

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 902

(Senator Lewis Young)

Education, Energy, and the Environment and
 Budget and Taxation

Environment and Transportation

Wildlife – Protections and Highway Crossings

This bill establishes various requirements for the Department of Natural Resources (DNR) and the State Highway Administration (SHA) relating to (1) the identification and designation of certain species whose habitat or movement corridors intersect with State highways; (2) the completion of a statewide deer population survey and related habitat maps, as specified; and (3) the development of design guidelines for bridges, culverts, and roads that will improve passage for the designated species. SHA must consider the guidelines and may consult with DNR on the design, rehabilitation, or replacement of certain infrastructure that intersects the habitat of a designated species. The bill also establishes the Wildlife Highway Crossings Fund in DNR, supported by, among other things, voluntary donations and federal funds, to support activities related to improving habitat connectivity and reducing wildlife-vehicle collisions. Finally, the Maryland Insurance Commissioner must conduct a study to review the effects of wild animal collisions on premium increases for private passenger automobile insurance in the State. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: General fund expenditures increase by an estimated \$1.5 million annually beginning in FY 2025 to capitalize the Wildlife Highway Crossings Fund, under the assumptions discussed below; special fund revenues and expenditures increase correspondingly. General fund expenditures may be less to the extent any federal funds or voluntary donations are received to support the fund (not shown), as discussed below.

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	\$1.5	\$1.5	\$1.5	\$1.5	\$1.5
GF Expenditure	\$1.5	\$1.5	\$1.5	\$1.5	\$1.5
SF Expenditure	\$1.5	\$1.5	\$1.5	\$1.5	\$1.5
Net Effect	(\$1.5)	(\$1.5)	(\$1.5)	(\$1.5)	(\$1.5)

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

Local Effect: Local government revenues and expenditures increase to the extent that the fund is used to provide matching grants to local governments, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Applicability

The bill must be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any project that has an existing National Environmental Policy Act record of decision and for which the design of the project is more than 30% complete before the bill's July 1, 2024 effective date.

Identification and Designation of Affected Species

DNR, in collaboration with SHA, must:

- identify threatened species, endangered species, and Species of Greatest Conservation Need whose habitat or movement corridors intersect with State highways;
- by October 1, 2024, designate which of the identified species are priorities for connecting habitats or preventing collisions between vehicles and wildlife, giving special consideration to threatened and endangered species that are reptiles and amphibians; and
- subject to the availability of funding, develop any maps, tools, technology, and techniques necessary to identify locations where new or altered State highway infrastructure could (1) reconnect habitat or movement corridors for the designated species and (2) reduce collisions between vehicles and wildlife.

“Endangered species” means any species whose continued existence as a viable component of the State’s wildlife or plants is determined to be in jeopardy. It includes any species of wildlife or plant determined to be an “endangered species” pursuant to the Endangered Species Act. “Threatened species” means any species of wildlife or plants, which appears likely, within the foreseeable future, to become endangered including any species of wildlife or plant determined to be a “threatened species” pursuant to the Endangered Species Act. “Species of Greatest Conservation Need” means a wildlife species identified

by DNR as a species of greatest conservation need in the Maryland State Wildlife Action Plan.

Statewide Deep Population Survey and Habitat Maps

By November 1, 2024, DNR must develop a methodology and a cost estimate for performing a statewide deer population survey. Subject to the availability of funding from the Wildlife Highway Crossings Fund, DNR must:

- complete the statewide deer population survey by November 1, 2026;
- develop deer population habitat maps based on the results of the survey; and
- provide the survey data and habitat maps to SHA to assist with identifying areas where wildlife crossings or wildlife-vehicle collision mitigation projects will reduce collisions between vehicles and deer.

In developing the deer population habitat maps, DNR may combine deer population survey data with other available data to more precisely identify priority locations for wildlife crossings. If available funding is insufficient to conduct the statewide deer population survey, DNR may conduct regional or hotspot surveys.

