and for boating safety and education. DNR may propose in its annual budget an appropriation of not more than \$1 million from WIF to support marine operations in the Natural Resources Police. For fiscal 2003 and 2004, as provided in the State budget, DNR may use up to 50% of the money in WIF for administrative expenses directly relating to implementing the purposes of WIF.

Background: WIF serves the boating public by funding projects that mark channels, clear debris, build and maintain boat facilities, improve bridges that may obstruct boats, and other activities. Financial support for WIF comes primarily from the vessel excise tax and 0.3% of eligible proceeds from Maryland's motor fuel tax. Estimated fiscal 2004 revenues to WIF total approximately \$27 million.

Concern has been raised in recent years regarding the use of funds by DNR from WIF. First, as provided in recent State budgets, DNR has used money from WIF for administrative and other expenses of DNR's Licensing and Registration Service. While current law allows up to \$350,000 in proceeds from the vessel excise tax to be appropriated for enforcement of the State Boat Act, including collection of the tax, the remainder of those proceeds (less \$225,000 which is paid into the general fund) are to be deposited in WIF and may only be appropriated for the purposes specified above, which do not include administrative and other expenses of the service. Second, a February 2002 audit report found that DNR spent money from WIF for administrative and enforcement costs in excess of that \$350,000 annual limit.

Due in part to those concerns, committee narrative in the 2002 *Joint Chairmen's Report* requested the establishment of a workgroup to study DNR's special funds, the statutory requirements for each fund, the appropriate level of administrative expenses to be deducted from each fund, streamlining measures that could be taken to reduce the special fund tracking burden on DNR, and whether DNR is using its special funds appropriately. The workgroup is expected to report its recommendations to the budget committees by December 1, 2003. As a temporary solution, for fiscal 2003 and 2004, DNR is authorized to use up to 50% of the money in WIF for administrative expenses directly relating to implementing the purposes of WIF.

State Expenditures: The bill has several impacts on DNR finances. First, by expanding the allowable uses of the fund, the bill would redirect funding from public projects to private projects. Second, in order to handle the increased workload resulting from expanding the allowable uses of the fund, special fund expenditures would increase. It is unclear to what extent DNR's expenditures will be affected by the bill's provision limiting the use of the special fund for administrative expenditures; it could result in either a decrease or increase in general fund expenditures for those purposes.

Redirecting funds from public entities to private entities

There are approximately 600 private marinas and boatyards in the State. According to DNR, the majority of these businesses, as well as commercial boat brokers, likely have the need to mitigate, contain, and abate environmental hazards such as paint chips from cleaning boat bottoms. Based on estimated costs of about \$30,000 per facility to contain hazardous paint chips, DNR advises that demand for grants for those activities could total \$18 million annually. Based on estimated demand, DNR anticipates a funding level of approximately \$2 million annually. Total WIF finances would not be affected; DNR would redirect about \$2 million in funding from public projects.

Operating costs to accommodate increased grant activity

In order to handle the additional grant requests anticipated, special fund expenditures could increase by an estimated \$66,000 in fiscal 2004, which accounts for the bill's October 1, 2003 effective date. This estimate reflects the cost of hiring one grants specialist to focus on grants to private entities as authorized by the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate includes costs related to travel, training, and contractual services for advertising, printing, software, and rental equipment necessary to conduct needs assessments.

Salary and Fringe Benefits	\$37,500
Auto Purchase/Operations	17,000
Equipment/Operating Expenses	<u>11,500</u>
FY 2004 State Operating Expenditures	\$66,000

Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Limiting the use of WIF for administrative expenditures

It is unclear to what extent DNR's finances would be affected by the bill's provision that limits, beginning in fiscal 2005, the use of WIF for general administrative expenditures. Under current law, in fiscal 2005, DNR is authorized to spend up to \$350,000 of the revenues from the vessel excise tax for administration and enforcement of the State Boat Act; the remainder of those revenues (except for \$225,000 which is paid into the general fund) must be deposited into WIF and used for the purposes specified in statute. DNR is limited to spending \$1 million from WIF to support marine operations in the Natural Resources Police. However, as described in the Background section of this fiscal note, in the past, in accordance with previous budgets, DNR has consistently spent significantly more on administrative expenditures than is authorized by statute.

Based on current law for fiscal 2005, the bill's provision that limits the use of WIF for administrative purposes to 10% would result in an increase in special fund expenditures for those purposes, resulting in a corresponding decrease in general fund expenditures for those activities. However, based on previous DNR practice, the 10% limitation would result in a significant decrease in special fund expenditures for administrative purposes, resulting in a corresponding increase in general fund expenditures for those activities. The appropriate baseline from which to measure the bill's impact is unclear at this time. The DNR Special Funds Workgroup is expected to address this issue during the 2003 interim.

Use of bond proceeds

The bill's provision relating to the use of bond proceeds is not anticipated to have an immediate impact on DNR. DNR advises that it currently does not plan to sell bonds to finance projects under WIF.

Local Fiscal Effect: Local jurisdictions receive assistance from WIF to finance the completion of public boating access, navigation, and boating safety projects. Local revenues for such projects will decrease to the extent DNR provides grants to private entities in accordance with the bill. The total amount of funding redirected from public projects (both State and local) to private projects is anticipated to total about \$2 million annually.

Small Business Effect: Private marina operators, related businesses, and commercial boat brokers would be eligible to apply for grants from WIF for the mitigation, containment, and abatement of environmental hazards. Based on information provided by DNR, the anticipated level of grant activity is estimated at about \$2 million annually.

Additional Comments: The proposed Budget Reconciliation and Financing Act of 2003 (HB 935/SB 657) would redirect \$8 million in unexpended fiscal 2003 special funds from WIF to the general fund. In addition, \$10 million in fiscal 2004 special fund revenues would be transferred to the general fund. Finally, the bills allow DNR to use 100% of WIF funds in fiscal 2003 and 2004 for administrative expenses relating to implementing the purposes of WIF.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Department of Legislative Services

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lc/jr

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