

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1240 (Delegate Ciliberti, *et al.*)  
Environment and Transportation

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Sediment Control - Violations - Enforcement

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This bill authorizes any person aggrieved by a final decision of the Maryland Department of the Environment (MDE) in connection with a hearing requested regarding specified enforcement actions under the sediment control law to take direct judicial appeal. The bill also modifies related enforcement provisions by authorizing MDE to impose an administrative penalty under the sediment control law only if (1) MDE has delivered three separate warning notices to the person accused of the violation; (2) the accused person has not taken corrective action within one week of the third and final warning notice; and (3) MDE has provided the accused person with the opportunity for a hearing (which may be waived in writing by the accused).

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Fiscal Summary

**State Effect:** Although the bill can likely be implemented with existing resources, it may have a significant operational impact on MDE and other State agencies that are delegated authority to administer erosion and sediment control programs, as discussed below. Potential decrease in special fund revenues if the bill results in fewer penalties collected for sediment control violations.

**Local Effect:** Although local finances are likely not materially affected, the bill could have a significant operational impact on local governments that are delegated authority by MDE for administering erosion and sediment control programs.

**Small Business Effect:** None, assuming compliance with the sediment control law.

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## Analysis

**Current Law:** Under sediment control provisions of the Environment Article, any person aggrieved by a final decision made by MDE in connection with an order or permit may take direct judicial appeal. The appeal must be made in accordance with the Administrative Procedure Act.

A violator of the sediment control laws is guilty of a misdemeanor and, upon conviction, is subject to a fine up to \$10,000 or imprisonment for up to one year, or both. Additionally, the appropriate State, county, or municipal agency may bring a civil action and seek up to \$10,000 for each violation. The Attorney General may take action in lieu of a county or municipality that fails to enforce any relevant provisions of law.

After an alleged violator receives an opportunity for a hearing, MDE may impose an administrative penalty on any person who violates any provision of the sediment control subtitle or any regulation or plan adopted, approved, or issued under the subtitle, in addition to any criminal or civil charges or penalties. Current law establishes specified procedural requirements for requesting a hearing as well as criteria MDE must consider in assessing administrative penalties. Penalties assessed for violations of the sediment control provisions are paid into the Maryland Clean Water Fund.

**State Fiscal Effect:** MDE advises that, as a result of the bill's notice requirements, MDE inspection staff must essentially conduct four inspections before a property may be assessed an administrative penalty for a sediment control violation. While existing staff can conduct the inspections, the bill's changes likely result in fewer sites being inspected overall. Other State agencies that are delegated authority for erosion and sediment control programs, including the State Highway Administration and the Maryland Transit Administration within the Maryland Department of Transportation, are likely similarly affected.

Special fund revenues to the Maryland Clean Water Fund may decrease to the extent that the bill's procedural requirements result in fewer penalties assessed for violations of the sediment control law. The magnitude of any such decrease cannot be estimated.

The bill's changes are not anticipated to materially affect the Office of the Attorney General or the Office of Administrative Hearings. It is assumed that the bill does not materially affect the Judiciary.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 812 (Senator Hough) - Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland Department of the Environment, Office of Administrative Hearings, Office of the Attorney General, Department of Legislative Services

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