

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 250

(Chair, Education, Energy, and the Environment
Committee)(By Request - Departmental - Environment)

Education, Energy, and the Environment

Environment and Transportation

Department of the Environment - Fees, Penalties, Funding, and Regulation

This departmental bill increases several fees and penalties that support various programs and special funds within the Maryland Department of the Environment (MDE). The bill also, among other things, (1) authorizes MDE to establish new fees for specified programs; (2) alters and enhances the State's regulatory framework governing dams and establishes a related special fund; and (3) makes various administrative, clarifying, and technical changes. **The bill generally takes effect July 1, 2025, but provisions affecting the Maryland Clean Air Fund take effect June 1, 2025.**

Fiscal Summary

State Effect: Special fund revenues from fees may increase minimally in FY 2025 and increase by an estimated \$5.0 million in FY 2026. The bill effectuates contingent language in the FY 2026 budget as passed by the General Assembly; as a result, special fund expenditures increase by \$6.7 million in FY 2026. Future years reflect ongoing fee revenues, costs, and inflation. Other effects are discussed below.

(\$ in millions)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	\$5.0	\$7.2	\$7.3	\$7.4	\$7.4
SF Expenditure	\$6.7	\$6.4	\$6.4	\$6.5	\$6.5
Net Effect	(\$1.7)	\$0.8	\$0.8	\$0.9	\$0.9

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

Local Effect: Any increase in costs for local governments to pay new or increased fees cannot be reliably estimated at this time but are not anticipated to be significant, as discussed below. Local revenues are not materially affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: MDE has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary/Current Law: Broadly, the bill makes various changes to MDE's regulatory authority, the special funds it uses to carry out its statutory duties, and the fees that generate revenue for those special funds. Changes to the Maryland Clean Air Fund take effect June 1, 2025; the bill's other changes take effect July 1, 2025. Generally, the bill:

- effective June 1, 2025, makes the following changes to the Maryland Clean Air Fund: (1) expands the purpose of the fund; (2) repeals the requirement that when the fund balance is at least \$2.0 million, any additional money received by MDE for the fund must be deposited into the general fund; and (3) increases the cap on the emissions-based air quality operating permit fees set by MDE;
- alters and enhances the regulatory framework governing the construction, reconstruction, repair, removal, modification, and operation of dams by, among other things, (1) requiring dam owners to annually register with MDE and (2) establishing a new special fund and related fees;
- authorizes MDE to charge specified fees related to on-site sewage disposal system (septic system) permits and individual well construction permits under specified circumstances;
- increases the per-barrel oil transfer fee that supports the Maryland Oil Disaster Containment, Clean-up and Contingency Fund (Oil Fund) for fiscal 2026 through 2030; and
- requires MDE to include additional information in the factors used to calculate the annual fees that must be paid by a generator of coal combustion by-products (CCB) (which accrue to the State Coal Combustion By-Products Management Fund) and, consequently, requires additional entities to pay the fee.

A more detailed discussion of each of these changes, as well as relevant current law, is discussed below.

Maryland Clean Air Fund

Under current law, the Maryland Clean Air Fund must be used to conduct activities related to identifying, monitoring, and regulating air pollution in the State and to provide grants to local governments to supplement funding for programs that are consistent with ambient air

quality control. When the fund equals or exceeds a maximum limit of \$2.0 million, additional money received for the fund by MDE must be deposited into the general fund.

Under the bill, effective June 1, 2025:

- the purpose of the fund is expanded to include mitigating and reducing air pollution in the State;
- additional money received for the fund when the fund balance equals or exceeds \$2.0 million is no longer required to be deposited into the general fund;
- the maximum amount of the emissions-based fee that MDE may establish for air quality permits to operate is increased from \$50 per ton of regulated emissions to \$200 per ton of regulated emissions; and
- a clarifying change is made regarding MDE's ability to adjust the emissions-based fee to reflect changes in the Consumer Price Index (CPI), regardless of federal authorization.

