

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

House Bill 1321 (Delegates Walkup and Sossi)
 Environmental Matters

**Environment - Bay Restoration Fund - Onsite Sewage Disposal Systems
 Exemption**

This bill modifies the definition of “user” within the Bay Restoration Fund Act to exclude a person discharging wastewater into an onsite sewage disposal (septic) system or sewage holding tank that is consistently operated and maintained by the person in accordance with State law and regulations. This change exempts these individuals from the requirement to pay the bay restoration fee established by Chapter 428 of 2004.

Fiscal Summary

State Effect: Special fund revenues could decrease by an estimated \$10.4 million in FY 2007 and \$10.8 million annually thereafter. Special fund expenditures could decrease by an estimated \$3.6 million in FY 2007 and by \$10.1 million annually beginning in FY 2009. General fund expenditure increase of approximately \$2.7 million in FY 2007 for the Maryland Department of the Environment (MDE); future years reflect annualization and inflation.

(\$ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	(\$10.4)	(\$10.8)	(\$10.8)	(\$10.8)	(\$10.8)
GF Expenditure	2.7	2.5	2.6	2.7	2.9
SF Expenditure	(3.6)	(8.5)	(10.1)	(10.1)	(10.1)
Net Effect	(\$9.5)	(\$4.7)	(\$3.3)	(\$3.4)	(\$3.6)

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

Local Effect: Counties may realize administrative savings from a reduction in billings. Financial assistance provided by MDE to counties for upgrading septic systems would decrease significantly.

Small Business Effect: Meaningful.

Analysis

Current Law/Background: Chapter 428 of 2004 established the Bay Restoration Fund to be administered by the Maryland Water Quality Financing Administration (WQFA) within MDE. The main goal of the fund is to provide grants to owners of wastewater treatment plants (WWTPs) to reduce nutrient pollution to the Chesapeake Bay. As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks.

The fee is \$2.50 per month (\$30 annually), for each residential dwelling that receives an individual sewer bill and for each user of a septic system or sewage holding tank that receives a water bill. For a building or group of buildings under single ownership or management that contain multiple residential dwellings that do not receive an individual sewer bill, or for a nonresidential user, Chapter 428 established a sliding fee scale based on the volume of wastewater generated; the fee is \$2.50 per month (\$30 annually) for each “equivalent dwelling unit” (EDU), generally 250 gallons of wastewater effluent generated daily, up to 3,000 EDUs, and \$1.25 per month (\$15 annually) for each EDU exceeding that threshold and up to 5,000 EDUs. Based on that “cap,” the maximum fee is \$120,000 annually. The maximum fee for a single site is \$120,000. The fees described above, which are to be collected through water and sewer bills, took effect January 1, 2005.

The fee for each user of a septic system or a sewage holding tank that does not receive a water bill is \$30 per year, effective October 1, 2005.

Certain users, including local governments, are exempt from the fee. Subject to approval by WQFA, a local government or a billing authority for a water or wastewater facility is authorized to establish a program to exempt a residential dwelling able to demonstrate substantial financial hardship.

After a deduction by billing authorities for administrative costs, fee revenue from WWTP users will support the issuance of bonds to provide the additional revenue needed to provide grants to WWTP owners for the upgrades. Other allowable uses of the revenue collected from WWTP users include grants for sewer infrastructure projects, grants to offset a portion of operation and maintenance costs associated with enhanced nutrient removal technology, and administrative expenses. Of the revenue collected from users of septic systems and sewage holding tanks, 60% must be deposited into a separate account within the fund to provide grants and loans to septic system owners for upgrades of

failing septic systems, while 40% must be transferred to the Maryland Agricultural Water Quality Cost Share (MACS) Program within the Maryland Department of Agriculture (MDA) to provide financial assistance to farmers for cover crops.

According to MDE, there are no State regulations that pertain specifically to the operation and maintenance of septic systems and sewage holding tanks.

State Revenues: Special fund revenues from the bay restoration fee could decrease by an estimated \$10.4 million in fiscal 2007 and \$10.8 million annually thereafter due to the bill's changes. Because there are no State regulations that pertain specifically to the operation and maintenance of septic systems and sewage holding tanks, MDE advises that, under the bill, only those systems identified as having an illegal discharge would be required to pay the bay restoration fee. MDE advises that an estimated 90% of systems statewide are assumed to be operational and would thus no longer be subject to the fee.

Because the bay restoration fee on users of septic systems and sewage holding tanks was just fully phased in as of October 1, 2005, a full year of fee collections has not yet accrued to the fund. Accordingly, a precise estimate of the revenue loss under the bill cannot be made. However, based on MDE's current revenue projections, once fully implemented, gross fee collections from users of septic systems and sewage holding tanks will total an estimated \$12.6 million annually; this estimate assumes that approximately 420,000 users of septic systems and sewage holding tanks statewide will pay \$30 annually. The estimate does not account for the exemption under current law applicable to local governments because the number of locally-owned septic systems is unknown.

