

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1303 (Chair, Environmental Matters Committee)(By Request -
Departmental - Agriculture)

Environmental Matters Education, Health, and Environmental Affairs

Agriculture - Cost Sharing for Water Pollution Control

This departmental bill increases the maximum dollar amount limit on State cost sharing that may be provided per project to implement best management practices on a farm to prevent or control agriculturally related nonpoint source water pollution, from \$100,000 to \$200,000.

Fiscal Summary

State Effect: None. The bill itself does not have an impact on overall State funding for the cost share program, as discussed below.

Local Effect: None.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: A cost share program is established under the Agriculture Article of the Annotated Code to assist in the implementation of agricultural practices which minimize water pollution from erosion, animal wastes, nutrients, and agricultural chemicals. State cost sharing in any project may be made available for up to 87.5% of eligible costs, not to exceed \$100,000, as determined by a regulation adopted jointly by the Secretary of Agriculture and the Secretary of the Environment.

Certain requirements and conditions apply to the granting of cost sharing, including that MDA, the soil conservation district, and the person seeking cost sharing execute an agreement which, among other things, obligates the person to establish, construct, or install the best management practice in accordance with technical specifications, to maintain the best management practice for its expected lifespan, and to provide the required matching funds for the project.

The soil conservation district certifies to MDA that the project meets all applicable technical standards and that all submitted invoices properly represent eligible costs. State cost sharing funds are disbursed only after MDA has determined that the best management practice has been established or in the case of equipment, structures, or similar items, that it has been received and properly installed. Payment may be made either to the person, when the person has advanced the money, or directly to a vendor or contractor.

MDA regulations establish a number of different dollar amount limits under the statutory limit of \$100,000 per project. Payments made for one or more animal waste storage or treatment projects may not exceed \$100,000 per farm per person. Other projects are generally limited to \$35,000 for a single project, unless it is a project covered by a pooling agreement (among multiple persons, to solve a mutual pollution problem), which is limited to \$75,000. Payments for multiple projects, not including animal waste storage or treatment projects, may not exceed \$75,000 per farm per person. If a person implements one or more animal waste storage or treatment projects and other additional projects, the total payment made for all of the projects cannot exceed \$150,000 per farm per person.

Background: The cost share program is administered as the Maryland Agricultural Water Quality Cost-Share Program (MACS). Cover crops, streamside buffers, and animal waste storage systems are among 30 best management practices eligible for funding under the program. The per project limit was last increased in 2006 (Chapter 77), from \$75,000 to \$100,000.

MDA indicates that as Maryland and other Chesapeake Bay states face challenges in restoring the bay, farmers are under financial pressure to comply with increased requirements. According to MDA, farmers must have adequate funding available to assist them with manure storage and other manure management-related requirements. MDA indicates that the bill will address increasing costs of animal waste management systems and help farmers meet new nutrient management and TMDL (Total Maximum Daily Load – a baywide “pollution diet” established by the U.S. Environmental Protection Agency) requirements in coming years. The Maryland Department of the Environment also indicates that recently implemented animal feeding operation programs regulating the poultry industry have increased the need for storage structures and best management practices for animal feeding operations.

The proposed fiscal 2013 capital budget does not include any funding for MACS despite the programming of \$8.5 million in general obligation (GO) bond authorization for fiscal 2013 in the 2011 *Capital Improvement Program*. MDA notes that available authorization at the end of fiscal 2011 and \$6.0 million in GO bond authorization from fiscal 2012 provides sufficient funding for project expenditures in both fiscal 2012 and 2013. The 2012 *Capital Improvement Program* includes \$4.5 million in GO bond authorization for fiscal 2014 and \$8.5 million in GO bond authorization in each year for fiscal 2015 through 2017.

State Fiscal Effect: Increasing the maximum State match, in and of itself, does not affect the overall State funding for MACS, but if MDA chooses to fund more expensive projects as a result of the bill, then fewer projects will be funded. While this bill *alone* does not require MDA to increase its total cost share assistance provided under the program, it is possible that MDA will choose to request additional funds for the program in future years in order to help fund strategies to help the State meet its commitments under the TMDL.

MDA advises that the increased limit will only affect animal waste storage and treatment projects, which are the only best management practices that can receive funding up to the current \$100,000 limit under MDA regulations. The increased cap could affect both new applicants without any waste management practices as well as those that have received funding under the program and need to increase animal waste storage but have reached the \$100,000 limit. MDA generally indicates that multiple animal waste management practices on one farm are considered to be part of one overall system for purposes of the statutory \$100,000 per project limit.

MDA estimates that 127 animal waste management systems will be constructed over the next five years in order to comply with the TMDL. Assuming 50% of those systems utilize the full additional \$100,000 under the increased cap, the demand for cost share assistance increases by approximately \$1.27 million on average each year from fiscal 2013 through 2017.

MDA indicates that existing authorized GO bond funding available for fiscal 2013 from prior years is expected to be sufficient to cover additional cost share funding provided in fiscal 2013. As noted above, in future years, if no additional GO bonds are provided for the program and MDA provides an increase in State assistance to certain projects as a result of the bill, then fewer projects will be funded.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Maryland Department of the Environment, Department of Natural Resources, Montgomery and Prince George's counties, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2012
ncs/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Agriculture – Cost Sharing for Water Pollution Control

BILL NUMBER: HB 1303

PREPARED BY: Department of Agriculture

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

This legislation would give Maryland farmers the financial tools to install Water Pollution Control projects to help meet the Chesapeake Bay Goals. MDA can cite several examples of farmers who have reached the statutory cap. More funding will be needed in the future to provide financial assistance.