Water Appropriation and Use (Including the Regulation of Dams)

Title 5, Subtitle 5 of the Environment Article governs the appropriation or use of waters, reservoirs, and dams in the State. In order to conserve, protect, and use water resources in accordance with the best interests of the people of Maryland, it is the policy of the State to control, so far as is feasible, the appropriation or use of surface waters and groundwaters of the State. Generally, a permit must be obtained from MDE to appropriate or use, or to construct any structure that may appropriate or use any waters of the State. Permits must also be obtained from MDE to construct, reconstruct, or repair any reservoir, dam, or waterway obstruction; and to construct, reconstruct, change, or make an addition to any conduit, pipeline, wire cable, trestle, or other device, structure, or apparatus in, under, through, or over the bed or waters of the Potomac River, as specified.

Under current law, in addition to being subject to an injunctive action, a person who violates any provision of Title 5, Subtitle 5 of the Environment Article relating to water appropriation and use, or any rule, regulation, order, or permit adopted or issued under any such provision is liable for a civil penalty up to \$5,000 per violation. Each day is a separate violation. Additionally, a person who violates any provision of Title 5, Subtitle 5 of the Environment Article or fails to perform any duty imposed by a rule, regulation, order, or permit adopted or issued under the subtitle is guilty of a misdemeanor and subject to fines, imprisonment, and injunction, as specified under § 9-343 of the Environment Article.

Pursuant to Title 5, Subtitle 5, MDE's Dam Safety Program is responsible for regulating the design, construction, operation, and maintenance of dams in Maryland to prevent dam failures and the consequences of that failure. To that end, MDE conducts inspections based

on hazard classes of dams; evaluates downstream hazard conditions; issues permits for construction, repairs, and modifications; conducts construction inspections; and works with dam owners and emergency management professionals to develop and exercise an emergency action plan in the event of a dam failure. Under specified circumstances, MDE may take emergency actions necessary to protect life, property, or the environment.

The bill alters and enhances the regulatory framework related to the construction, reconstruction, repair, removal, modification, and operation of dams in the State; however, the bill may not be construed to expand the definition or scope of what is considered a dam under State law and regulation. Specifically, the bill:

- establishes a Private Dam Repair Fund to provide financial assistance for the repair, upgrade, or removal of private dams, as discussed in more detail below;
- requires “dam safety permit” applicants to pay a dam safety permit fee, which is paid into the Private Dam Repair Fund;
- requires dam owners (as defined by the bill), beginning January 1, 2027, to annually register their dams with MDE and pay a registration fee, which is also paid into the Private Dam Repair Fund;
- requires MDE to (1) notify affected dam owners about the registration fee by October 1, 2025, and by October 1, 2026, and (2) establish criteria to fully or partially waive the registration fee due to financial hardship, as specified;
- expands the scope of an existing civil penalty applicable to violations of the water appropriation and use provisions of Title 5, Subtitle 5 (which are paid to the Maryland Clean Water Fund) to apply to any violation of Title 5, Subtitle 5 and increases the maximum civil penalty from \$5,000 to \$10,000 per violation;
- applies specified existing criminal penalties applicable to violations of Title 5, Subtitle 5 to the bill’s provisions governing dam regulation; and
- specifies that funds collected from any such penalties relating to an unsafe condition, as defined, must be paid into the Private Dam Repair Fund.

Private Dam Repair Fund: The Private Dam Repair Fund is a special, nonlapsing fund administered by the Maryland Water Infrastructure Financing Administration within MDE. Expenditures from the fund may be made only in accordance with the State budget. The fund consists of dam safety permit fees, dam owner registration fees, loan repayments, specified penalties, funds appropriated in the State budget to the fund, interest earnings, and any other money from any other source accepted for the benefit of the fund.

The fund may be used only for (1) providing direct financial assistance to private dam owners for MDE-directed upgrades, repairs, or removals; (2) making loans in accordance with the bill; (3) funding emergency repairs and removals of private dams performed by

MDE; and (4) reimbursing the administrative cost to MDE of processing and issuing dam safety permits and performing its other duties related to dam regulation.

