

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

House Bill 1353 (Chair, Environment and Transportation Committee)(By  
 Request - Departmental - Agriculture)

Environment and Transportation Education, Health, and Environmental Affairs

Agriculture - Nuisance Insects

This departmental bill authorizes the Secretary of Agriculture to implement a program to use *Bacillus thuringiensis israelensis* (Bti) to control or eliminate nuisance insects in the State. The Secretary may carry out a project under the program if the county or municipality in which the nuisance insects are located agrees to pay 50% of the costs; these matching funds are paid into a newly established Nuisance Insects Fund. The bill also repeals provisions that authorize the Department of Natural Resources (DNR) to implement a program, in conjunction with the Maryland Department of Agriculture (MDA), to control the spread of black flies in the State.

Fiscal Summary

**State Effect:** General/special fund expenditures increase by a total of \$400,000 in FY 2020 (\$200,000 each); future years reflect ongoing costs. The FY 2020 budget includes \$200,000 in general funds and \$200,000 in special funds for the program, contingent upon enactment of legislation establishing such a program. Special fund revenues increase by \$200,000 in FY 2020 and by about \$200,000 annually thereafter.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
SF Revenue	\$200,000	\$197,700	\$198,800	\$199,900	\$201,100
GF Expenditure	\$200,000	\$197,700	\$198,800	\$199,900	\$201,100
SF Expenditure	\$200,000	\$197,700	\$198,800	\$199,900	\$201,100
Net Effect	(\$200,000)	(\$197,700)	(\$198,800)	(\$199,900)	(\$201,100)

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

**Local Effect:** Local government expenditures increase by \$200,000 in FY 2020 and by approximately \$200,000 annually thereafter. Local revenues are not affected.

**Small Business Effect:** MDA 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.)

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## Analysis

**Bill Summary:** The bill repeals provisions authorizing DNR to implement a program (in conjunction with MDA) to control the spread of black flies in the State, subject to available funding, and authorizes the Secretary of Agriculture to implement a program to use Bti to control or eliminate nuisance insects in the State, subject to available funding in the State budget. The Secretary may carry out a project to use Bti to control or eliminate nuisance insects if the county or municipality in which the nuisance insects are located agrees to pay 50% of the costs associated with the project. The program must be implemented on (1) State-owned property; (2) property owned by a local government with the consent of the local government; and (3) private property with the consent of the property owner.

To carry out the program, the Secretary may (1) treat property with an aerial spraying or backpack spraying of Bti; (2) conduct field studies to determine the need for, location, and time of spraying; (3) schedule spraying when the conditions are optimal for ingestion by nuisance insects; (4) notify appropriate persons of the date and location of an upcoming spraying; and (5) review the effectiveness of spraying. The notice required to be provided to appropriate persons must, at a minimum, be:

- provided to (1) local press outlets; (2) county and local governments that are in the area that will be affected by the spraying; (3) emergency responders and associated agencies that service the area that will be affected by the spraying; and (4) the local riverkeeper for the area that will be affected by the spraying; and
- posted on appropriate social media sites.

The bill includes a finding of the General Assembly that the proliferation of certain species of insects, including the group *Simulium jenningsi*, commonly known as black flies, while not posing a direct threat to the health of humans, animals, or plants, may constitute a public and common nuisance on land and waters used for recreation, employment, and tourism.

“Nuisance insect” is defined under the bill as an insect that is determined by the Secretary to pester or annoy only humans. “Nuisance insect” does not include (1) an insect that is a threat to the health of humans, animals, or plants or (2) a pollinator.

The bill establishes a Nuisance Insects Fund, administered by the Secretary or the Secretary's designee, to facilitate the control or elimination of nuisance insects in the State. The fund consists of (1) funding provided by counties or municipalities for 50% of project costs; (2) money appropriated in the State budget to the fund; and (3) any other money from any other source accepted for the benefit of the fund. The fund may be used only to cover the actual, documented direct and indirect costs associated with controlling or eliminating nuisance insects in accordance with a program implemented pursuant to the bill.

The Secretary is authorized to adopt regulations to implement the bill.

**Current Law:** Chapters 584 and 585 of 2016 authorize DNR, subject to available funding and in conjunction with MDA, to implement a program to control the spread of black flies in the State. The program must be implemented initially in Washington County on (1) State-owned property; (2) property owned by a local government with consent of the local government; and (3) private property with consent of the property owner. DNR, in conjunction with MDA and the University of Maryland's Department of Entomology, may:

- treat the property with an aerial spraying or backpack spraying of Bti;
- conduct field studies to determine the need for, location, and timing of spraying;
- schedule spraying when the conditions are optimal for ingestion by the black flies;
- notify appropriate persons of the date and location of an upcoming spraying;
- review the effectiveness of the spraying; and
- conduct biomonitoring of aquatic macroinvertebrates and fish in selected streams to ensure there is no impact on the environment.

