

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 538 (Delegate Conway, *et al.*)
 (Department of Natural Resources Special Funds Workgroup)

Environmental Matters Education, Health, and Environmental Affairs

State Boat Act - Waterway Improvement Fund - Authorized Uses

This bill repeals provisions that: (1) require the Department of Natural Resources (DNR) to deposit \$225,000 of funds collected from the vessel excise tax in the general fund; (2) limit DNR's use of funds collected from the vessel excise tax for enforcement of the State Boat Act to \$350,000 annually; and (3) limit appropriations from the Waterway Improvement Fund (WIF) for marine operations of the Natural Resources Police (NRP) to \$1 million annually. The bill authorizes DNR to propose an appropriation from WIF to support NRP marine operations not exceeding \$1.7 million in fiscal 2006 and \$2 million annually thereafter.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: General fund revenue decrease of \$225,000 annually beginning in FY 2006; special fund revenues would increase correspondingly. The bill does not require additional expenditures.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	(\$225,000)	(\$225,000)	(\$225,000)	(\$225,000)	(\$225,000)
SF Revenue	225,000	225,000	225,000	225,000	225,000
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$0	\$0	\$0	\$0	\$0

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

Local Effect: While the bill would not directly affect local operations or finances, the bill could increase the amount of funds available from WIF for local waterway improvement projects.

Small Business Effect: Minimal.

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 NRP marine operations.

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.

Concern has been raised in recent years regarding the use of WIF monies by DNR. First, as provided in recent State budgets, DNR has used money from WIF for administrative 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) is 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 reported its findings and recommendations to the budget committees in January 2004. Among other things, the workgroup recommended that legislation be proposed to repeal obsolete provisions of the State Boat Act and increase the statutory amount of WIF monies that may be used for NRP marine operations. First, statute currently dictates that \$225,000 from vessel excise tax collections be paid to the Comptroller to be placed in the general fund; this provision was originally established to offset the Comptroller's costs of collecting the tax. However, the tax is no longer collected by the Comptroller; it is collected by DNR. Accordingly, the workgroup recommended repealing this provision. Second, statute provides that DNR may use up to \$350,000 for enforcement of the State Boat Act, including collection of the excise tax. Because the workgroup is recommending an increase in the statutory limit for NRP marine operations, the workgroup recommended that this provision also be repealed. Third, the workgroup advises that the \$1 million limit on the use of WIF for NRP marine operations was established 10 years ago and, as a result, has been exceeded in State budgets; the workgroup recommended increasing the statutory limit to address inflationary pressures. This bill is a direct result of those recommendations.

State Fiscal Effect: By repealing the provision that requires DNR to deposit \$225,000 of funds collected from the vessel excise tax into the general fund, general fund revenues would decrease by \$225,000 annually beginning in fiscal 2006; special fund revenues into WIF would increase correspondingly.

By repealing the provision that allows DNR to use up to \$350,000 annually from vessel excise tax collections for enforcement of the State Boat Act, special fund revenues to the State Boat Act Account will decrease by \$350,000 annually beginning in fiscal 2006 and special fund revenues to WIF would increase correspondingly. Therefore, this provision has no net impact on DNR finances.

The bill repeals the current statutory limit regarding the use of WIF monies for NRP marine operations and authorizes DNR to propose an appropriation from WIF of up to \$1.7 million in fiscal 2006 and \$2 million annually thereafter for those activities. Although the statutory limit is currently \$1 million, the fiscal 2005 budget includes

\$1.5 million in WIF monies for NRP field operations. Assuming that, in the absence of the bill, future year legislative appropriations would be similar to the fiscal 2005 budget, the bill's changes would result in an increase in WIF funds used for NRP marine operations of an estimated \$200,000 in fiscal 2006 and an estimated \$500,000 annually thereafter. These estimates assume that, under the bill's provisions, the legislative appropriation would be equal to the maximum limit. Because these changes just modify DNR's use of WIF monies, however, the changes have no net impact on WIF finances.

The net effect of the bill's provisions is that additional funds would be available for the specific statutory activities for which WIF was originally established.

Additional Comments: Legislative Services notes that, in addition to this bill, the workgroup also recommended annual budget language that would direct DNR to reduce the percentage of available WIF monies used for administrative purposes over the next five years as follows: 8% in fiscal 2006, 6% in fiscal 2007, 4% in fiscal 2008, 2% in fiscal 2009, and 0% in fiscal 2010. Currently, DNR applies an administrative cost rate of approximately 10% to WIF. SB 508, the Budget Reconciliation and Financing Act of 2004, incorporated the phase-out recommendation.

Additional Information

Prior Introductions: None.

Cross File: SB 452 (Senator Astle) (Department of Natural Resources Special Funds Workgroup) – Education, Health, and Environmental Affairs.

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

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Analysis by: Lesley Cook

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