

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1289 (Delegate Costa)
Environmental Matters

Well Drilling - Regulation of Water Supply - Public Hearing and Notice

This bill authorizes a person residing in a hydrogeologic area affected by a proposed well construction regulation to request that the Maryland Department of the Environment (MDE) hold a public hearing on the proposed regulation. On receiving such a request, MDE must publish notice of the public hearing in a daily or weekly newspaper of general circulation in the hydrogeologic area and hold the hearing in that area.

Fiscal Summary

State Effect: Because MDE already conducts hearings on proposed regulations and provides notice of those hearings, it is assumed that MDE can handle the bill's changes with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An "affected hydrogeologic area" means a hydrogeologic area of the State in which a groundwater aquifer or an individual well that is affected by a proposed regulation is located.

Current Law/Background:

MDE's Well Construction Regulations

MDE delegates well permitting activities to local approving authorities but provides oversight and assumes responsibility for updating well construction regulations when necessary. 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.

MDE recently proposed comprehensive changes to its well construction regulations in an effort to update them to reflect new drilling techniques and new uses for wells; provide for greater protection of the groundwater resource from contamination; and specify certain designs of wells to assure their long-term serviceability as domestic water supplies. The proposed regulations are currently on hold after being delayed by the Joint Committee on Administrative, Executive, and Legislative Review (AELR Committee) due primarily to concerns regarding cost to the affected industries. According to MDE, the next scheduled hearing on the proposed regulations is set for March 24, 2010, at MDE headquarters in Baltimore.

Current regulations provide for notice and hearing procedures governing MDE rulemakings; however, these regulations do not specify *where* a hearing must be held.

Legislative Review of Proposed Regulations

The AELR Committee is a statutory committee consisting of 20 members evenly divided between the House of Delegates and the Senate. Among other responsibilities, the committee is charged with reviewing regulations proposed or adopted by Executive Branch agencies and considering requests for emergency adoption of regulations.

At least 15 days before a proposed regulation is published in the *Maryland Register*, the promulgating agency must submit the proposed regulation to the AELR Committee and the Department of Legislative Services (DLS) for analysis and review. The agency may not adopt the regulation until at least 45 days after its publication in the *Maryland Register* (*i.e.*, 60 days from its submission to the AELR Committee). The public may comment on the proposed regulation within 30 days after its publication.

The AELR Committee does not have the authority to reject a proposed regulation, but it may request a delay in the adoption of a proposed regulation to give itself more time for review. If the AELR Committee requests a delay, the agency may not adopt the regulation until it submits a notice to the committee of its intent to adopt the regulation

and provides the committee with either 30 days from its notice or 105 days after the regulation's initial publication for further review, whichever is later.

An agency may adopt an emergency regulation if it declares that emergency adoption is necessary, submits the proposed regulation to the AELR Committee and DLS, and the committee approves the emergency adoption. Unless the Governor declares that immediate adoption is necessary to protect public health and safety, the AELR Committee may not approve an emergency regulation earlier than 10 days after its receipt. Emergency regulations are valid for no longer than 180 days.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Charles, Frederick, Montgomery, and Somerset counties; Maryland Department of the Environment; 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