

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 899 (Delegate Grammer)
 Environment and Transportation

Illegal Dumping and Litter Control - Criminal Penalties and Fund

This bill alters the penalties for illegal dumping and litter control violations and redirects a portion of the fines collected from these violations to a new special fund, the Clean Up and Green Up Maryland Fund, which is administered by the Maryland Environmental Trust (MET) within the Department of Natural Resources (DNR). The fund may only be used to provide grants to eligible community groups and nonprofit organizations to assist with the costs associated with neighborhood cleanliness and beautification activities, as specified. The bill also authorizes any person to file an application for a statement of charges with a District Court commissioner against another person who is alleged to have committed a violation of the Illegal Dumping and Litter Control Law.

Fiscal Summary

State Effect: General fund expenditures increase by \$200,800 in FY 2021 for programming; general fund expenditures may increase annually for MET to administer the fund. Special fund revenues increase minimally beginning in FY 2021 from the redirection of fine revenue; special fund expenditures increase correspondingly. Potential minimal decrease in State incarceration expenditures (not reflected below).

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Revenue	-	-	-	-	-
GF Expenditure	\$200,800	-	-	-	-
SF Expenditure	-	-	-	-	-
Net Effect	(\$200,800)	\$0	\$0	\$0	\$0

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

Local Effect: Minimal decrease in local fine revenues beginning in FY 2021. Potential minimal decrease in local incarceration expenditures.

Small Business Effect: Minimal or none.

Analysis

Bill Summary/Current Law: The State's Illegal Dumping and Litter Control Law establishes the General Assembly's intent to uniformly prohibit the improper disposal of litter on public or private property throughout the State. The law prohibits a person from (1) disposing of litter on a highway or performing an act that violates the State Vehicle Laws regarding disposal of litter, glass, and other prohibited substances on highways or (2) disposing or causing or allowing the disposal of litter on public or private property unless authorized or the litter is placed into a proper receptacle. These prohibitions are unchanged by the bill.

Current law establishes that a violation of these prohibitions is a misdemeanor, and for amounts of litter not exceeding 100 pounds or 27 cubic feet, and not for commercial gain, a violator is subject to a fine of up to \$1,500 and/or imprisonment for up to 30 days. The bill establishes a minimum fine of \$150 for such a violation.

Current law establishes that for amounts exceeding 100 pounds or 27 cubic feet, but not exceeding 500 pounds or 216 cubic feet, and not for commercial gain, a violator is subject to fine of up to \$12,500 and/or imprisonment for up to one year. The bill establishes a minimum fine of \$1,250 for such a violation and reduces the maximum incarceration penalty to 60 days.

Current law establishes that for amounts exceeding 500 pounds or 216 cubic feet, or in any amount for commercial gain, a violator is subject to a fine of up to \$30,000 and/or imprisonment for up to five years, or both. The court may also require cleanup, repair or payment of damages, community service, and suspension of the violator's driver's license. The bill establishes a minimum fine of \$3,000 for such a violation and reduces the maximum incarceration penalty to 90 days.

Under current law, 100% of the fines collected for violations of the State's Illegal Dumping and Litter Control Law are disbursed to the county or municipal corporation where the violation occurred or if the bi-county unit is the enforcement unit and the violations occurred on property over which the bi-county unit exercises jurisdiction, to the bi-county unit. Under the bill, 50% of the fines collected continued to be distributed to counties, municipalities, and bi-county units, and 50% of the fines collected are distributed to the Clean Up and Green Up Maryland Fund established by the bill.

In addition to that fine revenue, the Clean Up and Green Up Maryland Fund consists of money appropriated in the State budget, interest earnings, and any other money from any other source accepted for the benefit of the fund. Expenditures from the fund may be made only in accordance with the State budget. Money expended from the fund is supplemental

to and is not intended to take the place of funding that otherwise would be appropriated for neighborhood cleanliness and beautification activities.