Beginning July 1, 2028, MDE may provide loans from the fund to owners of private dams for the purpose of repairing or removing private dams deemed to be in an unsafe condition by MDE. MDE may establish criteria for awarding loans, and the bill establishes various provisions regarding eligibility, applications, loan terms and amounts, and loan repayments, among other things. MDE must adopt regulations to implement the loan program.

The bill also establishes a reporting requirement for MDE related to the fund.

Dam Safety Permits and Related Fees: The bill establishes that a permit issued under § 5-503 of the Environment Article to construct, reconstruct, repair, remove, or modify a dam is called a “dam safety permit.” Under the bill, MDE must collect a dam safety permit fee prior to issuing such a permit. The application for a dam safety permit must include the estimated project construction cost; the dam safety permit fee must be based on the estimated project construction cost and may not exceed 3% of the estimated project construction cost. As noted above, dam safety permit fees are paid into the Private Dam Repair Fund.

These provisions do *not* apply to a reservoir, dam, waterway obstruction, or small pond that is exempt from obtaining a dam safety permit under current law.

Dam Registration and Related Fees: Except as specified, beginning January 1, 2027, all “dam owners,” as defined in the bill, must register their dams annually with MDE. To register, a dam owner must submit a specified application to MDE and pay a registration fee. The registration fee is \$200 for a low hazard class dam, \$500 for a significant hazard class dam, or \$1,000 for a high hazard class dam. MDE must establish criteria to fully or partially waive the registration fee due to financial hardship; the waiver criteria must prioritize individual homeowners. As noted above, registration fees are paid into the Private Dam Repair Fund.

The registration provisions apply to a dam that is included in the Maryland Dam Inventory and is not owned by the federal government. The provisions do *not* apply to a reservoir, dam, waterway obstruction, or small pond that is exempt from obtaining a dam safety permit under current law.

Maryland Clean Water Fund and New Fee Authority for Septic System and Well Construction Permits

Under current law, the Maryland Clean Water Fund consists of all application fees, permit fees, renewal fees, funds, and civil and administrative penalties collected under specified water pollution control laws. MDE must use the Maryland Clean Water Fund for specified activities and purposes that, broadly speaking, address water quality and wastewater treatment. In determining the use of money from the fund, priority must be given to activities relating to the water quality of the Chesapeake Bay and its tributaries.

Under the bill, if MDE processes and issues septic system or individual well construction permits, MDE may charge a fee for processing and issuing the permits if a licensed environmental health specialist reviews and approves the permits. The fee may not exceed \$575; however, MDE may annually increase the fees for inflation, as specified. In adjusting the fees for inflation, MDE may not annually increase the fees by more than 3%. Fees collected by MDE under these provisions must be deposited into the Maryland Clean Water Fund. The bill also expands the committees of the General Assembly that must receive a related annual enforcement report from MDE.

The Maryland Oil Disaster Containment, Clean-up and Contingency Fund and the Oil Transfer Fee

The Oil Fund was established in 1986 to provide funding to MDE's oil pollution prevention programs, such as permitting, enforcement, and oil spill response. A fee was imposed on each barrel of oil transferred into the State. The fee has been increased and extended multiple times since its establishment. Under current law, the fee is 5.0 cents per barrel.

Pursuant to current law, costs incurred by the State from the Oil Fund are required to be reimbursed by responsible parties; reimbursements are also deposited into the fund. When the fund balance exceeds \$5.0 million, monthly oil transfer fees are suspended until the balance is \$4.0 million, or until there is evidence that the balance could be significantly reduced by recent discharges.

The bill (1) expressly requires the licensee that owns the oil when the oil is first transferred into the State to pay the per-barrel fee and (2) increases the per-barrel fee from 5.0 cents per barrel to 9.0 cents per barrel from July 1, 2025, to June 30, 2030. (Under the bill, beginning July 1, 2030, the fee returns to 5.0 cents per barrel.)

State Coal Combustion By-Products Management Fund

Chapter 480 of 2009 established a CCB Management Fund comprising fees collected by MDE on each ton of CCBs generated. The money generated from the fee must be used to

administer and implement programs to control the disposal, use, beneficial use, recycling, processing, handling, storage, transport, or other requirements related to CCB management.

