

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1372 (Delegate Lehman, *et al.*)
 Environment and Transportation

Environment - Green Infrastructure Rebate Program - Establishment

This bill establishes the Green Infrastructure Rebate Program, administered by the Maryland Department of the Environment (MDE) and participating counties with delegated authority, to provide rebates to eligible entities for “green infrastructure projects.” Among other things, the bill (1) establishes provisions relating to eligibility, rebate applications, and the issuance of rebates; (2) modifies the authorized uses of the Maryland Clean Water Fund to include providing the State’s share of funding for rebates issued by MDE; and (3) establishes reporting requirements. MDE must adopt implementing regulations.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$196,900 in FY 2023; out-years reflect annualization, inflation, and ongoing costs. Overall finances of the Maryland Clean Water Fund are not affected, but by using the special fund to pay for the State’s share of rebates, less funding is available for other authorized uses.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	196,900	232,000	238,600	244,900	251,500
Net Effect	(\$196,900)	(\$232,000)	(\$238,600)	(\$244,900)	(\$251,500)

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

Local Effect: County expenditures increase to the extent a county chooses to participate in the rebate program. Counties that already have rebate programs may benefit. Local finances may also be affected from a shift in funding from the Maryland Clean Water Fund.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A “green infrastructure project” means the following stormwater management practices eligible for a rebate under the program: (1) rain barrels; (2) cisterns; (3) urban tree canopy; (4) rain gardens; (5) pavement removal; (6) permeable pavement; and (7) green roofs.

Purpose and Administration of Rebate Program

The stated purpose of the rebate program is to (1) provide property owners the incentive to invest in stormwater management practices; (2) improve the quality of life in the State’s communities using green stormwater retrofits; and (3) help the State meet its obligations under the federal Clean Water Act to reduce stormwater pollution in its rivers and streams.

MDE must administer the program in collaboration with each participating county. However, MDE may delegate the authority to administer the program to a participating county, and a participating county with delegated authority may administer the program in collaboration with a nonprofit organization.

Eligibility for Rebates

Entities eligible to receive a rebate under the program include an individual; a commercial business; a multifamily dwelling owner; a homeowners, condominium, or civic association; and a nonprofit organization, as specified. Except with respect to a rebate for a rain barrel project, an applicant may receive a rebate under the program only if MDE or a participating county with delegated authority approves the project before the applicant constructs or installs the project, as specified. Projects associated with permit approval requirements for new building construction, additions, or renovations are not eligible for rebates.

Rebate Applications and Related Requirements

Rebate applications must include specified information, and an applicant must complete a project and apply for a rebate within a certain amount of time after receiving approval. Some projects must be inspected before an applicant may receive a rebate, and certain projects must follow best practices guidelines and criteria, as specified. If deemed necessary, an applicant must agree to allow follow-up evaluations of the project, as specified.

MDE or a participating county with delegated authority must (1) provide applicants with maintenance guidelines for an approved project and available resources for technical

assistance and (2) require applicants to sign a voluntary property owner agreement to maintain the project.

Issuance of Rebates

In issuing a rebate, MDE must issue the rebate in an amount equal to 60% of the cost of the green infrastructure project, and a participating county must issue the rebate in an amount equal to 40% of the cost of the green infrastructure project.

Rebates must be issued in the order in which the applications are approved. A rebate may not exceed the cost of the project. Further, the bill establishes limits on the dollar amount of rebates that eligible entities are able to receive, as specified.

MDE or a participating county with delegated authority is authorized to enter into a contract with a nonprofit organization and a residential property owner to finance green infrastructure projects to provide initial costs for a residential property owner who may otherwise not be able to afford to participate in the program. The bill establishes related provisions.

Funding for State's Share of Rebates

The bill expands the authorized uses of the Maryland Clean Water Fund to include providing the State's share of funding for rebates issued by MDE under the new program.

Regulations

MDE must adopt regulations to implement the bill; the regulations must establish best practices guidelines and eligibility criteria for each type of green infrastructure project.

Other Provisions

MDE or a participating county with delegated authority is authorized to offer a training course for private and nonprofit contractors to become certified in completing green infrastructure projects. MDE must maintain a list of certified contractors that have taken a training course on its website.

By December 31, 2023, and annually thereafter, each participating county must submit a report to MDE that includes specified program information. By July 1, 2023, and annually thereafter, MDE must report to the Governor and the General Assembly on specified program information.

