

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 42 (Delegate Boyce)
 Environment and Transportation

**Solid Waste Disposal Surcharge and Wasted Food Reduction and Diversion
 Fund and Grant Programs - Established**

This bill establishes a solid waste disposal surcharge of \$2 per ton (adjusted for inflation as specified) that, beginning July 1, 2026, is collected by the Comptroller and applies to solid waste processed by a refuse disposal system in the State for final disposal. Surcharge revenue is deposited into the Wasted Food Reduction and Diversion Fund within the Maryland Department of the Environment (MDE) and used to provide funding for (1) a Wasted Food Reduction and Diversion Grant Program and a County Wasted Food Reduction Block Grant Program, both administered by MDE, and (2) an On-Farm Organics Diversion and Recycling Grant Program, administered by the Maryland Department of Agriculture (MDA).

Fiscal Summary

State Effect: General fund expenditures increase by as much as \$1.2 million in FY 2026 for initial administrative costs. Special fund revenues increase by \$10.8 million in FY 2027 from the surcharge; future years reflect ongoing surcharge collections and an inflation adjustment in FY 2029. Special fund expenditures increase by \$387,500 in FY 2027 for MDE and MDA administrative costs; future years reflect ongoing administrative costs and grant awards. General fund revenues increase from interest earnings of the new special fund in FY 2027 and 2028. State expenditures (multiple fund types) for solid waste disposal increase beginning in FY 2027 (not shown in the table below).

(\$ in millions)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF Revenue	\$0	-	-	\$0	\$0
SF Revenue	\$0	\$10.8	\$14.4	\$15.0	\$15.2
GF Expenditure	\$1.2	\$0	\$0	\$0	\$0
SF Expenditure	\$0	\$0.4	\$11.0	\$14.4	\$15.0
Net Effect	(\$1.2)	\$10.4	\$3.4	\$0.6	\$0.2

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

Local Effect: Local solid waste management costs increase beginning in FY 2027. County grant revenues and expenditures increase beginning in FY 2028. Grant revenues and expenditures for other local entities may increase beginning in FY 2028. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Statewide Solid Waste Disposal Surcharge

The bill establishes, beginning July 1, 2026, a solid waste disposal surcharge of \$2 per ton that applies to solid waste processed by a refuse disposal system in the State for final disposal. By July 1, 2028, and every two years thereafter, MDE must adjust the surcharge for inflation, as specified, and evaluate the surcharge to determine if additional adjustments to the surcharge are required.

The statewide surcharge must be (1) collected by each owner or operator of a refuse disposal system in the State and (2) listed as a separate line item on every customer bill presented to a solid waste collector or generator. A solid waste hauler or collector may collect rates, fees, or surcharges from solid waste generators serviced by the hauler or collector in an amount sufficient to recover the surcharge collected by the owner or operator of a refuse disposal system.

If the surcharge has been assessed on an eligible owner or operator of a transfer station, the surcharge may not be assessed on an owner or operator of a refuse disposal system that receives the solid waste for final disposal.

The Comptroller must collect the surcharge and deposit the surcharge into the Wasted Food Reduction and Diversion Fund (a new special fund established by the bill and discussed below). By January 1, 2027, and every quarter thereafter, the owner or operator of a refuse disposal system in the State must submit (under oath) the sum of surcharges collected in the immediately preceding quarter to the Comptroller. In addition, the owner or operator of a refuse disposal system must submit, as applicable, an accounting of the number of tons of solid waste the owner or operator accepted for disposal, transfer, or collection during the reporting period.

Wasted Food Reduction and Diversion Fund

The bill establishes the Wasted Food Reduction and Diversion Fund, a special fund administered by MDE. The stated purpose of the fund is to fund eligible projects under the On-Farm Organics Diversion and Recycling Grant Program within MDA, the Wasted Food Reduction and Diversion Grant Program within MDE, and the County Wasted Food Reduction Block Grant Program within MDE. The fund consists of (1) revenue from the statewide solid waste disposal surcharge; (2) money appropriated in the State budget to the fund; (3) interest earnings; and (4) any other money from any other source accepted for the benefit of the fund.

