

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

Senate Bill 269

(Senator Hester, *et al.*)

Budget and Taxation

Environment and Transportation and  
 Appropriations

**Comprehensive Flood Management Grant Program – Awards for Flood Damage  
 and Mandatory Funding**

This bill expands the policy and purposes of provisions of State law regarding flood control and watershed management to include infrastructure repairs, watershed restoration, and emergency protection work associated with a flood event. The bill authorizes the Maryland Department of the Environment (MDE), under its existing comprehensive flood management grant program, to award grants to subdivisions that have incurred at least \$1 million in infrastructure damage by a flood event that occurred on or after January 1, 2009, as specified. Finally, the bill requires the Governor to include specified amounts of funding for the comprehensive flood management grant program in the annual State budget in fiscal 2021 through 2023. **The bill takes effect June 1, 2019.**

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$3.1 million in FY 2021 for grant funding and staff; future years reflect ongoing costs and the termination of the mandated appropriation and staffing costs after FY 2023. Revenues are not affected. **This bill establishes a mandated appropriation for FY 2021 through 2023.**

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	3,119,200	3,102,800	2,106,300	0
Net Effect	\$0	(\$3,119,200)	(\$3,102,800)	(\$2,106,300)	\$0

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

**Local Effect:** Local grant revenues and expenditures increase significantly in FY 2021 through 2023.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** The Governor must include in the annual State budget an appropriation for the comprehensive flood management grant program of at least \$3 million in fiscal 2021, at least \$3 million in fiscal 2022, and at least \$2 million in fiscal 2023. Funds that are not awarded from the comprehensive flood management grant program by the end of a fiscal year must remain in the program and are not subject to reversion to the general fund.

For fiscal 2020 through 2022, MDE may award grants equal to up to 100% of the total amount of money appropriated to the program. In fiscal 2023, and each fiscal year thereafter, MDE may award grants equal to up to 50% of the total amount of money appropriated to the program. MDE may award grants to qualifying subdivisions for an amount up to 50% of the combined cost of infrastructure repairs, watershed restoration, and emergency work associated with a flood event.

Grants awarded pursuant to the bill's provisions must be used for infrastructure repairs, watershed management, or emergency protection work associated with the flood event, including costs that have already been incurred. MDE must prioritize awarding grants under the bill to subdivisions in which infrastructure damage (1) occurred in an area designated by the Maryland Historical Trust as an historic district or (2) caused by a flood event has occurred more than once within the previous five years.

**Current Law/Background:** For the purposes of State law regarding flood control and watershed management, "subdivision" is defined as any county, including Baltimore City, and any incorporated municipality that has the authority to adopt and enforce land use and control measures for the areas within its jurisdiction.

### *Flood Control and Watershed Management Program and Comprehensive Flood Management Grant Program*

There is a flood control and watershed management program within MDE. Among other things, the program is responsible for (1) assisting in the development of guidance to minimize the impacts of flooding and (2) providing State guidelines and technical assistance to local governments to manage flood areas.

MDE's comprehensive flood management grant program was established in 1976 to promote the development of local flood management plans, fund studies of watersheds, and support capital projects for flood control and watershed management. MDE advises that the program was historically funded through the capital budget, and funds were used for flood prevention. Pursuant to statute, only county and municipal governments are eligible to receive grants under the program. According to MDE, the program has not been

funded since 2002 and is not currently operational. However, the fiscal 2020 capital budget includes \$5 million in general obligation (GO) bonds for the program. The capital funding is for fiscal 2020 only; the *Capital Improvement Program* (CIP) does not include any funding for the program beyond fiscal 2020.

For flood control and watershed management capital projects that do not involve federal funds, the grant program may provide up to 75% of the project costs, and local governments must provide matching funds of at least 25% of project costs. For projects that involve federal funding, the State may provide up to 50% of the nonfederal share, and local governments and private funds must provide at least 50% of the nonfederal share.

MDE notes that capital projects related to infrastructure repair are eligible for funding under existing law if the repairs are part of a local flood management plan. However, MDE advises that debris removal and emergency protection work conducted after a flood event are considered operating projects, are generally coordinated through the Maryland Emergency Management Agency (MEMA), and are not eligible for capital grants through MDE's existing grant program.

#### *National Flood Insurance Program and Federal Hazard Mitigation Grant Program*

All Maryland counties and 92 municipalities participate in the National Flood Insurance Program (NFIP). This program makes flood insurance available to property owners in participating communities. In return, local governments must adopt ordinances to manage development within 100-year floodplains to prevent increased flooding and minimize future flood damage.

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.

FEMA's Hazard Mitigation Grant Program is one of three federal programs that provide funding for eligible mitigation planning and projects. The Hazard Mitigation Grant Program is designed to help communities implement hazard mitigation measures following a Presidential Major Disaster Declaration. The key purpose of the federal grant program is to enact mitigation measures that reduce the risk of loss of life and property from future disasters.

