

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 115

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Environment)

Education, Health, and Environmental Affairs

Environmental Matters

Environment - Waterworks and Wastewater Works Certified Operators

This departmental bill authorizes specified waterworks, wastewater works, and industrial wastewater works to have a certified operator serve in responsible charge instead of a certified superintendent. In order to qualify for the exemption from the requirement to be under the supervision of a certified superintendent, the system must serve fewer than 500 persons, have minimal treatment requirements as determined by the Maryland Department of the Environment (MDE), and employ no more than two operators. In addition, the system must receive approval from MDE.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances. Although MDE may process fewer superintendent licenses, those individuals will continue to hold operator's licenses.

Local Effect: Local government expenditures may decrease for any jurisdiction that operates a water or wastewater system that qualifies for the bill's exemption due to any savings from not hiring or maintaining a certified superintendent. Revenues are unaffected.

Small Business Effect: MDE has determined that this bill has minimal or no impact on small business (attached). Legislative Services disagrees with this assessment as discussed below.

Analysis

Current Law/Background: The State Board of Waterworks and Waste Systems Operators was established in 1957 to examine and certify the superintendents of waterworks and waste systems. In 1982, the board's regulatory purview increased to include operators in addition to the superintendents, thus establishing a two-tier system of regulation. In total, the board oversees about 3,600 certificate holders. The board's regulation of operators and superintendents predates by decades similar requirements of federal law, which requires that waterworks employ certified operators, but not superintendents. Thus, many other states, including surrounding states such as Delaware, Pennsylvania, Virginia, and West Virginia, require waterworks to only employ certified operators, rather than both operators and superintendents.

The board underwent a full sunset evaluation by Legislative Services in 2009. The evaluation found that many water and wastewater systems, particularly smaller systems, do not employ certified operators, and even fewer employ certified superintendents. The evaluation, therefore, recommended that the board, in conjunction with MDE, report on whether to amend statute to exempt facilities of a certain size or type from the requirement to employ a certified superintendent. In its September 2011 report, MDE and the board noted that current regulations do not specifically require a facility to employ a superintendent and, that in practice, MDE implements the water operator certification as specified under the federal Safe Drinking Water Act. Thus MDE and the board recommended that statute be amended so that Maryland requirements are not more stringent than neighboring states and to simplify the requirements for small regulated systems.

According to MDE, there are about 756 small water and wastewater treatment systems that must employ a certified superintendent in order to meet the requirement that they be under the supervision of a certified superintendent.

Local Expenditures: According to MDE, there are 267 locally owned facilities (157 water treatment systems and 110 wastewater systems) that may qualify for the bill's exemption. It is unknown how many of these systems are currently under the supervision of a superintendent, but for systems that are, the local government may choose to not retain that superintendent or hire a new one at some point in the future. Other locally owned systems that are not currently under the supervision of a superintendent but that planned to hire one as required by law, may forgo doing so under the bill's exemption. For example, the City of Hagerstown advises that the bill could result in a decrease in salary costs of between \$10,000 and \$30,000 annually. In addition, Caroline County advises that it will begin operating a new small water system in the near future, and if it qualifies for the bill's exemption, it would consider employing a certified operator rather than a certified superintendent at the facility. In addition, MDE advises that some small

facilities may employ a single operator who holds both an operator and a superintendent license. Under this bill, those individuals would no longer be required to hold both licenses. Therefore, at least some locally owned water or wastewater systems may realize savings under the bill.

Small Business Effect: MDE advises that small business waterworks or waste systems will realize a minimal decrease in costs from the bill's exemption. However, Legislative Services advises that the exemption may result in a meaningful beneficial impact for at least some small business water or wastewater systems to the extent that an eligible business will no longer be required to hire or maintain a certified superintendent. The personnel cost associated with maintaining a certified superintendent may represent a significant percentage of some small business water or wastewater system budgets.

According to MDE, there are 439 water treatment systems and 50 wastewater treatment systems affected by the bill that are privately owned. MDE advises that, although the 50 wastewater systems are likely to not be owned by small businesses, some portion of the 439 privately owned waterworks, including 85 mobile home parks that are community water systems, may be small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Calvert, Caroline, Howard, and Montgomery counties; City of Rockville; Maryland Department of the Environment; Board of Waterworks and Waste Systems Operators; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2012
mc/lgc

Analysis by: Evan M. Isaacson

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Environment –Waterworks and Wastewater Works Certified Operators

BILL NUMBER: SB 115

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 economic impact of this Bill is minimal since most “Board of Waterworks and Waste Systems Operators” licenses are \$75 for a 3-year period. There should not be any economic impact for local government.