

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 945 (Senator Colburn)
Budget and Taxation and Judicial Proceedings

**University of Maryland, Baltimore - Environmental Law Clinic - Reimbursement
of Lawsuit Expenses**

This bill requires the University of Maryland, Baltimore (UMB) to pay up to \$500,000 to reimburse the Alan and Kristin Hudson Farm (Hudson Farm) for legal expenses incurred in a lawsuit against Hudson Farm and Perdue Farms, Incorporated that alleges unlawful discharges into the Pocomoke River.

Fiscal Summary

State Effect: Higher education expenditures in FY 2013 for UMB increase by up to \$500,000 to reimburse Hudson Farm for legal expenses. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

UMB Law Clinics

The Francis King Carey School of Law at UMB operates several law clinics. The law clinics allow students to work alongside faculty members on real-life cases and gain practical experience in the legal profession. Law clinics are required by the American Bar Association for law school accreditation.

The clinical law program at UMB has been ranked among the nation's top 10 by U.S. News & World Report, and it was the first law school program in the country to receive the John Minor Wisdom Award, the American Bar Association's leading public service honor. Each year, 25 faculty lead 250 students in providing 110,000 hours of free legal services to the community.

The proposed fiscal 2013 State budget for UMB includes \$176.3 million in State general funds and \$8.0 million in funds from the Higher Education Investment Fund, a total of \$184.5 million, which is approximately \$237,000 more than its fiscal 2012 appropriation. The total current unrestricted appropriation (which primarily includes State funds and tuition and fees) is \$526.4 million for fiscal 2013.

Environmental Law Clinic

The Environmental Law Clinic at UMB, established in 1987, is part of the school's nationally acclaimed Environmental Law Program and an important part of the nationally ranked clinical law program. The Environmental Law Clinic is the largest public interest environmental law firm in the State of Maryland devoted to providing free legal services to support environmental litigation and legal reform that protects the Chesapeake Bay Watershed. The goal of the clinic is to train future environmental lawyers by working to improve and enforce environmental laws and regulations at the State, regional, and national levels. UMB reports that the Environmental Law Clinic is funded by tuition and fees (32%), State appropriations (8%), and private funds (60%).

Hudson Farm Case

In 2010, the UMB Environmental Law Clinic, the Assateague Coastkeeper, and the Waterkeeper Alliance filed suit against Perdue Farms and Alan and Kristen Hudson, who raise more than a half million chickens a year on their 293-acre farm located in Wicomico County, alleging that they were polluting the Pocomoke River. In its filing, the clinic argued there was evidence the farm was the source of high bacteria counts found in a drainage ditch that drains into the Pocomoke River. As a result of the suit, the Maryland Department of the Environment investigated the Hudson Farm and fined it \$4,000 and closed its inquiry.

The law clinic's *pro bono* work on the case was criticized when the Hudson's lawyer said the legal costs incurred defending the suit could bankrupt the farm. Critics also claimed that the Assateague Coastkeeper and the Waterkeepers Alliance had the funds to hire their own legal counsel, although supporters argued that the critics were mistaken. In response, the General Assembly debated during the 2010 session withholding funds from the law clinic and the *Joint Chairmen's Report* requested UMB to report on each legal

case in the past two years in which the Environmental Law Clinic participated in a court action and provide a complete delineation of nonprivileged expenses associated with each case. In 2011, the Governor wrote a letter to the dean of the law school criticizing the case.

Joint Chairmen's Report Findings

UMB's submission described seven court actions in which the law clinic participated: four related to water pollution, two to air pollution, and one to land use. Nonprivileged expenses are also listed, although four of the cases had none. Of the three that did, expenses were related to copies, travel, and court fees and few totaled more than \$100. The submission does not indicate how much in privileged expenses were withheld, if any. For the three cases that had expenses, the total amount was \$1,105. The submission also reported on the administrative costs for the clinic. In 2010, it employed a 0.65 full-time equivalent (FTE) faculty director, and a 1.0 FTE fellow. Administrative expenses totaled \$164,625 in both fiscal 2009 and 2010.

State Expenditures: Higher education expenditures for UMB increase by up to \$500,000 to reimburse Hudson Farm for legal expenses. Actual expenditures depend on the legal expenses that Hudson Farm incurred regarding alleged unlawful discharges into the Pocomoke River.

Additional Information

Prior Introductions: None.

Cross File: HB 1349 (Delegate McDermott, *et al.*) - Appropriations.

Information Source(s): *The Baltimore Sun*; University of Maryland, Baltimore; Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2012
ncs/rhh

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