

Department of Legislative Services  
 Maryland General Assembly  
 2025 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 878 (Delegate Hill, *et al.*)  
 Environment and Transportation

Department of the Environment - Water Resources - Protection of Vernal Pools  
 (Vernal Pool Wetlands Protection Act of 2025)

This bill requires the Maryland Department of the Environment (MDE) to adopt regulations to establish protections (1) related to the preservation of “vernal pools” in the State and (2) for buffers around vernal pools in the State. The bill also establishes a statutory definition of “vernal pool.”

Fiscal Summary

**State Effect:** General fund expenditures for MDE increase by *at least* \$482,000 in FY 2026, as discussed below; future years reflect annualization, inflation, and ongoing minimum costs. Although not reflected in the table below, (1) State expenditures (multiple funds) for various State agencies may be affected due to the regulations adopted under the bill and (2) special fund revenues may also be affected, as discussed below.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	482,000	540,700	562,000	586,500	610,900
Net Effect	(\$482,000)	(\$540,700)	(\$562,000)	(\$586,500)	(\$610,900)

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

**Local Effect:** Local government operations and expenditures may be affected due to the regulations adopted under the bill, as discussed below. Revenues are not directly affected.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** “Vernal pool” means a confined depression that (1) has surface water for at least two consecutive months between November and May in a typical year; (2) experiences a decrease in water level to six inches or less between June and September in a typical year; (3) provides a persistent breeding habitat for various species, including native amphibians and invertebrates that are facultative species or obligate species; (4) contains less than 30% aerial cover of emergent vegetation when full; (5) is predominantly or partially shaded by woody vegetation; (6) is less than five acres in size; and (7) may have intermittent, temporary connections to other bodies of water.

### **Current Law:**

#### *Wetlands – Generally*

Wetlands in the State are protected, and the Wetlands and Waterways Program within MDE administers a statewide program for the management, conservation, and protection of Maryland’s tidal wetlands and nontidal wetlands and waterways. Pursuant to statute and MDE regulations, and subject to certain exceptions, a person may not dredge, fill, or construct or reconstruct structures in:

- State wetlands, without a license issued by the Board of Public Works (or MDE, as MDE is delegated authority to authorize certain activities in State wetlands); or
- private wetlands, without a permit issued by MDE.

Although State law does not include provisions that specifically address vernal pools, MDE regulations define a “vernal pool” as a nontidal wetland in a confined depression that has surface water for at least two consecutive months during the growing season and (1) is free of adult fish populations; (2) provides habitat for amphibians; and (3) lacks abundant herbaceous vegetation.

#### *Authorized Activities on State and Private Wetlands*

For State wetlands, statute specifies the activities and operations that may be undertaken without a license, including (1) specified dredging and filling activities; (2) activities approved by the Maryland Department of Agriculture; (3) approved improvements to wildlife habitats or agricultural drainage ditches; (4) routine maintenance or repair of existing bulkheads, as specified; (5) certain aquaculture activities occurring under a lease issued by the Department of Natural Resources (DNR); and (6) the installation of specified equipment related to the cultivation of shellfish.

For private wetlands, statute specifies the activities that are expressly authorized to be undertaken, including (1) the conservation of soil, vegetation, water, fish, shellfish, and

wildlife; (2) trapping, hunting, fishing, and catching shellfish, if otherwise legally permitted; (3) the exercise of riparian rights to improve land bounding on navigable water, as specified; (4) the reclamation of land, under specified circumstances; (5) the routine maintenance or repair of existing bulkheads, as specified; and (6) the installation of specified equipment related to the cultivation of shellfish.

### **State Expenditures:**

#### *Maryland Department of the Environment*

MDE advises that some, but not all, vernal pools in the State are already regulated under current law and regulations that address nontidal wetlands, allowing certain activities to be undertaken with a license or permit and others to be undertaken without a license or permit. However, the bill requires MDE to adopt regulations to establish protections (1) related to the “preservation” of vernal pools and (2) for buffers around vernal pools; MDE reports that this implies that no impacts to these features are allowed under the bill. Further, this is different than the goal of the existing regulatory framework for nontidal wetlands, which is focused on no net loss of resources.

