

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 572 (Senator M. Washington)
Education, Energy, and the Environment

**Environment - Collection and Reporting of Drinking Water and Wastewater
Documents, Data, and Information - Requirements**

This bill requires each “water utility” operating in the State to submit to the Maryland Department of the Environment (MDE) specified documents, data, and other information as part of an annual water quality consumer confidence report. Generally, the reports must also be made available on the websites of the water utilities and/or of MDE. The bill specifies the documents, data, and information that must be included in the annual reports. On request of a water utility, a local government of the jurisdiction within which the water utility is located must provide the documents, data, and information required by the bill for which the local government has access. The bill also establishes penalties for violations; penalty revenue must be distributed to special fund (although a fund is not created) to be used for ensuring households with a low income have access to drinking water and wastewater services.

Fiscal Summary

State Effect: General fund expenditures for MDE increase significantly beginning in FY 2025, potentially by \$0.5 million or more annually, as discussed below. State expenditures related to reporting compliance are not otherwise materially affected. The bill’s penalty provisions are not anticipated to materially affect State finances.

Local Effect: Local expenditures may increase beginning in FY 2025 for some local jurisdictions, likely smaller jurisdictions, to comply with the bill’s data and information reporting requirements. Local revenues are not directly affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definitions

“Water utility” means a public or private entity that provides water or wastewater service to customers in a service area. The bill lists examples of entities that are specifically included in the definition, such as community water systems, public water systems, and publicly owned treatment works.

Documents, Data, and Other Information Required to Be Collected and Posted Online

A water utility operating in the State must submit to MDE the water utility’s annual water quality consumer confidence report. Generally, each water utility must also post the report on its website and provide a link to the report to MDE. If a water utility does not have a website, MDE must instead host the report directly on its website. The annual report must include following:

- (1) termination of service and late payment policies; (2) method of notices provided before termination of service; (3) information on the number of notices provided prior to termination of service; (4) specified policies related to fees and associated charges with termination of service or late payment; (5) payment plan brochures or reference materials provided to customers seeking assistance; (6) written materials describing any alternative rate structures or other assistance that is available; (7) contact information at the water utility for customers to discuss bills, seek assistance, or address a termination of service; and (8) if any of the aforementioned documents are provided to customers in accordance with a local law or ordinance, a copy of, link to, or citation of the local law or ordinance;
- a balance sheet, an income statement, and a cash flow statement; and
- the number of accounts for which drinking water or wastewater service was disconnected or terminated, disaggregated by account type, service type, and month.

On request of a water utility, a local government of the jurisdiction within which the water utility is located must provide the water utility with the documents, data, and information for which it has access. The bill may not be construed to prevent a State agency or local government from disseminating, managing, or publishing the documents, data, or information.

Incomplete Reporting and Penalties

A water utility that fails to report or post on its website the required documents, data, or information required under the bill is subject to a civil penalty, which varies by the number of customers. For a water utility that provides service to:

- 3,301 or more customers, the fine is up to \$1,000 for each 15 days that pass, up to \$5,000 in a reporting year;
- 501 to 3,300 customers, the fine is up to \$500 for each 30 days that pass, up to \$2,500 in a reporting year; and
- 500 or fewer customers, the fine is up to \$100 for each 30 days that pass, up to \$500 in a reporting year.

MDE may wave the fines if a water utility demonstrates that the missing or incomplete documents, data, or information cannot be retrieved retroactively and that the water utility has a plan for obtaining the missing documents, data, or information for the next reporting cycle.

Fine revenue must be distributed to a special fund and used only to ensure that households with low income have access to drinking water and wastewater services. MDE must adopt regulations for expending the revenue. The bill does not create a new special fund or identify an existing special fund to which such fine revenue must be distributed.

Current Law: According to MDE, the data that must be reported under the bill is not currently required to be collected or reported.

Federal Safe Drinking Water Act and State Implementation

MDE is responsible for the primary enforcement (primacy) of the federal Safe Drinking Water Act (SDWA) in Maryland. This means MDE is charged with ensuring that the water quality and quantity at all public water systems meet the needs of the public and are in compliance with federal and state regulations. According to MDE's [Safe Drinking Water Act Annual Compliance Report for Calendar Year 2022](#) to the U.S. Environmental Protection Agency (EPA), routine compliance activities include regular on-site inspections of water systems to identify any sanitary defects in the systems, technical assistance, and a permitting process that helps ensure that systems obtain the best possible source of water. Maryland regulates 3,236 public water systems (468 community water systems, 540 nontransient noncommunity water systems, and 2,228 transient noncommunity water systems).

