

Department of Legislative Services  
 Maryland General Assembly  
 2023 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1139 (Delegate Boyce)  
 Environment and Transportation

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

This bill establishes a \$2 per ton statewide solid waste disposal surcharge (adjusted for inflation as specified) and a process by which counties may submit a request to establish a local solid waste disposal surcharge program that meets specified requirements. The statewide surcharge does not apply in a county that has established a local program. The statewide surcharge is collected by owners and operators of refuse disposal systems, remitted to the Comptroller, and deposited into a newly established Waste Reduction Grants Fund. Generally, the Comptroller must transfer the revenue into (1) the new On-Farm Composting and Compost Use Grant Fund administered by the Maryland Department of Agriculture (MDA) and (2) the existing State Recycling Trust Fund within the Maryland Department of the Environment (MDE). Broadly speaking, the surcharge revenue collected under the bill – through the statewide surcharge or through a local program – is used to provide funding for various recycling, composting, waste prevention, and solid waste reduction projects. The bill establishes related reporting requirements.

Fiscal Summary

**State Effect:** *Under one set of assumptions*, special fund revenues increase by \$3.1 million in FY 2024 and by at least \$12.6 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 \$496,500 in FY 2024 to cover administrative costs incurred that year. State expenditures (multiple fund types) for solid waste disposal may increase beginning in FY 2024, as discussed below.

| (\$ in millions) | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
|------------------|---------|---------|---------|---------|---------|
| SF Revenue       | \$3.1   | \$12.6  | \$12.7  | \$12.8  | \$13.1  |
| GF Expenditure   | \$0.5   | \$0     | \$0     | \$0     | \$0     |
| SF Expenditure   | \$3.1   | \$12.6  | \$12.7  | \$12.8  | \$13.1  |
| 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 2024. Local grant revenues and expenditures may increase beginning in FY 2024. Local revenues and expenditures may increase beginning in FY 2024 to the extent local solid waste disposal surcharge programs are established.

**Small Business Effect:** Meaningful.

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## Analysis

### Bill Summary:

#### *Statewide Solid Waste Disposal Surcharge*

The bill establishes a statewide solid waste disposal surcharge on the final disposal of solid waste in the State. However, the statewide surcharge may not be assessed on the final disposal of transfer of waste at a refuse disposal system located in a county that has implemented a local solid waste surcharge program in accordance with the bill (discussed below).

The statewide surcharge must be collected by each owner or operator of a refuse disposal system in the State (unless the owner or operator is located in a county that has implemented a local solid waste disposal surcharge program in accordance with the bill). The statewide surcharge must be listed as a separate line item on the bill or invoice that the owner or operator provides to a hauler. A hauler that pays the statewide surcharge to an owner or operator of a refuse disposal system may recover the surcharge amount from a customer, as specified. If an owner or operator of a transfer station collects the surcharge, the statewide surcharge may not be collected by an owner or operator of a refuse disposal system that receives the solid waste for final disposal.

The statewide surcharge is \$2 per ton of solid waste processed by a refuse disposal system; however, by January 1, 2026, and every two years thereafter, the Office of Recycling must adjust the statewide surcharge in accordance with the Consumer Price Index, as specified, and evaluate the statewide surcharge to determine if any increases are recommended.

On a quarterly basis, beginning April 1, 2024, an owner or operator of a refuse disposal system must complete and submit (under oath) a return and remit the statewide solid waste disposal surcharge revenue 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 statewide surcharge revenue assessed under the bill and deposit the revenue into the Waste Reduction Grants Fund, which is established by the bill and discussed in more detail below. The Comptroller may adopt implementing regulations.

#### *Local Solid Waste Disposal Surcharge*

The bill authorizes a county, including Baltimore City and mid-shore counties, to submit a request to MDE to establish a local solid waste disposal surcharge program. MDE may approve a request if the county establishes a local solid waste disposal surcharge program to fund waste diversion and composting in accordance with the bill. Specifically, such a program must (1) include a separate and protected fund to receive surcharge revenue; (2) include a surcharge assessed at a rate that is greater than or equal to the statewide solid waste disposal surcharge; (3) allocate at least 40% of the surcharge revenue collected by the county to nongovernment programs and infrastructure to develop, maintain, or expand local reuse, repair, recycling, and composting, as specified; and (4) award grants, loans, or other fund disbursements to an “entity” or a “consortium of entities,” as defined by the bill.

The local solid waste disposal surcharge may be assessed at the level of waste generation, collection, or final disposal. However, the surcharge may not be assessed on the same solid waste more than once.

As noted above, the statewide solid waste disposal surcharge may not be assessed on the final disposal or transfer of waste at a refuse disposal system located in a county that has implemented a local solid waste disposal surcharge program in accordance with the bill. Such solid waste is subject only to the local surcharge.

MDE must review each local solid waste disposal surcharge program on an annual basis to ensure compliance with the bill’s requirements and to evaluate best practices and lessons learned from the local programs.

