

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 90

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

Environmental Matters

Education, Health, and Environmental Affairs

Department of the Environment - Bay Restoration Fund and Bay Restoration Fee

This departmental bill cures and corrects a title defect from Chapter 666 of 2008.

Fiscal Summary

State Effect: The bill only makes technical corrections to provide clarification of the existing statute.

Local Effect: None.

Small Business Effect: The Maryland Department of the Environment (MDE) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill repeals and reenacts without amendment several subsections relating to the Bay Restoration Fund that were amended by Chapter 666 of 2008. The bill's title reflects changes made to the Bay Restoration Fund by Chapter 666, but which were not adequately described by that bill's title. These changes include (1) prohibiting any reduction in the bay restoration fee as long as bonds are outstanding; (2) prohibiting the reversion or transfer of money in the Bay Restoration Fund to a special fund; (3) requiring that the Bay Restoration Fund Advisory Committee make an annual recommendation as to the appropriate restoration fee assessment increase to meet the financing needs of the Bay Restoration Fund; and (4) making the authorization for use of

the Bay Restoration Fund for projects related to the removal of nitrogen from onsite sewage disposal systems and cover crop activities subject to the allocation of funds.

Current Law/Background: MDE advises that the four changes described in the title of this bill were the result of recommendations made by experts on how the Bay Restoration Fund could be strengthened to achieve the best possible bond rating. However, according to the Maryland Attorney General, these particular provisions could not be given effect because Article III, § 29 of the Maryland Constitution requires the existence of any provision in a bill to be suggested by the title.

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) in order to reduce nutrient pollution to the Chesapeake Bay by upgrading the systems with enhanced nutrient removal (ENR) technology.

ENR upgrades of the State's 67 major publicly owned WWTPs are currently underway. According to the Bay Restoration Fund Advisory Committee's January 2009 *Annual Status Report*, 9 ENR facilities are operating; 2 other facilities are meeting the ENR treatment level but require further evaluation; 9 ENR upgrades are under construction; 19 are in design; 22 are in planning; and 6 are in preplanning activities. As of November 30, 2008, the Comptroller had deposited approximately \$204.8 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 \$27.7 million into MDE's Septics Account and had transferred approximately \$18.4 million to Maryland Department of Agriculture's Cover Crop Program.

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 - February 2, 2009
ncs/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of the Environment – Bay Restoration Fund and Bay Restoration Fee

BILL NUMBER: HB 90

PREPARED BY: Maryland Department of the Environment

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

☒ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

☐ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.