State Highway Administration Infrastructure Requirements

By June 30, 2026, SHA, in consultation with DNR, must develop design guidelines for bridges, culverts, and roads that will improve passage for species designated by DNR under the bill. On completion of the guidelines, SHA must consider the guidelines and may consult with DNR on the design, rehabilitation, or replacement of bridges, culverts, or State highways that intersect the habitat of a species designated by DNR under the bill.

The bill may not be construed to require SHA to incorporate into the design, rehabilitation, or replacement of a bridge, culvert, or State highway any design elements recommended in the design guidelines that (1) significantly increase the project cost or timeline or (2) are unreasonable, unfeasible, or not in accordance with relevant safety standards and engineering best practices.

Wildlife Highway Crossings Fund

The Wildlife Highway Crossings Fund is established as a special, nonlapsing fund. DNR must administer the fund in consultation with SHA. The Secretary of Natural Resources and the State Highway Administrator must each designate an interagency liaison officer to coordinate activities related to the purpose of the fund.

The fund consists of money appropriated in the State budget to the fund, interest earnings of the fund, and any other money from any other source accepted for the benefit of the fund. DNR must develop a website to be used for accepting donations to the fund and, if feasible, work with the Motor Vehicle Administration (MVA) to provide the option, appearing on the vehicle registration portal, to donate to the fund. In addition, SHA must identify any federal funding programs that could support the purpose of the fund and apply for any funding that SHA determines is appropriate, reasonable, and feasible, and for which State matching funds are available.

The stated purpose of the fund is to protect (1) any terrestrial or semiaquatic threatened species, endangered species, or species of greatest conservation need whose habitat or movement corridors intersect with a State highway and (2) motorists and wildlife in the State by reducing collisions between vehicles and wildlife. The fund may be used to:

- advance wildlife crossing or wildlife-vehicle collision mitigation projects jointly identified and prioritized by DNR and SHA;
- assist with preparations necessary for such projects, as specified;
- develop methods and tools for identifying where wildlife crossing or wildlife-vehicle collision mitigation projects would (1) reduce collisions between vehicles and wildlife or (2) connect habitats of terrestrial threatened species, endangered species, or species of greatest conservation need;
- develop regional or statewide habitat maps in accordance with the bill, as specified;
- construct exclusionary fencing;
- provide matching funds for federal grants;
- provide maintenance for, monitor, and evaluate completed projects;
- provide education and outreach on related topics, as specified;
- provide matching grants to counties and municipalities for projects related to the purpose of the fund;
- cover relevant administrative costs, including compensation for the interagency liaison officers in DNR and SHA, cost recovery, Geographic Information Systems data, and any other related administrative costs; and
- cover the costs of asset management for wildlife crossing infrastructure, including planning, inventory, condition information, and life cycle analyses.

Expenditures from the fund may only be made in accordance with the State budget. Money expended from the fund is supplemental to and not intended to take the place of funding that otherwise would be appropriated for these protections.

Study on Wildlife Collisions and Insurance Premium Rates

The Maryland Insurance Commissioner must conduct a study to review the effects of wild animal collisions on premium increase for private passenger automobile insurance in the State. The study must consider:

- the percentage of Maryland policyholders who have comprehensive, or other than collision, coverage on their policies;
- loss costs incurred with respect to claims resulting from collisions with deer or other wildlife annually;
- whether and under what circumstances policyholders who submit claims following a collision with deer or other wildlife pay a higher premium due to surcharges or the removal of discounts as a result of such a claim; and
- how the overall loss costs incurred with respect to collisions with deer and other wildlife are incorporated into private passenger automobile insurance premium rates, including whether the rates applicable to a policyholder may increase as a result of the submission or payment of a claim resulting from such a collision.

By December 1, 2024, the commissioner must submit a report with findings and any recommendations from the study to specified committees of the General Assembly.

Current Law:

State Highway Administration

SHA is responsible for more than 5,200 miles or approximately 16,800 lane miles of road, 2,500 bridges, 3,500 small stream crossing structures, and 80 miles of sound/noise barriers in the State. It also has responsibility for planning, designing, constructing, and maintaining these roads and bridges to safety and performance standards while considering sociological, ecological, and economic concerns.

