HB 72

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 72 (Chair, Environmental Matters Committee)(By Request - Departmental - Environment)

Environmental Matters Education, Health, and Environmental Affairs

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Department of the Environment - Oil and Gas Production Permits - Fees

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This departmental bill establishes an Oil and Gas Fund within the Maryland Department of the Environment (MDE) to administer and implement a regulatory program to oversee the drilling, development, production, and storage of oil and gas wells in the State. As a primary revenue source for the fund, the bill requires MDE to set and collect permit and production fees. MDE must adopt implementing regulations.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Special fund expenditures increase by $116,300 in FY 2011 to implement an expanded oil and gas well regulatory program at MDE. Future year expenditures reflect an expanded program in FY 2012, inflation, and ongoing costs. Special fund revenues from fees increase correspondingly, assuming fees are set to cover MDE's costs.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	$116,300	$240,700	$217,200	$226,700	$236,600
SF Expenditure	$116,300	$240,700	$217,200	$226,700	$236,600
Net Effect	$0	$0	$0	$0	$0

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

Local Effect: None.

Small Business Effect: MDE has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment as discussed below.

Analysis

Bill Summary: The bill requires MDE to collect a fee for: (1) the issuance and renewal of a permit to drill a well for exploration, production, or underground storage of gas or oil; and (2) the production of oil or gas wells installed after October 1, 2010. Fees must be set at a rate necessary to (1) review, inspect, and evaluate monitoring data, applications, licenses, permits, and other reports; (2) perform and oversee assessments, investigations, and research; (3) conduct permitting, inspection, and compliance activities; and (4) develop and implement regulations to address the risks to public safety, human health, and the environment of oil and gas well drilling and development. If the fees generate revenue that exceeds what is necessary to operate the regulatory program, MDE must reduce the fees in the following fiscal year.

In addition to those fees, the fund consists of specified fines and bond forfeitures, funds appropriated by the General Assembly, and any other funds.

Beginning November 1, 2010, MDE must report each year to the General Assembly on the revenues, expenditures, and status of the Oil and Gas Fund, the compliance rates and efficiency of the regulatory program, and whether the program's fees need to be adjusted.

Current Law: MDE's Mining Program consists of two units, the Bureau of Mines and the Minerals, Oil, and Gas Division, which regulate coal mining, noncoal mining, and oil and gas exploration and production. A person must obtain a permit from the Minerals, Oil, and Gas Division before drilling a well for the exploration, production, or underground storage of gas or oil in Maryland. A permit is also required for the disposal of any product of a gas or oil well. There are no permit fees.

The Minerals, Oil, and Gas Division's permit review process evaluates the technical adequacy of a project, ensures sufficient environmental controls are employed to protect public safety, and assures citizens that property and mineral interests are protected. Drilling is prohibited in the waters of the Chesapeake Bay, its tributaries, and in the Chesapeake Bay Critical Area, and is subject to additional permit and other regulatory oversight under the Coastal Facilities Review Act.

Thirty-one oil and gas permits were issued in fiscal 2008, with 97 permits in effect at year end.

A person who violates a permit or a provision of the gas and oil laws is guilty of a misdemeanor and is subject to a fine of up to $1,000 per day for each day of the offense, not to exceed a total fine of $50,000, with costs imposed in the discretion of the court.

Background: Recently, the Marcellus shale formation has attracted significant attention from the energy industry for its rich natural gas deposits. Geologists have long known about the natural gas resources contained within the formation but had considered the gas to be not economically recoverable until the recent development of new drilling technology reliant on a process called hydrofacturing.

The Marcellus shale formation spans from upstate New York through southwestern Virginia, and includes Washington, Allegany, and Garrett counties. Current estimates of total recoverable natural gas resources in the Marcellus shale vary significantly, but the U.S. Department of Energy estimates that there are 262 trillion cubic feet of technically recoverable gas, making it potentially the greatest source of natural gas among domestic shale formations.

Wells in Pennsylvania, New York, Ohio, and West Virginia are already producing gas from the Marcellus shale. MDE advises that several companies have leased over 100,000 acres of land in Maryland for drilling into the Marcellus shale formation. In order to review all of the drilling permit applications and to conduct additional regulatory activities to protect public health and the environment from the various risks associated with drilling in the Marcellus shale formation, MDE advises that additional regulation is needed. According to MDE, existing staff are fully subscribed.

The U.S. Environmental Protection Agency (EPA) recently commented on a draft environmental impact statement written by the New York State Department of Environmental Conservation before beginning to drill in the Marcellus shale formation. In its comments, EPA stated that, notwithstanding existing regulatory protections, there remained significant unaddressed concerns associated with overuse of water supplies in the shale hydrofacturing process; water quality issues from disposal of well material; potentially overburdened wastewater treatment operations; local and regional air quality issues; and a lack of management of naturally occurring radioactive materials disturbed during drilling.

Because of these various environmental and public health issues associated with gas drilling, other states with significant Marcellus shale gas resources such as New York, Pennsylvania, and West Virginia have established regulatory programs supported by a variety of permit, application, and other fees. According to MDE, such fees range from $250 to $7,000 per well, depending on permit type.

MDE has received four applications to develop gas wells in fiscal 2010. Assuming the permits are approved, once these initial wells are drilled and production capacity determined, MDE believes hundreds of additional well drilling applications will follow. MDE advises that the high-end estimate of the number of gas wells drilled in Maryland is 4,000, with 1,500 considered the most reasonable estimate in the range.

State Fiscal Effect: Special fund expenditures increase by $116,320 in fiscal 2011 for MDE's expanded regulatory program, which reflects the bill's July 1, 2010 effective date. This estimate reflects the cost of hiring one geologist to review and approve well applications, conduct inspections, and respond to complaints. Assuming well drilling applications increase substantially as production increases in the initial wells, one additional geologist and one secretary will be needed beginning in fiscal 2012. These estimates include salaries, fringe benefits, operating expenses, and start-up costs such as equipment and additional automobiles.

	FY 2011	FY 2012
New Positions	1	2
Salaries and Fringe Benefits	$60,342	$171,898
Start-up Costs and Operating Expenses	55,978	68,806
Total State Expenditures	**$116,320**	**$240,704**

Future year expenditures reflect salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

The fees to be established by MDE by regulation will support these new positions and the other expenses necessary to implement the bill's regulatory program. Therefore, special fund revenues are anticipated to increase by corresponding amounts. However, Legislative Services advises that the bill may restrict the ability of MDE to fund the annual increases in personnel and operating costs of the regulatory program. The bill requires MDE to reduce fees in the next fiscal year based on any excess revenue generated in a given fiscal year, rather than setting the fee based on the expected cost of implementing the program in the following year. Nevertheless, this estimate assumes the ability to generate sufficient fee revenue to cover ongoing costs.

Small Business Effect: Although small mining and other businesses may be hired as subcontractors at drilling sites, the fees under the bill will be imposed on the oil and gas companies that own and develop the oil and gas wells; these companies do not qualify as small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, U.S. Department of Energy, New York State Department of Environmental Conservation, Department of Legislative Services

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ncs/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of the Environment – Oil and Gas Production Permits - Fees

BILL NUMBER: HB 72

PREPARED BY: Maryland Department of the Environment

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ 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.