After local administrative costs are deducted, revenues to the Bay Restoration Fund in MDE are projected to total \$7.2 million annually, and revenues to MACS in MDA are estimated to total \$4.8 million annually. Assuming 90% of those currently subject to the fee would become exempt under the bill, beginning in fiscal 2008, special fund revenues within MDE would decrease by an estimated \$6.5 million annually and special fund revenues within MDA would decrease by an estimated \$4.3 million annually.

MDE advises that three counties (Anne Arundel, Baltimore, and Montgomery) have not yet billed users of septic systems and sewage holding tanks that do not receive water bills. Accordingly, in fiscal 2007, those counties will be billing such users for fees due from October 1, 2005 through the billing date. As a result, gross revenues are estimated to total \$14.8 million in fiscal 2007. After local administrative costs are deducted, net revenues to MDE will total an estimated \$8.5 million in fiscal 2007, and net revenues to MDA will total an estimated \$5.6 million in fiscal 2007. Under the bill, because it will take some time for MDE to inspect systems to determine which are failing, it is assumed

that, after the bill's October 1, 2006 effective date, fees would be collected from only 2% of entities currently subject to the fee. Accounting for the bill's October 1, 2006 effective date, in fiscal 2007, net revenues to MDE would decrease by an estimated \$6.2 million, and net revenues to MDA would decrease by an estimated \$4.1 million.

State Expenditures:

Special Fund Expenditures:

The Governor's proposed fiscal 2007 budget includes approximately \$5.8 million in special funds related to the programs affected by the bill. The budgeted amount reflects approximately \$970,000 for MDE (\$500,000 for grants and loans for septic system upgrades and \$470,000 in operating expenses, including costs for four existing full-time-equivalent positions) and \$4.8 million for MDA's Cover Crop Program (including costs for two existing positions). Out-year expenditures are currently anticipated to total approximately \$6.5 million annually for MDE (including approximately \$500,000 in operating costs and \$6.0 million for grants and loans) and \$4.8 million annually for MDA's Cover Crop Program.

Under the bill, because fee revenue would be significantly reduced, special fund expenditures would also decrease significantly. Based on the anticipated revenue stream under the bill, and accounting for the fact that MDE is statutorily limited to spending no more than 8% of its fee revenue for administrative purposes, special fund expenditures within MDE could decrease by approximately \$290,600 in fiscal 2007; \$4.2 million in fiscal 2008; and \$5.8 million annually thereafter. Special fund expenditures within MDA could decrease by an estimated \$3.3 million in fiscal 2007 and \$4.3 million annually thereafter.

General Fund Expenditures

General fund expenditures within MDE could increase by an estimated \$2.7 million in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring 40 environmental compliance specialists to inspect those systems that are suspected to be failing. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- There are approximately 420,000 septic systems statewide.
- Approximately 10% (42,000) are suspected to be failing.
- Each environmental compliance specialist could conduct no more than 1,050 inspections annually.

Legislative Services notes that the need for 40 additional inspectors is based on the assumption that MDE would only inspect those systems that are suspected to be failing; in order to inspect all 420,000 systems statewide, the need for additional staff would increase by a factor of ten.

The estimate also includes costs to convert two existing special fund positions within MDE to general fund positions. Under current law, MDE may spend up to 8% of fees deposited in the septic account for administrative costs. Because the bill significantly reduces fee revenue to the septic account, it is assumed that MDE would need to convert two of its existing four full-time-equivalent special fund positions to general fund positions to handle ongoing activities.

Salaries and Fringe Benefits	\$1,729,971
Automobile Purchase/Operations	840,740
Other Equipment/Operating Expenses	<u>144,260</u>
Total FY 2007 GF Expenditures	\$2,714,971

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

Local Fiscal Effect: Counties may realize administrative savings from billing fewer fee payers. Under current law, billing authorities may retain up to 5% of fees collected to offset their administrative costs; based on fee projections, under current law, such costs could total approximately \$742,268 in fiscal 2007 and \$630,000 annually thereafter. Under the bill, costs (and associated reimbursements) could decrease significantly. The elimination of the majority of the funding for the septic grant and loan program within MDE would result in a significant decrease in financial assistance to counties for upgrading septic systems.

Small Business Effect: Only those small businesses with failing septic systems and sewage holding tanks would remain subject to the bay restoration fee under the bill; other small businesses that have septic systems or sewage holding tanks would become exempt from the fee. The elimination of the majority of the funding for the septic grant and loan program within MDE would result in a decrease in financial assistance to entities with septic systems, including small businesses; the Governor's proposed fiscal 2007 budget provides funding for approximately 100 septic system upgrades.

In addition, there would be less funding available for farmers to help them offset the costs of planting cover crops. According to MDA, the bay restoration fee is anticipated to support the planting of approximately 137,000 acres of cover crops each year. Legislative Services notes that, in addition to special funds from the Bay Restoration Fund, the Governor's proposed fiscal 2007 budget includes approximately \$4.5 million in general and federal funds for MDA's Cover Crop Program.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Maryland Department of Agriculture, Baltimore City, Caroline County, Montgomery County, Prince George's County (Washington Suburban Sanitary Commission), Department of Legislative Services

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