The stated purpose of the Clean Up and Green Up Maryland Fund is to provide grants to eligible community groups and nonprofit organizations to assist with the costs associated with neighborhood cleanliness and beautification activities, including litter removal, greening activities, community education, and citizen stewardship. The fund may be used only to provide grants for that purpose.

Background: MET was established by statute in 1967 “to conserve, improve, stimulate, and perpetuate the aesthetic, natural, health and welfare, scenic, and cultural qualities of the environment, including, but not limited to land, water, air, wildlife, scenic qualities, [and] open spaces.” The trust was created as a quasi-public entity, and is both a unit of DNR and governed by a private board of trustees. Its programs now include Land Conservation, Monitoring and Stewardship, Local Land Trust Assistance, and the Keep Maryland Beautiful Grants Program.

Among other programs, MET oversees the Clean Up and Green Up Maryland Grant as part of the Keep Maryland Beautiful program. The Clean Up and Green Up Maryland Grant was established to help community groups and nonprofit organizations statewide with neighborhood beautification activities that include litter removal, greening activities, community education, and citizen stewardship statewide. According to MET, the Clean Up and Green Up Maryland Grant is primarily funded by the Department of Housing and Community Development. Grants of up to \$5,000 are awarded under the program.

State Fiscal Effect:

Judiciary – Programming Costs

General fund expenditures for the Judiciary increase by \$200,776 in fiscal 2021 only to update its cash register and case management systems in order to accommodate the bill’s changes regarding the distribution of fines collected for violations of the Illegal Dumping and Litter Control Law.

Clean Up and Green Up Maryland Fund

Special fund revenues increase beginning in fiscal 2021 from the redirection of 50% of fines collected for violations of the State’s Illegal Dumping and Litter Control Law to the Clean Up and Green Up Maryland Fund. Special fund expenditures increase correspondingly as MET awards grants from the fund to eligible community groups and nonprofit organizations.

Based on fine revenue collected in fiscal 2019 for the relevant violations, it is assumed that fine revenue distributed to the new special fund each year is minimal. The Judiciary advises that in fiscal 2019, \$1,407.50 in fines was collected from the relevant violations. If a similar amount is collected in future years, the fund receives \$703.75 a year, which has a negligible impact on MET's workload.

However, fines collected under the Illegal Dumping and Litter Control Law may increase as a result of the bill (due to the establishment of minimum fines and/or due to the bill's provision that any person can file a statement of charges against a person alleged to have committed a violation of the Illegal Dumping and Litter Control Law). Accordingly, special fund revenues may be higher. Depending on the level of funding available for the new special fund, MET may incur additional costs to administer the grant program. Accordingly, general fund expenditures for MET may increase.

Department of Public Safety and Correctional Services

General fund expenditures may decrease minimally as a result of the bill's changes to existing incarceration penalties due to fewer people being committed to State correctional facilities.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,700 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Fiscal Effect: Local revenues decrease, likely minimally, as discussed above, beginning in fiscal 2021 from the redirection of 50% of the fines collected for violations of the State's Illegal Dumping and Litter Control Law from local governments to the Clean Up and Green Up Maryland Fund. As noted above, however, the bill itself may result in an increase in total fines collected for the relevant violations; under the bill, local

governments collect 50% of the fines collected for these violations. Accordingly, depending on the bill's effect on total fines collected, local fine revenues could increase or decrease. For purposes of this fiscal and policy note, however, it is assumed that the net effect of the bill's changes is a decrease in local fine revenues.

Expenditures may decrease minimally as a result of the bill's decrease in the maximum incarceration penalties for violations of the State's Illegal Dumping and Litter Control Law. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Anne Arundel, Charles, and Montgomery counties; Maryland Association of Counties; Maryland-National Capital Park and Planning Commission; City of Havre de Grace; Maryland Municipal League; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland Department of the Environment; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; Forever Maryland Foundation; Department of Legislative Services

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