

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1354

(Delegate Cane)

Environmental Matters

Education, Health, and Environmental Affairs

Environment - Construction of Wells

This emergency bill requires the Maryland Department of the Environment (MDE), prior to proposing to adopt a change to well drilling laws or regulations, to submit the change to the State Board of Well Drillers, the Maryland Delaware Water Well Association, and each county board of health delegated authority by MDE to implement a well inspection program. The bill also requires MDE, in consultation with the board, to conduct a public meeting on the change. MDE must publish a summary of public comments received on its website and must review any recommendation of the State Board of Well Drillers relating to the change. MDE may not propose to adopt a legislative or regulatory change that relates to the construction of wells unless the board approves the change.

Fiscal Summary

State Effect: MDE workloads increase, and expenditures may increase negligibly, to provide for the additional notice, comment, and approval procedures in its regulatory development process. Revenues are not directly affected.

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

Small Business Effect: Minimal.

Analysis

Current Law/Background: At least 15 days before a proposed regulation is published in the *Maryland Register*, the promulgating agency must submit the proposed regulation to the Joint Committee on Administrative, Executive, and Legislative Review (AELR) 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 AELR). The public may comment on the proposed regulation within 30 days after its publication. In addition, before MDE adopts any regulation that relates to the construction of wells, it must first submit the proposed regulation to the State Board of Well Drillers for comment.

The goal of MDE's 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.

Well drilling is an important industry in the State, and MDE issues roughly 10,000 well permits per year. While the majority of the State's population receives its water from public water systems, the use of ground water for public water supplies is a common practice in Maryland. Where no public water systems exist, residents obtain water from underground supplies through the use of private wells. Even if there is a preexisting well on a homeowner's lot, a well driller or well drilling company must be contracted with and the necessary permit(s) obtained before new well construction can begin.

MDE proposed comprehensive changes to its well construction regulations in October 2009, as the culmination of years of regulatory development work in an effort to update the regulations 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 were placed on hold in December 2009, after being delayed by the AELR Committee due primarily to concerns regarding cost to the affected industries. A notice to withdraw the proposed regulations was published in the *Maryland Register* on December 3, 2010.

The State Board of Well Drillers is 1 of approximately 70 entities currently subject to periodic evaluation under the Maryland Program Evaluation Act (sunset review). A preliminary sunset evaluation conducted by DLS in 2008 found that there is a continued need for regulation of well drillers and that the board has been fulfilling this function in a fair and efficient manner. Therefore, DLS recommended that the board be waived from full evaluation and that legislation be enacted to extend the board's termination date by 10 years. Chapter 29 of 2009 extended the termination date for the board to July 1, 2021.

Additional Comments: MDE advises that the additional notice and comment procedures will create duplication of effort, confusion, increased costs, and delays in the regulatory development process beyond what is already required under the Administrative Procedures Act and the Environment Article.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - April 4, 2011
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Analysis by: Evan M. Isaacson

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