## **State Expenditures:**

### *Mandated Funding for the Comprehensive Flood Management Grant Program*

As discussed above, the fiscal 2020 capital budget includes \$5 million in GO bond funding for the comprehensive flood management grant program. Both MDE and the Department of Budget and Management advise that the capital funding was not included in anticipation of this bill and is not intended to support the expanded purposes of the grant program under the bill.

Accordingly, general fund (or PAYGO general fund) expenditures increase by at least \$3 million in both fiscal 2021 and 2022, and by at least \$2 million in fiscal 2023, to fund the grant program, as required by the bill. This analysis assumes that no funding is appropriated to the program once the mandated appropriation terminates.

Because the bill expands the authorized uses of the grant funds to include some operating projects that cannot be funded using GO bonds, this estimate assumes that the bill's mandated appropriation must be met through an appropriation in the operating budget. Thus, it is assumed that either general funds or PAYGO general funds are appropriated for the program. The Department of Legislative Services notes, however, that because some of the additional projects authorized to be awarded grants under the bill *can* be funded with GO bonds, it is possible that the bill's mandated appropriation may be met using some combination of general funds and GO bonds. To the extent that this occurs, the need for general funds decreases.

### *Administrative Expenses*

This analysis assumes that the funding provided for the program in fiscal 2021 through 2023 (due to the bill's mandated appropriation) is used exclusively for grant awards. Thus, in addition to the general funds needed to provide grants, general fund expenditures also increase by \$119,200 in fiscal 2021 for administrative costs, which reflects a July 1, 2020 implementation date. This estimate reflects the cost of hiring two contractual regulatory and compliance engineers within MDE to (1) staff the grant program; (2) coordinate project funding; (3) coordinate with MEMA, as appropriate; (4) review project plans and specifications; (5) award grant funds; and (6) manage funded projects. 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:

- the grant program has not been active for approximately 15 years, and the two previous staff positions for the program have since been eliminated;

- although there is capital funding for the program in fiscal 2020, no future capital funding is anticipated in the absence of the bill;
- because program funding is only mandated for three years, and because it is assumed that no funding is provided for the program beyond fiscal 2023, permanent staff are not needed;
- additional general funds (beyond any funds appropriated for grants) are required to cover MDE’s administrative costs;
- MDE does not currently provide funding for flood response activities and does not have expertise in this area; and
- MDE’s existing staff does not have the capacity to administer the grant program as expanded by the bill.

Contractual Positions	2
Salaries and Fringe Benefits	\$108,170
Operating Expenses	<u>11,030</u>
<b>FY 2021 MDE Administrative Costs</b>	<b>\$119,200</b>

Future year administrative expenditures reflect salaries with annual increases and employee turnover, ongoing operating expenses, and the termination of the contractual employees at the end of fiscal 2023. Should funding be provided for the program beyond fiscal 2023, MDE may need ongoing staff support in future years.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

It is assumed that MEMA can coordinate with MDE using existing budgeted resources. MEMA is already required, under current law, to review and approve local response plans under the existing grant program.

**Local Fiscal Effect:** Because only counties and municipalities are eligible for grants under the program, grant revenues and expenditures for local governments (or reimbursements for costs already incurred) increase significantly in fiscal 2021 through 2023 for those local governments that successfully apply for and receive grants as a result of the bill.

Because the bill expands the purposes for which grants under the program may be used, it is assumed that the bill reduces costs that otherwise may have been incurred by local jurisdictions. Also, because the bill allows grants to be awarded for costs that have already been incurred (those incurred on or after January 1, 2009), the bill likely results in reimbursements to some local jurisdictions for eligible costs of projects already

undertaken. Additionally, MDE advises that State grant funds provided under the bill may enable local jurisdictions to leverage additional federal grant funds.

MDE advises that, given the flood damage that has been incurred in recent years in Ellicott City and Annapolis, grant awards to those jurisdictions could easily use the entire amount of the mandated funding.

**Small Business Effect:** Small business involved in flood mitigation, flood repairs, or debris removal projects may benefit from an increase in business resulting from the additional funding provided as a result of the bill. Additionally, small business owners may benefit from funding passed through from local governments for infrastructure repairs. Finally, small businesses in a location that receives flood mitigation funding benefit from protection from damage during flood events.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 428 (Delegate C. Watson, *et al.*) - Environment and Transportation and Appropriations.

**Information Source(s):** Anne Arundel, Baltimore, Montgomery, and Somerset counties; Governor's Office; Department of Budget and Management; Maryland Department of the Environment; Maryland Department of Planning; Board of Public Works; Military Department; Federal Emergency Management Agency; Department of Legislative Services

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