Department of Legislative Services

Maryland General Assembly 2024 Session

FISCAL AND POLICY NOTE First Reader

(Senator Augustine)

Education, Energy, and the Environment

Senate Bill 686

Environment - Covered Electronic Devices Recycling Program - Establishment

This bill modifies, and in some cases, repeals existing State law provisions relating to collection and recycling of "covered electronic devices" (CEDs) and establishes a Covered Electronic Device Recycling Program (CEDRP) in the Maryland Department of the Environment (MDE). The program's administrative costs are funded by an existing annual manufacturer registration fee, which the bill modifies, and disbursements to authorized collectors and recyclers under the program are funded by a consumer fee on purchases of new CEDs in the State. The consumer fee is first imposed January 1, 2028, and disbursement of the fee revenues to authorized collectors and recyclers begins January 1, 2029.

Fiscal Summary

State Effect: State finances are significantly affected, particularly in the out-years, as summarized in the table below and discussed and shown in more detail in the Analysis section.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	\$541,900	\$541,900	\$541,900	\$5,958,500	\$13,541,900
GF Expenditure	\$145,000	\$145,000	\$145,000	\$145,000	\$145,000
SF Expenditure	(\$145,000)	(\$145,000)	(\$145,000)	\$541,900	\$5,958,500
Exp. (multiple)	\$0	\$0	\$0	\$111,200	\$222,300
Net Effect	\$541,900	\$541,900	\$541,900	\$5,160,500	\$7,216,000

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

Local Effect: Local government finances are affected, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Modification/Repeal of Existing Covered Electronic Device Provisions

Existing Manufacturer Registration/Fee and Takeback Programs

Under existing law referred to as the "Statewide Electronics Recycling Program," a manufacturer of a CED may not sell or offer for sale to any person in the State a new CED (by any means, including transactions conducted through sales outlets, catalogs, or the Internet) unless (1) it is labeled with the manufacturer's name or brand label and (2) the manufacturer has registered with MDE and, if applicable, submitted a registration fee. A retailer may not sell or offer for sale a manufacturer's CEDs if the manufacturer has not submitted a registration and fee. A manufacturer's registration and fee must be submitted to MDE by March 1 of each year. Among other things, the registration must include the brand names under which the manufacturer sells or offers for sale CEDs in the State and the number of CEDs sold in the State in the prior year.

Under existing law, a CED is defined as a computer or video display device that is greater than four inches measured diagonally.

Under existing law, with the exception of manufacturers that sold less than 100 CEDs in the State in the prior year (for whom there is no registration fee), the registration fee is \$5,000, unless the manufacturer had an implemented CED takeback program in the prior year, in which case the registration fee is \$500. For any new registrants, the fee the first year is \$10,000 for a manufacturer that sold at least 1,000 CEDs in the State in the prior year and \$5,000 for a manufacturer that sold at least 100 but not more than 999 CEDs in the State in the prior year. The fee is paid into the State Recycling Trust Fund (SRTF).

Under existing law, "CED takeback program" means a program, established by a CED manufacturer, or a group of CED manufacturers, for the collection and recycling, refurbishing, or reuse of a CED labeled with the manufacturer's name or brand label, including (1) providing, at no cost to the returner, a method of returning a CED to the manufacturer; (2) contracting with a recycler, local government, other manufacturer, or any other person; or (3) any other program approved by MDE.

Repeal of Takeback Program Provisions and Modification of Fee Amount

The bill repeals provisions relating to CED takeback programs and sets the manufacturer registration fee at (1) \$10,000 for a manufacturer that sold at least 1,000 CEDs in the State in the prior year and (2) \$5,000 for a manufacturer that sold at least 100 but not more than SB 686/ Page 2

999 CEDs in the State in the prior year. The bill also authorizes MDE to adjust the fee by regulation.

By December 1, 2024, MDE must notify CED manufacturers of (1) the termination of existing CED takeback programs in the State and (2) CEDRP (discussed below).

Redirection of Fee Revenue into New Account

Under the bill, a manufacturer's registration and the modified manufacturer registration fee must be submitted to MDE by June 1 of each year instead of March 1 and the fee is paid into a newly created CED manufacturer registration fee account that is established within SRTF along with a newly created CED recycling account that holds recycling fees paid by consumers (discussed below). Both new accounts support CEDRP (discussed below).