Each fiscal year, not more than 25% of the fund may be used for administrative expenses by MDA and MDE (jointly), and not more than 0.5% of the fund may be used for the Comptroller's administrative expenses. Beginning July 1, 2027, and each July 1 thereafter, once administrative expenses are accounted for, the Comptroller must transfer the remaining money from the fund as follows:

- 25% to the Wasted Food Reduction and Diversion Grant Program within MDE;
- 25% to the On-Farm Organics Diversion and Recycling Grant Program within MDA; and
- 50% to the County Wasted Food Reduction Block Grant Program within MDE.

Money expended from the Wasted Food Reduction and Diversion Fund for those programs is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the programs.

On-Farm Organics Diversion and Recycling Grant Program

The bill establishes the On-Farm Organics Diversion and Recycling Grant Program within MDA. The stated purpose of the program is to award grants annually for developing and implementing on-farm organics recycling and compost use, wasted food prevention, and food rescue. MDA must administer the grant program in consultation with MDE.

Eligible grant recipients are as follows: (1) a farmer, an urban farmer, or an urban agricultural producer; (2) a soil conservation district; (3) an institution of higher education; (4) a nonprofit organization; (5) a business in the State that is in good standing with the State Department of Assessments and Taxation (SDAT) and is in partnership with a farmer, an urban farmer, or an urban agricultural producer; and (5) a consortium of any of those entities. An eligible person that receives a grant under this program may not receive a grant under the Wasted Food Reduction and Diversion Grant Program in the same calendar year.

A project is eligible for a grant under the program if the project develops, maintains, or expands infrastructure, collection programs, education, or technical assistance in the State that (1) reduces the amount of wasted food generated; (2) rescues edible food for purposes of redistribution; (3) recovers wasted food as animal feed, as specified; (4) composts or recycles food residuals that are separated from packaging prior to collection, including at-home, community, and on-farm composting; (5) provides labor and wages in support of wasted food prevention, food rescue, and on-farm organics recycling and compost use; (6) provides best management practice training in relevant fields, as specified; (7) studies the impacts of compost application on on-farm nutrient and water quality management; or (8) assists in the payment of applicable permit application costs.

In awarding grants under the program, MDA must, in consultation with MDE, prioritize projects that meet specified criteria.

Wasted Food Reduction and Diversion Grant Program

The bill establishes, as of July 1, 2027, the Wasted Food Reduction and Diversion Grant Program within MDE. The stated purpose of the program is to award grants annually for infrastructure, programs, and education that reduce, rescue, and divert wasted food in the State. MDE must administer the grant program in consultation with MDA.

Eligible grant recipients are as follows: (1) a unit of State or local government; (2) a local education agency; (3) an institution of higher education; (4) a nonprofit organization; (5) a farmer, an urban farmer, or an urban agricultural producer; (6) a business in the State that is in good standing with SDAT; and (7) a consortium of any one of those entities. An eligible person that receives a grant under this program may not receive a grant under the On-Farm Organics Diversion and Recycling Grant Program in the same calendar year.

A project is eligible for a grant under the program if the project develops, maintains, or expands infrastructure, collection programs, education, or technical assistance in the State that (1) reduces the amount of wasted food generated; (2) rescues edible food for purposes of redistribution; (3) recovers wasted food as animal feed, as specified; (4) composts or recycles food residuals that are separated from packaging prior to collection, including at-home, community, and on-farm composting; or (5) transitions from single-use food serviceware to durable and reusable food serviceware.

In awarding grants under the program, MDE must, in consultation with MDA, prioritize projects that meet specified criteria.

MDE, in consultation with MDA, must adopt regulations to implement the grant program. The regulations must include a simple common application procedure and a process to

facilitate the participation of eligible entities that have limited resources or language barriers.

Reporting Requirements for the Maryland Department of the Environment and the Maryland Department of Agriculture

By December 31, 2027, and by each December 31 thereafter, MDA and MDE must report to the General Assembly on the On-Farm Organics Diversion and Recycling Grant Program and the Wasted Food Reduction and Diversion Grant Program. The reports must include specified information.

