

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 1058 (Senator Colburn)
Education, Health, and Environmental Affairs

Reorganization of State Government - Consolidating the Department of the Environment into the Department of Natural Resources

This bill abolishes the Maryland Department of the Environment (MDE) as of June 30, 2010, and transfers MDE's functions, powers, duties, equipment, assets, and liabilities to the Department of Natural Resources (DNR) as of July 1, 2010. However, all MDE funds are transferred to DNR on October 1, 2009.

Fiscal Summary

State Effect: Department of Budget and Management (DBM) and DNR general fund expenditures increase significantly in FY 2010 to develop a consolidation plan. Three-quarters of FY 2010 MDE funding is transferred to DNR effective October 1, 2009, and all MDE funds are transferred to DNR in FY 2011 and subsequent years. DNR expenditures increase, potentially significantly, in FY 2010 to administer transferred funds. Special fund fee revenues and expenditures may increase significantly in FY 2011 and subsequent years to, among other things, offset the required general fund expenditure decrease for the consolidated MDE and DNR. State expenditures for other agencies may increase, potentially significantly, to rehire DNR and MDE employees at other State agencies and to pay any higher fees that may be imposed.

Local Effect: Since State services and positions benefitting local jurisdictions may be eliminated as a result of the consolidation, local jurisdictions may be required to significantly increase revenues and expenditures to maintain current services. Further, to the extent higher State fees are imposed, local expenditures may also increase.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: As of July 1, 2010, the positions of Secretary of the Environment and the Deputy Secretary of the Environment are abolished.

By November 1, 2009, the Secretary of Budget and Management, in conjunction with the Secretary of Natural Resources and the Secretary of the Environment, must develop and submit to the Legislative Policy Committee a comprehensive and practicable plan for the consolidation of all powers, duties, functions, and staff of the departments, officers, and units administered in MDE and DNR. The plan must include, among other things, (1) all necessary legislation to fully implement the provisions of the bill on or before July 1, 2010; (2) provisions for the elimination or modification of duplicative units, programs, and services and specified unnecessary positions; and (3) an inventory of all capital facilities operated by MDE and DNR, and provisions for the consolidation of the facilities and all satellite operations and the disposition of property and supplies rendered excessive as a result of abolishing MDE. Also, the plan must give due consideration to providing DNR and MDE employees affected by the consolidation the option to transfer to other State agencies. Those employees who transfer must be given specified benefits, including no diminution of salary or leave.

The plan, and any legislation to implement it, must establish a target percentage budget reduction of 20% of the total combined general funds appropriated to MDE and DNR in fiscal 2010. The target percentage must become effective in the fiscal 2011 State budget and does not affect allocations related to grants received from sources other than State government. The Governor must include in the State's fiscal 2011 budget an appropriation for DNR that is consistent with the plan and legislation submitted to the General Assembly. Specified adjustments must be made to DNR's fiscal 2011 budget, including making it conform to the actual budget figures for fiscal 2009, to facilitate comparison with expenditures in previous fiscal years.

Subject to the plan and legislation, all boards, commissions, programs, funds, and other units in MDE are transferred to DNR. The bill does not affect the terms of office of appointed or elected members of certain units. Also, the bill does not affect specified rights, duties, and interests associated with specified transactions entered into before the bill takes effect. Except as otherwise provided by law, all existing laws, regulations, proposed regulations, standards and guidelines, policies, orders, and other specified duties and responsibilities associated with MDE before the bill's effective date, remain in effect under DNR until completed, withdrawn, canceled, modified, or otherwise changed in accordance with law.

The bill does not affect existing licenses, registrations, permits, or certifications; and bonds, notes, bond anticipation notes, notes in the nature of commercial paper, or other instruments, certificates, or evidence of indebtedness or obligation issued by or for MDE.

By January 1, 2011, January 1, 2012, and January 1, 2013, the Secretary of Natural Resources must submit a progress report on the consolidation to the Governor and the General Assembly. The reports must summarize DNR's operations and include recommendations and legislative proposals for saving costs and enhancing efficiency.

Current Law/Background:

Department of Natural Resources

DNR preserves, protects, enhances, and restores the State's natural resources for the use and enjoyment of all citizens. To accomplish this mission, DNR is structured into the programmatic units described below.