Because MDE staff in its Wetlands and Waterways Program are fully subscribed and do not have the necessary expertise to develop effective regulations specific to vernal pools, MDE requires additional staff to implement the bill. MDE advises that it needs to establish a new program within the Water and Science Administration in order to implement the bill. Specifically, MDE estimates that it needs to hire 14 employees (7 natural resource planners, 3 conservation associates, 2 environmental compliance specialists, 1 program manager, and 1 Assistant Attorney General). Costs associated with these positions – including salaries, fringe benefits, vehicles, equipment, supplies, and other operating expenses – are estimated to total nearly \$1.3 million in fiscal 2026, with costs increasing to nearly \$1.5 million by fiscal 2030. While the Department of Legislative Services (DLS) acknowledges that the bill results in a substantial increase in workload for MDE, without actual experience under the bill, the need for that level of staffing and associated resources cannot be independently verified.

Accordingly, DLS estimates that general fund expenditures increase by *a minimum of* \$482,046 in fiscal 2026, which accounts for the bill’s October 1, 2025 effective date. This estimate reflects the cost of hiring five employees (two natural resource planners, one program manager, one environmental compliance specialist, and one Assistant Attorney General) to develop and implement the required regulations. It includes salaries, fringe benefits, one-time start-up costs (including the purchase of a vehicle and field equipment), and ongoing operating expenses.

Planned responsibilities for the new staff include (1) developing, implementing, and enforcing the required regulations; (2) developing a baseline of the location, condition, and

scope of vernal pools in the State; and (3) conducting the work necessary (which is likely to include survey and ground-work throughout the State) to identify, map, and establish protections for vernal pools in the State. MDE anticipates a substantial amount of ongoing work for the office, since it estimates, based on the definition of vernal pools established by the bill, that there may be thousands of vernal pools in Maryland.

Positions	5.0
Salaries and Fringe Benefits	\$400,742
Vehicle Purchase	25,000
Other Operating Expenses	<u>56,304</u>
<b>Minimum FY 2026 MDE Expenditures</b>	<b>\$482,046</b>

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

To the extent that five additional positions and associated resources prove insufficient, MDE may request additional resources through the annual budget process.

*Other State Agencies*

As noted above, the regulations adopted by MDE must establish protections related to the preservation of vernal pools and for buffers around vernal pools in the State. Many such vernal pools are likely to exist on State-owned land. Therefore, State agencies may be affected by the regulations adopted by MDE under the bill.

Although the content of the regulations cannot be predicted in advance, for any affected State agencies, land use and management activities surrounding vernal pools are likely affected, as the regulations could restrict development and/or prohibit standard upkeep processes (such as mowing and tree removal) in vernal pools and in the buffers. Accordingly, State operations and expenditures (multiple funds) may be affected. Without actual experience under the bill, and until the required regulations are adopted, any such impact cannot be predicted.

**State Revenues:** Special fund revenues to the Wetlands and Waterways Program Fund increase to the extent that the bill results in vernal pools that are not currently considered wetlands being defined as such and ultimately resulting in an increase in application fees for wetlands and waterways authorizations for projects in those areas.

On the other hand, special fund revenues to the fund could also decrease to the extent that any projects in vernal pools that would otherwise already be required to obtain a wetlands authorization are prohibited under the regulations adopted pursuant to the bill.

The net effect on special fund revenues is unknown. Application fees for wetlands and waterways authorizations are set in statute and range from \$250 (for certain shoreline stabilization projects) to \$7,500 multiplied by the impact area in acres (for major projects with an impact of one acre or more). The application fee for minor projects is \$750.

**Local Expenditures:** Similar to the effect discussed above for State agencies, local governments that own land containing vernal pools may be affected by the regulations adopted under the bill. Without actual experience under the bill, and until the required regulations are adopted, any such impact cannot be predicted.

**Small Business Effect:** Similar to the effect described above for State agencies and local governments, small businesses that own land containing vernal pools may be affected by the regulations adopted under the bill. Without actual experience under the bill, and until the required regulations are adopted, any such impact cannot be predicted.

Small businesses that provide environmental consulting services may experience an increase in the demand for their services due to the additional regulatory requirements.

**Additional Comments:** MDE and DNR jointly developed a definition of “vernal pool” in response to a requirement in the *2024 Joint Chairmen’s Report* that MDE confer with DNR and other stakeholders to clarify the criteria for vernal pools which should have protective status. That definition – which is similar to, but not the same as, the definition established by the bill – as well as MDE’s response, is available [here](#). According to MDE, the bill’s definition may be more expansive and cover more features than what was recommended by MDE and DNR.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 729 of 2024.

**Designated Cross File:** None.

**Information Source(s):** Anne Arundel, Cecil, Frederick, and Montgomery counties; Maryland Association of Counties; City of Frederick; Maryland Municipal League; Baltimore City Community College; University System of Maryland; Morgan State University; St. Mary’s College of Maryland; Interagency Commission on School Construction; Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

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