

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 42

(Senator M. Washington)

Education, Energy, and the Environment

Environment and Transportation

Environment - Interjurisdictional Watersheds - Flood Management

This bill requires the Maryland Department of the Environment (MDE) to designate at least the four following watersheds and all their headwaters and tributaries as interjurisdictional flood hazard watersheds: (1) Carroll Creek in Frederick City and Frederick County; (2) Gwynns Falls in Baltimore City and Baltimore County; (3) Jones Falls in Baltimore City and Baltimore County; and (4) Herring Run, including the Herring Run stream in Baltimore City and the Herring Run headwaters in Baltimore County. The bill also defines “headwater stream” and “interjurisdictional watershed.”

Fiscal Summary

State Effect: Under one set of assumptions, general fund expenditures increase by \$149,900 in FY 2026. Future years reflect annualization, inflation, and ongoing costs. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	149,900	176,600	184,400	192,600	200,700
Net Effect	(\$149,900)	(\$176,600)	(\$184,400)	(\$192,600)	(\$200,700)

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

Local Effect: Potential increase in local expenditures to develop and implement new or updated flood management plans for affected jurisdictions. Local revenues are not directly affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Flood Hazard Management Act of 1976

Pursuant to the Flood Hazard Management Act of 1976, MDE is responsible for various initiatives designed to address flood hazards, including (1) assisting in the development of guidance to minimize the impacts of flooding; (2) providing State guidelines and technical assistance to local governments to manage flood areas; and (3) administering the Comprehensive Flood Management Grant Program. For the purposes of State law regarding flood control and watershed management, “subdivision” is defined as any county, including Baltimore City, and any incorporated municipality that has the authority to adopt and enforce land use and control measures for the areas within its jurisdiction.

MDE and subdivisions must coordinate flood management activities with all related programs, including the National Flood Insurance Program, the Sediment Control Program, and the State water pollution control and abatement programs.

Watershed Studies: MDE was required, by January 1, 1982, in consultation with specified agencies and with the consideration of recommendations submitted by subdivisions, to designate a priority list of watersheds for the purpose of flood control planning and management and to establish a schedule for the completion of studies of those watersheds. For each watershed designated as a priority, MDE, in cooperation with the subdivisions and specified State agencies, must conduct flood assessment studies of the watersheds that include specified information. By mutual agreement between MDE and an affected subdivision, MDE may delegate all or part of the study of the priority watershed to the appropriate subdivision.

Flood Management Plans: By July 1, 1990, each subdivision, in cooperation with MDE and other specified agencies, was required to prepare a flood management plan based on the findings of the watershed studies. In any interjurisdictional watershed, the portions of the plan that relate to the watershed must be reviewed and approved by MDE as one plan. Each subdivision must implement the flood management plan for its watershed within one year of completion, as specified.

Comprehensive Flood Management Grant Program: MDE’s Comprehensive Flood Management Grant Program was established as a component of the Flood Hazard Management Act of 1976 to promote the development of local flood management plans, fund the studies of watersheds, and support capital projects for flood control and watershed management. The grant program was unfunded and dormant from calendar 2002 until 2019, when capital budget funding was provided again. Since then, the

Capital Improvement Program (CIP) has included funding for the grant program each year. The Governor's fiscal 2026 through 2030 CIP includes \$13.9 million in general obligation (GO) bond funding for the program in fiscal 2026 and \$10.0 million annually in GO bond funding for the program from fiscal 2027 through 2030.

Among other authorized uses, and subject to approval of the Board of Public Works (BPW), MDE is authorized to use proceeds from the State debt created to fund the Comprehensive Flood Management Grant Program to pay for watershed studies.

Development Restricted in Specified Watersheds

State stormwater management regulations (COMAR 26.17.02.07), that took effect in 1983, identify Carroll Creek in Frederick City and Frederick County and Gwynns Falls and Jones Falls in Baltimore City and Baltimore County as interjurisdictional flood hazard watersheds. Development is restricted in these interjurisdictional flood hazard watersheds and (1) may not increase the downstream peak discharge for the 100-year frequency storm event and (2) must comply with MDE-approved flood management plans developed in accordance with the Flood Hazard Management Act of 1976.