Under current law, MDE is required to, by regulation, establish and collect a fee to be paid by a generator of CCBs based on a per ton rate of CCBs generated by the generator annually. MDE must base the fees on the following factors: (1) the total annual tonnage of CCBs that the generator generates; (2) the type and volume of CCBs generated by the generator; (3) whether the generator uses or disposes of the CCBs; (4) to the extent that the CCBs are used rather than disposed of, the types of the uses; (5) whether the CCBs are transported for use or disposal out-of-state; and (6) other factors MDE considers appropriate.

Current regulations establish that the initial base fee for each ton of CCBs generated is \$1.15, but the fee is adjusted annually to ensure that fee revenues approximate the cost of regulatory activities as required in statute. Statute prohibits the fee from being imposed on CCBs that are (1) beneficially used, as determined by MDE or (2) used for mine reclamation in accordance with MDE regulations or regulations of the receiving state. Regulations also exclude generators that generated less than 10,000 tons of CCBs per year from the fee. In any fiscal year, if the fee schedule established by MDE generates revenues that exceed program costs, MDE must reduce the fees in the following fiscal year.

The bill establishes additional factors MDE must use when calculating the annual fees that must be paid by a generator of CCBs. Specifically, in addition to the existing factors, MDE must base the fees on the volume of CCBs that have been disposed of and remain in landfills or other storage units in the State that are subject to inspection and monitoring, not including CCBs that have been (1) added to cement products; (2) used in coal mine reclamation; or (3) beneficially reused in a manner acceptable to MDE.

Background: MDE advises that several of the fees affected by the bill have not been increased since the 1990s or early 2000s, and that fee increases are needed to provide additional funding for many of its programs where, in recent years, fees have not generated sufficient revenue to offset program costs. This has resulted in an increasing reliance on general funds.

Regarding the bill's regulatory framework governing dams, MDE advises that the State has approximately 557 active dams and, of this total, 107 are classified as high hazard, and 137 are classified as significant hazard to downstream communities, infrastructure, and the environment. Moreover, the aging dam infrastructure is likely to result in more dams being characterized as "unsafe" due to poor conditions or inadequate capacity since most of these active dams are more than 50 years old. MDE advises that the bill is intended to provide

MDE with the information, authority, and funding to require and assist with repairs as needed.

State Fiscal Effect:

Overview of the Bill's Effect on State Revenues and Expenditures

An overview of the bill's effect on State finances is provided here. More detailed information on the various programs and special funds affected is provided below.

Special Fund Revenues: Overall, MDE's special fund revenues from fees increase by approximately \$5.0 million in fiscal 2026, increasing to \$7.4 million by fiscal 2030, as shown in **Exhibit 1**. Special fund revenues may increase minimally in fiscal 2025 due to the increase in specified fees that take effect June 1, 2025, and may increase further beginning in fiscal 2026 due to any increase in civil penalties collected under the bill.

Exhibit 1 **Estimated Special Fund Revenue Increases under the Bill** **FY 2026-2030** **(\$ in Millions)**

	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Maryland Clean Air Fund	\$1.9	\$2.0	\$2.0	\$2.1	\$2.1
State CCB Management Fund	0.0	1.0	1.1	1.1	1.1
Private Dam Repair Fund	0.4	0.6	0.6	0.6	0.6
Oil Fund	2.7	3.6	3.6	3.6	3.6
Total	\$5.0	\$7.2	\$7.3	\$7.4	\$7.4

CCB: Coal Combustion By-Product

Oil Fund: Maryland Oil Disaster Containment, Clean-up and Contingency Fund

Note: Totals may not sum due to rounding.

Source: Maryland Department of the Environment; Department of Legislative Services

Special Fund Expenditures: The fiscal 2026 budget as passed by the General Assembly includes approximately \$6.7 million in special funds for various MDE programs contingent on the enactment of legislation that establishes or increases specified fees, which this bill effectuates. As a result, special fund expenditures increase by approximately \$6.7 million in fiscal 2026, as shown in **Exhibit 2**. Future year estimates assume ongoing special fund

expenditures based on either the contingent special fund appropriation included in the fiscal 2026 budget as passed by the General Assembly or available special fund revenues, as discussed in more detail below.

