

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

House Bill 221 (Delegates Elliott and Stull)
 Environmental Matters

Bay Restoration Fund - Disbursement of Funds

This bill modifies the distribution of bay restoration fees collected from users of septic systems and sewage holding tanks so that 60% is distributed to the Maryland Department of Agriculture (MDA) for cover crop activities and 40% is deposited into the Septics Account of the Bay Restoration Fund within the Maryland Department of the Environment (MDE).

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: The bill redistributes an estimated \$2.5 million annually beginning in FY 2010 in special fund revenues from MDE to MDA. Special fund expenditures in each agency are affected correspondingly. General fund expenditure increase of \$200,000 annually to offset the reduction in special funds within MDE in order to support ongoing administrative activities.

| (in dollars) | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| SF Revenue | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | \$200,000 | \$200,000 | \$200,000 | \$200,000 | \$200,000 |
| SF Expenditure | \$0 | \$0 | \$0 | \$0 | \$0 |
| Net Effect | (\$200,000) | (\$200,000) | (\$200,000) | (\$200,000) | (\$200,000) |

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

Local Effect: The redistribution of bay restoration fee revenue results in a decrease in financial assistance to local governments for septic system upgrades in their jurisdictions. The additional funding available for cover crop activities may result in an increase in workload for soil conservation districts.

Small Business Effect: Minimal overall impact. The redistribution of bay restoration fee revenue results in a decrease in financial assistance available for septic system upgrades and an increase in financial assistance available for farmers for cover crop activities.

Analysis

Current Law: Chapter 428 of 2004 established the Bay Restoration Fund within MDE. The main goal of the fund is to provide grants to owners of wastewater treatment plants to reduce nutrient pollution to the Chesapeake Bay by upgrading the systems with enhanced nutrient removal technology. As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks.

Of the revenue collected from users of septic systems and sewage holding tanks, 60% must be deposited into a separate account within the fund to provide grants and loans to septic system owners to upgrade their septic systems and to implement an education and outreach program. The remaining 40% must be transferred to the Maryland Agricultural Water Quality Cost Share Program (MACS) within MDA to provide financial assistance to farmers for planting cover crops.

Background: As of January 31, 2009, the Comptroller had deposited approximately \$216.5 million into the Bay Restoration Fund as a result of fees collected from wastewater treatment plant users. With respect to fees collected from septic system users, the Comptroller had deposited approximately \$29.4 million into MDE's Septics Account and had transferred approximately \$19.6 million to MDA's Cover Crop Program.

The Governor's proposed fiscal 2010 budget includes \$1.0 million in special funds for the MDE Septic System Upgrade Program and approximately \$17.8 million for the MDA Cover Crop Program, which includes approximately \$5.8 million in special funds from the Bay Restoration Fund and \$11.9 million from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

State Fiscal Effect: By reversing the existing distribution of bay restoration fees collected from users of septic systems and sewage holding tanks, the bill provides additional funding for cover crop activities within MDA and reduces funding for MDE's Septic System Upgrade Program. Currently, 60% of such funds are distributed to MDE's Septics Account and 40% are transferred to MACS for cover crop activities. Based on anticipated out-year estimates of fee collections and accounting for the deduction of local administrative costs, the bill redistributes an estimated \$2.5 million

annually in special fund revenues from MDE to MDA. Special fund expenditures in each agency are affected correspondingly.

As a result of the redistribution of funds, MDA's administrative expenditures increase by an estimated \$52,377 in fiscal 2010, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring one soil conservation specialist to assist with program implementation. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|--|-----------------|
| Position | 1 |
| Salary and Fringe Benefits | \$47,272 |
| Equipment and Operating Expenses | <u>5,105</u> |
| MDA FY 2010 Administrative Expenditures | \$52,377 |

Future year MDA administrative expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses. These administrative costs are funded from the additional special funds that MDA receives as a result of the bill. Any additional funds not used for administrative purposes are used to provide cost-share payments to farmers for planting cover crops. Assuming a \$47 per acre cost, the additional funding allows approximately 53,350 additional acres of cover crops to be planted each year.

Under current law, MDE may use up to 8% of the fees deposited into the Septics Account for specified administrative costs; by reducing the annual revenue stream to this account by \$2.5 million annually, the amount MDE is allowed to spend for such administrative costs decreases by an estimated \$200,000 annually. If MDE is expected to continue administering the program, general funds are needed to offset the reduction in special funds. Accordingly, general fund expenditures increase by \$200,000 annually to offset the loss in MDE special funds for administration.

MDE advises that the redistribution of funding under the bill reduces the number of septic upgrades it can fund by approximately 200 annually.

Additional Information

Prior Introductions: HB 734 of 2008 received an unfavorable report from the House Environmental Matters Committee. The House Environmental Matters Committee held a hearing on HB 1268 of 2007, but no further action was taken. SB 5 of 2006, as amended by the Senate, contained one provision that would have redistributed bay restoration fund

revenues as provided in this bill. The bill was further amended in the House and a conference committee was appointed to resolve the differences, but no further action was taken.

Cross File: None.

Information Source(s): Harford and Montgomery counties, Maryland Department of Agriculture, Maryland Department of the Environment, Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2009
mlm/ljm

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