

Department of Legislative Services  
 Maryland General Assembly  
 2020 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 866 (Delegate Shetty, *et al.*)  
 Rules and Executive Nominations

General Assembly - Environmental Impact Statements - Pilot Program

This bill establishes a one-year pilot program under which the Department of Legislative Services (DLS) must prepare an environmental impact statement for a bill referred to specified subcommittees of the General Assembly. Any of the specified subcommittees may not recommend an action on a bill unless the bill is accompanied by an environmental impact statement. However, a subcommittee may waive the requirement if it certifies that prompt action on the bill is needed to conduct legislative business. A unit of State or local government must promptly provide any information requested by DLS for preparing an environmental impact statement for a bill. **The bill terminates September 30, 2021.**

Fiscal Summary

**State Effect:** General fund expenditures increase by \$274,100 in FY 2021 only, as discussed below. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	274,100	0	0	0	0
Net Effect	(\$274,100)	\$0	\$0	\$0	\$0

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

**Local Effect:** Potential operational impact on local governments to the extent local governments must respond to additional information requests from DLS under the bill.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** The bill applies only to bills referred to the Public Utilities Subcommittee of the House Economic Matters Committee, the Business Regulation Subcommittee of the House Economic Matters Committee, or the Energy and Public Utilities Subcommittee of the Senate Finance Committee.

“Environmental impact statement” means an analysis that indicates whether a bill may or will have an environmental impact and, if so, specifies the type and category of environmental impact, including any impact on greenhouse gas emissions.

When a bill is referred to a subcommittee specified above, the subcommittee must ask DLS to prepare an environmental impact statement for the bill. DLS must (1) prepare the statement by completing Part II of the environmental assessment form used by State agencies to determine whether an environmental effects report is required under the Maryland Environmental Policy Act (MEPA) for a proposed project and (2) send a copy of the completed statement to the subcommittee and the primary sponsor of the bill.

DLS may consult with any public or private entity in the preparation of an environmental impact statement for a bill, as specified. The statement must identify the sources of information DLS used in preparing the statement.

DLS must keep a copy of each environmental impact statement for three years. Copies must be reasonably available for public inspection. The statements need not be published in the Senate or House journals.

The validity of an enactment is not affected by the presence, absence, or content of an environmental impact statement prepared under the bill.

**Current Law:** DLS is responsible for providing nonpartisan support to the members of the Maryland General Assembly, which includes legal, fiscal, committee, research, reference, auditing, administrative, and technological support. The Office of Policy Analysis (OPA) within DLS is charged with, among other duties, preparing analyses of the fiscal, legal, and policy impact of proposed legislation and researching and preparing assessments and evaluations of issues of concern to the General Assembly.

DLS must prepare a fiscal and policy note for each bill considered by the General Assembly. In general, a standing committee of the General Assembly may not vote on a bill unless it is accompanied by a fiscal and policy note. A fiscal and policy note prepared by DLS must contain:

- an estimate of the fiscal impact of the bill on the revenues and expenditures of the State government and of local governments for five years, beginning with the year the bill takes effect. If the bill's full fiscal impact is not expected to occur during that time, the analysis must include each year until and including the first year during which the impact occurs;
- for bills that require a mandated appropriation in the State budget, a statement to that effect and an estimate of the fiscal impact of the mandated appropriation;
- for bills that impose a mandate on a unit of local government, a statement to that effect and an estimate of the fiscal impact of the local mandate, including the effect on local property tax rates;
- an analysis of the bill's economic impact on small businesses; and
- a list of sources of information used in preparing the fiscal impact estimates.

DLS must prepare a revised fiscal and policy note as soon as possible after the adoption of an amendment that changes the fiscal impact of a bill. A revised fiscal and policy note is typically prepared when a bill passes third reading in the house of origin and crosses over for consideration by the second house.

Upon request by DLS, a unit of State or local government must promptly provide any information requested by DLS for preparing a fiscal and policy note. Statute also specifies that, in order to facilitate the preparation of the analyses of the fiscal, legal, and policy impact of proposed legislation, a unit of State government must respond to a request by OPA within three business days, unless that requirement is waived. In practice, OPA typically sets a deadline for each request that is five business days after the request is sent, although this can vary depending on when the legislation is scheduled for a hearing.

