

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 615

(Chair, Environmental Matters Committee)(By Request -
Departmental - Natural Resources)

Environmental Matters

Education, Health, and Environmental Affairs

Coast Smart Council

This departmental bill establishes a Coast Smart Council in the Department of Natural Resources (DNR). Among other things, the council must develop specified “Coast Smart” siting and design criteria to address sea level rise and coastal flood impacts on capital projects. Beginning July 1, 2015, if a State capital project includes the construction of a structure or the reconstruction of a structure with substantial damage, the structure must be constructed or reconstructed in compliance with those siting and design criteria. The council must adopt initial criteria by June 30, 2015. Until then, the bill establishes the General Assembly’s intent that units of State government that propose capital projects for a new State structure or the reconstruction or rehabilitation of a substantially damaged State structure comply with the guidelines and requirements of Executive Order 01.01.2012.29.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: The bill is not expected to directly affect State finances. Staffing of the council and any expense reimbursements are absorbable within existing resources. Other provisions of the bill effectively codify a current State initiative already being implemented.

Local Effect: None.

Small Business Effect: DNR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: “Coast Smart” means a construction practice in which preliminary planning, siting, design, construction, operation, maintenance, and repair of a structure avoids or minimizes future impacts associated with coastal flooding and sea level rise. The term includes design criteria and siting criteria that are applicable throughout the entire life cycle of a project.

DNR must provide staff support to the council. The bill establishes provisions regarding council membership and the terms of council members. A member appointed by the Governor may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

The council must:

- study and provide analysis regarding standards and factors relevant to the establishment of Coast Smart siting criteria and design criteria;
- in consultation with DNR, develop siting and design criteria to establish and implement Coast Smart practices and requirements;
- develop eligibility criteria, standards, and procedures for applying for and obtaining a waiver from compliance with those requirements; and
- establish procedures for evaluating waiver applications, as specified in the bill.

The siting and design criteria must include (1) guidelines and any other directives applicable to the preliminary planning and construction of a proposed capital project; (2) a requirement that the lowest floor elevation of each structure located within a special flood hazard area is built to a specified elevation; and (3) provisions establishing a process to allow a unit of State government to obtain a waiver from the bill’s requirements.

DNR, the Department of Budget and Management (DBM), and the Department of General Services (DGS) must review and incorporate the criteria developed by the council in the appropriate instructions and policies.

The bill’s requirements relating to State capital projects apply to State capital projects planned and built by units of State government that are partially or fully funded with

State funds. The requirements do not apply to any capital project approved by the General Assembly before July 1, 2015.

Current Law/Background: In response to ongoing concern about the vulnerability of the State's infrastructure investments to sea level rise and coastal flooding, in December 2012, Governor O'Malley issued the Climate Change and Coast Smart Construction Executive Order. Among other things, the executive order directed:

- all State agencies, when they propose capital budget projects for new State structures or the reconstruction or rehabilitation of substantially damaged State structures for inclusion in the State capital budget on or after July 1, 2013, to consider the risk of coastal flooding and sea level rise to the project and to site and design State structures to avoid or minimize associated impacts;
- DGS to update its architecture and engineering guidelines to require new and rebuilt State structures located in specified flood hazard areas to be elevated two or more feet above the 100-year base flood elevation, unless a variance is warranted; and
- DNR, in consultation with the Maryland Commission on Climate Change and other relevant parties, to develop additional proposed guidelines concerning Climate Change and Coast Smart Construction.

In response to the executive order, in February 2013 DNR convened a Maryland Climate Change and Coast Smart Construction Working Group to develop (1) recommendations for additional Coast Smart criteria for the siting and design of new, reconstructed, or rehabilitated State structures, as well as other infrastructure improvements; (2) recommendations concerning the potential application of Coast Smart guidelines to non-State infrastructure projects that are partially or fully funded by State agencies; and (3) any other recommendations for executive and/or legislative action.

The working group's final report, which was issued in January 2014, recommended the use of several planning principles, a policy framework, and siting and design guidelines to guide what, where, and how State infrastructure investment decisions are made within vulnerable areas. The working group recommended that the State should employ Coast Smart practices when constructing all new State structures, reconstructing or rehabilitating substantially damaged State structures, or making other major infrastructure improvements in Maryland's coastal zone, such as roads, bridges, water and sewer systems, drainage systems, and essential public utilities. The working group's report noted that similar measures should be applied to non-State structures or infrastructure projects if partially or fully funded by State agencies and to non-State projects located on State-owned lands.

DNR advises that the council established by the bill will provide a path for further consideration and adoption of the working group's recommendations. DNR and DBM indicate that agencies have already begun the process of incorporating Coast Smart siting and design criteria in capital project planning.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Department of Budget and Management, Department of General Services, Maryland Department of Transportation, Maryland Department of the Environment, University System of Maryland, Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2014
ncs/lgc Revised - House Third Reader - March 20, 2014

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: The Climate Risk Reduction Act

BILL NUMBER: HB 615

PREPARED BY: Department of Natural Resources

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 affects only construction undertaken by State agencies.