Exhibit 2
Estimated Special Fund Expenditure Increases
FY 2026-2030

<u>Program</u>	<u>FY 2026*</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	<u>FY 2030</u>
Air Quality	\$2,250,000	\$1,977,695	\$2,031,369	\$2,076,106	\$2,120,013
CCB Management	200,000	204,000	208,080	212,242	216,486
Dam Safety	618,000	618,100	618,100	618,100	618,100
Oil Fund	3,600,000	3,580,000	3,580,000	3,580,000	3,580,000
Total SF Exp. Increases	\$6,668,000	\$6,379,795	\$6,437,549	\$6,486,447	\$6,534,599

CCB: coal combustion by-product

SF: special fund

Oil Fund: Maryland Oil Disaster Containment, Clean-up and Contingency Fund

* Included in the fiscal 2026 budget as passed by the General Assembly, contingent on the enactment of legislation establishing/increasing specified fees.

Source: Department of Legislative Services

Air Quality Program and the Maryland Clean Air Fund

MDE advises that the maximum emissions-based fee as set in statute (\$50 per ton of regulated emissions) was originally set in the mid-2000s and has since been repeatedly adjusted for inflation, as provided by current law. The current fee is \$75.92 per ton. By increasing the maximum fee to \$200 per ton, special fund revenues to the Maryland Clean Air Fund increase by approximately \$1.9 million in fiscal 2026, increasing to \$2.1 million by fiscal 2030. This estimate assumes that the fee:

- applies to 15,300 tons of emissions annually, equally distributed throughout the year; and
- is adjusted for inflation annually each January 1, beginning January 1, 2026, (halfway through fiscal 2026).

Additionally, due to the bill's June 1, 2025 effective date for these provisions, special fund revenues may increase minimally in fiscal 2025.

Although the bill repeals the requirement that when the fund balance is at least \$2.0 million, any additional funds received by MDE must be deposited into the general fund, this provision has no effect on general fund revenues. In the absence of the bill, the fund balance is not anticipated to meet this threshold.

Because the fiscal 2026 budget as passed by the General Assembly includes \$2.25 million in special funds for MDE contingent on the enactment of legislation to increase clean air emission fees, special fund expenditures for the program increase by \$2.25 million in fiscal 2026. In future years, it is assumed that special fund expenditures increase correspondingly to the estimated increase in special fund revenues each year.

DLS advises that it is likely that MDE does not have sufficient special fund revenues or fund balance in fiscal 2026 to cover the contingent special fund appropriation included in the fiscal 2026 budget as passed by the General Assembly. Thus, a general fund deficiency appropriation may be needed in fiscal 2026 to cover those costs; any such effect has not been accounted for in this analysis.

Dam Regulation and the Private Dam Repair Fund

Fee and Penalty Revenues: Based on information provided by MDE, which is predicated on historic permitting data, the dam safety permit fee is anticipated to generate approximately \$380,000 annually in special fund revenues beginning in fiscal 2026. In addition, the dam registration fee generates an estimated \$238,100 annually in special fund revenues beginning in fiscal 2027. The registration fee estimate is based on information provided by MDE regarding the number of dams in each hazard category; specifically, the estimate assumes that owners register 313 low hazard dams (at \$200 annually), 137 significant hazard dams (at \$500 annually), and 107 high hazard dams (at \$1,000 annually). Accordingly, special fund revenues for the Private Dam Repair Fund increase by \$380,000 in fiscal 2026 and by approximately \$618,100 annually thereafter. To the extent any registration fees are fully or partially waived, fee revenues are lower.

Special fund revenues may increase further to the extent that any civil penalties are assessed for specified violations in any given fiscal year; however, any such impact cannot be predicted. The application of existing criminal penalties to these provisions is not anticipated to materially affect State finances.