Statute also establishes requirements for Baltimore City and Baltimore County to adopt regulations and incorporate development restrictions for structures in and around the Jones Falls watershed and the 100-year floodplain into their flood management plans. Further, Baltimore City and Baltimore County must impose conditions to require the risk of injury to people and property to be minimized to the greatest extent practicable when issuing any permit or approval to modify or renovate any existing structures or the use of open land in the 100-year floodplain of the nontidal Jones Falls.

State Expenditures: Under one set of assumptions, MDE general fund expenditures increase by \$149,919 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring one regulatory and compliance engineer and one natural resources planner to, with respect to the watersheds affected by the bill, (1) develop regulatory packages to designate watersheds for studies; (2) develop comprehensive watershed studies; (3) designate and provide oversight to local subdivisions in developing related flood management plans; (4) review and approve flood management plans; and (5) incorporate information from the studies and plans into other water management-related programs and regulations (such as erosion and sediment control, stormwater management, and floodplain management). It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the statutory requirement to designate priority watersheds and develop watershed studies and flood management plans under § 5-803 of the Environment Article is

not ongoing; the studies conducted and plans developed upon passage of the Flood Hazard Management Act of 1976 have not been updated in decades;

- designating Carroll Creek, Gwynns Falls, Jones Falls, and Herring Run as interjurisdictional flood hazard watersheds under the State’s flood hazard management statute triggers the requirement for MDE to conduct studies of the watersheds, affected subdivisions to develop new or updated flood management plans, and MDE to oversee, approve, and assist the subdivisions with plan development and implementation;
- MDE, rather than the affected subdivisions, conducts the watershed studies;
- MDE’s Water and Science Administration does not have sufficient staff to absorb the duties triggered under the bill; and
- although statute specifies that, subject to BPW approval, MDE may use proceeds from the State debt created to fund the Comprehensive Flood Management Grant Program to pay for watershed studies, GO bond proceeds cannot be used for personnel expenses; accordingly, general funds are needed.

Positions	2.0
Salaries and Fringe Benefits	\$133,381
Operating Expenses	<u>16,538</u>
Total FY 2026 State Expenditures	\$149,919

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

To the extent the bill does not require additional watershed studies and flood management plans to be completed, costs are less and staff may not be needed.

Local Expenditures: Local government expenditures may increase for affected subdivisions to the extent that they must develop and implement new or updated flood management plans as a result of the bill. A reliable estimate of any such increase in costs cannot be made, as actual costs depend on several unknown factors, including the findings from the watershed studies, whether any of the affected subdivisions need to develop new or updated flood management plans, and the content and scope of such plans.

Based on a survey of affected jurisdictions, the following information was gleaned:

- Baltimore County and the City of Frederick both advise that they do not anticipate a fiscal impact from the bill because they believe that they already have sufficient plans in place; and
- Frederick County anticipates that developing a new flood management plan costs at least \$250,000.

Baltimore City did not respond to repeated requests for information regarding the fiscal effect of the bill.

Small Business Effect: To the extent that the bill restricts development, particularly within the Herring Run watershed (which is newly categorized as an interjurisdictional flood hazard watershed under the bill), there are potentially significant impacts on affected projects and businesses, including small businesses. However, any impact ultimately depends on any new development restrictions resulting from the bill, which cannot be predicted in advance.

Additional Information

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

Designated Cross File: None.

Information Source(s): Baltimore, Cecil, Frederick, and Montgomery counties; Maryland Association of Counties; Maryland Department of Emergency Management; cities of Annapolis and Frederick; Maryland Municipal League; Maryland Department of Agriculture; Maryland Department of the Environment; Maryland Department of Planning; Maryland Department of Transportation; Department of Legislative Services

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