

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 259

(Delegate King, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Environmental Health Monitoring and Testing - Reimbursement of Costs

This bill requires persons responsible for violations of certain provisions of the Environment Article to reimburse the Maryland Department of the Environment (MDE) or a county for costs incurred for environmental health monitoring or testing.

Fiscal Summary

State Effect: General and special fund revenues may increase by an indeterminate amount beginning in FY 2010 from collection of reimbursement by MDE of any costs incurred in conducting environmental health monitoring or testing. MDE enforcement and regulatory development activities under the bill can likely be handled with existing resources.

Local Effect: Local government revenues may increase by an indeterminate amount beginning in FY 2010 from reimbursement of costs recovered from persons responsible for violations of certain provisions of the Environment Article.

Small Business Effect: Potential meaningful adverse impact to the extent that the bill leads to the collection of additional penalties from small businesses responsible for certain environmental violations.

Analysis

Bill Summary: A person responsible for certain violations of the hazardous substances and hazardous materials laws of Title 7, Subtitle 2 of the Environment Article; the water pollution control and abatement laws in Title 4, Subtitle 4; or the water pollution discharge prohibition and permitting requirements of Title 9 must reimburse a county for

costs incurred in conducting environmental health monitoring or testing. A person responsible for a violation of the water pollution discharge prohibition and permitting requirements of Title 9 must also reimburse MDE for environmental health monitoring or testing costs. If MDE is seeking reimbursement and receives a request to combine a county's reimbursement claim, MDE must also seek to recover reimbursable costs on behalf of the county. Reimbursement to a county is not allowed if the environmental health monitoring or testing by the county is duplicative of activities conducted by the State, or if the activities are not reasonably necessary to protect human health or the environment. In addition, reimbursement may not be required if MDE has entered into a consent order with the responsible person.

Current Law: The cost of cleanup and restoration of natural resources is one factor that MDE considers when assessing administrative penalties for a violation of each of the laws covered in the bill. However, environmental health monitoring or testing conducted in affected areas is not specifically considered by MDE in determining the level of penalty to be assessed on a person responsible for the environmental violation.

Background: On October 1, 2007, MDE filed a consent order in Anne Arundel County Circuit Court to settle the environmental enforcement action taken against BBSS, Inc. and Constellation Power Source Generation, Inc. for contamination of public drinking water wells in the vicinity of BBSS' Gambrills sand and gravel mine. Among other provisions, the consent order required the facility owners and operators to pay a civil penalty of \$1 million. Anne Arundel County spent approximately \$104,000 in response to groundwater contamination resulting from that site.

State Fiscal Effect: General and special fund revenues may increase due to penalties and other reimbursement collected in connection with environmental health monitoring or testing that would not otherwise be collected. The bill may also affect MDE enforcement operations by requiring collaboration with local governments in civil actions in which the local authorities seek to combine a reimbursement claim.

Additional Comments: Legislative Services advises that the bill exempts a person from paying reimbursement to a county as long as the person has entered into a consent order with MDE, regardless of whether the consent order is subsequently violated.

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 - March 3, 2009
mlm/ljm Revised - House Third Reader - March 28, 2009
Revised - Enrolled Bill - May 15, 2009

Analysis by: Evan M. Isaacson

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