Repeal of Local Government Collection/Recycling Provisions

Under existing law, a county is authorized, in preparing its required recycling plan (that is submitted to MDE), to address methods for the separate collection and recycling of CEDs, including efforts by the county to establish partnerships with CED manufacturers, recyclers, retailers, or other local governments for the collection and recycling of CEDs. If a county does so, any reduction in the county's solid waste stream attributable to the implementation of the methods counts toward the county's State law-required percentage of its solid waste stream that must be reduced through recycling. Under existing law, SRTF may be used to provide grants to counties that have addressed methods for the separate collection and recycling of CEDs in accordance with that authority, as well as to municipalities to implement local CED recycling programs.

The bill repeals these provisions related to local government CED collection and recycling efforts.

Definition of Covered Electronic Device

The bill modifies the definition of a CED so that it means a Tier I or Tier II CED (discussed further below).

The bill also modifies existing law that defines what is not considered a CED. Under existing law, the definition of CED does not include a video display device that is part of a motor vehicle or that is contained within a household appliance, or commercial, industrial, or medical equipment. The bill clarifies that (1) the definition of a CED also does not include any other electronic device that is a part of a motor vehicle or that is contained within a household appliance, or medical equipment and (2) a household appliance includes white goods. Under existing law, "white goods"

include refrigerators, stoves, washing machines, dryers, water heaters, and air conditioners. The bill adds that white goods also includes any other appliances designated by MDE in regulation.

Covered Electronic Device Recycling Program

The bill establishes CEDRP, in MDE, to facilitate the collection and recycling, refurbishing, or reuse of CEDs in the State.

Administration of the Program

MDE is given responsibility for administering the program but is also authorized to contract with a nonprofit organization, a B corporation, or other entity that specializes in the private management of electronics recycling systems for governmental entities to administer the program.

MDE may adopt regulations to implement the program, as specified.

Funded by Consumer and Manufacturer Fees

Consumer Fees

Disbursements to authorized recyclers and collectors under the program (discussed below) are funded by a recycling fee imposed on consumers of CEDs that is paid into the newly created CED recycling account within SRTF.

Beginning January 1, 2028, a consumer must pay a recycling fee with the purchase of a new CED in the State. The fee is (1) \$10 for a Tier I CED and (2) \$5 for a Tier II CED. However, the bill also gives MDE the authority to, in consultation with the CED advisory council (discussed below), determine reasonable recycling fees and additional tiers of CEDs by regulation.

A retailer may retain up to 3% of the total amount of recycling fees collected and, beginning February 1, 2028, and each month thereafter, must remit the remaining amount of fees collected to MDE.

"Tier I CED" means a computer monitor, television, or video display device.

"Tier II CED" means (1) a laptop computer; (2) a personal digital assistant, notebook, reader, or tablet device; (3) a cell phone; (4) a central processing unit of a computer; (5) a printer; (6) a scanner; (7) a copier; and (8) any other computer or electronic device or accessory that has a plug or battery that is designated as a Tier II CED by MDE.

Manufacturer Registration Fees

The program is also funded by the existing (and modified) CED manufacturer registration fee (discussed above) that is deposited into the CED manufacturer registration fee account within SRTF. While not explicitly stated in the bill, this funding appears to be available, and intended, to support MDE's administration of the program.

Disbursements to Authorized Recyclers and Collectors

Beginning January 1, 2029, and each month thereafter, MDE must disburse funds from the CED recycling account within SRTF to:

- authorized recyclers as reimbursement for the costs of recycling, refurbishment, or reuse of CEDs in accordance with the program, including collection and transportation; and
- authorized collectors as reimbursement for the costs of storage, on-site collection, equipment, heat and fire detection and suppression systems and equipment, transportation, staffing, and education.

An authorized recycler or collector that receives reimbursement (1) may not charge a person a fee for dropping off a CED on site and (2) must, if applicable, charge a CED manufacturer a fee for dropping off a CED on site.