DNR and MDA may accept, use, or expend any aid, gift, or grant made available from any private or public source to implement the provisions of Chapters 584 and 585.

**Background:** The fiscal 2020 budget includes a \$200,000 general fund appropriation and a \$200,000 special fund appropriation within MDA's Office of Plant Industries and Pest Management, with both appropriations contingent upon the enactment of legislation establishing a Nuisance Insect program. The fiscal 2020 budget also, contingent on the failure of this bill, restricts \$200,000 of other general funds, otherwise budgeted for administrative expenses in MDA's Office of the Secretary, for the purpose of providing grants to counties and municipalities to control or eliminate nuisance insects in the State.

MDA indicates that the bill is modeled closely after the manner in which MDA's Mosquito Control program is run, in that the State provides half of the funding and the local government provides half of the funding spent in their jurisdiction. (The Mosquito Control program is a long-running program that serves communities across the State through

various activities, including ground and aerial application of insecticides.) In addition, MDA indicates that, operationally, the program under the bill would be similar to Pennsylvania's Black Fly Suppression Program, a more extensive program that involves monitoring and treatment of approximately 1,714 miles of 50 Pennsylvania rivers and streams.

Recent nuisance insect control activities, through MDA's Mosquito Control program, supported by general funds, have included (1) black fly eradication and control activities through aerial spraying along the Potomac River at Harper's Ferry in Washington County in 2017 and 2018, pursuant to Chapters 584 and 585 of 2016 and (2) nonbiting midge control activities in Back River in 2017 and 2018, pursuant to [Executive Order 01.01.2017.17](#). Fiscal 2017 and 2018 deficiency appropriations provided for \$190,000 in general funds in each year for the black fly eradication and control activities. The nonbiting midge control activities were funded by MDA through existing general funds, after a \$330,000 fiscal 2017 general fund deficiency appropriation for the activities was struck from the 2017 budget bill by the General Assembly.

**State Expenditures:** General/special fund expenditures increase by a total of \$400,000 in fiscal 2020 (\$200,000 in general funds and \$200,000 in special funds), as a result of the fact that the fiscal 2020 budget includes general and special fund appropriations of \$200,000 each, contingent upon the enactment of legislation establishing a Nuisance Insect program. MDA indicates that an environmental specialist is expected to be needed to implement the program (approximately \$70,000 annually, for a salary, fringe benefits, and operating expenses), as well as contractual services for aerial spraying (approximately \$330,000 annually). It is assumed, for the purposes of this fiscal and policy note, that the fiscal 2020 funding is used in that manner; however, DLS notes that the full \$400,000 is designated for contractual services in the Governor's budget books.

The estimate assumes that the full costs of the program, including the costs of the environmental specialist, are considered costs associated with nuisance insect control and elimination projects under the bill, and therefore split equally between MDA and participating local governments.

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses, including contractual services for aerial spraying.

The repeal of the black fly control provisions enacted in 2016 is assumed, for the purposes of this fiscal and policy note, to not affect State finances. Those provisions are subject to funding made available to DNR and MDA and funding for those provisions has not been included in the fiscal 2019 or 2020 budgets.

**State Revenues:** Special fund revenues increase by \$200,000 in fiscal 2020 and by approximately \$200,000 annually thereafter, reflecting receipt of the local governments' share of funding for projects to control or eliminate nuisance insects. This assumes sufficient county interest in implementing projects to control or eliminate nuisance insects.

**Local Expenditures:** Local government expenditures increase collectively by \$200,000 in fiscal 2020 and by approximately \$200,000 annually thereafter. This assumes sufficient county interest in implementing projects to control or eliminate nuisance insects.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Agriculture; Department of Natural Resources; University System of Maryland; Montgomery, Washington, and Worcester counties; Maryland Association of Counties; cities of Salisbury and Westminster; Town of Leonardtown; Pennsylvania Department of Environmental Protection; Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2019  
an/lgc Third Reader - March 19, 2019  
Enrolled - May 3, 2019  
Revised - Amendment(s) - May 3, 2019  
Revised - Budget Information - May 3, 2019

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# ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Agriculture - Nuisance Insects**

BILL NUMBER: HB 1353

PREPARED BY: Department of Agriculture

## PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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