Endangered Species Protection

The Nongame and Endangered Species Conservation Act governs the protection of threatened and endangered species at the State level. Among other things, the Act includes specifications for the Secretary of Natural Resources in adding or removing plants and animals from the [threatened and endangered species lists](#), prohibits certain activities that involve threatened and endangered species, including the possession and export of any such species; and establishes special additional protections for certain species.

Additionally, DNR's [Maryland State Wildlife Action Plan](#) outlines strategic conservation approaches for wildlife and wildlife habitats in the State. The plan is a strategy to guide the conservation of the State's wide range of fish, wildlife, and habitats, providing the framework and overall direction for wildlife and broader biodiversity conservation efforts in Maryland. The plan is required for the State to receive funding from the federal government's [State Wildlife Grants Program](#). Among other federal requirements, the plan compiles, evaluates, and presents summary status information for Species of Greatest Conservation Need.

Motor Vehicle Insurance and Wildlife Collisions

Maryland law requires an owner of a motor vehicle that is required to be registered in the State to maintain insurance for the vehicle during the registration period. MVA may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle provides satisfactory evidence to MVA that the required security is in effect. There are approximately 5.1 million registered and insured vehicles in the State.

Motor vehicle insurance law does not include any requirements, exceptions, or other specifications related to accidents and losses caused by collisions with wild animals.

State Fiscal Effect:

Capitalization and Use of the Wildlife Highway Crossings Fund

The bill establishes various new requirements for both DNR and SHA, many of which are subject to the availability of funding, and all of which are authorized uses of the Wildlife Highway Crossings Fund established by the bill. Although the bill does not establish a dedicated funding source for the new special fund, it requires:

- SHA to (1) identify any federal funding that could support the purpose of the funding and (2) apply for any funding that SHA determines is appropriate, reasonable, and feasible, and for which State matching funds are available; and
- DNR to (1) develop a website to be used for accepting donations to the fund and (2) if feasible, work with MVA to provide the option, appearing on the vehicle registration portal, to donate to the fund.

Accordingly, it is possible that federal grant revenues and/or special fund revenues from donations may increase to support the new fund. Although SHA advises that federal funding may be available from the Federal Highway Administration's [Wildlife Crossings Program](#), both this source of funding and funding from voluntary donations are unpredictable. Therefore, the extent to which any such funding will materialize is unknown.

In the absence of any federal grants or voluntary donations, it is assumed that general funds are needed to capitalize the Wildlife Highway Crossings Fund. Based on that assumption, and assuming sufficient funding to meet the intent of the bill, general fund expenditures increase by an estimated \$1.5 million annually beginning in fiscal 2025 to capitalize the fund. Special fund revenues and expenditures increase correspondingly each year, reflecting receipt of the capitalization funds and spending from the fund for authorized purposes.

Anticipated costs to implement the bill, which are discussed in more detail below, generally fall into three categories: (1) administrative costs; (2) costs to complete the statewide deer population survey and habitat maps; and (3) costs related to other authorized uses of the fund (including highway infrastructure costs, as discussed below). **Exhibit 1** shows the anticipated spending from the fund from fiscal 2025 to 2029, assuming \$1.5 million is appropriated to the fund each year.

Exhibit 1
Estimated Spending from the Wildlife Highway Crossings Fund
Fiscal 2025-2029

	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
Administrative Costs	\$155,866	\$185,405	\$193,652	\$202,127	\$210,992
Deer Survey/Maps	600,000	900,000	300,000	0	0
Other Authorized Uses	744,134	414,595	1,006,348	1,297,873	1,289,008
Total	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000

Source: Department of Legislative Services

To the extent less funding is appropriated to the fund, DNR may conduct regional or hotspot surveys instead of a statewide deer population survey, and/or less funding is available for other authorized uses, including infrastructure projects.

