

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1070 (Delegate Boyce)
 Environment and Transportation

Solid Waste Disposal and Diversion and On–Farm Composting and Compost Use

This bill establishes a \$5 per ton solid waste disposal surcharge paid by each owner or operator of a refuse disposal facility in the State. The Comptroller must collect the surcharge, deposit the surcharge revenue into a newly established Environmental Stewardship Fund administered by the Comptroller, and transfer the revenue as follows: (1) 50% into a newly established On-Farm Composting and Compost Use Grant Fund administered by the Maryland Department of Agriculture (MDA) and (2) 50% into the existing State Recycling Trust Fund within the Maryland Department of the Environment (MDE). Broadly, the surcharge revenue transferred to MDA and MDE is used to provide grants to eligible entities and counties to support projects associated with on-farm composting, composting use, advancing waste prevention, reuse, repair, recycling, and minimizing illegal dumping. The bill establishes related reporting requirements.

Fiscal Summary

State Effect: Special fund revenues increase by \$10.5 million in FY 2023 and by \$31.4 million annually thereafter due to the surcharge; special fund expenditures increase correspondingly. Administrative costs are covered with special funds in the out-years, but general fund expenditures increase by at least \$189,800 in FY 2023 to cover administrative costs incurred in that year. State expenditures (multiple fund types) for solid waste disposal may increase beginning in FY 2023, as discussed below.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	\$10.5	\$31.4	\$31.4	\$31.4	\$31.4
GF Expenditure	\$0.2	\$0	\$0	\$0	\$0
SF Expenditure	\$10.5	\$31.4	\$31.4	\$31.4	\$31.4
GF/SF Exp.	-	-	-	-	-
Net Effect	(-)	(-)	(-)	(-)	(-)

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

Local Effect: Local solid waste management costs increase beginning in FY 2023. Local grant revenues and expenditures increase beginning in FY 2023.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Solid Waste Disposal Surcharge

The bill establishes a solid waste disposal surcharge that must be paid by each owner or operator of a refuse disposal facility in the State. The surcharge is \$5 per ton of solid waste processed by a refuse disposal system; however, by January 1, 2028, and every five years thereafter, the Office of Recycling must adjust the surcharge in accordance with the Consumer Price Index, as specified, and evaluate the surcharge to determine if any adjustments are necessary.

On a quarterly basis, beginning April 1, 2023, an owner or operator of a refuse disposal system must complete and submit (under oath) a return and pay the surcharge to the Comptroller. The return must include information on the number of tons of solid waste that was accepted for disposal, transfer, or collection, as appropriate, during the reporting period.

The Comptroller must collect the surcharge and deposit the revenue into the Environmental Stewardship Fund, which is established under the bill and discussed in more detail below. The Comptroller may adopt implementing regulations.

Environmental Stewardship Fund

The bill establishes the Environmental Stewardship Fund, a special fund administered by the Comptroller. The stated purpose of the fund is to provide funding to MDE's Office of Recycling and MDA to award grants to assist with the costs of developing, implementing, or expanding equipment, infrastructure, and education related to (1) reducing the amount of solid waste generated in the State; (2) reusing, repairing, recycling, and composting solid waste; (3) edible food rescue; (4) on-farm composting and compost use; and (5) minimizing illegal dumping. The fund consists of (1) revenue from the solid waste disposal surcharge; (2) money appropriated in the State budget to the fund; (3) interest earnings; and (4) any money from any other source accepted for the benefit of the fund.

The fund may only be used for reasonable administrative costs incurred by the Comptroller, MDA, and the Office of Recycling, as specified, and to provide the funding necessary to award grants from the On-Farm Composting and Compost Use Grant Fund and to award specified grants to counties from the State Recycling Trust Fund, as provided by the bill and described in more detail below. Up to 10% of the estimated annual solid waste surcharge revenue may be used to cover reasonable administrative costs.

On an annual basis, after covering reasonable administrative costs, the Comptroller must transfer 50% of the money in the fund to the On-Farm Composting and Compost Use Grant Fund in MDA and 50% of the money in the fund to the State Recycling Trust Fund in MDE for the purposes described below.

On-Farm Composting and Compost Use Grant Fund

The bill establishes the On-Farm Composting and Compost Use Grant Fund as a special fund, the stated purpose of which is to award grants to eligible entities to assist with the costs of developing and implementing on-farm composting and compost projects. The Secretary of Agriculture must administer the fund in consultation with the Secretary of the Environment. The fund consists of (1) solid waste disposal surcharge revenue transferred to the fund; (2) money appropriated in the State budget to the fund; (3) interest earnings; and (4) any other money accepted for the benefit of the fund.