County Wasted Food Reduction Block Grant Program

The bill establishes, beginning July 1, 2027, a County Wasted Food Reduction Block Grant Program within MDE. The stated purpose of the program is to award grants to counties annually in amounts proportional to each county's population. Funds received by a county must fund projects to develop, maintain, or expand infrastructure, programs, and education that reduce, rescue, and divert wasted food in the county. MDE must administer the program in consultation with MDA.

In funding projects under the grant program, a county must prioritize projects that meet specified criteria.

Current Law:

Solid Waste Infrastructure and Recycling in the State, Generally

The solid waste infrastructure in Maryland consists of both permitted and nonpermitted facilities, and solid waste is managed through a combination of recycling, composting, landfilling, incineration, storage, and exporting for disposal or recycling.

Maryland's recycling policy is guided by the Maryland Recycling Act (MRA), which sets mandatory recycling rates for State government and local jurisdictions, as well as a voluntary statewide waste diversion goal of 60% and a voluntary statewide recycling goal of 55% by 2020. Each county (including Baltimore City), must recycle at least 20% or 35% of the county's solid waste stream, depending on the county's population. Each county (including Baltimore City) must also prepare a recycling plan that addresses how the jurisdiction will achieve its mandatory recycling rate. The plan must be submitted to MDE's Office of Recycling for approval when the jurisdiction submits its water and sewerage plan at least every 10 years. At least every 2 years, each county must also submit a progress report to MDE, which must include any revision of or amendment to the county plan that has been adopted.

The Office of Recycling

MDE's Office of Recycling submits annual reports, in coordination with the Maryland Environmental Service, to the Governor and the General Assembly on specified information related to recycling in Maryland. Beginning in 2009, MDE has combined the *Maryland Waste Diversion Activities Report* and the *Solid Waste Managed in Maryland Report* into one report, the *Maryland Solid Waste Management and Diversion Report*.

Chapter 465 of 2023 requires the office to hire an independent consultant to conduct a statewide recycling needs assessment and report the results of the assessment to the Governor and the General Assembly by July 30, 2024. As of the publication of this fiscal and policy note, the report has not yet been submitted.

Composting in Maryland

Chapter 686 of 2013 required MDE to adopt regulations governing the permitting and operation of composting facilities. MDE promulgated the required regulations in 2014 by establishing Chapter 11 under the Code of Maryland Regulations (COMAR) 26.04, which specifies requirements related to the construction and operation of composting facilities in the State. Pursuant to Chapters 520 and 521 of 2023, MDE must exempt specified operators of on-farm composting facilities from permitting requirements under COMAR 26.04.11.06. MDE has also established a general composting facility permit. By December 1, 2028, MDE is required to submit a report to the General Assembly that analyzes the impact of on-farm composting facilities in Maryland and provides specified information.

Food Waste Diversion

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

State Fiscal Effect:

Assumptions Regarding the Availability and Timing of Surcharge Revenues and Expenditures Related to the Grant Programs

The bill specifies that the surcharge begins July 1, 2026, and that by January 1, 2027, and every quarter thereafter, owners and operators of refuse disposal systems must remit the

statewide solid waste surcharges collected in the immediately preceding quarter to the Comptroller. This analysis assumes that this means the first quarter of surcharge collections (as opposed to both first and second quarter collections) must be remitted to the Comptroller by January 1, 2027, and that revenue collected in the first three-quarters of fiscal 2027 is available for use by the time the Comptroller transfers the remaining money from the fund, after administrative expenses, to the three grant programs on July 1, 2027.

The estimate also assumes that the revenue generated from the surcharge each fiscal year, beginning in fiscal 2027, is used to pay for administrative expenses incurred in the same fiscal year, and that the remaining funding at the end of the fiscal year is distributed to the grant programs according to the percentages specified in the bill (to provide grant funding for the programs in the following fiscal year). This assumption is consistent with the bill's establishment of the collection of the surcharge prior to the distribution of funding (after administrative expenses) to the programs.