- The Office of the Secretary provides leadership, public outreach, customer service, legislative, financial, administrative, information technology, and legal services.
- The Forest Service manages the State forests and supports Maryland's forest and tree resources by providing private forestland management expertise, wildfire protection, and urban and community forestry assistance.
- The Wildlife and Heritage Service provides technical assistance and expertise to the public and private sectors for the conservation of Maryland's wildlife resources, including the management of threatened and endangered species, game birds and mammals, and the operation of 107,500 acres of State-owned lands classified as Wildlife Management Areas.
- The Park Service manages natural, cultural, historic, and recreational resources in parks across the State, and provides related educational services.
- Land Acquisition and Planning administers diverse financial assistance programs that support public land and easement acquisitions, local grants, waterway improvements, and shoreline protection.
- The Licensing and Registration Service operates seven regional service centers that assist the public with vessel titling and registration, off-road vehicle registration, commercial fishing licenses, and hunting and sport fishing licenses.

- The Natural Resources Police preserve and protect Maryland's natural resources and citizens through enforcement of conservation, boating, and criminal laws.
- Engineering and Construction provides engineering, project management, and construction services.
- The Chesapeake Bay Critical Areas Commission promulgates criteria to minimize stormwater runoff impact, conserve living resources and habitats, and establish land use policies that accommodate growth while addressing the environmental impact of development along sensitive shorelines.
- Boating Services coordinates the Clean Marina Program, oversees two State-owned marinas, funds public boating access facilities and navigation channel dredging, and places regulatory markers and navigation aids in support of sustainable development, use, and enjoyment of Maryland waterways for the general boating public.
- The Resource Assessment Service evaluates and directs implementation of environmental restoration and protection policy for tidal and nontidal ecosystems, ensures electricity demands are met at reasonable costs while protecting natural resources, and provides scientific assessments and technical guidance for the management of geologic and hydrologic resources.
- The Maryland Environmental Trust negotiates and accepts conservation easements over properties with environmental, scenic, historic, or cultural significance and provides grants, loans, and technical assistance to local land trusts.
- Watershed Services develops and supports watershed and waterway management strategies for the restoration, protection, and economic vitality of Chesapeake and coastal ecosystems.
- The Fisheries Service manages commercial and recreational harvests to maintain sustainable fisheries, enhance and restore fish species in decline, and promote fishery ethics and public involvement.

The Governor's proposed fiscal 2010 budget includes \$225.2 million for DNR's operating budget, \$55.0 million for DNR's pay-as-you-go (PAYGO) budget, and \$13.0 million in bond funding for DNR programs. The Governor's proposed fiscal 2010 operating budget for DNR includes a total of 1,775 positions and \$58.0 million in general funds.

Maryland Department of the Environment

MDE was created in 1987 to protect and restore the quality of the State's land, air, and water resources and safeguard citizens from health risks associated with pollution. It is responsible for planning, monitoring, controlling, and regulating air, solid, and hazardous wastes; radiation, sewage sludge, sediment, and stormwater; toxicities, sewage treatment, and water supply facilities; and environmental disease control programs. MDE is structured into seven major administrative units.

- The Office of the Secretary provides direction and establishes State environmental policies to be implemented by the operating units.
- The Administrative Services Administration provides general administrative and fiscal services to the department.
- The Water Management Administration incorporates all aspects of the State's water pollution control program, including capital project management, implementation of total maximum daily loads (TMDLs) for pollutants in impaired waterways, and industrial/municipal wastewater and stormwater discharge regulatory functions.
- The Science Services Administration develops and promulgates water quality standards, provides technical support and analysis for TMDLs, monitors shellfish, develops environmental and public health risk assessments, implements nonpoint source pollution programs, and develops and issues fish advisories.
- The Waste Management Administration ensures that all types of hazardous and nonhazardous solid wastes are managed in a manner that protects public health and the environment.
- The Air and Radiation Management Administration ensures that air quality and radiation levels in Maryland sustain public health, safety, and the environment.
- Coordinating Offices manage budget matters, the Water Quality Revolving Loan Fund, and Board of Public Works' activities; coordinate public information and outreach; provide hazardous chemical and oil spill emergency response services; and provide legal advice.

