

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 874 (Delegate Stewart, *et al.*)
 Environment and Transportation and Appropriations Education, Energy, and the Environment

Office of the Attorney General - Environmental and Natural Resources Crimes Unit - Establishment

This bill establishes an Environmental and Natural Resources Crimes Unit of the Office of the Attorney General (OAG) to investigate and prosecute violations of State criminal environmental and natural resources laws.

Fiscal Summary

State Effect: General fund expenditures increase by \$566,200 in FY 2024. Future years reflect annualization and inflation. General/special fund revenues may increase, beginning as early as FY 2024, as discussed below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF/SF Rev.	-	-	-	-	-
GF Expenditure	\$566,200	\$700,400	\$729,400	\$759,100	\$796,000
Net Effect	(\$566,200)	(\$700,400)	(\$729,400)	(\$759,100)	(\$796,000)

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

Local Effect: Local government revenues may increase, beginning as early as FY 2024, as discussed below. Expenditures are not expected to be materially affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill establishes an Environmental and Natural Resources Crimes Unit of OAG to (1) investigate and prosecute cases against persons that violate State criminal

environmental and natural resources laws and (2) investigate and prosecute any other criminal offense discovered in the course of an investigation.

The unit must include (1) a full-time Chief Counsel of Environmental and Natural Resources Crimes and (2) staff, including assistant Attorneys General, investigators, and administrators, as provided in the State budget. Salaries and expenses of the unit must be as provided in the State budget and, in cooperation with the Secretary of Budget and Management, the Attorney General must set minimum salaries, qualifications, and standards of training and experience for positions within the unit.

In conducting an investigation and prosecuting cases, the unit may act with the full powers, rights, privileges, and duties of a State's Attorney, including the use of a grand jury in any county. The bill also gives specified authority to the Attorney General or a deputy Attorney General, or an assistant Attorney General designated in writing by the Attorney General, to issue a subpoena – for the limited purpose of furthering an ongoing criminal investigation by the unit – to a person to produce telephone, business, government, or corporate records or documents. The bill authorizes the circuit court with jurisdiction over the matter to grant appropriate relief – after a specified hearing – if a person fails to obey a lawfully served subpoena.

By November 30 each year, the Attorney General must report to the Governor and the General Assembly on all the activities of the unit and any actions taken by the Maryland Department of the Environment (MDE) or the Department of Natural Resources (DNR) in response to findings and recommendations of the unit.

Current Law: Under the Maryland Constitution, the Attorney General's responsibilities include investigating, commencing, and prosecuting or defending any civil or criminal suit or action or category of such suits or actions in any of the federal courts or in any court of the State, or before administrative agencies and quasi legislative bodies, on the part of the State or in which the State may be interested, which the General Assembly (by law or resolution) or the Governor directs to be investigated, commenced, and prosecuted or defended. The constitution also establishes a State's Attorney in each county that must perform such duties as prescribed by the General Assembly.

Statute establishes that the Attorney General has general charge of the legal business of the State and, unless a law expressly provides for a general counsel as the legal adviser and representative of the officer or unit, the Attorney General is the legal adviser of and must represent and otherwise perform all of the legal work for each officer and unit of the State government. Statute expressly designates the Attorney General as the legal adviser to MDE and DNR.

Statute establishes that a State’s Attorney must, in the county served by the State’s Attorney, prosecute and defend on the part of the State all cases in which the State may be interested.

The Attorney General, and in limited cases State’s Attorneys, are also given specific authority in certain instances to enforce specific laws within the Environment Article and Natural Resources Article of the Maryland Code.

State Expenditures: General fund expenditures increase by \$566,203 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring (1) one principal counsel to serve as the Chief Counsel of Environmental and Natural Resources Crimes; (2) two assistant Attorney General positions, specializing in environmental and natural resources law; and (3) one investigator. OAG indicates that these additional staff are expected to be combined with existing staff within the office that focus on the investigation and prosecution of criminal environmental violations, to form the Environmental and Natural Resources Crimes Unit under the bill to address both criminal environmental *and* natural resources violations. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including contractual services for expert testimony.

Positions	4.0
Salaries and Fringe Benefits	\$490,217
Contractual Services	37,500
Operating Expenses	<u>38,486</u>
Total FY 2024 State Expenditures	\$566,203

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

Any incarceration penalties imposed as a result of the establishment of the Environmental and Natural Resources Crimes Unit (and its subsequent investigation and prosecution of criminal cases) that otherwise would not have been imposed in the absence of the bill are not expected to materially affect State finances.

State Revenues: General/special fund revenues may increase, beginning as early as fiscal 2024, to the extent monetary penalties and/or restitution are collected as a result of the establishment of the Environmental and Natural Resources Crimes Unit that otherwise would not have been collected in the absence of the bill. The extent of any increase cannot be reliably estimated.

Local Revenues: Local government revenues may increase, beginning as early as fiscal 2024, to the extent monetary penalties are collected as a result of the establishment

of the unit that otherwise would not have been collected in the absence of the bill. The extent of any increase cannot be reliably estimated.

Local Expenditures: Any incarceration penalties imposed as a result of the establishment of the Environmental and Natural Resources Crimes Unit that otherwise would not have been imposed in the absence of the bill are not expected to materially affect local government finances.

Small Business Effect: Small businesses in resource-based industries may meaningfully benefit to the extent the unit's investigation and prosecution of violations of criminal environmental and natural resources laws increases compliance with those laws.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 611 (Senator Bailey, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Caroline, Howard, and Prince George's counties; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Department of Budget and Management; Maryland Department of the Environment; Department of Natural Resources; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2023
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