Budgeted Funding and Ongoing Costs: The fiscal 2026 budget as passed by the General Assembly includes \$618,000 in special funds for MDE contingent on the enactment of legislation to establish dam safety registration and permit fees. Thus, this

analysis reflects a special fund expenditure increase of \$618,000 in fiscal 2026. Although estimated special fund revenues in fiscal 2026 are not sufficient to cover this appropriation, MDE advises that it does not intend to expend the full amount authorized under the contingent appropriation. In future years, it is assumed that special fund expenditures increase correspondingly to the increase in special fund revenues each year (\$618,100 annually) – at least until any additional revenues from loan repayments are available (discussed below).

More detail regarding anticipated spending, including administrative costs, loan issuances, and other spending, is discussed below.

Administrative Costs: MDE requires additional staff to administer the enhanced regulatory framework and to provide loans from the Private Dam Repair Fund. Specifically, MDE needs to hire one budget specialist (starting July 1, 2026) and one underwriter (starting July 1, 2027) to (1) conduct outreach and provide required notice to dam owners that need to begin registering with MDE annually beginning January 1, 2027; (2) develop related regulations; and (3) establish and issue loans from the Private Dam Repair Fund. Associated administrative expenditures total \$98,302 in fiscal 2027, \$198,232 in fiscal 2028, \$200,262 in fiscal 2029, and \$208,778 in fiscal 2030. These estimates reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Loan Issuance and Repayment: Beginning in fiscal 2029, MDE begins to issue loans from the Private Dam Repair Fund; special fund revenues increase in future years (likely beyond the scope of this analysis) as loans are repaid.

Other Spending from the Fund: In addition to providing direct financial assistance/loans to private dam owners, the fund may also be used for funding emergency repairs and removals of private dams performed by MDE.

General Fund Interest Earnings: Although the bill indicates that interest earnings of the new special fund remain in the fund, the bill does not amend § 8 of Chapter 717 of 2024 (the Budget Reconciliation and Financing Act of 2024), which requires, notwithstanding any other provision of law, that interest earnings from special funds (with certain exceptions) accrue to the general fund from fiscal 2024 through 2028. Thus, general fund revenues may increase minimally from any interest earnings of the new special fund through fiscal 2028. The fund is exempted from a similar requirement under § 6-226(a)(2) of the State Finance and Procurement Article that applies from fiscal 2029 forward.

Maryland Clean Water Fund

Authority to Establish Specified Permit and Certification Fees: The bill authorizes MDE to establish by regulation a fee for processing and issuing septic system permits and individual well construction permits under specified circumstances. Pursuant to the bill, such fees are paid into the Maryland Clean Water Fund.

MDE advises that the authority to establish a fee for processing and issuing septic system permits and individual well construction permits is enabling in nature and is not anticipated to affect special fund revenues at this time. MDE currently delegates the existing statutory permitting authority to local government entities who generally manage the process and collect permit fees. However, MDE advises that should it be required to assume these regulatory duties directly in the event of an emergency, it does not have the authority to charge a fee to cover its costs.

Water Appropriation and Use Penalties: As discussed earlier, the bill doubles the maximum civil penalty for a violation of the water appropriation and use provisions of Title 5, Subtitle 5 of the Environment Article (from \$5,000 to \$10,000) and expands it to apply to any provision under Title 5, Subtitle 5. Other than specified violations of provisions governing dams (as provided by the bill), such penalties are deposited into the Maryland Clean Water Fund. Thus, special fund revenues to the Maryland Clean Water Fund may increase minimally beginning in fiscal 2026 due to these changes.

The Maryland Oil Disaster Containment, Clean-up and Contingency Fund

MDE advises that approximately 90 million barrels of oil are transferred in the State each year. Additionally, MDE advises that the oil transfer fee is paid to MDE at a delay of one quarter, meaning that even though the 4.0-cent fee increase on each barrel of oil transferred in the State takes effect July 1, 2025, MDE does not realize these increased revenues until October 1, 2025. Thus, special fund revenues for the Oil Fund increase by an estimated \$2.7 million in fiscal 2026 and by \$3.6 million annually from fiscal 2027 through 2030 due to the increase in the fee from 5.0 cents per barrel to 9.0 cents per barrel. (Special fund revenues increase by \$900,000 in fiscal 2031 as well due to the delay in the collection of the fee revenues.)