The fund may only be used to award grants to eligible entities to assist with the costs of developing and implementing on-farm composting and compost projects, including the costs of several specified projects. “Eligible entity” means (1) a unit of State or local government; (2) a soil conservation district; (3) a local education agency; (4) an institution of higher education; (5) a nonprofit organization; (6) a farmer, including an urban farmer or a rancher; and (7) a consortium of any one of these listed entities.

The Secretary must establish grant application procedures that meet several requirements. The bill requires the Secretary to prioritize projects as specified.

State Recycling Trust Fund

The bill modifies the revenue sources for the State Recycling Trust Fund to include revenue from the solid waste disposal surcharge transferred to the fund, and the bill authorizes the Office of Recycling to establish a disposal surcharge account in the fund. Any solid waste disposal surcharge revenue transferred to the fund may not revert to the general fund.

The bill also modifies the authorized uses of the State Recycling Trust Fund to provide grants, as discussed in more detail below.

County Grant Funding: Of the solid waste disposal surcharge revenue transferred to the State Recycling Trust Fund, 50% must be used by the Office of Recycling to provide grants to counties (including Baltimore City and the Mid-Shore counties) to develop and implement activities that advance waste prevention, reuse, repair, recycling, or composting or that minimize illegal dumping in the State, as specified. A county may apply for a grant if the county has (1) created a separate account in its general fund to deposit the grant money and (2) established accounting procedures that ensure that the grant money is spent only in accordance with the bill. The bill establishes annual reporting requirements for a county that receives a grant.

Grant Funding for Eligible Entities: Of the revenue transferred to the State Recycling Trust Fund, the remaining 50% must be used by the Office of Recycling to provide grants to eligible entities for several specified activities, including (1) developing, maintaining, or expanding local refuse, repair, recycling, and composting infrastructure, as well as infrastructure that minimizes illegal dumping; (2) developing, maintaining, or expanding local refuse, repair, recycling, and composting programs, as well as programs to minimize illegal dumping; (3) encouraging source separation of uncontaminated materials; and (4) collecting and composting source-separated compostable materials.

“Eligible entity” means (1) a unit of State or local government; (2) a local education agency; (3) an institution of higher education; (4) a nonprofit organization; (5) a farmer or rancher; (6) a business that meets specified requirements; or (7) a consortium of any one of these listed entities.

The Office of Recycling must ensure that grants are awarded equitably among activities relating to waste prevention, reuse, repair, recycling, composting, and minimizing illegal dumping. The office must also establish grant application procedures that meet several requirements. The bill requires the Secretary of the Environment to prioritize projects as specified.

Reporting Requirement

By December 1 each year beginning in 2023, the Office of Recycling, in coordination with MDA, must report to the General Assembly on the grants awarded under the bill. The report must include the number and types of grants awarded and the impacts of the grant awards, as specified. Beginning with the December 1, 2028 report, and every five years after, the Office of Recycling must include in the report a recommendation on whether and to what extent an adjustment to the solid waste disposal surcharge is necessary.

Current Law:

Solid Waste Infrastructure and Recycling in the State, Generally

The solid waste infrastructure in Maryland consists of both permitted and nonpermitted facilities, and solid waste is managed through a combination of recycling, composting, landfilling, energy recovery, and exporting for disposal or recycling. There are several examples of regional waste management partnerships in the State.

Maryland's recycling policy is guided by the Maryland Recycling Act, which sets mandatory recycling rates for State government and local jurisdictions, as well as a voluntary statewide waste diversion goal of 60% and a voluntary statewide recycling goal of 55% by 2020. Each county (including Baltimore City) must prepare a recycling plan that addresses how the jurisdiction will achieve its mandatory recycling rate. The plan must be submitted to MDE's Office of Recycling for approval when the jurisdiction submits its water and sewerage plan at least every 10 years. At least every 2 years, each county must also submit a progress report to MDE, which must include any revision of or amendment to the county plan that has been adopted.

The Office of Recycling

MDE's Office of Recycling submits annual reports, in coordination with the Maryland Environmental Service, to the Governor and the General Assembly on specified information related to recycling in Maryland. Beginning in 2009, MDE has combined the *Maryland Waste Diversion Activities Report* and the *Solid Waste Managed in Maryland Report* into one report, the *Maryland Solid Waste Management and Diversion Report*.

