

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

Senate Bill 996 (Senator Giannetti)
 Education, Health, and Environmental Affairs

On-Site Sewage Disposal Systems and Holding Tanks - Licensing

This bill establishes provisions regarding the licensing of persons involved with the design, installation, pumping, servicing, or inspection of on-site sewage disposal (septic) systems or holding tanks by the Maryland Department of the Environment (MDE). The license fee is \$150, and licenses are valid for three years. MDE must develop performance standards and, beginning January 1, 2007, must inspect septic systems and tanks for compliance with those standards. The bill also establishes requirements for installers of septic systems and tanks. MDE must adopt regulations to implement the bill.

Fiscal Summary

State Effect: General fund revenue increase of at least \$112,500 in FY 2006 from license fees, reflecting half the anticipated licensees. Future year revenues reflect the additional licensees in FY 2007 and three-year renewals. General fund expenditure increase of \$144,000 in FY 2006 to begin implementing the licensing program. Future year expenditures are annualized, adjusted for inflation, and reflect ongoing operating costs as well as additional costs to hire inspectors and enforcement personnel in FY 2007.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	\$112,500	\$112,500	-	\$112,500	\$112,500
GF Expenditure	144,000	2,258,700	2,119,400	2,249,500	2,389,800
Net Effect	(\$31,500)	(\$2,146,200)	(\$2,119,400)	(\$2,137,000)	(\$2,277,300)

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

Local Effect: The impact of the bill on local health departments, which currently have delegated authority over on-site systems, is unclear at this time.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill provides that it is the intent of the General Assembly that the bill establish an effective program for enhancing the efforts begun with the establishment of the Bay Restoration Fund and for preventing, abating, and controlling pollution of the waters of the State.

Except for specified persons, a person must be licensed by MDE before the person may design, install, pump, service, or inspect a septic system or holding tank. MDE is authorized to require that other entities performing services on such systems or tanks also be licensed. MDE is directed to establish education, training, and any other reasonable requirements for licensing applicants. MDE is also required to establish continuing education requirements for licensees.

The bill establishes provisions regarding applications. The bill authorizes MDE to deny a license or license renewal or suspend or revoke a license under specified conditions. The bill provides for reciprocity with other states under specified conditions. The license fee must be waived for specified individuals. Specified farmers and environmental sanitarians are exempt from the licensing requirements.

MDE must develop performance requirements for all septic systems and holding tanks; the performance requirements must meet or exceed generally accepted industry standards and must comply with any applicable federal law or regulation. The bill does not prohibit a political subdivision from adopting performance standards stricter than those adopted under the bill.

For any septic system or holding tank constructed or installed beginning January 1, 2007, and before the transfer of property from one owner to another beginning on that date, MDE must inspect the system or tank for compliance with the performance requirements. The inspections must be conducted by inspectors licensed in accordance with the bill. The bill provides for reinspections for systems or tanks that fail the original inspection. MDE is charged with assessing penalties for systems or tanks that fail a number (to be specified in regulation) of inspections.

Beginning January 1, 2006, an installer must contract with the property owner to provide service and maintenance for the system or tank for a period of at least three years; the installer also must provide the property owner with written information on the operation, service, and maintenance of the system or tank.

Current Law: Local health departments implement State regulations regarding septic systems through delegation agreements with MDE. The local approving authority performs site evaluations, reviews plans, inspects systems installations, inspects liquid waste haulers, and investigates complaints. MDE provides technical assistance on certain sites, reviews and represents the approving authority on contested cases, and pursues enforcement or compliance on cases unresolved by the approving authority. MDE also approves courses of study that individuals inspecting septic systems during property transfers must attend. In addition, MDE certifies all installers of sand mound septic systems. MDE does not currently license the entities required to be licensed under the bill; however, some counties require that septic system installers be licensed.

Background: Chapter 428 of 2004 established the Bay Restoration Fund within MDE. The main goal of the fund is to provide grants to owners of wastewater treatment plants to reduce nutrient pollution to the Chesapeake Bay. Another purpose of the fund is to provide grants and loans for the costs attributable to upgrading a septic system to the best available technology (BAT) for the removal of nitrogen, or for the cost difference between a conventional system and a system that uses BAT. As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of wastewater treatment plants, septic systems, and sewage holding tanks.

Based on information provided by the Maryland Department of Planning, there are currently over 421,000 septic systems and sewage holding tanks in the State.

State Revenues: Based on information provided by MDE regarding the number of entities registered to conduct septic system inspections and the number of entities certified to install sand mounds, at least 1,500 entities would need to be licensed under the bill. Assuming MDE would license half of those entities in fiscal 2006 and half in fiscal 2007, at \$150 per license, license fee revenues would total \$112,500 in fiscal 2006 and 2007. Because licenses would be renewed every three years, revenues from renewal fees would total \$112,500 in fiscal 2009 and 2010. (Although it is not clearly stated in the bill, it is assumed that the \$150 license fee would also apply to renewals.) These estimates assume that no additional licenses are issued in any given year; however, MDE advises that other entities likely exist that would need to be licensed. In addition, the bill itself could result in an increase in the number of businesses engaged in affected activities. Accordingly, revenues from license fees could be higher.

Revenues could also increase to the extent any penalties are assessed under the bill. The bill does not specify any penalty amounts, so the magnitude of any revenues from penalties cannot be gauged at this time.

Legislative Services notes that the bill does not specify where license fees or penalties would be deposited. In the absence of a provision directing such revenues to any special fund within MDE, it is assumed that such revenues would be deposited in the general fund.

State Expenditures: General fund expenditures could increase by an estimated \$144,018 in fiscal 2006, which accounts for the bill's October 1, 2005 effective date. This estimate reflects the cost of hiring one full-time and one part-time administrative officer to administer the licensing program. It also reflects the cost of hiring two sanitarians to develop education and training programs and to develop continuing education requirements, performance standards, and inspection procedures. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$133,116
Equipment/Operating Expenses	<u>10,902</u>
Total FY 2006 State Expenditures	\$144,018

However, the Department of Legislative Services advises that a significant portion of the costs associated with this bill will be incurred in later fiscal years. Fiscal 2007 expenditures could total approximately \$2.2 million, which reflects costs to hire 34 sanitarians to conduct the inspections required by the bill, as well as two additional staff (one assistant attorney general and one sanitarian) to conduct enforcement activities. The fiscal 2007 estimate assumes a hiring date of November 1, 2006 for these additional staff. The information and assumptions used in calculating the estimate are stated below:

- over 27,000 inspections would be required each year;
- each inspector could perform 4 inspections per day;
- inspections would be conducted 200 days per year; and
- each inspector would need a vehicle.

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Small Business Effect: At least 1,500 small businesses (those that design, install, pump, service, or inspect septic systems and holding tanks) would be required to obtain licenses under the bill and meet any education, training, or other requirements established by

MDE. By establishing specific performance standards, providing for inspections, and requiring that installers contract with property owners to provide service and maintenance for a period of at least three years, the bill could result in an increase in demand for the services provided by those entities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Maryland Department of Planning, Maryland Association of Counties, Department of Legislative Services

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