

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1425

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

Environmental Matters

Education, Health, and Environmental Affairs

**Department of the Environment - Consolidation and Administration of
Environmental Funds**

This departmental bill eliminates the Sewage Sludge Utilization Fund, transfers its outstanding balance on June 30, 2010, and redirects money from the fund's various sources to the Maryland Clean Water Fund. In addition, the bill redirects penalties collected as a result of violations of the erosion and sediment control laws to the Maryland Clean Water Fund. The bill expands the authorized uses of the Maryland Clean Water Fund to reflect sewage sludge and sediment control activities transferred under the bill.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: The bill merely transfers funds from the Sewage Sludge Utilization Fund and the Erosion and Sediment Control Fund to the Maryland Clean Water Fund; therefore, it is not expected to result in a net impact on Maryland Department of the Environment (MDE) special fund finances. However, MDE could realize some efficiencies as a result of the bill's changes.

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

Small Business Effect: MDE has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: In addition to transferring the outstanding balance of the Sewage Sludge Utilization Fund as of June 30, 2010, the bill credits all permit and other fees, as well as civil and administrative fines and penalties, currently supporting that fund to the Maryland Clean Water Fund. The bill repeals related provisions, including the \$400,000 limit on sources of funding for the Sewage Sludge Utilization Fund; the requirement to adjust sewage sludge generator fees to the extent the \$400,000 limit is reached; and the required 25% set-aside of Sewage Sludge Utilization Fund monies for emergency and other specified sewage sludge mitigation measures. Also redirected to the Maryland Clean Water Fund are penalties collected as a result of erosion and sediment control violations that are currently paid into the Erosion and Sediment Control Fund.

Current Law: The Sewage Sludge Utilization Fund is supported by all sewage sludge generator's fees, permit application fees, and related civil and administrative fines and penalties. The fund is used for a variety of purposes related to the control or mitigation of sewage sludge utilization including emergency removal that endangers public health, safety, welfare, or natural resources and for various monitoring activities by the State and local governments.

A State, county, or municipal agency that recovers penalties under the erosion and sediment control laws must deposit the revenue in a special fund to be used solely for correcting the failure to implement or maintain erosion and sediment controls and for administration of the sediment control program. Although not named in statute, MDE refers to the State's special fund as the Erosion and Sediment Control Fund.

The Maryland Clean Water Fund consists of all application fees, permit fees, renewal fees, funds, and civil and administrative penalties and fines collected under the State's water pollution control laws. MDE must use the fund for various activities, including identifying, monitoring, and regulating the proper discharge of effluent into State waters and the management, conservation, protection, and preservation of the State's groundwater and surface water. In determining the use of the fund, MDE is required to give priority to activities relating to the water quality of the Chesapeake Bay and its tributaries.

Background: According to MDE, a 2007 fiscal analysis found that, due to increasing federal and State mandates, increases in salary and fringe benefit costs, and reductions in State general funds available for environmental programs, the department had become dependent on funding sources other than the general fund. As a result, special and federal fund expenditures have been increasing faster than total revenues, which MDE deems insufficient to support all regulatory mandates. One of the primary recommendations was to consolidate some of MDE's 29 special funds to enable it to

prioritize expenditures for activities with the greatest public health risk or environmental need. A more in-depth study completed in 2009 specifically recommended merging the Sewage Sludge Utilization Fund and penalties collected under the sediment and erosion control statute into the Maryland Clean Water Fund. In addition to accomplishing a reprioritization of activities, MDE also advises that by consolidating several water-related special funds, it may realize accounting and operating efficiencies.

State Fiscal Effect: As a result of the bill's provisions that transfer the outstanding Sewage Sludge Utilization Fund balance and specified future revenues to the Maryland Clean Water Fund, an estimated \$997,010 is transferred or redirected in fiscal 2011. This estimate is based on a projected fiscal 2011 opening balance of \$147,010 for the Sewage Sludge Utilization Fund; projected revenues of \$700,000 for the Sewage Sludge Utilization Fund; and projected erosion and sediment control penalty revenues of \$150,000. This represents an increase of about 43% above the estimated \$2.2 million fiscal 2011 opening balance for the Maryland Clean Water Fund, as assumed in the Governor's proposed fiscal 2011 budget.

A reliable estimate of the amounts to be transferred to the Maryland Clean Water Fund in future years cannot be made at this time, due in part to the unpredictable nature of penalty revenues. However, based on the average revenues from fiscal 2009 (actual) as well as for fiscal 2010 and 2011 (forecast), roughly \$820,000 annually is transferred to the Maryland Clean Water Fund under the bill (\$630,000 annually from current Sewage Sludge Utilization Fund sources and about \$190,000 annually from erosion and sediment control penalty revenues).

Legislative Services advises that the bill's repeal of provisions limiting the sum of unallocated funds and generator fees for the Sewage Sludge Utilization Fund to a maximum of \$400,000 is unlikely to have a fiscal impact because MDE currently treats this provision as a limit on unallocated funds, which typically do not exceed \$400,000, rather than a limit on generator fee revenue. Generator fees are the predominant source of revenue for the Sewage Sludge Utilization Fund, and subjecting them to a \$400,000 cap would significantly hinder current sewage sludge management activities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Carroll and Montgomery counties; Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of the

Environment; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Washington Suburban Sanitary Commission; Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2010
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Department of the Environment – Program Fees –
Consolidation of Environmental Funds

BILL NUMBER: HB 1425

PREPARED BY: Maryland Department of the Environment

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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.