Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 466 (Delegate Kullen)
Environmental Matters

Environment - Water Pollution Control Fund - Fertilizer Application Environmental Impact Fee

This bill establishes a fertilizer application environmental impact fee of 10% of the total cost of fertilizer application services. The fee is to be charged by fertilizer applicators to customers who purchase their services, with specified exceptions. Fees would be deposited into the Water Pollution Control Fund within the Maryland Department of the Environment and used to provide financial assistance to implement stormwater management practices in developed areas and for MDE's reasonable administrative costs. The bill makes various changes relating to the uses of the fund, the amount of grants that can be provided, and the criteria MDE must develop governing the award of financial assistance from the fund. Finally, the bill establishes provisions governing billing, collection, and enforcement.

Fiscal Summary

State Effect: Special fund revenue increase of $7.6 million in FY 2009; future year estimates are annualized and reflect inflation. Special fund expenditures would increase correspondingly for grants and administration. General fund expenditure increase $95,500 for the Comptroller to administer the fee; future year general fund expenditures are annualized, adjusted for inflation, and reflect ongoing costs. State expenditures (all funds) could increase significantly to pay the fee.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
SF Revenue	$7,602,700	$10,339,600	$10,546,400	$10,757,300	$10,972,500
GF Expenditure	95,500	55,900	58,700	61,700	64,900
SF Expenditure	7,602,700	10,339,600	10,546,400	10,757,300	10,972,500
GF/SF/FF Exp.	-	-	-	-	-
Net Effect	($95,500)	($55,900)	($58,700)	($61,700)	($64,900)

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

Local Effect: Local grant revenues would increase significantly for stormwater management practices. Local expenditures would increase to pay the fee.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A fee may not be charged if the fertilizer is to be applied for agricultural purposes or on a golf course. Fertilizer applicators are directed to remit fees to the Comptroller, who is authorized to adopt regulations necessary to administer, collect, and enforce the fee.

The bill clarifies the existing uses of the Water Pollution Control Fund. Specifically, financial assistance that currently may be awarded to counties and municipalities for practices to reduce pollution from stormwater runoff in *existing urbanized areas* would, under the bill, be modified to *developed areas of counties and municipalities*. The bill also increases the percentage of costs (from 75% to 100%) that certain grants could cover and eliminates the current cap on such grants of $500,000. Specifically, grants awarded to developed areas of counties and municipalities for projects to reduce pollution from stormwater runoff may be awarded for up to 100% of eligible costs. In addition, the bill modifies the existing criteria MDE must adopt governing the award of financial assistance from the fund to include a preference for specified projects.

Current Law: The Water Pollution Control Fund within MDE consists of money made available under water quality loan authorizations or by funds appropriated in the State budget. The Board of Public Works, upon the recommendation of the Secretary of the Environment, is authorized to award financial assistance for various projects, including practices to reduce pollution from stormwater runoff in existing urbanized areas.

With BPW approval, the Secretary is required to adopt regulations that establish application procedures and specified criteria for the award of financial assistance. Grants may be awarded to counties and municipalities for projects to reduce pollution from stormwater runoff in existing urbanized areas. Grants may be used for construction on privately owned property if necessary for the project's purpose and if an agreement has been made with the property owner. Grants may not exceed 75% of eligible costs and must not exceed $500,000 each.

The Maryland Department of Agriculture regulates commercial fertilizer distributed in the State. Pursuant to Chapter 165 of 2006, a retail outlet distributing commercial fertilizer in bags weighing 50 pounds or more must prominently display information

regarding the damage to State waters that results from the overuse of commercial fertilizer.

Background: While the Chesapeake Bay is America's largest and most productive estuary, its health has declined significantly over the past several decades due to nutrient and sediment pollution. In 1999, the U.S. Environmental Protection Agency identified the bay as an impaired water body. In 2000, the Chesapeake Bay partners (the bay states, the District of Columbia, the Chesapeake Bay Commission, and EPA) negotiated the Chesapeake 2000 Agreement (C2K), which specified restoration goals to improve the bay and remove it from the EPA's List of Impaired Waters. As part of C2K, specific pollution reduction goals have been allocated to the various bay states. The largest source of Maryland's nutrient and sediment pollution is runoff from agricultural lands, followed by urban runoff and point sources.

While numerous efforts to restore the bay's water quality are underway, the State is expected to fall short of its C2K goals absent further action. EPA's Chesapeake Bay Program reports that progress has been made toward meeting the C2K nutrient and sediment reduction goals in the areas of agriculture, wastewater, and atmospheric deposition of nitrogen. However, urban/suburban stormwater is the one pollution sector where progress has been negative due to population growth and related development.

In an effort to partially address the significant funding shortfall that exists with respect to bay restoration activities, Chapter 6 of the 2007 special session established the Chesapeake Bay 2010 Trust Fund to implement the State's tributary strategy developed in accordance with C2K. The State's tributary strategy implementation plan includes strategies for all pollution sources, including stormwater. The Administration has introduced legislation (SB 213/HB 369 of 2008) that would establish more specific uses of the trust fund.

Based on a 2005 report by the Montgomery County Department of Economic Development, overall fertilizer use in the State has shown a general upward trend, even as the number of acres of land in agricultural use has decreased. In 1990, nonfarm fertilizer use averaged 13% of the total fertilizer use in the State; in 2001, nonfarm fertilizer use represented 45% of the total.