#### *Maryland Environmental Policy Act*

MEPA, established by Chapter 702 of 1973, requires State agencies to prepare environmental effects reports for each proposed State action that significantly affects the quality of the environment. A "State action" is a request for legislative appropriations or other legislative action that will alter the quality of the air, land, or water resources. MEPA charges the Secretary of Natural Resources with issuing guidelines to assist State agencies in the preparation of environmental effects reports. MEPA is similar to and modeled after the National Environmental Policy Act.

**Background:** The environmental assessment form, shown in **Appendix – Environmental Assessment Form**, is used by State agencies to assist in determining whether an environmental effects report is required for a proposed project in accordance with MEPA. Part II includes 47 questions that must be answered, some of which may require written comments.

**State Fiscal Effect:** There is no requirement that standing committees refer bills to subcommittees for consideration. In recent years, relatively few bills have been referred to the subcommittees specified in the bill. For example, it is estimated that roughly 10 to 15 bills per session have been referred to the Business Regulation Subcommittee of the House Economic Matters Committee in recent years.

However, the number of bills for which an environmental impact statement will be required cannot be readily estimated, as it depends on the number of bills introduced and actually referred to the specified subcommittees, which is subject to the discretion of the standing committees, and the number of instances in which the subcommittees waive the requirement as authorized under the bill.

In addition, the timing of the referral of bills to subcommittees and consideration of legislation by subcommittees varies by standing committee. Accordingly, the timing of requests for environmental impact statements and the time within which DLS must, practically speaking, complete and submit the statement, is uncertain. However, DLS anticipates that it will likely need to prepare requested statements within a tight timeframe, given the pace of the 90-day session.

Nonetheless, DLS advises that existing staff work at full capacity during the legislative session and do not have the time or expertise to prepare environmental impact statements as required under the bill. Given the uncertainty of the timing and volume of requests for environmental impact statements under the bill, the lack of necessary expertise, and the limited duration of the bill, DLS advises that it must obtain contractual support from a firm with experience in environmental analysis to prepare the statements. Related costs are estimated at roughly \$250,000. In addition, DLS requires one additional full-time contractual staff to (1) coordinate among the affected committees, DLS staff, and an outside firm and (2) request, collect, and synthesize relevant information from affected State agencies and local governments.

Accordingly, general fund expenditures for DLS increase by \$274,101 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date and subsequent termination on September 30, 2021, following the 2021 legislative session. This estimate reflects the cost of hiring one full-time contractual employee to assist DLS in coordinating the preparation of environmental impact statements during the 2021 legislative session. It assumes the contractual employee starts on January 1, 2021, in advance of the 2021 legislative session,

and terminates April 15, 2021, following the conclusion of the 2021 session. This estimate includes a salary, fringe benefits, start-up costs, operating expenses, and contractual service costs.

Contractual Position	1
Salary and Fringe Benefits	\$19,027
Contractual Services	250,000
Operating Expenses	<u>5,074</u>
<b>Total FY 2021 State Expenditures</b>	<b>\$274,101</b>

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.

Other State agencies may experience operational impacts to the extent that they must respond to additional information requests from DLS to assist in the preparation of environmental impact statements.

**Additional Comments:** The Maryland Department of the Environment (MDE) advises that it uses the environmental assessment form specified in the bill to determine potential environmental impacts at the project level, where the focus is on a particular project with a well-defined scope and fixed location. MDE further advises that, in many cases, assessing the type and category of potential environmental impacts of proposed legislation is extremely difficult, if not impossible; legislation is often broad in scope and can result in a number of projects of indeterminate types and locations, the unique potential impacts of which cannot be predicted at the time legislation is considered. MDE notes that, practically, under the bill, the answer to many of the questions on the environmental assessment form will likely be “unknown.” Thus, DLS advises that the environmental impact statements produced under the bill may, in many cases, be of little informational value.

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### **Additional Information**

**Prior Introductions:** HB 246 of 2019, a similar bill, received a hearing in the House Rules and Executive Nominations Committee, but no further action was taken.

**Designated Cross File:** None.

**Information Source(s):** University System of Maryland; Maryland Department of the Environment; Maryland Department of Labor; Department of Natural Resources; Maryland Department of Transportation; Maryland Energy Administration; Public Service Commission; Howard, Montgomery, and Prince George's counties; Maryland Association of Counties; cities of Annapolis, Baltimore, and Bowie; Maryland Municipal League; Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2020  
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Analysis by: Elizabeth J. Allison

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

## Appendix – Environmental Assessment Form

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This form is to assist the reviewers in determining whether a proposed action could cause significant natural and socio-economic environmental effects and thus require an Environmental Effects Report.

