

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 124

(Chair, Environment and Transportation Committee)(By
Request - Departmental - Environment)

Environment and Transportation

Education, Health, and Environmental Affairs

Environment - Solid Waste and Recycling Facilities

This departmental bill requires the Maryland Department of the Environment (MDE) to adopt regulations that (1) specify when a “recycling facility” may operate without a refuse disposal permit and (2) exempt certain materials that are managed at a recycling facility from being designated as “solid waste.” MDE must convene and consult with a workgroup of affected stakeholders when developing the regulations. The bill makes corresponding changes to several definitions. Finally, the bill provides for the enforcement of State recycling facility laws and regulations through existing enforcement provisions.

Fiscal Summary

State Effect: MDE workloads increase beginning in FY 2018 to convene the workgroup and to develop, administer, and enforce the required regulations; any such increase can be handled with existing budgeted resources. Potential minimal increase in special fund revenues from the application of existing penalties to violations of the bill or regulations adopted pursuant to the bill.

Local Effect: Potential meaningful impact on local governments that own or operate recycling facilities, as discussed below.

Small Business Effect: MDE has determined that this bill has a minimal impact on small business (attached). The Department of Legislative Services disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Solid Waste

The definition of “solid waste” is modified to include (1) materials that are managed at a recycling facility and are not “recyclable materials” and (2) recyclable materials that are not returned to the marketplace within one calendar year from when they are received or otherwise managed in accordance with regulations adopted by MDE pursuant to the bill. Conversely, materials that are managed at a recycling facility in accordance with regulations adopted by MDE under the bill are *not* considered “solid waste.”

Recycling

A “recycling facility” is a facility that provides recycling services and does not include (1) a composting facility; (2) a natural wood waste recycling facility; (3) a facility requiring a sewage sludge utilization permit; or (4) a facility that serves as a drop-off and collection point for residential recyclable materials.

MDE must adopt regulations to (1) establish conditions under which a recycling facility does not require a refuse disposal permit and (2) exempt certain materials that are managed at a recycling facility from being designated as solid waste. The regulations may include (1) design, construction, and operational conditions for recycling facilities to protect public health and the environment and to minimize nuisances; (2) a tiered system of permits or approvals for recycling facilities, as specified; and (3) exceptions to any requirement to obtain a recycling facility permit or approval.

The bill also provides MDE with enforcement and inspection authority to enforce the bill’s provisions regarding recycling facilities, any regulation adopted under those provisions, or any order or permit issued under those provisions.

Workgroup

In adopting the regulations applicable to recycling facilities, MDE must convene and consult with a workgroup of affected stakeholders, as specified.

Current Law/Background: MDE advises that the bill is needed to resolve a general lack of clarity in the statute about when recycling facilities require refuse disposal permits. MDE seeks the authority to develop regulations to establish clear conditions and thresholds for when a permit is or is not required for these activities, which MDE anticipates will

improve certainty for regulated parties and avoid overregulation of beneficial recycling activities.

Refuse Disposal Permits

Under current law, a recycling facility that processes any quantity of solid waste may be required to obtain a refuse disposal permit and comply with solid waste regulations applicable to processing facilities. According to MDE, historically, recycling facilities have not been required to obtain refuse disposal permits. However, as the number of single-stream recycling facilities increases, more recycling facilities are processing substantial quantities of solid waste.

A refuse disposal permit is required prior to the installation, material alteration, or material extension of a refuse disposal system, which includes (1) an incinerator; (2) a transfer station; (3) a landfill system or landfill; and (4) a solid waste processing or acceptance facility. A “solid waste acceptance facility” is any sanitary landfill, incinerator, transfer station, or plant whose primary purpose is to dispose of, treat, or process solid waste. Based on that definition, single-stream recycling facilities that accept mixed loads of recyclables, sort them, and in the process sort out more than a *de minimis* quantity of solid waste that is ultimately disposed, may fall under the definition of a solid waste acceptance facility. There is no fee for a refuse disposal permit.

Local Fiscal Effect: Some recycling facilities are owned and/or operated by local governments. Because the bill requires MDE to adopt regulations that clarify when a recycling facility requires a refuse disposal permit, some locally operated recycling facilities may no longer need a refuse disposal permit, while others may need to obtain one. The fiscal impact, if any, on recycling facilities depends on the content of the regulations developed pursuant to the bill and cannot be reliably estimated at this time.

Small Business Effect: As noted in MDE’s analysis of economic impact on small businesses, the bill and implementing regulations may change how and whether an affected facility is permitted. The fiscal impact, if any, on recycling facilities depends on the content and scope of the regulations developed pursuant to the bill and cannot be reliably estimated at this time. Thus, to the extent that any recycling facilities are considered small businesses, the bill has a potential meaningful impact.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Garrett, and Montgomery counties; Maryland Environmental Service; Maryland Association of Counties; Maryland Department of the Environment; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2017
fn/lgc Third Reader - March 16, 2017
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Environment – Solid Waste and Recycling Facilities

BILL NUMBER: HB 124

PREPARED BY: 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

It is possible that some existing or future recycling facilities would qualify as small businesses, but the Department does not have any information that would allow it to estimate the number of small businesses affected. The number and types of facilities that would be regulated under the proposed legislation would also depend on the content of the regulations to be adopted under the bill.

The proposed legislation requires adoption of regulations that would clarify which facilities do and do not require refuse disposal permits. For certain facilities the regulations may establish a recycling-specific permit or approval. Some facilities that are currently not regulated under a solid waste or recycling permit or approval may become regulated under the proposed legislation, while some facilities that would otherwise be required to obtain a refuse disposal permit in the future may be exempted from the requirement to do so under the proposed legislation. There is no fee for a refuse disposal permit, nor would there be a fee for any recycling facility permit authorized under the proposed legislation.

Any costs to comply with the proposed legislation would depend on the content and scope of the regulations to be adopted under the bill. The new regulations and any new permit or approval created for recycling facilities would replace the requirement to obtain a refuse disposal permit for certain facilities. For these facilities, costs to comply with the new regulations are unlikely to exceed the costs incurred if these facilities were instead regulated under the refuse disposal permit, and in some cases may be less. The legislation would benefit recycling businesses by improving clarity and certainty of regulatory requirements for recycling facilities. This may reduce costs to develop recycling projects and may improve access to financing.