

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 446

(Senator West)

Education, Health, and Environmental Affairs

Environment and Transportation

**Department of the Environment - Supplemental Environmental Projects
Database**

This bill defines a “supplemental environmental project” (SEP) and requires the Maryland Department of the Environment (MDE) to create and maintain a database of SEPs from which a person who violates the Environment Article may choose to undertake. MDE must solicit input from communities in the State that are more impacted by environmental justice issues when creating and maintaining the database. Before a violator undertakes a SEP, MDE must (1) prioritize the selection of a project located in the same geographic area as the alleged violation and (2) ensure that the scope and cost of a chosen project is commensurate with the scope and cost of a violation.

Fiscal Summary

State Effect: General fund expenditures could increase, likely beginning in FY 2022, to the extent MDE hires a consultant to develop and maintain the required database; however, a reliable estimate of any increase in costs cannot be made at this time. To the extent the bill results in additional SEPs being undertaken in lieu of the payment of monetary penalties, State penalty revenues (multiple fund types) could decrease; however, a reliable estimate of any such decrease cannot be made at this time.

Local Effect: To the extent that SEPs are completed in lieu of monetary penalties, local penalty revenues could decrease; however, a reliable estimate of any such decrease cannot be made at this time. The bill is not anticipated to have a direct, material effect on local government expenditures.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A “supplemental environmental project” is defined as an environmentally beneficial project or activity that is not required by law but that an alleged violator agrees to undertake as part of a settlement or enforcement action.

Current Law: A SEP is an enforcement tool used by environmental agencies (such as the U.S. Environmental Protection Agency (EPA) and MDE) to augment traditional penalty actions when an entity violates an environmental law. Specifically, a SEP is a voluntary project undertaken by the violator as part of a settlement agreement or to offset monetary penalties for the violation. EPA requires a SEP to have a tangible environmental or public health benefit to the affected community or environment that is closely related to the violation being resolved but that goes beyond what is required under federal, state, or local laws.

Small Business Effect: To the extent the bill results in additional SEPs being undertaken, small businesses involved in the implementation of those projects could benefit from an increase in the demand for their services. Additionally, to the extent the bill results in additional opportunities for SEPs to be undertaken in lieu of the payment of monetary penalties, small businesses that violate a provision of the Environment Article could be affected.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; U.S. Environmental Protection Agency; Department of Legislative Services

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