

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

House Bill 1547 (Delegate Frush)  
Rules and Executive Nominations

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**Environment - Water Pollution Control - Incentives and Penalties**

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This bill requires the Maryland Department of the Environment (MDE) to adopt regulations providing performance improvement incentives for the owner or operator of any sanitary sewer system, combined sewer system, or wastewater treatment plant by December 31, 2009. The incentive is in the form of reduced administrative penalties imposed for violations of water pollution control laws. The bill increases from \$1,000 to \$10,000 the maximum penalty for a violation of any of the water pollution laws in Title 9 of the Environment Article, but requires that penalties be imposed with consideration given to the performance incentive regulations created under the bill.

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**Fiscal Summary**

**State Effect:** Special fund revenues are affected by the increase in the maximum authorized administrative penalty and the mandatory consideration of performance improvement incentives; a reliable estimate cannot be made at this time as to the extent of any increase or decrease in special fund penalty revenues for MDE. Expenditures are not directly affected.

**Local Effect:** Local government expenditures may be affected to the extent they are owners and operators of sanitary sewer systems, combined sewer systems, or wastewater treatment plants.

**Small Business Effect:** Potential meaningful impact to small business owners and operators of sanitary sewer systems, combined sewer systems, or wastewater treatment plants.

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## Analysis

**Current Law/Background:** The Water Pollution Control Program at MDE is responsible for protecting the State's ground and surface waters, issuing water pollution control permits, and monitoring the permit holders for compliance. All application fees, permit fees, renewal fees, and funds collected by the Water Pollution Control Program, including any civil or administrative penalty or fine imposed by a court from related activities are paid into the Maryland Clean Water Fund. Money from the Clean Water Fund supports these monitoring and enforcement activities. Funding priority must be given to activities relating to water quality of the Chesapeake Bay and its tributaries.

The Clean Water Fund had a balance of approximately \$6.5 million at the end of fiscal 2008. In fiscal 2008, enforcement action revenue for the Clean Water Fund totaled over \$1.7 million, or about 26.5% of the end-of-year fund balance. Unexpended moneys in the fund may not revert to the general fund.

**State Revenues:** The bill restructures the process for imposing administrative penalties for violations of the water pollution control laws by increasing the maximum authorized penalty while at the same time requiring MDE to consider reducing the penalty amount levied based on any performance improvements undertaken by the violator. Given these offsetting factors, a reliable estimate cannot be made at this time as to what extent Clean Water Fund revenues may be affected.

MDE advises that overall enforcement action revenues may not be significantly affected because, although the procedure for imposing administrative penalties changes under the bill, MDE may opt to prosecute a greater number of violators through civil enforcement actions instead.

**Additional Comments:** MDE advises that the bill may result in a conflict with the U.S. Environmental Protection Agency's delegation of authority to the State under the National Pollutant Discharge Elimination System (NPDES) program. This conflict could cause a loss of grant funds provided for NPDES activities.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** SB 408 (Senator Simonaire, *et al.*) - Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Natural Resources, Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - March 27, 2009  
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