

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 893

(Delegate James)

Environmental Matters

Education, Health, and Environmental Affairs

Bay Restoration Fund - Wastewater Treatment Facilities Upgrades - Reporting Requirements

This bill requires the Maryland Department of the Environment (MDE) and the Maryland Department of Planning (MDP), beginning January 1, 2009, to submit a joint annual report on the impact on growth from a wastewater treatment facility that was upgraded to enhanced nutrient removal (ENR) during the calendar year before the previous calendar year with funds from the Bay Restoration Fund.

Fiscal Summary

State Effect: General fund expenditure increase of \$75,700 in FY 2008 for MDP to establish a monitoring and reporting system. Future year expenditures are annualized, adjusted for inflation, and reflect ongoing costs.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	75,700	78,900	82,400	86,100	90,000
Net Effect	(\$75,700)	(\$78,900)	(\$82,400)	(\$86,100)	(\$90,000)

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

Local Effect: Potential increase in costs for affected local governments to establish and maintain a State/local building permit monitoring and reporting system and to provide information to MDE and MDP in support of the required annual report.

Small Business Effect: None.

Analysis

Bill Summary: In preparing the report, MDE and MDP must include the number of permits issued for residential and commercial development to be served by the upgraded wastewater treatment facility. MDE and MDP must determine what other appropriate information is to be included in the report, and in doing so, must act in consultation with the Bay Restoration Fund Advisory Committee and with the assistance of the municipality and county in which an upgraded facility is located. The report must be submitted to the Governor, the President, the Speaker, and specified committees of the General Assembly.

Current Law: Chapter 428 of 2004 established the Bay Restoration Fund, which is administered by the Water Quality Financing Administration 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 by upgrading the systems with ENR technology. Priority for WWTP funding is given to major publicly owned WWTPs (those with a design capacity of at least 500,000 gallons per day (gpd)).

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. Certain users, including local governments, are exempt from the fee.

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. Eligible costs for ENR grants include the costs attributable to upgrading a facility from biological nutrient removal to ENR. 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 ENR 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 to upgrade their septic systems, while 40% must be transferred to the Maryland Agricultural Water Quality Cost Share Program within the Maryland Department of Agriculture to provide financial assistance to farmers for planting cover crops.

Background: ENR upgrades of the State's 66 major publicly owned WWTPs are currently underway. According to MDE, 2 ENR upgrades have been completed, and 10 are under construction. As of November 30, 2006, the Comptroller had deposited approximately \$95 million into the Bay Restoration Fund as a result of fees collected from WWTP users. With respect to fees collected from septic system users, the

Comptroller had deposited approximately \$9 million into MDE's septic account and had transferred approximately \$6 million to MDA's Cover Crop Program.

In recent months, concern has been raised regarding the use of the fund and whether it encourages inappropriate growth. MDE advises that MDE grant funds, including the Bay Restoration Fund, are not used to fund new growth. By law, MDE may only use Bay Restoration Fund monies for WWTP upgrades up to the design capacity approved by MDE. Local jurisdictions must pay for any additional capacity expansions with their own funds or with loans from the State.

State Expenditures: General fund expenditures could increase by an estimated \$75,652 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. This estimate reflects the cost of hiring one planner within MDP to collect and analyze data, complete the required reports, and provide technical assistance to affected local governments. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses, including contractual services to establish a State/local building permit monitoring and reporting system in support of the required annual report.

Positions	1
Salary and Fringe Benefits	\$48,544
Contractual Services	25,000
Other Operating Expenses and Equipment	<u>2,108</u>
Total FY 2008 State Expenditures	\$75,652

Future year expenditures reflect • a full salary with 4.5% annual increases and 3% employee turnover; • ongoing contractual services (\$10,000 annually) to maintain the building permit monitoring and reporting system; and • 1% annual increases in other ongoing operating expenses.

Although the bill would also result in an increase in workload for MDE, any such increase could be handled with existing budgeted resources.

Local Expenditures: According to MDP, if a building permit monitoring system were put in place to meet the bill's reporting requirements, local governments would have to be a significant part of the system, even though the bill does not specifically establish a reporting requirement for local governments. Accordingly, affected local governments would likely incur an increase in staff workload as well as potential hardware and maintenance costs. In addition, local governments would have to provide information to MDE and MDP in support of the required annual report. Some local governments might

be able to absorb such impacts with existing resources; others might need to contract the work out.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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