

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1381

(Delegate Lafferty)

Environment and Transportation

Education, Health, and Environmental Affairs

Environmental Violations - Reporting Requirements

This bill requires each jurisdiction that is delegated authority to enforce sediment and erosion control laws and regulations under Subtitle 1 of Title 4 of the Environment Article to submit an annual report to the Maryland Department of the Environment (MDE) by January 1 of each year. The report must provide information related to specified environmental violations. By March 1 of each year, MDE must report to the Governor and the General Assembly on the information collected under the bill.

Fiscal Summary

State Effect: General fund expenditures increase by \$30,500 in FY 2019. Future years reflect annualization and ongoing costs. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	30,500	34,800	35,700	37,100	38,500
Net Effect	(\$30,500)	(\$34,800)	(\$35,700)	(\$37,100)	(\$38,500)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Expenditures increase for some affected local jurisdictions to compile the required information and submit the required reports. There is no impact on local revenues. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The report from each delegated authority must include the total number of cases alleging violations of (1) the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program; (2) sensitive areas ordinances; (3) 100-year floodplain ordinances; (4) sediment and erosion control laws and regulations in the Critical Areas; and (5) building and grading permits in the Critical Areas. The information reported to MDE on those cases must include (1) the number and nature of formal complaints issued by the jurisdiction, stop work orders issued by the jurisdiction, and alleged violations reported by citizens; (2) the number of court proceedings involving an alleged violation, including the final disposition of each proceeding; (3) the dollar amounts of fines and civil/criminal penalties imposed and collected as a result of a violation; (4) whether the jurisdiction provided compliance assistance, as specified; and (5) the number of inspectors and other staff assigned to inspection and enforcement of the environmental laws, regulations, and ordinances affected by the bill.

Current Law/Background:

Chesapeake Bay Critical Area Protection Program

Chapter 794 of 1984 established the Chesapeake Bay Critical Area Protection Program in order to minimize damage to water quality and wildlife habitat by fostering more sensitive development activity along the shoreline areas of the Chesapeake Bay and its tributaries. The goals of the program include the protection of water quality, the conservation of habitat, and the accommodation of future growth and development without adverse environmental impacts. Chapter 794 identified the Critical Area as all land within 1,000 feet of the mean high water line of tidal waters or the landward edge of tidal wetlands and all waters of and lands under the Chesapeake Bay and its tributaries. In 2002, the affected area was expanded to include the State's coastal bays.

To accomplish the water quality goals of the program, Critical Area regulations require that any development or redevelopment within "intensely developed areas" in the State must include practices to reduce water quality impacts associated with stormwater runoff. Regulations further specify that these practices must be capable of reducing stormwater pollutant loads from a development site to a level below that generated by the same site prior to development. These regulations have been in place since the effective date of the program in 1985 and pre-date current stormwater management regulations implemented by MDE. The responsibility of implementing and enforcing the Critical Area regulations is delegated to each local government.

MDE's Sediment Control Program

MDE's Sediment, Stormwater, and Dam Safety Program is responsible for developing erosion and sediment control and stormwater management regulations. Among other duties, the program is the approval authority for erosion and sediment control and stormwater management plans for construction activity by State and federal agencies. The program also oversees the delegation of enforcement authority for these activities. MDE advises that 22 local jurisdictions have delegated authority to enforce erosion and sediment control laws under Subtitle 1 of Title 4 of the Environment Article.

State Expenditures: General fund expenditures for MDE increase by \$30,512 in fiscal 2019, which accounts for the bill's October 1, 2018 effective date. This estimate reflects the cost of hiring one part-time natural resources planner to compile and review the reports submitted by local governments and to submit the required annual report to the Governor and the General Assembly. It includes a part-time salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. MDE advises that, because the bill requires delegated jurisdictions to report on many items not currently under the scope of the State's erosion and sediment control program, existing staff cannot absorb the additional workload.

Position	0.5
Salary and Fringe Benefits	\$25,387
Operating Expenses	<u>5,125</u>
Total FY 2019 State Expenditures	\$30,512

Future year expenditures reflect a full part-time salary with annual increases and employee turnover and ongoing operating expenses.

Local Fiscal Effect: Local governments that are delegated authority to enforce erosion and sediment control laws and regulations are affected by the bill's reporting requirements. However, the magnitude of the impact is unknown, since it depends on the sophistication of current tracking methods utilized by affected jurisdictions. MDE anticipates that, for some jurisdictions, compiling the required information and submitting the required annual report can be accomplished with existing resources. However, for other jurisdictions, compiling the information may require manual or automated systems that do not exist and, for these jurisdictions, expenditures increase.

Anne Arundel County advises that to compile the required information and submit the required annual report, the county needs to hire one full-time engineer, resulting in an increase in expenditures of between \$65,550 and \$69,005 annually between fiscal 2019 and 2023. Kent County did not provide a specific estimate but anticipates that there is an increase in staff time needed to generate and submit the report. Worcester County expects

that tracking the required data and compiling the report takes a staff inspector approximately 40 hours annually. Baltimore County advises that, since the county already collects the required records, implementing the bill has minimal impact on the county.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Anne Arundel, Baltimore, Kent, Montgomery, and Worcester counties; Maryland Department of the Environment; Department of Natural Resources; Department of Legislative Services

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