

**Department of Legislative Services**  
 Maryland General Assembly  
 2020 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 81

(Chair, Education, Health, and Environmental Affairs  
 Committee)(By Request - Departmental - Military)

Education, Health, and Environmental Affairs

Health and Government Operations

**State Government - Emergency Management - Continuity Planning**

This departmental bill requires each principal department of the Executive Branch of State government to develop and annually update a continuity of operations plan to maintain department operations if an emergency or other crisis disrupts normal operations. Each plan, and the required plan updates, must be submitted to the Maryland Emergency Management Agency (MEMA). MEMA must develop guidelines and serve as the coordinating agency to assist each principal department in writing and maintaining a continuity of operations plan. MEMA must also (1) work with each department to develop and maintain a continuity of government plan; (2) present the plan to the Governor and the General Assembly, as specified; and (3) review the plan for revisions at least once every four years. The bill also expresses the intent of the General Assembly that MEMA implement the bill’s provisions with existing personnel and resources.

**Fiscal Summary**

**State Effect:** No effect in FY 2021 or 2022. General fund expenditures increase by \$160,800 in FY 2023; future years reflect ongoing costs. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0	160,800	156,200	161,600
Net Effect	\$0	\$0	(\$160,800)	(\$156,200)	(\$161,600)

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

**Local Effect:** None.

**Small Business Effect:** The Military Department has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

## Analysis

**Bill Summary:** Each principal department's continuity of operations plan must include information regarding (1) the delineation of essential functions; (2) the delegation of authority; (3) the safekeeping of and access to essential records, including electronic records; (4) continuity locations; (5) continuity communications; (6) human resources planning; (7) devolution of essential functions; (8) reconstitution; and (9) program validation through testing, training, and exercises. MEMA is authorized to resolve conflicts between continuity of operations plans.

The continuity of government plan must include the continuity of operations for essential government functions as identified by the principal departments.

**Current Law:** MEMA, which is part of the Military Department, is responsible for coordinating the State response in any major emergency or disaster. This includes supporting local governments as needed or requested and coordinating assistance with the Federal Emergency Management Agency (FEMA) and other federal partners. MEMA manages many of the federal grants that fund a broad range of initiatives leading to enhanced protection from and responses to the full range of natural and man-made disasters that could threaten the State's citizens.

In 2013, Governor Martin J. O'Malley issued [Executive Order 01.01.2013.06](#), which established the Maryland Emergency Preparedness Program (MEPP). MEMA is the agency of State government with primary responsibility and authority for emergency preparedness policy and for coordinating hazard mitigation, incident response, and disaster recovery. Among other things, MEMA is required to develop and coordinate preparedness policy through MEPP and review and update MEPP biannually. Each State agency must, among other things, develop and maintain documents necessary to support MEPP, as requested by either MEMA or the Maryland State Police, including continuity of operations plans. The continuity of operations plans must be updated biannually.

**Background:** Broadly, continuity of operations plans are guidelines that, in the event of an emergency, ensure the continuation of essential services. Continuity of government plans, in addition to ensuring the continuation of essential government services at the state and federal level, are designed to preserve the statutory and constitutional authority of elected officials across the government in the event of an emergency. FEMA publishes guidelines and document templates to assist federal, state, and local government agencies in the creation and maintenance of continuity of operations and continuity of government plans.

The Military Department advises that, among other things, the bill codifies the requirement set forth in Executive Order 01.01.2013.06 that each State agency submit a continuity of operations plan to MEMA. According to the Military Department, several agencies request guidance and active support in writing continuity of operations plans each year, but MEMA does not have funding to provide that assistance; this bill requires MEMA to do so. The Military Department also advises that MEMA does not currently have the authority to resolve conflicts in continuity of operations plans. In addition to addressing those issues, the bill is intended to introduce continuity of government planning into the programmatic efforts of the Executive Branch.

The Military Department advises that neighboring states require state agencies to create continuity of operations and continuity of governance plans by their respective emergency management agencies. The Delaware Emergency Management Agency is authorized to prepare and maintain a comprehensive plan and program for the emergency management of the state. The Virginia Department of Emergency Management is authorized to prepare and maintain a “State Emergency Operation Plan” that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations, and personnel. The West Virginia Department of Homeland Security and Emergency Management is responsible for the state’s continuity of operations and governance plans and is authorized to coordinate the response to and recovery from a continuity of governance event.

**State Expenditures:** Although the bill expresses that it is the intent of the General Assembly that MEMA implement the bill with existing personnel and resources, MEMA is not capable of fully implementing the bill without additional staff. Accordingly, general fund expenditures for MEMA increase by \$160,785 in fiscal 2023. This estimate reflects the cost of hiring two administrators to develop guidelines, review and resolve conflicts between department continuity of operations plans, prepare for and create the first continuity of government plan by the end of calendar 2023, and provide ongoing technical support. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Even though MEMA has already been tasked with emergency preparedness duties under MEPP, the bill expands MEMA’s duties with respect to overall coordination of continuity of operations plans and establishes new duties related to continuity of government planning.

Positions	2
Salaries and Fringe Benefits	\$149,735
Operating Expenses	<u>11,050</u>
<b>Total FY 2023 State Expenditures</b>	<b>\$160,785</b>

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

As each State agency is already required to submit to MEMA a continuity of operations plan biannually, it is assumed that affected principal departments can implement the bill's requirements with existing budgeted resources.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Military Department; Department of Information Technology; Department of Commerce; Maryland Department of Aging; Maryland State Department of Education; Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of Disabilities; Maryland Department of the Environment; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Department of Human Services; Department of Juvenile Services; Maryland Department of Labor; Department of Natural Resources; Maryland Department of Planning; Department of Public Safety and Correctional Services; Board of Public Works; Department of State Police; Maryland Department of Transportation; Department of Veterans Affairs; Federal Emergency Management Agency; Department of Legislative Services

**Fiscal Note History:** First Reader - January 14, 2020  
rh/lgc Third Reader - March 14, 2020  
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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Executive Branch Continuity Planning

BILL NUMBER: SB 81

PREPARED BY: Catherine Kelly

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