Administrative Costs

Special fund administrative expenditures increase by \$155,886 in fiscal 2025, which assumes a 90-day start-up delay from the bill’s July 1, 2024 effective date. This estimate reflects the cost of hiring two interagency liaison officers (one for DNR and one for SHA), as required by the bill, to manage the fund and ensure collaboration between DNR and SHA in implementing the bill’s requirements. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$141,354
Operating Expenses	<u>14,512</u>
Total FY 2025 Admin. Expenditures	\$155,866

Future year administrative expenditures (which range from \$185,405 in fiscal 2026 to \$210,992 in fiscal 2029) reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

To the extent any other administrative costs are incurred, they would also be covered by the special fund, but would reduce funding available for other authorized activities.

It is assumed that DNR can develop a website for accepting donations to the fund – and work with MVA to provide the option, appearing on the vehicle registration portal, to donate to the fund – using existing budgeted resources.

Costs for the Statewide Deer Population Survey and Related Habitat Maps

The bill requires DNR, by November 1, 2024, to develop a methodology and a cost estimate for performing a statewide deer population survey. Subject to the availability of funding in the Wildlife Highway Crossings Fund, DNR must complete the statewide deer population survey by November 1, 2026, develop deer population habitat maps based on the results of the survey, and provide the survey data and habitat maps to SHA to assist with identifying areas where wildlife crossings or wildlife-vehicle collision mitigation projects will reduce collisions between vehicles and deer.

While the total cost to complete the survey and habitat maps depends on the methodology developed by DNR, a preliminary evaluation by DNR estimates that costs could total approximately \$1.8 million; this estimate assumes that DNR contracts this work out. Thus, for purposes of this analysis, it is assumed that special fund expenditures from the Wildlife Highway Crossings Fund increase by \$600,000 in fiscal 2025, \$900,000 in fiscal 2026, and \$300,000 in fiscal 2027 to complete the statewide deer population survey and habitat maps.

If available funding is insufficient to conduct the statewide survey, the bill authorizes DNR to conduct regional or hotspot surveys.

Other Authorized Uses of the Fund

For purposes of this analysis, it is assumed that any remaining special funds available in any given year (after administrative costs and costs associated with the deer population survey and habitat maps) are used for other authorized purposes of the fund. For example, the bill authorizes the fund to be used for, among other things, project planning and

implementation, the construction of exclusionary fencing, education and outreach, and matching grants to local governments for projects related to the purpose of the fund. Once the design guidelines have been completed, it is assumed that the remaining available funds are primarily spent on highway infrastructure projects, as discussed below.

Highway Infrastructure Costs

The bill requires SHA to consult with DNR to develop design guidelines for bridges, culverts, and roads that will improve passage for the species designated by DNR under the bill. On completion of the design guidelines, SHA must consider the guidelines and may consult with DNR on the design, rehabilitation, or replacement of bridges, culverts, or State highways that intersect the habitat of a species designated by DNR under the bill.

SHA advises that the cost to implement highway infrastructure projects that incorporate the design guidelines is likely to vary from project to project depending on the geographical features of the area; in any event, the cost is anticipated to be significant. Costs could range from hundreds of thousands of dollars (for SHA to construct additional culverts) to millions of dollars (for SHA to construct additional bridges). Because the bill specifies that SHA is not required to incorporate any design elements that significantly increase the project cost or timeline or are unreasonable, unfeasible, or not in accordance with relevant safety standards and engineering best practices, it is unclear how often SHA will be required to incorporate the design guidelines into future projects.

Study – Wild Animal Collisions on Premium Increases

The Maryland Insurance Administration can complete the required study of wild animal collisions on premium increases using existing budgeted resources.

Local Fiscal Effect: The bill explicitly authorizes the Wildlife Highway Crossings Fund to be used to provide matching grants to counties and municipalities for projects related to the purpose of the fund. Therefore, local government revenues and expenditures increase to the extent that any such grants are provided.

Small Business Effect: Small business contractors, consultants, and engineers may experience an increase in business to assist DNR, SHA, and local governments in the design and construction of any infrastructure projects undertaken as a result of the bill.

Additional Information

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

Designated Cross File: HB 1129 (Delegate Ruth, *et al.*) - Environment and Transportation.

Information Source(s): Department of Natural Resources; Maryland Department of Transportation; Maryland Insurance Administration; Maryland Automobile Insurance Fund; Federal Highway Administration; Department of Legislative Services

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