DEPARTMENT \_\_\_\_\_ DIVISION \_\_\_\_\_

OTHER \_\_\_\_\_ PROJECT TITLE \_\_\_\_\_

PREDICTED DATES: COMMENCEMENT \_\_\_\_\_ COMPLETION \_\_\_\_\_

PROJECTED COST \_\_\_\_\_

### I BACKGROUND INFORMATION

1. Give a brief description of the proposed action/project(s)
2. Describe the geographical area(s) which will be affected by the action/project(s). Specifically locate the project by using the Maryland Coordinate Grid System, include distinguishing natural and man-made features and a brief description of the present use of the area(s). Include a suitable location map (sketch map or copy of U.S. Geological Survey map, *etc.*).

### II ASSESSMENT OF SIGNIFICANT ENVIRONMENTAL EFFECTS

The following questions should be answered by placing a check in the appropriate column(s). If desirable, the “comments attached” column can be checked by itself or in combination with an answer of “yes” or “no” to provide additional information or to overcome an affirmative presumption.

In answering the questions, the significant beneficial and adverse, short and long term, effects of the propose action, on-site and off-site, during construction and operation should be considered.



- 17. Will the action require a permit for the drilling of a water well?
- 18. Will the action require a permit for water appropriation?
- 19. Will the action require a permit for the construction and operation of facilities for treatment or distribution of water?

**B. WATER USE CONSIDERATIONS (Continued)**

- 20. Will the project require a permit for the construction and operation of facilities for sewage treatment and/or land disposal of liquid waste derivatives?
- 21. Will the action result in any discharge into surface or sub-surface water?
- 22. If so, will the discharge affect ambient water quality parameters and/or require a discharge permit?

**C. AIR USE CONSIDERATIONS**

- 23. Will the action result in any discharge into the air?
- 24. If so, will the discharge affect ambient air quality parameters or produce a disagreeable odor?
- 25. Will the action generate additional noise which differs in character or level from present conditions?
- 26. Will the action preclude future use of related air space?
- 27. Will the action generate any radiological, electrical, magnetic, or light influences?

**D. PLANTS AND ANIMALS**

- 28. Will the action cause the disturbance, reduction or loss of any rare, unique or valuable plant or animal?
- 29. Will the action result in the significant reduction or loss of any fish or wildlife habitats?
- 30. Will the action require a permit for the use of pesticides, herbicides or other biological, chemical or radiological control agents?

**E. SOCIO-ECONOMIC**

- 31. Will the action result in a preemption or division of properties or impair their economic use?
- 32. Will the action cause relocation of activities, structures or result in a change in the population density or distribution?

Yes	No	Comments Attached
Yes	No	Comments Attached
Yes	No	Comments Attached
Yes	No	Comments Attached

- 33. Will the action alter land values?
- 34. Will the action affect traffic flow and volume?
- 35. Will the action affect the production, extraction, harvest or potential use of a scarce or economically important resource?

**E. SOCIO-ECONOMIC (Continued)**

- 36. Will the action require a license to construct a sawmill or other plant for the manufacture of forest products?
- 37. Is the action in accord with federal, state, regional and local comprehensive or functional plans – including zoning?
- 38. Will the action affect the employment opportunities for persons in the area?
- 39. Will the action affect the ability of the area to attract new sources of tax revenue?
- 40. Will the action discourage present sources of tax revenue from remaining in the area, or affirmatively encourage them to relocate elsewhere?
- 41. Will the action affect the ability of the area to attract tourism?

**F. OTHER CONSIDERATIONS**

- 42. Could the action endanger the public health, safety or welfare?
- 43. Could the action be eliminated without deleterious effects to the public health, safety, welfare or the natural environment?
- 44. Will the action be of statewide significance?
- 45. Are there any other plans or actions (federal, state, county or private) that, in conjunction with the subject action, could result in a cumulative or synergistic impact on the public health, safety, welfare or environment?
- 46. Will the action require additional power generation or transmission capacity?

**G. CONCLUSION**

- 47. This agency will develop a complete environmental effects report on the proposed action.

Yes	No	Comments Attached
Yes	No	Comments Attached
Yes	No	Comments Attached