

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 576

(Delegates Stull and Cane)

Environmental Matters

Education, Health, and Environmental
Affairs

Department of Agriculture - Water Pollution Control - Cost Sharing

This bill repeals a requirement that a person who executes a cost-share agreement with the Maryland Department of Agriculture (MDA) pay the full amount of State cost-sharing funds paid for best management practices (BMPs) that are not implemented or maintained. Under the bill, MDA is authorized to determine the amount that the person must pay for failing to establish or maintain a BMP under the cost-sharing program for water pollution control.

Fiscal Summary

State Effect: The bill allows MDA to determine the amount of repayment for failure to maintain BMPs in accordance with a cost-share agreement. Based on minimal collections in recent years, the bill is not expected to significantly affect State revenues. Expenditures would not be affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A person who executes a cost-share agreement with MDA is required to pay the full amount of State cost-sharing funds paid for BMPs that are not implemented or maintained.

The Attorney General, at the request of MDA, may institute appropriate legal action to enforce the terms of all water quality cost-share agreements.

Background: The Maryland Agricultural Water Quality Cost Share Program (MACS) was established in 1983 in order to help farmers pay the cost of installing pollution control practices that protect water quality. MACS provides farmers with grants to cover up to 87.5% of the cost to install BMPs on their farms to control soil erosion, manage nutrients, and safeguard water quality in streams, rivers, and the Chesapeake Bay.

The cost of installing a BMP varies from project to project and farm to farm and depends on a number of factors. However, as shown below, there are maximum levels of funding MACS can provide by law.

Animal Waste Treatment and Containment Projects

- Up to \$75,000 per farm, with a maximum of \$100,000 per farm when combined with other BMPs.
- Up to \$75,000 per project under a pooling agreement to solve a pollution problem on two or more farms.

All Other BMPs

- Up to \$20,000 per project, with a maximum of \$50,000 per farm.
- Up to \$40,000 per project under a pooling agreement to solve a pollution problem on two or more farms.

State Fiscal Effect: Landowners that originally install BMPs are responsible for the maintenance of those BMPs for a specific period of time depending on the practice. For example, an animal waste management facility has a maintenance life of 15 years. This commitment is in the agreement for cost-share assistance that the landowner signs in the application phase of the project. If ownership of the farm changes, it is the responsibility of the original landowner to make sure the new landowner assumes that responsibility. If that cannot be accomplished, the original owner is responsible for returning the full cost-share payment to the State regardless of the maintenance life span left for the BMP. If the original bond is still open, then the funds are returned to that fund, if not, the payment goes back to the general fund.

However, MDA advises that it has been difficult to pursue collections in past years to any degree due to a lack of staff resources. MDA does conduct an annual 10% spot check of properties for BMP status and maintenance. If a change in ownership is noted since the

last check, MDA attempts to correspond with the previous owner to ascertain if there has been a transfer of responsibility for the BMPs on the property. If the original landowner cannot be located, which is often the case if they have moved out of State, then the only recourse is to work with the new landowner to explain the importance of the BMPs that are installed on the property.

Because the bill does not repeal the repayment requirement, but rather gives MDA discretion as to the amount of repayment, the bill is not expected to significantly affect State revenues.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 20, 2005
n/ljm

Analysis by: Michael Sanelli

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