Current Law:

State Stormwater Management Rules and Regulations

The General Assembly first enacted the Stormwater Management Act in 1982 and has amended it several times since. The intent of the Stormwater Management Act is to reduce, as much as possible, the adverse effects of stormwater runoff. To achieve that goal, pursuant to § 4-203 of the Environment Article, MDE is in charge of implementing the Stormwater Management Act and is required to adopt rules and regulations that establish criteria and procedures for stormwater management in Maryland. In implementing the Act, MDE must consult with the Department of Natural Resources from time to time, including during the adoption of the regulations. Additionally, each county and municipality must have an ordinance implementing a stormwater management program that is consistent with flood management plans and that meets certain minimum requirements. MDE must provide local governments with technical assistance, training, research, and coordination in stormwater management technology.

Maryland Clean Water Fund

The Maryland Clean Water Fund consists of all application fees, permit fees, renewal fees, funds, and civil and administrative penalties collected under specified water pollution control laws. MDE must use the Maryland Clean Water Fund for activities that are related to:

- the identification, monitoring, and regulation of the proper discharge of effluent into State waters, including program development of these activities as provided by the State budget;
- the management, conservation, protection, and preservation of the State's groundwater and surface water, including program development of these activities as provided by the State budget;
- correcting to the extent possible the failure to implement or maintain erosion and sediment controls;
- administration of the sediment control program;
- emergency removal of sewage sludge or mitigation of the effect of any utilization of sewage sludge that MDE finds (1) endangers public health, safety, or welfare or (2) endangers or damages natural resources;
- activities that are conducted by MDE, by a local health official, or by the local health official's designee related to the inspection, monitoring, or enforcement of sewage sludge utilization, including program development; and
- providing supplemental inspections and monitoring of sewage sludge utilization sites by (1) contracting with a county on request of that county to provide

supplemental inspections and monitoring and (2) limiting the value of services provided under the contract to no more than 45% of the generator fees for sludge utilized in that county that is generated outside of that county or service area.

In determining the use of money from the fund, priority must be given to activities relating to the water quality of the Chesapeake Bay and its tributaries.

State Expenditures:

Maryland Department of the Environment – Administrative Costs

General fund expenditures increase by at least \$196,901 in fiscal 2023, which accounts for the bill’s October 1, 2022 effective date. This estimate reflects the cost of hiring three employees (one administrator and two accountants) to (1) develop best practices guidelines, develop eligibility criteria, and adopt regulations; (2) provide maintenance guidelines and technical assistance to applicants; (3) accept, review, and approve applications; (4) track, inspect, and provide oversight for projects; (5) compile information and write the annual reports; and (6) generally implement the rebate program. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. This estimate (1) is based, in part, on MDE’s costs to administer the Bay Restoration Fund’s septic program and (2) reflects the minimum staff necessary to develop a statewide green infrastructure rebate program.

Positions	3.0
Salaries and Fringe Benefits	\$174,872
Operating Expenses	<u>22,029</u>
Minimum FY 2023 Admin. Expenditures	\$196,901

To the extent that MDE develops and offers a training course for private and nonprofit contractors to become certified in completing green infrastructure projects, general fund expenditures increase further. (MDE estimates that developing an online training course that includes testing and certification costs \$45,000 initially, with periodic ongoing costs for maintenance.) Further, depending on the level of county participation, State expenditures may increase further.

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

Since the bill only expands the authorized uses of the Maryland Clean Water Fund to include providing the State’s share of funding for rebates, it is assumed that general funds are needed to cover MDE’s administrative costs.

Rebates from the Maryland Clean Water Fund

Absent experience under the bill and additional information on the number of counties that choose to participate in the rebate program, a reliable estimate of the actual amount of rebates funded through the Maryland Clean Water Fund cannot be made. Although overall finances of the Maryland Clean Water Fund are not affected, if the special fund is used to provide rebates, the bill results in less funding available for other authorized uses.

Local Expenditures: To the extent that a county chooses to participate in the rebate program, county expenditures increase to implement the program and to provide the county's share of the rebates. County participation is not mandatory, but it is anticipated that costs for participating counties could be significant depending on the scope of implementation at the county level, whether or not a county seeks delegated authority to administer the rebate program, and whether or not a county administers the program in collaboration with a nonprofit organization.

To the extent any counties already have similar rebate programs in place, county expenditures may decrease, since the State pays a portion of the rebate under the program established by the bill.

Additionally, the bill likely results in a shift of funding from the Maryland Clean Water Fund, which may affect local finances. However, any such impact is unknown.

Small Business Effect: The bill has a beneficial impact on any small business that receives a rebate under the bill. The list of entities eligible for rebate funding is fairly broad and includes commercial businesses, among others. Additionally, any small businesses that install, provide maintenance on, or sell supplies related to green infrastructure projects may see a meaningful increase in the demand for their services. Finally, the bill likely results in a shift of funding from the Maryland Clean Water Fund, which could affect small businesses.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Harford County; Maryland Association of Counties; Maryland Department of the Environment; Department of Legislative Services

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