

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

## FISCAL AND POLICY NOTE

## Senate Bill 111

(Senator Brochin, *et al.*)

## Education, Health, and Environmental Affairs

## Environment - Recycling - Apartment Buildings and Condominiums

This bill requires the property owner or manager of an apartment building or condominium containing 10 or more units to provide for the collection and removal of recyclable materials by October 1, 2015. The penalty established for a violation of this requirement is \$50 for each day the violation exists. Enforcement is to be provided by either the State or a county, but penalty revenues are directed to the county in which the violation occurred. Each county must address the bill's requirements in its existing recycling plan. The bill does not preempt any other law, rule, or ordinance that is more stringent and does not affect local government authority to enact and enforce recycling requirements that are more stringent.

## Fiscal Summary

**State Effect:** Unless the Maryland Department of the Environment (MDE) is required to conduct enforcement activities (beginning in FY 2016), it is assumed that the bill can be handled with existing budgeted resources. However, existing staff may need to be redirected from other activities to review county recycling plans revised pursuant to the bill.

**Local Effect:** Local expenditures increase in most jurisdictions beginning in FY 2016 to ensure that the bill's recycling requirements are provided in accordance with county recycling plans and to otherwise enforce the bill. Local revenues may increase beginning in FY 2016 as a result of the bill's civil penalty provision and to the extent any profits are generated from the value of recyclable materials for jurisdictions engaged in the collection and disposal of waste from apartments and condominiums. **This bill may impose a mandate on a unit of local government.**

## **Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** In 1988, the Maryland Recycling Act required each county to submit a recycling plan. Jurisdictions with more than 150,000 residents were required to reduce their solid waste by 20%, and jurisdictions with less than 150,000 residents were required to reduce their solid waste by 15%. According to MDE, by 2000, every county had met or exceeded their percentage requirements under the Maryland Recycling Act. Further legislation enacted in 2000 established a voluntary statewide diversion goal of 40% by 2005. MDE indicates that this goal has also been met each year.

Counties have flexibility to determine the best way to reach the required recycling rates. However, the county recycling plan, revised on a triennial basis, must address specified issues such as the feasibility of composting mixed solid waste, methods for the separate collection and composting of yard waste, and methods of financing county recycling efforts, among other issues. Chapters 264 and 265 of 2009 added to this list a strategy for collecting, processing, marketing, and disposing of recyclable materials from county public schools, and Chapter 430 of 2010 added to this list a strategy for the collection and recycling of fluorescent lights containing mercury. Chapter 408 of 2009 requires the State to place a recycling bin at all State-owned and -operated office buildings and devise a system for the recycling of aluminum, glass, paper, and plastic.

**Background:** According to the U.S Environmental Protection Agency (EPA), in 2009 (the most recent year for which data is available) 54.2% of the municipal solid waste stream was discarded in landfills, 25.2% was recycled, 11.9% was recovered as energy through combustion, and 8.6% was composted. MDE reports that, in 2009, Maryland had a recycling rate of 39.1% (down from 43.9% in 2008) and a waste diversion rate of 42.6% (down from 47.5% in 2008).

In addition to the issue of landfill diversion, recycling is encouraged due to the potential for significant reductions in virgin material extraction, energy use, and emissions of greenhouse gases. For example, according to EPA, nationwide recycling and composting activities in 2008 prevented the equivalent of 182 million tons of carbon dioxide emissions; this is the same level of emissions produced by 33 million cars.

**State Expenditures:** Although MDE is generally required to enforce the provisions of the Environment Article, it may also delegate enforcement to local authorities. Given that counties currently ensure that recycling activities are implemented in accordance with the county recycling plan, it is assumed that enforcement of the bill is handled by the counties. If MDE were required to conduct inspections or other enforcement activities, additional staff may be needed. The Office of Recycling does not currently conduct enforcement activities.

MDE will also incur an additional burden associated with the review of county recycling plans that will be revised as a result of the bill. While it is assumed that this review can be handled with existing staff, the bill may redirect existing staff from other activities.

**Local Expenditures:** Because local governments are required under current law to review county recycling activities in accordance with county recycling plans, it is assumed that local governments may accept delegated authority from MDE to fully enforce the bill. Accordingly, expenditures may increase for some jurisdictions, although the magnitude of such an increase is unclear at this time. Montgomery and Prince George's counties currently meet the requirements of the bill. However, other counties that do not administer similar programs or have the staffing resources or experience to implement the bill will likely require additional personnel for inspection and enforcement activities.

The bill may also cause some jurisdictions to incur additional costs to ensure collection and removal of recyclable materials at properties that they own. For example, several jurisdictions, such as Baltimore City, administer housing authorities. In Maryland, housing authorities are public bodies corporate and politic, generally dependent on federal funds and rents collected from tenants.

All local governments will be required to amend their county recycling plans. However, any amendment of a county plan can likely be accomplished within the existing schedule and would therefore impose little additional burden.

Some local governments that provide solid waste collection and disposal services for apartments and condominiums may realize cost savings, which may partially or fully offset any additional expenditures to implement the bill in these jurisdictions.

**Local Revenues:** Local revenues may increase beginning in fiscal 2016 due to the bill's civil penalty provision and to the extent any profits are generated from the value of recyclable materials for jurisdictions engaged in the collection and disposal of waste from apartments and condominiums.

**Small Business Effect:** Owners or managers of affected apartment buildings and condominiums will likely need to contract with waste and recycling contractors for the collection and removal of recyclable materials, which increases costs beginning in fiscal 2016, unless fully offset by associated savings. For example, an increase in recycling reduces the costs associated with payment by apartment buildings of landfill tipping fees; MDE advises that average tipping fees total \$52 per ton statewide. Further, depending on the location of the building and the state of the recycled materials markets, apartment building owners may realize a profit on the contract for removal of recycled materials.

Small business recycling contractors will benefit from an increase in the demand for their services.

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## **Additional Information**

**Prior Introductions:** SB 156 of 2010 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. SB 953 of 2009 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. SB 420 of 2005 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

**Cross File:** HB 179 (Delegate Lafferty) – Environmental Matters.

**Information Source(s):** Maryland Department of the Environment, U.S. Environmental Protection Agency, Department of Legislative Services

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