The fiscal 2026 budget as passed by the General Assembly includes \$3.6 million in special funds for MDE's Land and Materials Administration contingent on the enactment of legislation to increase the oil transfer fee; thus, special fund expenditures increase by \$3.6 million in fiscal 2026. In future years, it is assumed that special fund expenditures increase correspondingly to the estimated increase in special fund revenues each year.

Based on the delay in collections discussed above, DLS advises that it is likely that MDE does not have sufficient special fund revenues or fund balance in fiscal 2026 to cover the contingent special fund appropriation included in the fiscal 2026 budget as passed by the General Assembly. Thus, a general fund deficiency appropriation may be needed in fiscal 2026 to cover those costs; any such effect has not been accounted for in this analysis.

State Coal Combustion By-Products Management Fund

Recent History and Authorized Changes Under the Bill: MDE advises that special fund expenditures from the State Coal Combustion By-Products Management Fund have been relatively consistent and that, under current law, its fees are set to fully cover those costs. However, DLS notes that the current fee, based exclusively on CCBs produced, has been applicable to fewer generators over the years, as CCBs produced in the State have decreased. MDE advises that with the last coal-fired power plant being slated to cease burning coal in calendar 2025, there will be no generators that meet the threshold to pay the fee, resulting in a deficit for the program of approximately \$1.0 million annually. The bill's changes allow MDE to apply the fee to *former* generators. Consistent with current law, MDE plans to set the fee at a level to cover its costs.

Timing and Amount of Special Fund Revenues: CCB generators report annual tonnage amounts on a calendar year basis. MDE sets proposed annual generator fee rates based on these reports and then sends the proposed rates to the General Assembly for approval before finalizing and billing CCB generators. As a result, there is a lag between the time that CCBs are generated and when the generators are billed. This means that there is also a delay in the collection of the increased fees under the bill. As a result, there is no impact on special fund revenues in fiscal 2026 despite the July 1, 2025 effective date of these provisions.

Based on information provided by MDE, special fund revenues for the State CCB Management Fund increase by \$1.0 million in fiscal 2027, increasing to \$1.1 million by fiscal 2030, accounting for inflation.

Special Fund Expenditures and the Potential Need for a General Fund Deficiency Appropriation in Fiscal 2026: The fiscal 2026 budget as passed by the General Assembly includes \$200,000 in special funds for MDE contingent on the enactment of legislation to raise a CCB fee, which this bill effectuates. Thus, special fund expenditures increase by \$200,000 in fiscal 2026. Future year estimates assume that special fund expenditures increase by 2% annually.

Based on the timing of anticipated fee collections under the bill, as discussed above, it is likely that MDE does not have sufficient special fund revenues or fund balance in fiscal 2026 to cover the contingent special fund appropriation included in the fiscal 2026

budget as passed by the General Assembly. Thus, a general fund deficiency appropriation may be needed in fiscal 2026 to cover those costs; any such effect has not been accounted for in this analysis.

In future years, because the increase in special fund revenues exceeds the estimated special fund expenditures (once fee revenues are collected beginning in fiscal 2027), additional special fund revenues are available that could be brought into the budget via budget amendment.

Payment of Fees by State Agencies

State expenditures (all/multiple funds) increase to the extent that any State agencies are required to pay any of the fees established or increased by the bill. A reliable estimate of any such increase in expenditures cannot be made, as the number of affected agencies and the amount of any fees paid under the bill are unknown. For example:

- the Department of Natural Resources (DNR) advises that it owns some dams that are likely required to pay the registration fee established by the bill and may also be required to pay the dam safety permit fee established by the bill; however, DNR was unable to provide information on the number of dams it owns;
- the Maryland Department of Transportation notes that some of its stormwater management and other embankments likely fall under the definition of a dam and that Transportation Trust Fund expenditures increase to pay the dam safety permit fee under the bill; however, DLS notes that small ponds (a category into which many of these stormwater management ponds likely fall) are typically exempt from the requirement to obtain an MDE dam safety permit under § 5-503 of the Environment Article; and
- some State agencies are likely subject to the increased emissions-based air quality fee.

