

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 117

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

Education, Health, and Environmental Affairs

Environmental Matters

Environment - Water Appropriation Permits - Construction Dewatering Projects

This departmental bill authorizes the Maryland Department of the Environment (MDE) to waive the water appropriation permit notice and hearing requirements for a construction dewatering project.

Fiscal Summary

State Effect: MDE workloads may decrease minimally beginning in FY 2013 as less work will be required to ensure proper compliance with notice and hearing requirements during the processing of water appropriation permits. State finances are not materially affected.

Local Effect: Local government workloads decrease beginning in FY 2013 due to the waiver of notice and hearing requirements associated with local government construction dewatering projects. Local expenditures may also decrease materially to the extent that the exemption from notice and hearing requirements results in lower project development costs undertaken by local governments.

Small Business Effect: MDE has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: In order to conserve, protect, and use water resources in accordance with the best interests of the people of Maryland, it is the policy of the State to control, so far as is feasible, the appropriation or use of surface waters and groundwaters of the State. A

permit must be obtained from MDE to appropriate or use, or to construct any structure that may appropriate or use, any waters of the State. An applicant must provide MDE with satisfactory proof that the proposed withdrawal of water will not jeopardize the State's natural resources. Before acting on any permit application, MDE must weigh all respective public advantages and disadvantages and make all appropriate investigations. Current regulations establish criteria MDE must follow in approving water appropriation or use permits and outline certain types of activities that are exempt from permit requirements.

On application for a water appropriation or use permit, MDE must follow general notice and hearing requirements that also apply to several other environmental permits. These consolidated procedures govern, among other things, the contents, required recipients, and methods of delivery of notice, as well as specified public hearing procedural requirements. Generally, a water appropriation or use permit must be accompanied by notice published in a newspaper, service of notice to contiguous property owners, and the holding of a public informational hearing.

However, MDE is authorized to waive notice and hearing requirements if the requested appropriation or use is for an average annual water use of 10,000 gallons per day or less. If the requested appropriation or use is for between 10,000 and 50,000 gallons of water per day on average, then MDE may waive the hearing only. A construction dewatering project is exempt from water appropriation or use permit requirements altogether if it is for a project that uses no more than an average of 10,000 gallons per day or less, and is also expected to last for less than 30 days. If a project is for at least 50,000 gallons of water per day on average, then MDE is not currently authorized to waive the notice or hearing requirements.

Background: Dewatering is the temporary removal of ground or surface water from a construction site to allow for construction under dry conditions. According to MDE, dewatering associated with construction projects typically has a short duration and often needs to begin on short notice. The bill reduces the time for most construction dewatering projects by allowing MDE to waive the public notice and information hearing requirements, which can typically add several months to the permit processing time. MDE advises that, under the bill, it will notify contiguous property owners at the beginning of the permit process, which will provide an opportunity for stakeholders to comment on the permit; currently, contiguous property owners are directly notified only after the permitting process is completed.

Local Fiscal Effect: MDE advises that most water appropriation permits for construction dewatering projects are issued to local governments or their contractors. By reducing the turnaround time and eliminating costs involved with ensuring that notice and

hearing requirements are met, the bill can provide greater flexibility in a project's construction schedule, which may in some cases result in significant fiscal savings.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Howard County, City of Frederick, Department of Legislative Services

Fiscal Note History: First Reader - February 3, 2012
ncs/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Environment – Water Appropriation Permits – Construction
Dewatering Projects

BILL NUMBER: SB 117

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

This bill will have a positive economic impact on small businesses. This change would expedite the process for water appropriation permits for construction dewatering projects and replace the current public advertisement and public informational hearing requirements with contiguous property notification that occurs concurrent to the permit review process.

This proposal is in conformance with Maryland Made Easy as the new process will reduce the permitting burden placed on small businesses without sacrificing negative impacts to the environment or public health.