The bill establishes definitions of "authorized collector" and "authorized recycler," neither of which include a manufacturer. "Authorized collector" includes (1) local governments; (2) nonprofit organizations; (3) retailers of CEDs; and (4) a person authorized by a county, municipality, or district to collect CEDs under the terms of a contract, license, permit, or other written authorization.

If MDE adopts regulations to implement the program, the regulations must establish application materials and procedures for authorized collectors and authorized recyclers.

Penalties

Existing penalty provisions apply to violations of the program's requirements. The penalty provisions allow for (1) a civil penalty of up to \$10,000 for each day of a violation and (2) an administrative penalty of up to \$10,000 for each day of a violation, but not exceeding \$100,000 total. Penalties are deposited in SRTF.

Covered Electronic Device Advisory Council

The bill establishes a CED advisory council to advise MDE on the implementation of CEDRP. MDE must provide staff for the advisory council, and a member of the advisory council may not receive compensation but is entitled to reimbursement for expenses.

The advisory council must study and make recommendations regarding:

- changes to the definition of CED;
- the amount of (1) recycling fees collected by retailers and (2) CED manufacturer registration fees;
- reasonable caps on payments;
- standards to be used by MDE in developing application materials and procedures for authorized collectors and recyclers; and
- any other related topics requested by MDE.

The advisory council must report its findings and recommendations to MDE by December 1, 2027, and each December 1 thereafter.

State Fiscal Effect: The estimated State fiscal effect of the bill is summarized in **Exhibit 1** and discussed further below.

Exhibit 1 Estimated State Fiscal Effect of the Bill							
Provision in Bill	Agency	<u>Type</u>	<u>FY 2025</u>	<u>FY 2026</u>	FY 2027	<u>FY 2028</u>	<u>FY 2029</u>
Manufacturer Registration Fee – Redirected to CEDRP	MDE	SF Exp	(\$145,000)	(\$145,000)	(\$145,000)	(\$145,000)	(\$145,000)
	MDE	GF Exp	145,000	145,000	145,000	145,000	145,000
Manufacturer Registration Fee – Modification	MDE	SF Rev	541,875	541,875	541,875	541,875	541,875
CEDRP (Administrative Costs) – MDE Personnel	MDE	SF Exp				415,097	498,269
		SF Pos's (New)				4	1
CEDRP (Administrative Costs) – Contractor and Any Remaining Costs	MDE	SF Exp				271,778	188,606
Consumer Fee	MDE	SF Rev				5,416,667	13,000,000
Disbursements to Authorized Collectors/Recyclers	MDE	SF Exp					5,416,667
Consumer Fees Paid by State Agencies	All agencies	Exp (multiple fund types)				111,200	222,300
		GF Net Effect	(145,000)	(145,000)	(145,000)	(145,000)	(145,000)
		SF Net Effect	686,875	686,875	686,875	5,416,667	7,583,333
		<i>Exp</i> (multiple fund types) <i>Net Effect</i>				(111,200)	(222,300)
		State Net Effect	\$541,875	\$541,875	\$541,875	\$5,160,467	\$7,216,033
CEDRP: Covered Electronic Device Recycling Program Exp: expenditures GF: general fund MDE: Maryland Department of the Environment			Pos's: positions Rev: revenues SF: special fund				
Source: Department of Legislative Services							

Manufacturer Registration Fee – Redirected to CEDRP

Special fund expenditures from the unrestricted portion of SRTF (the portion of the fund other than the two separate CED-related accounts created by the bill) decrease by \$145,000 annually beginning in fiscal 2025, and general fund expenditures increase by \$145,000 annually beginning in fiscal 2025 due to the redirection of the manufacturer registration fee revenue to the CED manufacturer registration fee account within SRTF to support CEDRP.

The special fund expenditure decrease reflects the estimated amount of manufacturer registration fee revenue collected and spent in the absence of the bill (under current law) in fiscal 2025 and future years, that under the bill will no longer be spent from the unrestricted portion of SRTF beginning in fiscal 2025 because the bill redirects manufacturer registration fee revenues into the separate CED manufacturer registration fee account within the SRTF, which must be used to fund CEDRP. That funding remains in the CED manufacturer registration fee account within SRTF until CEDRP begins, in fiscal 2028, when the consumer fees are first collected (beginning January 1, 2028).