#### *Waste Reduction Grants Fund*

The bill establishes the Waste Reduction Grants 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 statewide 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 to (1) provide the funding necessary to award grants from the On-Farm Composting and Compost Use Grant Fund (discussed below); (2) provide the funding necessary to award specified grants to counties from the State Recycling Trust Fund (discussed below); and (3) cover the reasonable administrative costs incurred by the Comptroller, MDA, and the Office of Recycling under the bill, as specified. 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 (1) 25% of the money in the fund to the On-Farm Composting and Compost Use Grant Fund in MDA and (2) 75% 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. The stated purpose of the fund 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) statewide 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 from any other source 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 activities. “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. A county that has implemented a local solid waste disposal surcharge program is not an eligible entity.

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

#### *State Recycling Trust Fund*

The bill modifies the revenue sources for the State Recycling Trust Fund to include revenue from the statewide solid waste disposal surcharge transferred to the fund, and the bill authorizes the Office of Recycling to establish a waste reduction grants account in the fund. Any statewide 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 statewide solid waste disposal surcharge revenue transferred to the State Recycling Trust Fund under the bill, two-thirds must be used by the Office of Recycling to provide grants 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 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; (2) established accounting procedures that ensure that the grant money is spent only in accordance with the bill; and (3) not implemented a local solid waste disposal surcharge program. 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 under the bill, the remaining one-third must be used by the Office of Recycling to award grants to eligible entities for several specified activities, including, among others (1) developing, maintaining, or expanding local reuse, repair, recycling, and composting infrastructure, as well as infrastructure that minimizes illegal dumping; (2) encouraging source separation of uncontaminated materials; and (3) 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, including an urban farmer; (6) a business that meets specified requirements; or (7) a consortium of any one of these listed entities. A county that has implemented a local solid waste disposal surcharge program is not an eligible entity.

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 specified projects.

### *Reporting Requirement*

By December 1 each year beginning in 2025, 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 on job creation (and other benefits to the State), waste prevention and diversion, and the quantity of compost used by farmers. The Office of Recycling may report the required information in existing reports, as specified and as determined by the office. Beginning

with the report due December 1, 2025, and every two years thereafter, the Office of Recycling must include in the report a recommendation on whether and to what extent an adjustment to the statewide solid waste disposal surcharge is recommended.

### **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 recycle at least 20% or 35% of the county's solid waste stream, depending on the county's population. Each county (including Baltimore City) must also 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 (COMAR) 26.04, which specifies requirements related to the construction and operation of composting facilities in the State.

### *Food Waste Diversion*

Chapters 439 and 440 of 2021 require certain generators of large quantities of food residuals to separate the food residuals from other solid waste and ensure that the food residuals are diverted from final disposal in a refuse disposal system. The implementation timeline for this requirement is staggered, based on weekly tonnages of food residuals, beginning January 1, 2023. MDE promulgated implementing regulations in 2022 by establishing Chapter 13 under COMAR 26.04, which specifies requirements related to the diversion of food residuals from final disposal in a refuse disposal system.

### *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:**

#### *Statewide Surcharge Collection, Distribution, and Related Administrative Costs*

*Statewide Surcharge Revenues:* The Comptroller begins collecting the \$2 per ton solid waste disposal surcharge on April 1, 2024. Based on the average amount of solid waste disposed of in calendar 2017 through 2021, an estimated 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 that data, and assuming that no counties establish a local solid waste disposal surcharge program, the statewide solid waste disposal surcharge generates an estimated \$3.1 million in revenue for the Waste Reduction Grants Fund in fiscal 2024 (due to the April 1, 2024 date on which the surcharge begins to be collected), by \$12.6 million in fiscal 2025, by \$12.7 million in fiscal 2026, by \$12.8 million in fiscal 2027, and by \$13.1 million in fiscal 2028. These estimates (1) reflect an adjustment in the per ton fee for inflation every two calendar years beginning January 1, 2026, as required by the bill; (2) assume that the amount of solid waste that is processed by refuse disposal systems in the State remains constant over time; and (3) assume that no counties establish a local solid waste disposal surcharge program.

To the extent any counties establish a local solid waste disposal surcharge program in accordance with the bill, statewide surcharge revenues decrease accordingly. Based on a limited survey of counties (discussed in more detail below), it is unclear whether any counties have any interest in establishing such a program. Therefore, this analysis assumes

that, for at least the first five years, no local programs are established and the statewide surcharge is assessed in all counties.

*Comptroller Administrative Costs:* General fund expenditures for the Comptroller increase by \$53,816 in fiscal 2024, 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, 2024, 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 2024. Once surcharge revenue is available, the Comptroller's administrative costs are covered with special funds instead.

