

**Department of Legislative Services**  
 Maryland General Assembly  
 2007 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 488

(Delegate Morhaim, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

**Environment - Statewide Electronics Recycling Program**

This bill expands the existing Statewide Computer Recycling Pilot Program to apply to “covered electronic devices.” The initial manufacturer registration fee increases from \$5,000 to \$10,000. The bill establishes new requirements for the Maryland Department of the Environment (MDE) and new prohibitions for “manufacturers,” as redefined by the bill. The bill also modifies the revenue sources for the State Recycling Trust Fund to include all fines and penalties collected under *Title 9, Subtitle 17 – The Office of Recycling* and provides that the first \$2 million of any unspent or unencumbered funds would not be subject to reversion to the general fund. Finally, the bill repeals the termination date of the existing pilot program and establishes a new penalty that may be assessed by the Comptroller.

**Fiscal Summary**

**State Effect:** Special fund revenue increase of \$500,000 in FY 2008 from registration fees; out-year estimates reflect new registrations and renewals. Special fund expenditures would increase correspondingly. General fund revenues could increase from additional investment earnings but could decrease from the reallocation of certain fines to the special fund. General fund expenditure increase of \$131,500 in FY 2008 for enforcement by the Comptroller; out-year estimates are annualized and adjusted for inflation.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	-	-	-	-	-
SF Revenue	500,000	750,000	555,000	560,000	465,000
GF Expenditure	131,500	162,000	170,700	179,900	189,700
SF Expenditure	500,000	750,000	555,000	560,000	465,000
Net Effect	(\$131,500)	(\$162,000)	(\$170,700)	(\$179,900)	(\$189,700)

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

**Local Effect:** Local grant revenues for implementing covered electronic device recycling programs would increase.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary:** “Covered electronic device” means a computer or video display device with a screen that is greater than four inches measured diagonally. The term does not include a video display device that is part of a motor vehicle or that is contained within a household appliance or commercial, industrial, or medical equipment. “Manufacturer” means a person that is the brand owner of a covered electronic device sold or offered for sale in the State, by any means, including transactions conducted through sales outlets, catalogs, or the Internet.

MDE must maintain a list of registered covered electronic device manufacturers and must provide that list to the Comptroller.

If a manufacturer is subject to the labeling and registration requirements of the program, a retailer is prohibited from selling or offering for sale a new covered electronic device unless the manufacturer is in compliance with those requirements. In addition to any other penalty provided by law, the Comptroller may assess against any retailer that violates that prohibition a fine of up to \$500 per violation, up to \$5,000 total. A fine may be assessed only after the retailer that committed the violation has been issued three warnings. Each day a violation occurs or continues is a separate violation. At the end of each quarter, the Comptroller must forward all fines to the State Recycling Trust Fund.

**Current Law:** Chapter 384 of 2005 established a pilot Statewide Computer Recycling Program administered by the Office of Recycling within MDE. Beginning January 1, 2006, the Act prohibited specified computer manufacturers from selling a new computer in the State unless the manufacturer registered with MDE and paid a registration fee. The registration fee is \$5,000 for the initial registration by the manufacturer and either \$5,000 or \$500 for each subsequent annual registration depending on whether the manufacturer has implemented a computer takeback program. Registration fees are deposited into the existing State Recycling Trust Fund and used to provide grants to local governments to implement computer recycling programs. The pilot program is scheduled to terminate on December 31, 2010.

Under current law, in addition to being subject to an injunctive action, a person who violates the pilot program is liable to a civil penalty of up to \$10,000 to be collected in a civil action brought by MDE. Each day a violation occurs is a separate violation. In addition to any other remedies available, MDE may impose an administrative penalty of up to \$1,000 per violation not exceeding \$50,000 total. Each day is a separate violation.

**Background:** The U.S. Environmental Protection Agency estimates that more than 3.2 million tons of electronic wastes are disposed of in landfills each year. Electronic equipment contains metals (such as cadmium, lead, and mercury) and other materials that can become hazardous to human health and the environment if they are not properly managed. To date, no national solution to the problem of electronics waste management and recycling has been developed.

A summer 2006 telephone survey of 1,524 Maryland residents by the University of Baltimore estimated that there are approximately 850,000 televisions and about 1.2 million computer monitors in basements and garages statewide waiting for reuse and recycling. According to MDE, since 2001, a total of nearly 7,000 tons of electronics have been collected through 83 one- and two-day events and curbside events, 16 permanent county collection sites, and one municipality's quarterly collection events.

MDE has administered the Statewide Computer Recycling Pilot Program since July 2005. In fiscal 2006, MDE collected \$185,000 in registration fees from 37 computer manufacturers; the revenue was used to develop and implement an outreach and education program, conduct a telephone survey of Maryland residents regarding computer recycling, and purchase materials and equipment. In fiscal 2007 to date, \$60,000 has been collected in new registration fees, and \$112,000 has been collected in renewal fees; MDE reports that four of the renewals were from manufacturers that implemented computer takeback programs. MDE anticipates providing grants to counties and municipalities for computer recycling activities in fiscal 2007, depending on the total amount of fees collected.