This estimate also assumes the Comptroller incurs programming and development costs in fiscal 2026 so that there is a system in place to begin collecting surcharges – beginning as early as October 1, 2026, once the first quarter of surcharge fees have been collected, and by no later than January 1, 2027. This estimate assumes that grants are awarded relatively quickly after funding is transferred to the three grant programs at the start of fiscal 2028 (July 1, 2027), for the following reasons: (1) the fund is established when the bill takes effect (October 1, 2025), well in advance of the first transfer of funding from the fund to the grant programs on July 1, 2027; (2) the bill requires the Comptroller to transfer the remaining money from the fund, after administrative expenses, to the three grant programs on July 1, 2027, suggesting that administrative expenses are incurred (potentially for early acceptance and evaluation of grant applications based on available funding) in fiscal 2027; and (3) under the Wasted Food Reduction and Diversion Grant Program and the On-Farm Organics Diversion and Recycling Grant Program, MDE and MDA, respectively, are required to report by December 31, 2027, (six months after grant funding is first transferred from the fund to the programs) on the number and types of grants awarded and their impact, suggesting that grants are awarded relatively soon after grant funding is transferred to the programs on July 1, 2027.

Overview of Surcharge Revenues and Special Fund Expenditures Beginning in Fiscal 2027

Exhibit 1 provides an overview of the estimated surcharge revenues and special fund expenditures for administrative costs for MDE and MDA and grant awards beginning in fiscal 2027; these effects are described in more detail below. (Additional administrative costs for the Comptroller, which are not reflected in the exhibit, are discussed further below.)

Exhibit 1
Surcharge Revenues and Special Fund Administrative and Grant Expenditures
Fiscal 2027-2030

	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	<u>FY 2030</u>
Surcharge Revenues				
Total New Surcharge Revenues	\$10,825,693	\$14,434,257	\$14,975,542	\$15,155,970
New Revenues Used for Administrative Expenses in Current Fiscal Year	\$387,500	\$580,879	\$571,816	\$594,743
New Revenues Distributed for Grants in Next Fiscal Year	10,438,193	13,853,378	14,403,724	14,561,227
Prior Fiscal Year Revenues Used for Grants in Current Fiscal Year	0	10,438,193	13,853,378	14,403,724
MDE and MDA Administrative and Grant Expenditures				
Positions (New)	6	0	0	0
Salaries and Fringe Benefits (Total)	\$244,912	\$510,466	\$533,585	\$556,444
Contractual Services	100,000	25,000	25,000	25,000
Other Operating Expenses	42,588	45,413	13,231	13,299
Total SF Administrative Expenditures	\$387,500	\$580,879	\$571,816	\$594,743
MDE Grant Funding (75%)	0	7,828,644	10,390,033	10,802,793
MDA Grant Funding (25%)	0	2,609,548	3,463,344	3,600,931
Total SF Admin./Grant Expenditures	\$387,500	\$11,019,071	\$14,425,194	\$14,998,467

MDA: Maryland Department of Agriculture
MDE: Maryland Department of the Environment
SF: special fund

Source: Department of Legislative Services

Surcharge Revenues

As shown in Exhibit 1 above, special fund revenues to the Wasted Food Reduction and Diversion Fund total an estimated \$10.8 million in fiscal 2027, \$14.4 million in fiscal 2028, \$15.0 million in fiscal 2029, and \$15.2 million in fiscal 2030. This estimate reflects an adjustment in the surcharge for inflation on July 1, 2028, consistent with the bill's requirement to adjust the surcharge for inflation, as specified, by July 1, 2028, and every two years thereafter. As mentioned above, this estimate also reflects a one quarter delay in collections. This means that the final quarter of surcharges collected from the previous fiscal year is collected at the beginning of the next fiscal year. The estimate for fiscal 2027

reflects revenues from the first three quarters of fiscal 2027. The estimate is also based on the following information and assumptions:

- based on the average amount of solid waste disposed of in calendar 2020 through 2023, an estimated 7.2 million tons of solid waste are processed by refuse disposal systems in the State annually and subject to the surcharge (this estimate reflects all solid waste processed by a Maryland transfer facility or solid waste acceptance facility that was not diverted for recycling); and
- the amount of solid waste subject to the surcharge remains constant over time.

Expenditures – Administrative Costs and Grants

General fund expenditures increase by as much as \$1.2 million in fiscal 2026 only for the Comptroller to conduct development, programming and testing in its integrated tax system to be able to collect the surcharge established by the bill. Beginning in fiscal 2027, the Comptroller can implement the bill with existing resources.

