

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1200

(Delegate Wells)

Environment and Transportation

Education, Health, and Environmental Affairs

Environment – Permit Applications – Environmental Justice Screening

This bill requires a person who is applying for a permit under § 1-601(a) of the Environment Article to include, as part of the permit application, the “EJ Score” from the “Maryland EJ tool” for the census tract where the applicant is seeking a permit, unless the permit requires the applicant to use a tool developed by the U.S. Environmental Protection Agency. In accordance with regulations adopted under the bill, the Maryland Department of the Environment (MDE) must review the EJ Score for the census tract where the applicant is seeking a permit using the Maryland EJ tool to verify the applicant’s information. The bill requires MDE to adopt implementing regulations. The bill also modifies public notice provisions applicable to certain permit applications to incorporate EJ Scores, as specified.

Fiscal Summary

State Effect: General fund expenditures increase by \$248,800 in FY 2023; out-years reflect annualization, inflation, and ongoing costs. The bill may also affect State agencies as permit holders (not reflected below), as discussed below. The bill is not anticipated to have a direct, material effect on State revenues.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	248,800	301,000	308,200	315,000	322,100
Net Effect	(\$248,800)	(\$301,000)	(\$308,200)	(\$315,000)	(\$322,100)

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

Local Effect: The bill may affect local governments as permit holders, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “EJ Score” means an overall evaluation of an area’s environment and existing environmental justice indicators, as defined by MDE in regulation, including pollution burden exposure, pollution burden environmental effects, sensitive populations, and socioeconomic factors. “Maryland EJ tool” means a publicly available State mapping tool that allows users to (1) explore layers of environmental justice concern; (2) determine an overall EJ Score for census tracts in the State; and (3) view additional context layers relevant to an area.

Whenever current law requires MDE to publish notice pursuant to Title 1, Subtitle 6 of the Environment Article, the notice must also include information about the EJ Score and MDE’s EJ Score review, as specified.

Current Law: Title 1, Subtitle 6 of the Environment Article establishes the general public participation requirements for a number of permits issued by MDE. More specifically, the subtitle establishes the general public notice and hearing requirements for (1) air quality control permits to construct; (2) permits to own, operate, establish, or maintain a controlled hazardous substance facility; (3) permits to own, operate, or maintain a hazardous material facility; (4) permits to own, operate, establish, or maintain a low-level nuclear waste facility; (5) permits to install, materially alter, or materially extend landfill systems, incinerators for public use, or rubble landfills; (6) permits to discharge pollutants to waters of the State; and (7) permits to install, materially alter, or materially extend a structure used for storage or distribution of any type of sewage sludge issued, renewed, or amended.

Pursuant to § 1-602 of the Environment Article, whenever MDE is required to publish notice, the notice must be published at least once a week for two consecutive weeks in a daily or weekly generally circulated newspaper in the geographic area where the proposed facility is located. Applicants bear all costs incurred by MDE in providing notice. Additionally, whenever MDE is required to publish notice of an application for a permit, MDE must (1) electronically post notice of the permit application on its website and (2) provide a method for interested persons to electronically request any additional related notices. The notice must include (1) the applicant’s name and address; (2) a description of the location and nature of the proposed permitted activity; (3) a reference to applicable statutes or regulations; (4) the time and place of any scheduled information meeting or public hearing, or a description where that information and any other permit application information can be found; and (5) any other information that MDE determines is necessary.

State/Local/Small Business Effect:

Maryland Department of the Environment – Administrative Expenditures

General fund expenditures for MDE increase by \$248,801 in fiscal 2023, which accounts for the bill’s October 1, 2022 effective date. This estimate reflects the cost of hiring three employees (two regulatory compliance engineers and one natural resources planner) to (1) conduct outreach to inform the regulated community about the bill’s changes to the permitting process; (2) develop regulations; (3) review EJ Scores submitted as part of the application for permits referenced under § 1-601(a) of the Environment Article, as specified; and (4) post all required materials on MDE’s website. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including ongoing contractual costs for mediators for controversial permits. The information and assumptions used in calculating the estimate are stated below:

- MDE is already in the process of developing a Maryland EJ tool that is linked to its permitted facilities database, and this tool suffices for the purposes of the bill;
- publishing EJ Score information associated with permit applications generates additional citizen interest, which likely increases the amount of time necessary to review and process permit applications;
- MDE needs to hire a contractual mediator for several controversial projects each year;
- the bill applies to a substantial number of new and renewed permits each year; and
- existing staff cannot absorb the additional workload resulting from the bill.

Positions	3.0
Salaries and Fringe Benefits	\$181,772
Contractual Mediation Costs	45,000
Other Operating Expenses	<u>22,029</u>
Total FY 2023 MDE Admin. Costs	\$248,801

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. To the extent the increase in MDE’s workload is less burdensome than currently anticipated, fewer staff may be needed, thereby reducing costs.

Effect on Permit Applicants and Permit Holders

The bill’s impact on any entity that applies for a new permit or a permit renewal affected by the bill (which could include State agencies, local governments, and a multitude of small businesses) is largely unknown and cannot be accurately assessed at this time. The ultimate

impacts depend on a number of unknown factors, including how the review of the EJ Scores is incorporated into the permit approval process, if at all. Because the bill merely requires an applicant to include in the permit application the EJ Score for the census tract where the applicant is seeking a permit and MDE to review the EJ Score to verify the applicant's information, it is unclear what effect, if any, the bill may have on the approval of permits.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 818 (Senator Ellis) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Environmental Service; Harford County; University System of Maryland; Public School Construction Program; Maryland Department of the Environment; Department of General Services; Maryland Department of Transportation; Department of Legislative Services

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