

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE

House Bill 185 (Delegate Costa, *et al.*)  
Environmental Matters

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Environment - Grading or Building Permit - Patuxent River Watershed

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This bill applies specified requirements and prohibitions regarding the issuance of grading or building permits, including the submission of development plans, by Anne Arundel County and the City of Annapolis in the Severn River Watershed to the portion of the Patuxent River Watershed located in Anne Arundel County.

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Fiscal Summary

**State Effect:** While the bill would cause a workload increase for the Maryland Department of the Environment (MDE) with respect to reviewing and approving proposed development projects, any such increase could be handled with existing budgeted resources.

**Local Effect:** The bill would cause a workload increase for Anne Arundel County with respect to the review and approval process for projects located in the Patuxent River Watershed; Anne Arundel County reports, however, that the bill would have minimal fiscal impact on the county.

**Small Business Effect:** Minimal, assuming the bill does not result in a significant delay or decrease in development projects in Anne Arundel County.

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Analysis

**Current Law:** The Water Management Administration within MDE is responsible for the implementation and supervision of the State's Erosion and Sediment Control Program. This includes establishing policies, procedures, standards, and criteria relating

to erosion and sediment control from any construction project that has and/or exceeds an earth disturbance of 5,000 square feet and/or 100 cubic yards. Additional program components include the review and approval of local erosion and sediment control enforcement authority ordinances, all plans for the grading of State and federal projects, and training programs. Local governments implement Maryland's Erosion and Sediment Control Program. Duties involve reviewing and approving local development project plans as well as inspecting and enforcing compliance relating to the construction of all private and local projects. Before any person begins any construction, the appropriate approval authority must first receive, review, and approve the proposed earth change and the sediment control plan.

Anne Arundel County or the City of Annapolis may issue a grading or building permit within the Severn River Watershed only after the developer submits a plan of development approved by the soil conservation district. If the development plan contains any septic or private sewer facility, MDE can approve it only if the facility will not contribute in any way to pollution of the Severn River. The developer must submit specified certificates, and a subdivision developer must obtain approval of the plan at the time of approving and recording of the subdivision plat. A State, county, or municipal road, building, or structure may not be constructed, relocated, or enlarged within the Severn River Watershed until plans have been submitted to and approved by the soil conservation district.

**Background:** According to the Patuxent River Commission, the Patuxent River drains about 900 miles of land in portions of Anne Arundel, Calvert, Charles, Howard, Montgomery, Prince George's, and St. Mary's counties. Land use is mixed in the Patuxent River basin, and consists of high density and low density development as well as agricultural lands, forests, and wetlands. The commission reports that, because of the developed nature of the river, urban nonpoint and point sources account for approximately one-third of the nitrogen and phosphorus loading to the river, while agriculture contributes roughly one-fifth of the nutrient loading. Nutrient loading from these sources threatens to increase with population growth. According to the commission, population in the Patuxent River basin increased by 136% between 1970 and 2000 and is projected to grow by another 22% by 2020.

**State/Local Fiscal Effect:** MDE advises that because the bill changes the current way the Erosion and Sediment Control Program is administered within the Patuxent River Watershed, it would need to change its review and approval procedures and coordinate with the Anne Arundel County Soil Conservation District (AASCD). MDE reports that the bill would require a duplicative review and approval by AASCD for all State buildings, facilities, and road projects. Further, because MDE is currently the approval authority with respect to State projects, MDE advises that the bill could create confusion

as to whose authority governs on a particular project. With respect to similar provisions regarding the Severn River Watershed, MDE reports that it established a Memorandum of Understanding (MOU) with AASCD to ensure proper tracking and communication. Under the bill, MDE would need to revisit this MOU with AASCD to address the bill's changes. In any event, the bill is not expected to have a significant impact on State or local finances.

**Additional Comments:** Legislative Services advises that the bill's provision that prohibits a State, county, or municipal road, building, or structure from being constructed, relocated, or enlarged within the Patuxent River Watershed until plans have been submitted to and approved by the soil conservation district is ambiguous. Based on intent, for purposes of this fiscal note, it is assumed that the bill only applies to the portion of the Patuxent River Watershed located in Anne Arundel County. Legislative Services notes, however, that other counties within the watershed, including Montgomery and Prince George's counties, have expressed concern that the bill, as currently drafted, may apply to them.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Office of the Attorney General, Anne Arundel County, Charles County, Howard County, Montgomery County, Prince George's County, Patuxent River Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - February 5, 2007  
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