General fund expenditures are assumed to increase by \$145,000 annually, beginning in fiscal 2025, to cover the expenses no longer funded by the manufacturer registration fee from the unrestricted portion of SRTF, including managing the manufacturer registrations and fee collections and enforcing the registration and fee payment requirements (MDE indicates that the fee revenue supports portions of at least three employees' salaries currently). MDE indicates that, in recent years, the manufacturer registration fee revenue in SRTF has not been used to provide grants to counties and municipalities for electronics recycling (as authorized under current law), due to insufficient funding.

MDE indicates that 102 manufacturers were registered in calendar 2023, 55 of whom had implemented takeback programs; however, a full breakdown of the fee amounts paid by the 102 manufacturers is not readily available. Therefore, the estimate of \$145,000 in manufacturer registration fee revenue being collected and spent in the absence of the bill is based on the following assumptions:

- all of the 55 registered manufacturers that have implemented a takeback program sell at least 100 devices per year in the State, and therefore pay a \$500 registration fee;
- of the 47 registered manufacturers that have not implemented a takeback program, approximately 50% sell less than 100 devices and pay no fee, and 50% sell at least 100 devices and pay the \$5,000 registration fee; and
- no registered manufacturers are new registrants that sold at least 1,000 CEDs in the prior year (who would have paid an initial registration of \$10,000 under current law).

The estimate of \$145,000 in manufacturer fee revenue is in the approximate range of the manufacturer registration fee revenues reported by MDE in fiscal 2022 and 2023 of \$143,250 and \$150,116, respectively.

Manufacturer Registration Fee – Modification

Special fund revenues increase by \$541,875 annually beginning in fiscal 2025 due to the bill's modification of the manufacturer registration fee that makes the fee \$10,000 for each manufacturer that sold at least 1,000 CEDs in the prior year and \$5,000 for each manufacturer that sold at least 100 but not more than 999 CEDs in the prior year. This estimate makes the same assumptions mentioned above that were used to estimate the amount of revenue collected in the absence of the bill (\$145,000), as well as the following additional assumption:

• of the manufacturers that sold at least 100 CEDs in the prior year, 75% sold at least 1,000 CEDs in the prior year (and pay the \$10,000 fee) and 25% sold at least 100 but not more than 999 CEDs in the prior year (and pay the \$5,000 fee).

This estimate does not account for any changes to the manufacturer registration fee that MDE may make by regulation pursuant to authority provided in the bill. It also does not reflect any modifications MDE may make to the devices that are included in the definition of a CED.

CEDRP (Administrative Costs) – MDE Personnel

Special fund expenditures from the CED manufacturer registration fee account within SRTF increase by \$415,097 in fiscal 2028 and by \$498,269 in fiscal 2029 for additional MDE personnel to administer CEDRP, which accounts for the beginning of implementation of CEDRP in fiscal 2028, when the consumer fees are first collected. The estimate reflects the cost of hiring the following employees:

• Three Administrator Positions and One Financial Compliance Auditor (Beginning July 1, 2027) – These positions are primarily responsible for managing collection of the consumer fees from retailers selling CEDs and auditing the retailers to ensure they are charging the fees appropriately, focusing primarily on approximately 761 "brick and mortar" CED retailers in the State. MDE indicates that its current efforts to enforce the manufacturer registration and registration fee requirements through inspections of retailers (to ensure products are not being sold by manufacturers who have not registered) are focused on brick and mortar retailers. According to MDE, enforcing the prohibition on selling or offering for sale new CEDs of manufacturers who have not registered with MDE – with respect to online retailers – is not feasible and/or cost prohibitive.

• One Environmental Compliance Specialist (Beginning July 1, 2028) – This position is responsible for inspecting authorized collectors and authorized recyclers to ensure that electronics are being appropriately dismantled/recycled.

