

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 302

(Senators Glassman and Simonaire)

Education, Health, and Environmental Affairs

Environmental Matters

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Environment - Water Pollution Control - Reporting

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This bill requires the Maryland Department of the Environment (MDE) to annually publish on its website the total amount of sewage overflow, in gallons, from sewerage systems into the Chesapeake Bay and its tributaries during the previous year, as well as the fines collected as a result of the sewage overflows.

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Fiscal Summary

**State Effect:** MDE workloads increase minimally to publish the amount of fines collected from sewage overflows. However, it is assumed that expenditures are not materially affected. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law/Background:** The Water Pollution Control subtitle generally pertains to the regulation of point source discharges to waters of the State. In addition to being subject to an injunctive action, a person who violates the State's water pollution control laws or any regulation, order, or permit issued under these laws is subject to a maximum penalty of \$10,000 to be collected in a civil action brought by MDE. Each day a violation occurs is a separate violation. MDE may also impose an administrative penalty of up to \$5,000 per violation and up to \$50,000 total for a violation of any water pollution control law, regulation, order, or permit. Administrative penalties must be assessed with consideration given to specified factors. Chapter 258 of 2009 (SB 408) increased the

maximum administrative penalty from \$1,000 to \$5,000 per violation. Penalties are paid into the Maryland Clean Water Fund.

Criminal (misdemeanor) penalties may also be imposed, with a maximum fine of \$25,000 and/or imprisonment for up to one year, for a first offense, and a maximum fine of \$50,000 and/or imprisonment for up to two years, for a subsequent offense. Each day on which a violation occurs is a separate violation. Additional criminal penalties apply for making false statements in required documents.

A criminal prosecution or suit for a civil penalty for violation of the Water Pollution Control subtitle must be instituted within three years of the violation.

Since January 1, 2009, MDE has implemented a new enforcement initiative to address unauthorized discharges of pollutants resulting from sanitary sewer overflows. Under this initiative, MDE has begun assessing penalties for all sewage overflows, with the exception of permitted combined sewer overflows, unless the owner or operator of the system clearly demonstrates that the overflow was beyond their control and in spite of taking all reasonable steps to properly operate, maintain, and improve the system. Previously, MDE targeted only those systems with numerous sewage overflows or large volume overflows for enforcement actions. Since July 2009, MDE has collected about \$1.1 million in penalties from enforcement of sewage overflow violations.

The water pollution control laws include the requirement for an owner or operator of any sanitary sewer system, combined sewer system, or wastewater treatment plant to report to MDE any sewer overflow or treatment plant bypass that results in the direct or potential discharge of sewage. MDE provides public access through its website to the Maryland Reported Sewer Overflow Database. The database shows that there were 1,775 reports of sewage overflows in calendar 2012, including 39 overflows of at least one million gallons, down from 94 overflows of at least one million gallons in 2011. One-third of the overflows of at least one million gallons were the result of Hurricane Sandy. Nearly all significant overflows came from local wastewater treatment plants.

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### **Additional Information**

**Prior Introductions:** A bill with similar provisions, SB 877 of 2012 passed the Senate with amendments and received a hearing in the House Environmental Matters Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Howard, Montgomery, and Prince George's counties; Baltimore City; Maryland Department of the Environment; Judiciary (Administrative Office of the Courts); Washington Suburban Sanitary Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2013  
ncs/lgc Revised - Senate Third Reader - March 18, 2013

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