

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE

House Bill 1218

(Chair, Environmental Matters Committee)  
(By Request – Departmental – Environment)

Environmental Matters

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Clean Air Fund - Permit Fees

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This departmental bill repeals the maximum air quality emissions-based permit fee (\$25 per ton, indexed to inflation) and the maximum emissions-based permit fee for a single source (\$200,000, indexed to inflation). The bill also repeals the current limit on the amount of money that can be maintained in the Maryland Clean Air Fund.

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Fiscal Summary

**State Effect:** Although the bill itself does not increase permit fees, regulations adopted by the Maryland Department of the Environment (MDE) as a result of this bill could result in a significant increase in special fund revenues. No direct effect on expenditures.

**Local Effect:** The bill would not materially affect local operations or finances.

**Small Business Effect:** MDE has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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Analysis

**Current Law:** MDE is authorized to adopt regulations that require a permit or registration before a person constructs, modifies, operates, or uses a source that may cause or control emissions into the air. MDE has to collect a fee for such permits. The amount of the fees must cover the reasonable cost of reviewing and acting on permit applications; the reasonable costs incurred in implementing and enforcing the terms and conditions of the permits, exclusive of any court costs or other costs associated with any

enforcement actions; and costs identified in a specified section of the federal Clean Air Act Amendments of 1990. Fees assessed and collected must be used exclusively for the development and administration of the permit program. Statute establishes a maximum fee of \$25 per ton of regulated emissions, indexed to inflation. The current per-ton fee is nearly \$40. Statute establishes a maximum fee of \$200,000 for any single source, indexed to inflation; the cap is now approximately \$325,000. Emissions fees, permit fees, and penalties are paid into the Maryland Clean Air Fund. When the fund balance is at or above \$750,000 any additional monies that otherwise would be deposited in the fund have to go to the general fund instead.

**Background:** There are three principal revenue sources that support air pollution control activities in Maryland – federal funds, special funds from permit/emissions fees, and reimbursable funds from the Maryland Department of Transportation to undertake transportation-related air pollution reduction activities. Although program costs have been rising over the years, federal funds have remained constant and may potentially decrease in the next few years. Reimbursable funds have also remained constant. Special funds have decreased slightly due to emission reductions associated with successful pollution control programs and the full or partial shutdown of major manufacturers. Special funds will continue to decrease in the future as new and existing pollution control programs are implemented. According to MDE, increased program costs due to COLAs, salary increments, fringe benefits increases, and job reclassification, coupled with flat or decreased revenues, will result in program cuts unless revenues are increased. Accordingly, MDE advises that at some point emissions fees may need to be increased to generate additional revenue to support ongoing programs.

**State Revenues:** This bill does not have a direct fiscal impact on MDE, as it only shifts MDE's emission-based fee-setting authority for certain air pollution sources from a statutory to a regulatory framework. Specifically, the bill repeals: (1) the \$750,000 cap on the amount of funds that may exist in MDE's Clean Air Fund; and (2) the statutory references to a maximum per-ton fee and a maximum per-source fee. The repeal of the cap on the amount of funds that may exist in the Clean Air Fund should not have an immediate impact on State finances; MDE reports that the cap has not been exceeded in the past 10 years. By repealing the statutory references to the maximum emissions-based fees, however, the bill could have a significant, indirect impact on MDE revenues, as it would allow MDE, through regulation, to increase the per-ton fee and change or eliminate the facility cap.

Legislative Services cannot provide a reliable estimate of the bill's potential impact on special fund revenues, as any increase would depend on future regulatory proposals, which are unknown. MDE advises that it would address the potential revision of fees as part of a larger assessment of staffing needs, operational costs, contractor services, and

the impact proposed fee increases would have on the regulated community. However, if MDE were to increase the per-ton fee and the facility cap, MDE could generate several million dollars in Clean Air Fund revenues. For example, if MDE were to increase the per-ton fee by \$10, an additional \$1.1 million could be generated from the 500 sources that pay emissions-based fees. On the other hand, if a higher facility cap were imposed with no change to the per-ton fee, seven sources owned by four companies (Constellation Energy, Mirant Corp., Mittal Steel, and Luke Paper Co.) could be required to pay additional fees generating an estimated \$500,000 to \$1.5 million in new fee revenues.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 14, 2007  
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