



# HB0902 | SB0425 REVIEW REPORT



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# Challenges Of Coal Ash Management

## Legislation Strategic Highlights

Below is an analysis of how this bill compares to coal ash legislation in other states and potential areas for improvement.

## Comparison with Other States' Coal Ash Legislation

### 1. Fee Structures:

- Many states impose fees on coal ash generation, but the rates and structures vary widely. For example:
  - **North Carolina** imposes a fee of \$2.00 per ton of coal ash disposed of in landfills.
  - **Virginia** charges a fee of \$0.50 per ton for coal ash disposed of in landfills but exempts beneficial reuse.
  - **Georgia** has a tiered fee structure based on the volume and type of disposal.
- Maryland's proposed base fee of \$2.30 per ton is higher than some states but aligns with the trend of increasing fees to fund regulatory programs and environmental remediation.

### 2. Beneficial Use Exemptions:

- Many states, like Maryland, exempt coal ash that is beneficially reused (e.g., in cement production or mine reclamation) from fees. This encourages recycling and reduces landfill disposal.
- However, some states have stricter criteria for what qualifies as beneficial reuse, ensuring that reused coal ash does not pose environmental or health risks.

### 3. Coordinating Committees:

- Few states have established formal coal ash coordinating committees like the one proposed in SB 425. This is a progressive step that could improve interagency collaboration and public transparency.
- For example, **North Carolina** has a Coal Ash Management Commission, which oversees coal ash cleanup and disposal, but its authority has been subject to political and legal challenges.

### 4. Regulatory Alignment with Federal Rules:

- The bill requires Maryland to adopt regulations implementing federal guidelines, such as the **Steam Electric Power Generating Effluent Guidelines** and the **Legacy Coal Combustion Residuals Rule**. Many states are similarly updating their regulations to comply with federal rules, but some have gone further by adding stricter state-specific requirements.

### 5. Environmental Justice Considerations:

- The inclusion of a representative from the **Commission on Environmental Justice and Sustainable Communities** in the coordinating committee is a notable feature. This aligns with efforts in states like **Illinois** and **Michigan**, which have
- incorporated environmental justice principles into their coal ash management policies.

## Areas for Improvement

### 1. **Strengthen Beneficial Use Standards:**

- While the bill exempts beneficial reuse from fees, it could include stricter criteria to ensure that reused coal ash does not leach harmful chemicals into the environment. For example, requiring testing for additional contaminants or setting limits on reuse in certain applications (e.g., near water sources).

### 2. **Expand Public Participation:**

- The coordinating committee could include representatives from affected communities, environmental advocacy groups, and the coal industry to ensure a balanced and inclusive approach to decision-making.

### 3. **Increase Funding for Remediation:**

- The bill does not specify how the fees collected will be allocated for coal ash site remediation. It could include provisions to ensure that a significant portion of the fees is dedicated to cleaning up legacy coal ash sites, particularly in underserved communities.

### 4. **Enhance Monitoring and Transparency:**

- The bill could require more frequent monitoring of coal ash sites and public disclosure of monitoring results. This would improve transparency and allow communities to hold regulators and polluters accountable.

### 5. **Address Legacy Sites More Aggressively:**

- While the bill requires the adoption of federal rules for legacy coal ash sites, it could go further by setting stricter deadlines for cleanup and requiring more comprehensive testing for contaminants.

### 6. **Include Additional Contaminants:**

- The bill already expands the list of chemicals to be tested beyond federal requirements, but it could include additional contaminants of concern, such as **lead, mercury, and polycyclic aromatic hydrocarbons (PAHs)**.

### 7. **Clarify Fee Reduction Provisions:**

- The bill allows for fee reductions if revenue exceeds program costs. While this is reasonable, it could include safeguards to ensure that fee reductions do not compromise the state's ability to regulate coal ash effectively.

## Conclusion

Maryland's SB 425 represents a significant step forward in regulating coal ash, particularly with its fee structure, coordinating committee, and alignment with federal rules. However, there is room for improvement in areas such as beneficial reuse standards, public participation, funding allocation, and monitoring transparency. By addressing these issues, Maryland could set a stronger example for other states grappling with the challenges of coal ash management.