

Department of Legislative Services  
 Maryland General Assembly  
 2006 Session

FISCAL AND POLICY NOTE

Senate Bill 625 (Senator Green)  
 Education, Health, and Environmental Affairs

Environment - Stormwater Management - Inspections and Water Quality Standards

This bill requires the Maryland Department of the Environment (MDE) to adopt regulations that establish specific post-development water quality standards. At the conclusion of any land clearing, construction, development, drainage, or soil movement, MDE must inspect the site. MDE is authorized to charge a fee to the responsible person to cover its costs of conducting the required inspections. The bill also prohibits a person involved in any land clearing, construction, development, drainage, or soil movement from causing or contributing to a violation of specified water quality standards. As part of the inspection, MDE may test stormwater runoff and any downstream water it reasonably determines may be affected by the activity.

Fiscal Summary

**State Effect:** Special fund expenditure increase of \$1.8 million in FY 2007 for MDE to conduct the required inspections and collect associated fees. Special fund revenues from fees would increase correspondingly. Future year estimates are annualized, adjusted for inflation, and reflect ongoing costs and fee collections. State expenditures could increase to comply with the standards and pay any fees established by regulation.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	\$1,800,100	\$1,809,100	\$1,912,500	\$2,023,100	\$2,141,800
SF Expenditure	1,800,100	1,809,100	1,912,500	2,023,100	2,141,800
Other Exp.	-	-	-	-	-
Net Effect	-	-	-	-	-

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

**Local Effect:** Local expenditures could increase to comply with the standards and pay any fees established by regulation.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Current Law:** In general, a person may not develop any land for residential, commercial, industrial, or institutional use without submitting, and getting approval of, a stormwater management plan to the county or municipality that has jurisdiction. The developer must certify that all land clearing, construction, development, and drainage will be done according to the plan. A State or federal agency may not undertake any land clearing, soil movement, or construction activity involving soil movement unless the agency has submitted and obtained approval of a stormwater management plan from MDE. Criminal, civil, and administrative penalties apply to violations of the State's stormwater management provisions.

MDE has the authority to inspect and enforce pollution control measures on various activities, including those proposed in this bill. MDE currently establishes specific water quality standards that are incorporated into existing permitting processes.

**Background:** MDE's Water Management Administration (WMA) is responsible for the implementation and supervision of the State's stormwater management program. This includes establishing policies, procedures, standards, and criteria relating to stormwater management from new and redevelopment projects that have an earth disturbance of 5,000 square feet or more. Additional program components include the review and approval of county and municipal ordinances, local programs, plans for State and federal grading projects, and training programs. MDE conducts triennial reviews of local programs and makes recommendations for improvements. Approximately 19 employees within WMA currently perform inspections related to erosion and sediment control and stormwater management.

According to MDE, Maryland's erosion and sediment control and stormwater management programs rely on performance standards and management programs (locally implemented programs that conduct plan review, approval, inspection, maintenance, and enforcement) that use the best available technology through installation of best management practices as part of an approved construction plan to protect the waters of the State.

**State Expenditures:** Special fund expenditures could increase by an estimated \$1.8 million in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring 28 inspectors to conduct the required inspections, 2 supervisors, and 1 administrative officer to collect and process fees. It includes salaries,

fringe benefits, one-time start-up costs (including the purchase of 30 vehicles), and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- there are approximately 21,000 active construction sites throughout the State each year;
- post-construction monitoring would be conducted by an inspector based on visual observations of sediment deposition in stream channels;
- each inspector could conduct about 450 inspections annually; and
- MDE currently has 19 inspectors.

Salaries and Fringe Benefits	\$1,260,752
Automobile Purchase/Operations	423,449
Other Equipment/Operating Expenses	<u>115,940</u>
<b>Total FY 2007 MDE Expenditures</b>	<b>\$1,800,141</b>

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.

Legislative Services notes that, over and above the staff included in the above estimate, MDE advises that it would need three additional staff (one additional supervisor as well as one assistant attorney general and one sanitarian to handle enforcement actions). Legislative Services disagrees. First, the need for these additional staff is inconsistent with the information provided by MDE regarding SB 688 of 2005. Second, it is assumed that the two additional supervisors included in the above estimate could handle managing the 28 new inspectors. Third, without any actual experience under the bill, the extent to which violations will occur is unknown. Accordingly, the need for an additional assistant attorney general and an additional sanitarian is unclear at this time. To the extent the bill results in the need for additional supervisory or enforcement capabilities, MDE may request additional positions through the annual budget process.

Legislative Services advises that the regulations adopted pursuant to the bill could result in an increase in State expenditures, as any development activity by State agencies would be subject to the standards and fees established by MDE.

**State Revenues:** Because the bill authorizes MDE to charge the person responsible for the land clearing, construction, development, drainage, or soil movement a fee not to exceed the cost to the department of conducting the required inspections, it is assumed that fee revenues would offset the costs described above. MDE advises that it would likely charge a flat fee for the inspections and that the fee would be adjusted as needed. (Legislative Services notes, however, that the bill's language does not explicitly allow MDE to include in the fee the costs it incurs in *collecting the fee*; however, for purposes of this fiscal note, it is assumed that the intent of the bill is for fee collections to offset all of MDE's costs under the bill.)

The bill establishes new provisions that would be subject to existing monetary and incarceration penalty provisions; however, it is assumed that this would not significantly affect State finances.

**Local Fiscal Effect:** Local governments currently implement Maryland's stormwater management program. Duties involve reviewing and approving development project plans, inspecting the construction of all stormwater management facilities, ensuring that these facilities are maintained, and enforcing the State's stormwater management subtitle locally. It is assumed that the bill would not relieve local jurisdictions from any duties currently required or impose any new duties on local programs.

The bill establishes new provisions that would be subject to existing monetary and incarceration penalty provisions. It is assumed, however, that these provisions would not have a significant impact on local finances.

Legislative Services advises that the regulations adopted pursuant to the bill could result in an increase in local expenditures, as any development activity by local governments would be subject to the standards and fees established by MDE.

**Small Business Effect:** Affected small businesses (those carrying out construction on their properties or those engaged in construction work itself) could incur additional costs to comply with the water quality standards established through regulation. Any such cost cannot be reliably estimated at this time. According to MDE, in some cases, it might not be possible to meet the specific standards outlined in the bill. In addition, affected entities would incur costs to pay the fees established by MDE.

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### **Additional Information**

**Prior Introductions:** Similar legislation was introduced as SB 688 of 2005. The Senate Education, Health, and Environmental Affairs Committee held a hearing on the bill, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Caroline County, Howard County, Montgomery County, Prince George's County, Baltimore City, Department of Legislative Services

**Fiscal Note History:** First Reader - February 23, 2006  
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