

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 1428

(Delegate Flanagan, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

Environment - Stormwater Management Infrastructure - Historic Districts

This bill requires the Maryland Department of the Environment (MDE) to adopt regulations that require, for any development or redevelopment project within a “qualified historic district,” stormwater management infrastructure that is designed in a manner to protect the physical integrity of the stormwater management infrastructure during a 100-year storm event. Existing criminal, civil, and administrative penalties apply to violations of the bill. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: General fund expenditures increase by as much as \$105,600 in FY 2019. Future years reflect annualization. The application of existing penalty provisions is not anticipated to materially affect State finances.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	105,600	128,700	132,500	137,300	142,300
Net Effect	(\$105,600)	(\$128,700)	(\$132,500)	(\$137,300)	(\$142,300)

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

Local Effect: The bill is not anticipated to have a significant impact on local government finances, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A “qualified historic district” means a locally designated historic district in which (1) nontidal flooding has resulted in a demonstrable threat to the life and safety of individuals and the death of an individual after July 29, 2016; (2) there is a history of rapid flooding events in geomorphic low-lying areas from heavy rainfall; and (3) four or more “repetitive loss properties” are located.

“Repetitive loss property” means an insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period since 1978, whether or not the property is currently insured under NFIP.

Current Law:

Stormwater Management Plans

MDE must (1) adopt rules and regulations to establish criteria and procedures for stormwater management in the State and (2) provide technical assistance, training, research, and coordination services to local governments in the preparation and implementation of their stormwater management programs. MDE’s rules and regulations must address a number of items related to stormwater management, including the different hydrologic characteristics and stormwater management needs in different parts of the State; the minimum required content for local ordinances and rules; the minimum requirements for inspection and maintenance of stormwater practices; and key characteristics for designing stormwater management plans.

Counties and municipalities must adopt ordinances necessary to implement a stormwater management program that is consistent with flood management plans and that meet MDE requirements. MDE must (1) review local stormwater management program plans every three years and (2) monitor local implementation.

Generally, a person may not develop any land for residential, commercial, industrial, or institutional use unless the person has submitted a stormwater management plan and has received approval of the plan from the applicable local jurisdiction. State and federal agencies are required to submit a stormwater management plan and obtain State approval from MDE prior to undertaking specified construction activity.

Criminal, civil, and administrative penalties apply to violations of the State’s stormwater management provisions. Violators are subject to a criminal penalty up to \$10,000 and/or imprisonment for up to one year. A civil penalty of up to \$10,000 may also be imposed.

In addition, MDE may impose an administrative penalty of up to \$1,000 for each violation but not exceeding \$20,000 total for any action; each day is a separate violation.

National Flood Insurance Program

MDE’s Water and Science Administration is the State’s coordinating office for NFIP. In order to participate in NFIP, local communities must adopt and enforce a floodplain management ordinance containing minimum requirements specified by federal law, which apply in floodplain areas mapped by the Federal Emergency Management Agency (FEMA). In addition, the ordinance should reflect State laws and policies.

MDE’s coordinating office assists communities in adopting, interpreting, and properly enforcing their floodplain management ordinances under the Community Assistance Program and facilitates the coordination of federal, State, and local programs. All of Maryland’s counties, cities, and most towns participate in NFIP, which requires local jurisdictions to issue permits for all development in the 100-year floodplain, as depicted on FEMA-issued maps.

State Expenditures: General fund expenditures for MDE increase by as much as \$105,642 in fiscal 2019, which accounts for a 120-day start-up delay. This estimate reflects the cost of hiring two regulatory and compliance engineers to develop new standards and regulations and provide technical assistance to any affected local jurisdictions. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- MDE anticipates that the bill results in an increase in requests for NFIP data, which increases MDE’s workload;
- MDE must also provide ongoing oversight of and assistance to local stormwater management programs, develop new design standards and guidance, review and evaluate affected State and federal development projects, and inspect large stormwater management facilities with dam embankments;
- regardless of the number of qualified historic districts affected by the bill, MDE’s workload increases; and
- MDE’s existing staff are not able to absorb the additional workload anticipated as a result of the bill.

Positions	2
Salaries and Fringe Benefits	\$94,924
Operating Expenses	<u>10,718</u>
Total FY 2019 State Expenditures	\$105,642

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

To the extent that the increase in MDE's workload is less than currently anticipated, the need for staff decreases.

Local Expenditures: Although the bill requires local governments to (1) identify "qualified historic districts" by compiling information from NFIP and (2) implement the stormwater management standards developed by MDE by regulation, the bill is not anticipated to have a significant impact on local stormwater management programs. In addition, it is assumed that MDE assists with any necessary training and provides oversight of local program implementation as necessary. Further, the bill is anticipated to affect only a limited number of local jurisdictions. Thus, any impact on local expenditures is not anticipated to be significant.

The application of an existing incarceration penalty to violations of the bill is not anticipated to materially affect local expenditures.

Small Business Effect: To the extent that a local jurisdiction does not already require projects to design stormwater management infrastructure in a manner that meets the bill's requirements, the bill may result in higher costs for developers to develop or redevelop projects within qualified historic districts.

Additional Comments: As building owners, to the extent the State or a local government undertakes a development or redevelopment project that is affected by the bill, State and local expenditures may increase to meet the regulations developed by MDE. Any such impact is unknown and has not been included in this analysis.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Kent, Montgomery, and Worcester counties; City of College Park; Maryland Municipal League; Maryland Department of the Environment; Department of Legislative Services

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