	FY 2028	<u>FY 2029</u>
Positions (New)	4.0	1.0
Salaries and Fringe Benefits (Total)	\$384,862	\$486,204
Operating Expenses	30,235	12,065
Total MDE Personnel Expenditures	\$415,097	\$498,269

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

CEDRP (Administrative Costs) – Contractor and Any Remaining Costs

Special fund expenditures from the CED manufacturer registration fee account within SRTF also increase by at least \$271,778 in fiscal 2028 and by \$188,606 in fiscal 2029 to pay for a contractor and any other remaining administrative costs. MDE expects to use a contractor to process claims/applications from authorized collectors and recyclers for reimbursement under CEDRP. This estimate assumes that costs of the contractor and any other administrative costs of the program total, at a minimum, the difference between the estimated annual revenue collected from the manufacturer registration fee (\$686,875 = \$145,000 of existing revenue + \$541,875 in new revenues due to the bill's fee modification) and the MDE personnel costs above. There will, however, also be accumulated manufacturer registration fee revenues collected in fiscal 2025 through 2027 in the CED manufacturer registration fee account within SRTF that will be available for any additional administrative costs in fiscal 2028 and future fiscal years.

Consumer Fee

Special fund revenues to the CED recycling account within SRTF increase by at least \$5.4 million in fiscal 2028 and by at least \$13.0 million annually thereafter, reflecting the monthly receipt of consumer fees from retailers beginning February 1, 2028 (the fiscal 2028 amount is prorated to reflect only five months of collections). This estimate assumes that Maryland revenues from the consumer fees under CEDRP are at least as much as revenues generated by California's <u>Covered Electronic Waste Recycling Program</u> (\$83.0 million in fiscal 2023), when adjusted to account for the differences in California's and Maryland's populations. Similar to CEDRP, California's program allows retailers to retain up to 3% of fees collected. This estimate is subject to the following uncertainties:

• It is not certain how compliance of online retailers under CEDRP will compare to compliance of online retailers under California's program. Due at least to the fact SB 686/ Page 10

that California's program has been in place for years, presumably online retailer compliance may be better under California's program than CEDRP, at least for the initial years of CEDRP.

- The CEDs that are covered under California's program and CEDRP differ. Notably, while California's program will soon collect fee revenues from cell phone sales under recently enacted legislation, the revenue amount for California's program that is used for this estimate does not include fee revenue from cell phones.
- The <u>fee structure and amounts</u> for California's program (fees of \$4, \$5, or \$6 based on the size of a device) are different from CEDRP.

Given that CEDRP's fee structure and amounts seem likely to generate more revenue per device on average and the fact that the current revenue of California's program does not reflect revenues from cell phone sales, this analysis assumes that fee collections under CEDRP are *at least* as much as the current revenues under California's program (adjusted for differences in population, as discussed above) and may be higher. Of course, the potential for CEDRP to collect more fee revenue on a per capita basis than California's current program, due to differences in fee structure and amounts, and the CEDs covered under the programs, may be offset to at least some extent by lower compliance/fee remittal by online retailers under CEDRP than under California's program.

This estimate does not account for any changes to the consumer fee that MDE may make by regulation pursuant to authority provided in the bill. It also does not reflect any modifications MDE may make as to what devices are subject to the fee.

Disbursements to Authorized Collectors/Recyclers

Special fund expenditures increase by at least \$5.4 million in fiscal 2029 and by at least \$13.0 million annually thereafter. This estimate assumes:

- the disbursements to authorized collectors and recyclers occur approximately one year after receipt of the consumer fee revenues, on an ongoing basis, consistent with the initial disbursements under the bill (January 1, 2029) being almost one year after the first receipt of consumer fees from retailers (February 1, 2028); and
- there is enough demand from authorized collectors/recyclers to fully use available funding.

Some of these expenditures may be made through disbursements to State agencies (including universities) that run electronics recycling/refurbishment programs if they are determined to be authorized collectors or recyclers.

Consumer Fees Paid by State Agencies

State expenditures (multiple fund types) increase by \$111,200 in fiscal 2028 and by \$222,300 annually thereafter to pay the consumer fee on CEDs purchased by State agencies, beginning January 1, 2028. This estimate is based on the following information and assumptions:

- there are approximately <u>88,900 authorized positions</u> in State government;
- the State purchases/owns at least approximately two CEDs per authorized position (this assumption is intended to account for position vacancies, variations in the number of devices, including cell phones, laptops, monitors, and desktop computers, used by individual employees, and shared devices such as printers, copiers, and televisions/video display devices);
- State-owned CEDs are replaced at least every five years on average; and
- 25% of State-owned CEDs are Tier I CEDs (subject to the \$10 fee) and 75% are Tier II CEDs (subject to the \$5 fee).