Composting in Maryland

Chapter 686 of 2013 required MDE to adopt regulations governing the permitting and operation of composting facilities. MDE promulgated the required regulations in 2014 by establishing Chapter 11 under the Code of Maryland Regulations 26.04, which specifies requirements related to the construction and operation of composting facilities in the State.

State Recycling Trust Fund

The State Recycling Trust Fund is a special fund that is used to carry out the purposes of MDE's Land Management Administration and to provide grants to (1) counties to develop and implement local recycling plans; (2) counties that have addressed methods for the separate collection and recycling of covered electronic devices; and (3) municipalities to be used to implement local covered electronics device recycling programs.

State Fiscal Effect:

Surcharge Collection, Distribution, and Related Administrative Costs

Surcharge Revenues: The Comptroller begins collecting the \$5 per ton solid waste disposal surcharge on April 1, 2023. Based on the average amount of solid waste disposed of in calendar 2016 through 2020, 6.3 million tons of solid waste are processed by refuse disposal systems in the State annually. This estimate includes all solid waste processed by a Maryland transfer facility or solid waste acceptance facility that was not diverted for recycling. Based on this data, the solid waste disposal surcharge generates an estimated \$10.5 million in revenue for the Environmental Stewardship Fund in fiscal 2023 (due to the April 1, 2023 date on which the surcharge begins to be collected) and \$31.4 million annually thereafter (assuming that the amount of solid waste that is processed by refuse disposal systems in the State remains constant over time).

Comptroller Administrative Costs: General fund expenditures for the Comptroller increase by \$51,980 in fiscal 2023, which assumes that the Comptroller hires one administrator to collect and distribute surcharge revenues, receive reports, adopt regulations, and generally implement the bill. This estimate assumes the administrator is hired on January 1, 2023, before the surcharge begins to be collected. Accordingly, even though the bill authorizes the Comptroller to cover its administrative costs with special funds from the surcharge, this analysis assumes that general funds are needed in fiscal 2023. Once surcharge revenue is available, the Comptroller's administrative costs are covered with special funds instead.

Future year administrative expenditures range from \$88,833 in fiscal 2024 to \$96,242 in fiscal 2027. Because the bill authorizes up to 10% of annual estimated surcharge revenue to be used to cover reasonable administrative costs, it is assumed that the Comptroller's out-year administrative costs are fully covered with special funds.

Transfer of Special Fund Revenues to the Maryland Department of the Environment and the Maryland Department of Agriculture: After covering its administrative costs, the Comptroller transfers the remainder of the solid waste surcharge revenue from the Environmental Stewardship Fund to MDE and MDA as prescribed in the bill. Since it is assumed that the Comptroller's costs are covered with general funds in fiscal 2023, it is assumed the Comptroller transfers a total of an estimated \$10.5 million in special fund revenues from the Environmental Stewardship Program to the funds in MDE and MDA toward the end of fiscal 2023 (approximately \$5.2 million to each). In future years, the Comptroller transfers net surcharge revenue after administrative costs are deducted.

Exhibit 1 provides an overview of the estimated surcharge revenues collected by the Comptroller and the estimated amount transferred to MDE and MDA on an annual basis.

Exhibit 1
Estimated Surcharge Revenue Collected and Transferred
Fiscal 2023 through 2027
(\$ in Millions)

	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Total Surcharge Revenues	\$10.5	\$31.4	\$31.4	\$31.4	\$31.4
Comptroller Costs*	--	0.1	0.1	0.1	0.1
Net Available for Transfer	10.5	31.3	31.3	31.3	31.3
Transferred to MDE	5.2	15.7	15.7	15.7	15.7
Transferred to MDA	5.2	15.7	15.7	15.7	15.7

MDA: Maryland Department of Agriculture
MDE: Maryland Department of the Environment

*Fiscal 2023 Comptroller costs are assumed to be covered with general funds due to the fact that surcharge revenue will not be available until the last quarter of the fiscal year.

Note: Totals may not sum due to rounding.

Source: Department of Legislative Services

It is assumed that, after covering their respective administrative costs, MDE and MDA distribute all available grant funding in each fiscal year. Accordingly, special fund expenditures increase correspondingly each year for both agencies. To the extent the full amount available for grants is not awarded in each year, special fund expenditures decrease accordingly.