State Revenues: Special fund revenues from the fertilizer application environmental impact fee could increase by an estimated $7.6 million in fiscal 2009, which reflects the bill's October 1, 2008 effective date. This estimate is based on 2005 data from the Maryland Turfgrass Survey published by the U.S. Department of Agriculture's National Agricultural Statistics Service on statewide expenditures for contracted services for fertilizer and chemical applications. The information and assumptions used in calculating the estimate are stated below:

- in 2005, approximately $93.6 million in statewide costs for contracted services for fertilizer/chemical applications, not including costs related to golf courses or farms;
- since 2005, there has been a 2% annual increase in the cost of such services;
- survey data is representative of those services that would be subject to the bill's fee; and
- the fee itself would not result in a decrease in the number of entities that hire for such services.

To the extent the establishment of a fee reduces the number of customers who choose to contract out for such services (and instead apply the fertilizer themselves), fee revenues would be less. Future year revenue estimates are annualized and reflect a 2% annual increase in the cost of application services.

State Expenditures:

Maryland Department of the Environment

Special fund administrative expenditures could increase by an estimated $53,906 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring one public health engineer to coordinate with the Comptroller's Office regarding fee collection, conduct technical evaluations, manage capital projects, and provide general oversight. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. This estimate assumes that the additional revenues generated as a result of this bill would be provided to local governments and that it would not be subject to the current $500,000 cap on grants. (Legislative Services notes that this is what it appears the bill does, although the bill's language is ambiguous. To the extent the $500,000 cap would still apply, the number of projects MDE would be responsible for managing with the additional revenue generated under the bill would increase, likely resulting in the need for additional staff.)

Positions	1
Salary and Fringe Benefits	$50,628
Equipment/Operating Expenses	3,278
FY 2009 MDE SF Admin. Expenditures	**$53,906**

Future year MDE administrative expenditures, which average $74,672 from fiscal 2010 through fiscal 2013, reflect • a full salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

It is assumed that any special funds not used by MDE for administration in any given year would be used to provide financial assistance for stormwater management practices in developed areas of counties and municipalities, as provided by the bill. Accordingly, the bulk of the fee revenue would be used for financial assistance.

Comptroller

General fund expenditures could increase by an estimated $95,549 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring one revenue administrator to administer the fee. It includes a salary, fringe benefits, one-time start-up costs (including programming costs), and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the new system would be modeled after the tire recycling fee; and
- several hundred to 1,000 fee payers.

Positions	1
Salary and Fringe Benefits	$40,731
Programming Expenses	50,000
Equipment/Other Operating Expenses	4,818
FY 2009 Comptroller GF Expenditures	**$95,549**

Future year expenditures for the Comptroller's Office reflect • a full salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

Legislative Services notes that because the bill does not allow the Comptroller to retain a percentage of fee collections for its administrative costs, it is assumed that such costs would be borne by the general fund.

State Agency Fee Payments

Any State agency that contracts for fertilizer application services would be subject to the fee established by the bill. While State expenditures could increase, they cannot be reliably estimated at this time. For example, the State Highway Administration advises that it anticipates an increase in fertilizer application contractual costs of approximately $209,000 in fiscal 2009, increasing to approximately $302,000 by fiscal 2013.

Local Revenues: Local grant revenues for stormwater management practices in developed areas of counties and municipalities would increase significantly as a result of the bill. Local governments would benefit from the increase in the percentage of project costs that could be covered by grants provided from the Water Pollution Control Fund.

Local Expenditures: Any local government that contracts for fertilizer application services would be subject to the fee established by the bill. Accordingly, local expenditures would increase. Although the total impact cannot be reliably estimated at this time, the data used to calculate total fee revenues indicates that county governments and schools, for example, collectively account for about 1.3% of the total costs of contracted fertilizer/chemical application statewide.

Small Business Effect: The overall impact of the bill on small businesses cannot be reliably estimated at this time. The establishment of a fee on fertilizer application services could result in a decrease in the number of entities willing to pay for such services, resulting in a loss of revenues for businesses that currently provide those services. In addition, fertilizer application companies would incur additional administrative costs in order to bill, track, and remit fees to the Comptroller and to keep associated records. According to MDA, there could be as many as 1,000 firms in Maryland that apply fertilizer.

Any small businesses that currently contract out for fertilizer application services would be required to pay the fee, increasing their costs for those services by 10%. Any small businesses involved in the planning, design, and/or construction of stormwater management projects could benefit to the extent the additional revenue source for stormwater-related grants results in an increase in the number of such projects undertaken.

Additional Comments: Based on the 2005 survey data, single-family homes account for about 92.2% of the total costs of contracted fertilizer/chemical application statewide; apartments account for an additional 4.6%. Accordingly, most of the revenues generated under the bill would be paid by homeowners and renters. MDA advises that currently, the average cost for fertilizer application to residential property is $60.

Additional Information

Prior Introductions: HB 1350 of 2007 had similar provisions, among others. The bill was referred to the House Rules and Executive Nominations Committee but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of the Environment; Comptroller's Office; Maryland Department of Agriculture; Maryland Department of Transportation; Department of General Services; Board of Public Works; Maryland Municipal League; U.S. Department of Agriculture, National Agricultural Statistics Service (*2005 Turfgrass Survey Results*); Montgomery County Department of Economic Development (*Maryland Fertilizer Use Trends*, *Revised March 2005*); U.S. Environmental Protection Agency; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2008
ncs/jr

Analysis by: Lesley G. Cook

Direct Inquiries to:
(410) 946-5510
(301) 970-5510