Covered Electronic Device Advisory Council

Any expense reimbursements for CED advisory council members are assumed to be minimal and absorbable within existing budgeted resources. Staffing of the council by MDE is assumed to be handled with existing staff and/or the personnel hired to administer CEDRP (discussed above).

Maryland Environmental Service

This analysis assumes that Maryland Environmental Service (MES) nonbudgeted revenues and expenditures are not directly affected by the bill. MES operates an electronics recycling program for Caroline, Kent, Queen Anne's, and Talbot counties through its Midshore Regional Recycling Program, which is funded by those counties. To the extent disbursements under CEDRP subsidize the costs of that program, they only replace or support county funding of the program and do not affect the level of MES nonbudgeted revenues and expenditures associated with the program. Any potential expansion of electronics recycling by MES (and associated corresponding increases in nonbudgeted revenues and expenditures) related to the availability of disbursements under CEDRP are subject to county decisions to expand or establish electronics recycling programs and are not a direct impact of the bill.

Penalties

Any penalties collected for violations of CEDRP requirements are not expected to significantly affect SRTF revenues.

Local Fiscal Effect:

Disbursements to Authorized Collectors/Recyclers

Local governments are expected to benefit from disbursements under CEDRP, beginning in fiscal 2029, either (1) as direct recipients of funding to support existing or new/expanded electronics recycling programs or (2) as a result of nongovernmental programs, supported by CEDRP, reducing the need for local government-funded electronics recycling programs and/or reducing local governments' waste management costs associated with electronics waste.

Consumer Fees Paid by Local Governments

Local government expenditures increase relatively minimally for individual local governments, beginning in fiscal 2029, to pay the consumer fees on CEDs purchased by the local governments. *For illustrative purposes*, making similar assumptions as those used above to estimate the cost of consumer fees paid by State agencies, but instead applied to the number of local government employees in the State (approximately 221,000, based on U.S. Census Bureau <u>data</u> on the number of full-time equivalent local government employees in the State), local government expenditures increase collectively by approximately \$276,300 total in fiscal 2028 and by \$552,600 annually thereafter.

Repeal of Local Government Collection/Recycling Provisions

MDE indicates that the bill's repeal of existing provisions that relate to county efforts to implement electronics recycling programs, and that authorize grants to counties and municipalities, does not have a material effect on local governments. As mentioned above, grants have not been made to counties in recent years due to insufficient funding. In addition, MDE indicates that the bill's repeal of provisions relating to county electronics recycling efforts will not affect the continuation of those efforts or the recognition of those efforts as counting toward the State law-required percentage of a county's solid waste stream that must be reduced through recycling.

Small Business Effect: Small businesses may be meaningfully affected by the bill, beginning in fiscal 2028, as a result of the following:

- *CED Retailers* Small business retailers that sell CEDs will be required to collect and remit the consumer fees beginning in fiscal 2028 and will be able to retain up to 3% of the fees.
- *Disbursements to Authorized Collectors/Recyclers* Small businesses may benefit, beginning in fiscal 2029, either as direct recipients of disbursements from CEDRP or to the extent they provide goods or services to authorized collectors or recyclers.

- *Payment of Consumer Fees* Small businesses that purchase CEDs must pay the consumer fees beginning in fiscal 2028.
- *Manufacturer Registration Fees* To the extent any current or future CED manufacturers who sell CEDs in the State are Maryland small businesses, they are subject to the bill's modification of the manufacturer registration fee.

Additional Information

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

Designated Cross File: HB 830 (Delegate Stein) - Environment and Transportation.

Information Source(s): Maryland Environmental Service; Kent and Worcester counties; Maryland Association of Counties; Northeast Maryland Waste Disposal Authority; Maryland Municipal League; towns of Bel Air and Leonardtown; University System of Maryland; Maryland Department of the Environment; Department of General Services; Department of Budget and Management; U.S. Census Bureau; CalRecycle; Department of Legislative Services

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