Maryland Department of Agriculture Administrative Costs: MDA needs contractual assistance to develop grant application procedures, particularly to establish a process that allows applicants to submit applications through video and audio formats, and for translation services. MDA did not provide a specific estimate of its anticipated costs. In any event, any costs incurred by MDA are assumed to be covered with general funds in fiscal 2023 and, in future years, with the special funds transferred to MDA, as authorized by the bill. (Based on the anticipated revenue stream to the fund, up to 10% of the revenue is more than sufficient to cover any administrative costs incurred by MDA in the out-years.)

Maryland Department of the Environment Administrative Costs and Further Grant Distribution: General fund expenditures for MDE increase by \$137,816 in fiscal 2023 to hire three new employees (two accountants and one administrator) to establish and implement the grant programs, account for revenues, and collaborate and write mandatory reports. This estimate reflects a hiring date of January 1, 2023, and assumes that MDE must

hire staff in advance of the establishment of the surcharge in order to establish the grant programs and conduct outreach to eligible entities and counties. Because special fund revenues will not yet be available when the employees are hired, it is assumed that general funds are needed to cover MDE's administrative costs in fiscal 2023.

Future year administrative expenditures are estimated to range from \$233,447 in fiscal 2024 to \$252,787 in fiscal 2027, which reflects annualization, inflation, and ongoing costs. Again, based on the anticipated revenue stream to the fund, up to 10% of the surcharge revenue is anticipated to be more than sufficient to cover MDE's administrative costs in the out-years.

Of the money that MDE receives, half must be distributed to eligible counties (including Baltimore City and Mid-Shore counties) to develop and implement activities that advance waste prevention, reuse, repair, recycling, or composting, or minimize illegal dumping in the State. The other half must be distributed to eligible entities (which includes units of State and local government, local education agencies, institutions of higher education, nonprofit organizations, farmers or ranchers, and certain businesses) for specified uses. Based on the anticipated revenue stream and MDE's anticipated administrative costs, approximately \$2.6 million is available for each of these grant programs in fiscal 2023, and approximately \$7.7 million is available for each of the grant programs in the out-years. As administrative costs increase over time, the amount available for grant awards decreases.

State Solid Waste Management Costs

State solid waste disposal costs increase, likely minimally, beginning in fiscal 2023 due to the \$5 solid waste disposal surcharge; it is expected that any costs incurred by refuse disposal facilities are passed on to consumers. Thus, State expenditures (multiple fund types) increase on an annual basis beginning in fiscal 2023.

State Agencies as Eligible Grant Recipients

To the extent that a State agency or an institution of higher education receives grant funding from one of the new grant programs established under the bill, grant revenues and expenditures for any such entity increase correspondingly.

Local Fiscal Effect: Local solid waste disposal costs increase beginning in fiscal 2023 due the \$5 solid waste disposal surcharge; it is expected that any increase in costs incurred by refuse disposal facilities is passed on to consumers. However, many refuse disposal systems are owned and/or operated by local governments. Accordingly, there could also be an impact on local expenditures from having to collect and submit the surcharge and required reports to the Comptroller on a quarterly basis.

The impact on local revenues (from any net changes in tipping fees) cannot be reliably estimated at this time.

To the extent that local governments, local education agencies, or other local entities receive grant funding from one of the new grant programs established under the bill, local grant revenues and expenditures increase correspondingly.

Small Business Effect: Solid waste disposal costs for all businesses – including small businesses – increase beginning in fiscal 2023 due to the \$5 solid waste disposal surcharge, as it is expected that the increase in costs incurred by refuse disposal facilities is passed on to consumers. Since some refuse disposal systems are owned and/or operated by small businesses, there could also be an impact on these entities to collect and submit the surcharge and required reports to the Comptroller on a quarterly basis.

Grant revenues and expenditures for small businesses that are eligible for grants under the bill increase as early as fiscal 2023. For example, farmers benefit from additional funding to support the adoption of on-farm composting and the sale of composted material. Small businesses that provide the type of services, supplies, or functions that are eligible for funding under the bill may see an increase in demand for their services.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Environmental Service; Baltimore City; Caroline, Garrett, Howard, Kent, and Queen Anne’s counties; Northeast Maryland Waste Disposal Authority; Comptroller’s Office; Maryland State Department of Education; University System of Maryland; Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of the Environment; Baltimore City Public Schools; Prince George’s County Public Schools; Department of Legislative Services

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