

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1274 (Delegate Costa)
Environmental Matters

Well Drilling - Local Health Department - Appeal

This bill authorizes a person who has been aggrieved by a local health department's "decision" on an application for a permit to drill a well to appeal to the Maryland Department of the Environment (MDE). An appeal may be made by mail, phone, or electronic communication; must include a description of the basis for the appeal and the decision of the local health department; and must specify the corrective action or ruling being requested of MDE. Within 24 hours, MDE must make a final decision on the corrective action or ruling and must notify both the person that made the appeal and the local health department of its final decision. A "decision" of a local health department under the bill includes an action or inaction by the local health department.

Fiscal Summary

State Effect: General fund expenditures increase by about \$56,000 in FY 2011 for MDE to hire one environmental sanitarian to render decisions appealed to MDE within the period specified in the bill. The operational burden on the Office of Administrative Hearings may decrease negligibly as fewer opinions of well drilling permit denials are rendered. Revenues are unaffected.

| (in dollars) | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 |
|----------------|------------|------------|------------|------------|------------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 56,000 | 71,900 | 75,400 | 79,000 | 82,900 |
| Net Effect | (\$56,000) | (\$71,900) | (\$75,400) | (\$79,000) | (\$82,900) |

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

Local Effect: The bill does not materially affect local government operations.

Small Business Effect: Minimal benefit for small business well drillers as permit appeal decisions are rendered more quickly and within a prescribed period of time.

Analysis

Current Law: A person may not drill a well in Maryland unless the person obtains a permit. MDE has delegated the authority to issue well driller permits to local health departments. A local health department may establish a permit fee to defray the cost of inspecting and testing wells and issuing certificates of potability. The fee may be charged before a permit is issued but may not exceed \$160 per well or \$160 per cluster of wells, except in Anne Arundel County, where the fee is set based on specified costs of the local health department. A local health department may waive the fee under specified conditions.

The goal of the well construction regulatory program is to ensure that wells are constructed in a manner to protect groundwater quality and provide an adequate source of safe drinking water.

Background: MDE advises that, currently, when a well driller or property owner disagrees with a decision of the local health department, they may informally appeal to MDE. If MDE agrees with the well driller or property owner, the local health department is directed to change its decision. If MDE agrees with the local health department, the well driller or property owner can appeal the decision to the Office of Administrative Hearings, which renders a nonbinding opinion. MDE then considers this opinion and makes a final decision. Currently, appeals are quite infrequent despite over 9,000 well permits being issued on average (based on calendar 2005-2007 data).

State Expenditures: General fund expenditures increase by \$56,017 in fiscal 2011, which accounts for the bill's October 1, 2010 effective date. This estimate reflects the cost of hiring one environmental sanitarian within MDE's Water Management Administration to be available at all times to render a final decision within the 24-hour period specified in the bill. Legislative Services advises that, while the relatively low number of anticipated appeals resulting from well drilling permit denials may not justify additional personnel under normal circumstances, the bill's requirement that all appeals be decided within 24 hours will likely require additional staff dedicated to this purpose. Further, by specifying that inaction may be considered a "decision" that can be appealed, the number of appeals in future years may increase enough to fully justify the additional staff.

| | |
|---|-----------------|
| Position | 1 |
| Salary and Fringe Benefits | \$52,450 |
| Start-up Costs and Operating Expenses | 3,567 |
| Total FY 2011 State Expenditures | \$56,017 |

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

To the extent that the number of appeals made under the bill is low enough that a full-time position is not necessary, costs could decrease. Presumably, if only a few appeals are made each year, MDE could either hire a contractual employee to handle the appeal within the specified timeframe or absorb the work by redirecting existing staff on a temporary basis.

Additional Comments: Legislative Services notes that the bill's deadline for MDE to render a final decision on appeals within 24 hours may be problematic to the extent an appeal is made late in the business day on a Friday, anytime over the weekend, or on a State holiday.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Garrett, Howard, and Montgomery counties; Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2010
ncs/lgc

Analysis by: Evan M. Isaacson

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