Local Fiscal Effect: Local expenditures increase to the extent that local governments are required to pay any of the fees established or increased by the bill. Although a reliable estimate of the increase in local expenditures cannot be made at this time, any such impact is not anticipated to be significant. Most notably:

- MDE advises that some locally owned landfills, wastewater treatment plants, and correctional facilities pay the emissions-based fees that are increased by the bill, but their emissions generally fall within the range of 5 to 40 tons per year, resulting in a range of added expenses of only \$650 to \$5,200 annually;
- some local governments own dams and are required to pay the registration fee established by the bill; however, even though the total number of dams owned by

local governments is unknown, given the estimated total annual revenues anticipated by MDE, the impact on any one local government is not anticipated to be significant; and

- any local governments that own dams may also be subject to the dam safety permit fee established by the bill.

The bill's penalty provisions are not anticipated to materially affect local finances.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced in the last three years. See HB 245 of 2024.

Designated Cross File: None.

Information Source(s): Baltimore City; Calvert, Howard, and Prince George's counties; Maryland Association of Counties; Maryland Association of County Health Officers; Northeast Maryland Waste Disposal Authority; City of Annapolis; Maryland Municipal League; Office of the Attorney General; Comptroller's Office; Maryland State Treasurer's Office; Department of Budget and Management; Department of Commerce; Maryland Department of the Environment; Department of Housing and Community Development; Department of Natural Resources; Board of Public Works; Maryland Department of Transportation; Maryland Energy Administration; Maryland Stadium Authority; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of the Environment - Fees, Penalties, Funding, and Regulation

BILL NUMBER: SB 250

PREPARED BY: Gabrielle Leach

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Air Operational Permit:

- Some permitted air sources subject to emissions-based fees are also small businesses, most notably crematories. Their emissions are very small, only around one ton per year. Therefore, they would only pay around \$130 per year under this bill.

On-Site Sewage Disposal:

- While this does not have a direct impact on small business, if the Department were to take back the delegation and process well and septic permits for counties where there are deficiencies, it will likely improve permit turnaround times.

Responsible Personnel:

- Minimal. Anyone acting as the responsible personnel for a developer on a construction project that requires an approved erosion and sediment control plan would be impacted. This includes the building industry, local jurisdictions, and private property owners. Small business owners that provide the on site construction services requiring the certification will be required to pay the certification fee.

Wetlands and Waterways:

- Minimal. Small businesses subject to the increased fee (engineering firms, home builders, etc.) already pay an application fee; the increase is intended to bring the existing fees in line with CPI since the time of the last adjustment.
- Additional staff and resources provided by the increased fees will result in faster permitting for small businesses. Some small businesses serving as environmental consulting firms would be affected positively by charging higher rates.

Dams:

- Some private dam owners may be small businesses. The bill will require these dam owners to register with the Department annually and pay a dam owner registration fee. The bill will also require small business owners who apply for a dam safety permit to pay a dam safety permit fee. While it is a loan program, the bill will create a source of funding to assist private owners with dam repairs or removal that did not exist before.

Voluntary Cleanup:

- Minimal. If a small business is the owner of an eligible property, the proposed \$4,000 increase in the application fee would be a very small percentage of the cost to assess, remediate, and redevelop a contaminated property.

Lead:

- Increasing the registration renewal fee from \$30 to \$120 per unit biannually would increase the annual costs by \$30 per unit for property owners, which will have a minor financial impact.

Coal Combustion Byproducts:

- None.

Non-Coal Surface Mining:

- The impact would be minimal to small operators. Large companies would have an increase in fees that is commensurate with the staff time required to review permit documentation and inspect existing sites. The current fee structure has a cap of \$1,000.00. This benefits any operation with more than 83.5 acres permitted. The largest companies are realizing the benefit.
- The new fee schedule would be equitable across all operations.

Oil Control:

- Minimal. The oil transfer fee is typically paid by major petroleum companies licensed to transfer oil into the State. To the extent that there are small businesses that hold oil transfer licenses, they would be subject to 8 cent per barrel oil transfer fee.