**State Revenues:** Special fund revenues to the State Recycling Trust Fund could increase by an estimated \$500,000 in fiscal 2008 as a result of the expansion of the computer recycling program and the increase in the initial registration fee. This estimate assumes that 50 additional manufacturers would register with MDE in fiscal 2008 and be subject to the \$10,000 initial registration fee. Out-year estimates assume:

- in fiscal 2009, 50 additional manufacturers at \$10,000 each and 50 renewals at \$5,000 each;
- in fiscal 2010, 10 additional manufacturers at \$10,000 each, 90 renewals at \$5,000 each, and 10 renewals at \$500 each;

- in fiscal 2011, 10 additional manufacturers at \$10,000 each, 90 renewals at \$5,000 each, and 20 renewals at \$500 each; and
- in fiscal 2012, no additional manufacturers, 90 renewals at \$5,000 each, and 30 renewals at \$500 each.

Special fund revenues could also increase as a result of any fines or penalties assessed under the bill. Any such increase cannot be reliably estimated at this time. Under current law, some of the penalties that may be assessed for violations of the existing pilot program are paid into the general fund. Accordingly, general fund revenues could decrease due to the bill's provision that directs all fines and penalties assessed to be paid into the State Recycling Trust Fund.

Under current law, any unspent or unencumbered funds in the State Recycling Trust Fund revert to the general fund at the end of each fiscal year. Under the bill, MDE could carry over up to \$2 million that would not be subject to reversion. Assuming that, under current law, MDE were to spend down its fund balance each year so as to avoid any general fund reversions, this provision would have no impact on State finances. However, it does provide flexibility to MDE in budgeting for the program.

Under current law, investment earnings of the State Recycling Trust Fund are credited to the general fund. The bill does not change this provision. Therefore, by increasing the revenues to the special fund, general fund revenues from investment earnings could increase.

Because the bill repeals the December 31, 2010 termination date of the existing pilot program, special fund revenues collected as a result of computer manufacturer registration fees would continue beyond fiscal 2011. The Governor's proposed fiscal 2008 budget assumes approximately \$220,000 in special fund revenues for the pilot program.

### **State Expenditures:**

#### *Maryland Department of the Environment*

Special fund *administrative* expenditures could increase by an estimated \$73,196 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. This estimate reflects the cost of hiring one natural resources planner to handle the increased workload associated with the expansion of the pilot program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	1
Salary and Fringe Benefits	\$41,635
Automobile Purchase and Operations	22,500
Equipment and Other Operating Expenses	<u>9,061</u>
<b>Total MDE FY 2008 Administrative Expenditures</b>	<b>\$73,196</b>

It is assumed that any registration fee revenue not used for administrative expenditures would be used to provide grants to local governments for implementing covered electronic device recycling programs. Based on the estimated fee revenues and administrative expenditures, grants to local governments could total an estimated \$426,804 in fiscal 2008.

Future year administrative expenditures reflect (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses. Estimated grant expenditures in future years are as follows: \$683,241 in fiscal 2009; \$485,091 in fiscal 2010; \$486,759 in fiscal 2011; and \$388,231 in fiscal 2012.

Because the bill repeals the December 31, 2010 termination date of the existing pilot program, special fund expenditures associated with the pilot program would continue beyond fiscal 2011. The Governor's proposed fiscal 2008 budget includes approximately \$220,000 for the pilot program.

### *Comptroller*

Although the bill does not *require* the Comptroller to issue warnings and assess penalties, in order to effectively implement the enforcement provisions of the bill, the Comptroller would require additional auditing resources. Accordingly, general fund expenditures could increase by an estimated \$131,484 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. This estimate reflects the cost of hiring one revenue specialist, one revenue examiner, and one office clerk to identify retailers in the State that could be selling covered electronic devices, develop audit procedures, and conduct office and on-site audits in order to issue warnings and assess penalties under the bill. 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:

- more than 1,800 retailers could be selling covered electronic devices in fiscal 2008; and

- the Comptroller currently has no knowledge of which retailers sell covered electronic devices or their relationship to manufacturers that must be registered.

Positions	3
Salaries and Fringe Benefits	\$116,966
Equipment and Operating Expenses	<u>14,518</u>
<b>Comptroller's Administrative FY 2008 Expenditures</b>	<b>\$131,484</b>

Future year expenditures reflect (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

**Local Revenues:** Local grant revenues for implementing covered electronic device recycling programs would increase. The estimated grant amounts are described above under State Expenditures.

**Small Business Effect:** It is assumed that manufacturers are not considered small businesses. Retailers, some of which could be small businesses, would be affected by the bill's prohibition and subject to warnings and penalties if they sell a new covered electronic device that is not in compliance with the labeling and registration requirements of the program.

MDE reports that it is aware of 18 companies and nonprofit organizations in Maryland that currently accept electronics for reuse and/or recycling. Some of these entities may be considered small businesses and could benefit from an increase in the demand for their services.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Comptroller's Office, Department of Legislative Services

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