Future year administrative expenditures range from \$92,192 in fiscal 2025 to \$105,874 in fiscal 2028. 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 statewide solid waste disposal surcharge revenue from the Waste Reduction Grants 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 2024, it is assumed the Comptroller transfers a total of an estimated \$3.1 million in special fund revenues from the Waste Reduction Grants Fund to the funds in MDE and MDA toward the end of fiscal 2024 (approximately \$2.4 million to MDE and \$787,100 to MDA). 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.



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**Exhibit 1**  
**Estimated Surcharge Revenue Collected and Transferred**  
**Fiscal 2024 through 2028**  
**(\$ in Millions)**

|                            | <u>FY 2024</u> | <u>FY 2025</u> | <u>FY 2026</u> | <u>FY 2027</u> | <u>FY 2028</u> |
|----------------------------|----------------|----------------|----------------|----------------|----------------|
| Total Surcharge Revenues   | \$3.1          | \$12.6         | \$12.7         | \$12.8         | \$13.1         |
| Comptroller Costs*         | -              | 0.1            | 0.1            | 0.1            | 0.1            |
| Net Available for Transfer | 3.1            | 12.5           | 12.6           | 12.7           | 13.0           |
| Transferred to MDE         | 2.4            | 9.4            | 9.5            | 9.6            | 9.7            |
| Transferred to MDA         | 0.8            | 3.1            | 3.2            | 3.2            | 3.2            |

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

\*Fiscal 2024 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

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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:* General fund expenditures for MDA increase by \$293,335 in fiscal 2024 to hire two employees (one administrator and one administrative aide) to develop and implement the grant program, account for revenues, and collaborate and write mandatory reports. This estimate reflects a hiring date of January 1, 2024, and assumes that MDA must hire staff in advance of the establishment of the statewide surcharge in order to establish the grant program and conduct outreach to eligible entities and counties. The estimate also reflects costs for 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. Because special fund revenues will not yet be available when the employees are hired, it is assumed that general funds are needed to cover MDA's administrative costs in fiscal 2024.

Future year administrative expenditures are estimated to range from \$206,916 in fiscal 2025 to \$230,305 in fiscal 2028, 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 MDA's administrative costs in the out-years.

*Maryland Department of the Environment Administrative Costs and Further Grant Distribution:* General fund expenditures for MDE increase by \$149,350 in fiscal 2024 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, 2024, 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 2024.

Future year administrative expenditures are estimated to range from \$294,705 in fiscal 2025 to \$300,186 in fiscal 2028, 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, two-thirds 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 one-third 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, as discussed above, and MDE's anticipated administrative costs, approximately \$1.6 million is available for eligible counties, and \$787,100 is available for eligible entities in fiscal 2024. In the out-years, approximately \$6.1 million to \$6.3 million is available annually for eligible counties and \$3.0 million to \$3.1 million is available annually for eligible entities.

#### *State Solid Waste Management Costs*

State solid waste disposal costs increase, likely minimally, beginning in fiscal 2024 due to the 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 2024.

### *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:** For a county that does not establish a local solid waste disposal surcharge program, local solid waste disposal costs increase beginning in fiscal 2024 due to the statewide solid waste disposal surcharge; it is expected that any increase in costs incurred by refuse disposal facilities is passed on to consumers. Also, many refuse disposal systems are owned and/or operated by local governments. Accordingly, local administrative expenditures likely increase to collect and remit the surcharge revenue and related information to the Comptroller on a quarterly basis.

To the extent that a county establishes a local solid waste disposal surcharge program, local solid waste disposal costs increase beginning in fiscal 2024 due to the local surcharge, and local revenues and expenditures increase due to establishment of the local program. The local surcharge is determined by the county but must be greater than or equal to the statewide surcharge (\$2 per ton initially, adjusted for inflation as specified). The Department of Legislative Services conducted a limited review of local governments, none of which indicate that they intend to establish a local solid waste disposal surcharge program under the bill. Thus, it is unclear whether any counties do so.

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. Several local governments indicate that they are interested in applying for available State grant funding.

**Small Business Effect:** Solid waste disposal costs for all businesses – including small businesses – increase beginning in fiscal 2024 due to the statewide solid waste disposal surcharge, as it is expected that the increase in costs incurred by refuse disposal facilities is passed on to consumers. Depending on the county in which a small business is located, the solid waste disposal surcharge may be higher if a county establishes a local solid waste disposal surcharge program. Because some refuse disposal systems are owned and/or operated by small businesses, there could also be an impact on these entities to collect and remit the surcharge revenue and related information 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 2024. 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 the demand for their services.

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### **Additional Information**

**Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 1070 of 2022.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of the Environment; Maryland Department of Agriculture; Comptroller's Office; Maryland Environmental Service; Maryland State Department of Education; Baltimore City Community College; University System of Maryland; Morgan State University; Maryland Association of Counties; Northeast Maryland Waste Disposal Authority; City of Frostburg; Maryland Municipal League; Baltimore City Public Schools; Department of Legislative Services

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