The Governor's proposed fiscal 2010 budget includes \$135.2 million for MDE's operating budget, \$164.5 million for MDE's PAYGO budget, and \$116.5 million in bond

funding for MDE programs. The Governor's proposed fiscal 2010 operating budget for MDE includes a total of 1,003 positions and \$40.7 million in general funds.

State Fiscal Effect: Since the bill requires DBM to develop a consolidation plan within one month of the bill's effective date, this estimate assumes DBM and DNR general fund expenditures increase significantly in fiscal 2010 to develop this comprehensive plan within a short period of time.

The bill requires all MDE funding to be transferred to DNR by October 1, 2009. Therefore, this analysis assumes 75% of MDE's fiscal 2010 operating and capital funds shift to DNR, reflecting the bill's October 1, 2009 effective date. **Exhibit 1** illustrates the Governor's proposed fiscal 2010 budgets for DNR and MDE. This analysis assumes all MDE funds shift to DNR in fiscal 2011 and subsequent years.

Exhibit 1
Governor's Proposed Fiscal 2010 Budget – Funding and Positions

	<u>Department of Natural Resources</u>	<u>Maryland Department of the Environment</u>
Operating Budget		
General Funds	\$57,985,016	\$40,747,089
Special Funds	132,606,970	59,780,754
Federal Funds	26,497,186	30,459,711
Reimb. Funds	8,092,884	4,167,032
Subtotal	\$225,182,056	\$135,154,586
PAYGO Budget		
Special Funds	43,044,000	141,591,000
Federal Funds	11,984,000	22,875,000
Subtotal	\$55,028,000	\$164,466,000
General Obligation Bonds	13,000,000	36,534,000
Revenue Bonds	0	80,000,000
Subtotal	\$13,000,000	\$116,534,000
Total	\$293,210,056	\$416,154,586
Positions		
Regular	1,355.5	958.0
Contractual	419.9	44.5
Total	1,775.4	1,002.5

Sources: Governor's Fiscal 2010 Budget Books and Department of Legislative Services

While some efficiency may be achieved by consolidating the two departments, especially in the information technology, administrative, and human resources areas, significant inefficiencies result from shifting MDE funding to DNR on October 1, 2009, as DNR requires a significant increase in expenditures to manage such a significant influx of funding. In addition, shifting MDE funding to DNR nine months prior to the actual consolidation of the two departments, may effectively leave MDE unfunded for most of the fiscal year. It is not clear how MDE would continue to operate in fiscal 2010.

In accordance with a specified plan, DNR's fiscal 2011 budget must reflect a budget reduction of 20% of the total general funds appropriated in fiscal 2010 to DNR and MDE. Since the Governor's proposed fiscal 2010 budget includes \$98.7 million in general funds for DNR and MDE, this estimate assumes the bill requires a DNR general fund expenditure reduction of \$19.7 million in fiscal 2011.

Some savings may be achieved by abolishing the Secretary of the Environment and the Deputy Secretary of the Environment positions and consolidating administration functions. However, the bill may necessitate a significant increase in special fund revenues and expenditures in fiscal 2011 and subsequent years to offset the required decrease in general fund expenditures and ensure basic statutory responsibilities are implemented. This may be accomplished by increasing various existing, or creating new, environmental and natural resources fees, some of which may be imposed on other State agencies.

Further, the bill requires affected DNR and MDE employees to be given the option to transfer to other State positions with specified benefits. This requirement suggests that the bill simply intends to transfer DNR and MDE resources to other State agencies. To the extent other State agencies must hire these individuals, State expenditures at other agencies increase.

Small Business: To the extent small businesses are required to pay additional or increased fees, expenditures increase.

Additional Comments: Absent significant elimination of programmatic functions, the number of staff and amount of work required to achieve current DNR and MDE functions remains unchanged. Therefore, MDE and DNR advise that any cost savings are illusionary, and in fact, the bill may result in additional costs and no increase in effectiveness or efficiency. The only direct cost savings in the bill is the elimination of the Secretary and Deputy Secretary positions. However, similar positions may be required to provide oversight for environmental operations. Also, if a consolidation of facilities and satellite operations is required, a tremendous one-time expense is likely.

For example, MDE required approximately \$6 million to move to its current location at Montgomery Park in 2002.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Natural Resources, Maryland Department of the Environment, Department of Legislative Services

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mlm/ljm

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