As shown above in Exhibit 1, special fund expenditures increase by \$387,500 in fiscal 2027, by \$11.0 million in fiscal 2028, by \$14.4 million in fiscal 2029, and by \$15.0 million in fiscal 2030. This estimate reflects costs for:

- MDE to hire four employees (two administrators, one natural resources planner, and one regulatory and compliance engineer) all starting January 1, 2027, to (1) administer the Wasted Food Reduction and Diversion Fund; (2) assist the Comptroller, if needed, with outreach relating to the surcharge; (3) develop regulations and establish the two new grant programs in time to set up the programs and conduct outreach before they receive funding on July 1, 2027; (4) review grant applications, issue grants, and oversee grant awards; and (5) develop training and marketing materials;
- MDA to hire two employees (one administrator and one administrative aide), starting January 1, 2027, to develop and implement the On-Farm Organics Diversion and Recycling Grant Program in time to set up the program and conduct outreach before it receives funding on July 1, 2027; and
- annual grant awards beginning in fiscal 2028.

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

State Solid Waste Management Costs

State solid waste disposal costs increase, likely by a minimal amount, beginning on July 1, 2026, due to the surcharge; it is expected that any costs incurred by refuse disposal facilities are passed on to consumers. Thus, State expenditures (multiple fund types) increase on an annual basis beginning in fiscal 2027.

State Agencies as Eligible Grant Recipients

To the extent that a State agency or an institution of higher education receives grant funding from one of the new grant programs established under the bill, grant revenues and expenditures for any such entity increase correspondingly beginning in fiscal 2028.

Interest Earnings from the Wasted Food Reduction and Diversion Fund

Although the bill indicates that interest earnings of the new special fund remain in the Wasted Food Reduction and Diversion Fund, the bill does not amend Section 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 increase from interest earnings of the new special fund in fiscal 2027 and 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.

Local Fiscal Effect: Local solid waste disposal costs increase beginning in fiscal 2027 due to the statewide solid waste disposal surcharge; it is expected that any increase in costs incurred by refuse disposal facilities is passed on to consumers. Also, many refuse disposal systems are owned and/or operated by local governments. Accordingly, local administrative expenditures likely increase to collect and remit the surcharge revenue and related information to the Comptroller on a quarterly basis.

To the extent that local governments, local education agencies, schools, soil conservation districts, or other local entities receive grant funding from the Wasted Food Reduction and Diversion Fund or the On-Farm Organics Diversion and Recycling Grant Program, local grant revenues and expenditures increase correspondingly beginning in fiscal 2028.

County revenues and expenditures increase beginning in fiscal 2028 due to the establishment of the County Wasted Food Reduction Block Grant Program. MDE notes that depending on the amount of grant funding a county receives and how the county uses that grant funding, the bill may help counties to meet their mandated MRA rates.

Small Business Effect: With the establishment of a statewide solid waste disposal surcharge, solid waste disposal costs for all businesses – including small businesses – increase, as it is expected that the increase in costs incurred by refuse disposal facilities is passed on to consumers. Additionally, because some refuse disposal systems are owned and/or operated by small businesses, there could be an impact on these entities to collect and remit the surcharge revenue and related information to the Comptroller on a quarterly basis.

Grant revenues and expenditures for small businesses that are eligible for and receive grants under the bill increase beginning in fiscal 2028. For example, farmers benefit from additional funding to support the adoption of on-farm composting and the sale of composted material. Small businesses that provide the type of services, supplies, or functions that are eligible for grant funding under the bill may see an increase in the demand for their services.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1318 of 2024; HB 1139 of 2023; and HB 1070 of 2022.

Designated Cross File: SB 134 (Senator Hester) - Education, Energy, and the Environment and Budget and Taxation.

Information Source(s): Maryland Environmental Service; Anne Arundel, Baltimore, Charles, Dorchester, and Howard counties; Maryland Association of Counties; Northeast Maryland Waste Disposal Authority; Maryland Municipal League; Town of Bel Air; Comptroller's Office; Maryland State Department of Education; University System of Maryland; Morgan State University; Maryland Department of Agriculture; Maryland Department of the Environment; Baltimore City Public Schools; Baltimore County Public Schools; Montgomery County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2025
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