SDWA requires all community water systems to annually prepare an annual drinking water quality report, referred to as the Consumer Confidence Report (CCR), and provide it to their customers. MDE advises that it also receives CCRs and publishes them on its website.

Federal Clean Water Act and State Implementation

The federal Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into U.S. waters. The National Pollutant Discharge Elimination System (NPDES), a component of CWA, is a permit program that addresses water pollution by regulating point sources that discharge pollutants to U.S. waters. In Maryland, EPA delegates authority to issue NPDES permits to MDE. Federal regulations (40 C.F.R. § 122.41) specify conditions applicable to all NPDES permits, which must be incorporated into the permit, either expressly or by reference. Further, the permittee must comply with all permit conditions; any noncompliance constitutes a violation of CWA.

MDE's Water and Science Administration and Land and Materials Administration issue discharge permits to protect Maryland's water resources by controlling industrial and municipal wastewater discharges. Surface water discharges are regulated through combined State and federal permits under NPDES. Groundwater discharges are regulated through State-issued groundwater discharge permits. "Discharge permit" is defined in statute as a permit issued by MDE for the discharge of any pollutant or combination of pollutants into the waters of the State.

State/Local/Small Business Effect:

Maryland Department of the Environment Administrative Costs

MDE advises that its general fund expenditures increase by \$1.2 million in fiscal 2025 and by \$1.4 million or more annually thereafter to hire 17 employees (natural resources planners, regulatory and compliance engineers, environmental compliance specialists, programmer analysts, accounts, and an administrative staff). Those staff will, among other administrative tasks, (1) develop a new reporting platform and integrate it into the existing Environmental Tracking System, create an outward facing portal, and allow the portal to be searchable by the public; (2) review information submitted, assess for data quality, and determine compliance with reporting deadlines and content requirements; and (4) issue violations. MDE's estimate does not include any costs associated with using penalty revenues to ensure households with a low income have access to drinking water and wastewater services.

MDE's estimate is based on the following information and assumptions:

- the bill affects thousands of water utilities (there are 33 known large water utilities and more than 3,000 known small water utilities in the State);
- the information that must be reported, collected, and published under the bill is not currently reported to MDE;
- wastewater service providers are not permitted based on the number of customers who are served, so that information must be collected and maintained for purposes of assessing penalties; and
- overall, the increase in workload is significant and MDE does not have sufficient staff or expertise to fulfill the bill's requirements without additional resources.

The Department of Legislative Services (DLS) concurs that the bill establishes (and implies) new responsibilities for MDE and that general fund expenditures likely increase for MDE to hire staff. However, without actual experience under the bill, particularly related to water utility compliance – a reliable estimate of the increase in MDE's costs cannot be made at this time. Still, there are ongoing administrative and information technology requirements. To effectively implement the bill, DLS anticipates that general fund expenditures for staff could increase by \$0.5 million or more beginning in fiscal 2025 – an amount that reflects eight total staff of the same types as MDE provided in its estimate above. Expenditures may further increase if a robust program to provide penalty revenues to low-income households is established.

Effect on Owners and Operators of Water Utilities Operating in the State

The bill establishes new and ongoing reporting requirements for water utilities operating in the State. Water utilities can be owned by a variety of entities, including the federal government, State agencies, local governments, private entities, and entities with mixed ownership. The bill's requirements may result in a modest increase in expenditures for some water utilities, particularly very small water utilities that are less likely to maintain and/or have the ability to easily report all of the required information due to limited staff and/or information technology capabilities. DLS notes that implementation costs borne by water utilities under the bill are likely to be passed on to consumers through an increase in rates.

The Maryland Environmental Service (MES) owns and operates one water system in Harford County that has approximately 93 connections. MES also operates several other water systems for State, county, municipal, and private sector clients. MES advises that the information required by the bill, or similar information, is already generally available from those water systems and that any additional requirements due to the bill are likely minor.

Additional Comments: MDE advises that the bill's penalty provisions are incomplete and would likely prevent the department from pursuing meaningful enforcement of the

bill's provisions or any resulting regulations. The bill also does not establish a special fund for penalty revenues, and it is unclear how MDE must ensure households with a low income have access to drinking water and wastewater service, absent additional specificity.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 513 of 2023.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Maryland Environmental Service; Harford and Montgomery counties; City of Frostburg; Department of Legislative Services.

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