

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 818

(Senator Ellis)

Education, Health, and Environmental Affairs

Environment and Transportation

Environment – Permit Applications – Environmental Justice Screening

This bill requires a person who is applying for a permit under the Environment Article to include in 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 analysis of the census tract where the applicant is seeking a permit using the Maryland EJ tool to (1) verify the applicant’s information and (2) provide a description of the environmental justice indicators contributing to the EJ Score. The bill authorizes 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 \$433,800 in FY 2023; out-years reflect annualization, inflation, and ongoing costs. Transportation Trust Fund (TTF) expenditures may increase beginning in FY 2023. 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	433,800	517,800	531,200	543,900	557,300
SF Expenditure	-	-	-	-	-
Net Effect	(-)	(-)	(-)	(-)	(-)

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 in regulations, 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 the 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 the Maryland EJ tool analyses, as specified.

Current Law: MDE regulates a broad variety of activities and individuals under the Environment Article. MDE’s Land and Materials Administration, Air and Radiation Administration, and Water and Science Administration all issue permits related to the environmental resources regulated by each administration. Maryland [OneStop](#) contains a searchable database of all the permits and licenses that are issued by MDE, and MDE’s [permit guides](#) explain the environmental permit application and approval requirements for businesses, homeowners, and other entities.

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 \$433,790 in fiscal 2023, which accounts for the bill’s October 1, 2022 effective date. This estimate reflects the cost of hiring six employees (one geologist, two regulatory compliance engineers, and three natural resources planners) to (1) conduct outreach to inform the regulated community about the bill’s changes to the permitting process; (2) develop regulations; (3) review the analyses of census tracts submitted with permit applications to verify the information and provide related descriptions of environmental justice indicators for all permits issued under the Environment Article; 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;
- in fiscal 2021, MDE issued 7,157 new and renewed permits and other approvals, which brought the total number of active permits to 64,533; and
- existing staff cannot absorb the additional workload resulting from the bill.

Positions	6.0
Salaries and Fringe Benefits	\$344,732
Contractual Mediation Costs	45,000
Other Operating Expenses	<u>44,058</u>
Total FY 2023 MDE Admin. Costs	\$433,790

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.

State Highway Administration – Administrative Expenditures

The State Highway Administration (SHA) has delegated permitting authority from MDE to process certain MDE permits. Thus, TTF expenditures may increase beginning in fiscal 2023 to review analyses and provide the required information for affected permits that are issued by SHA. A more specific estimate cannot be made at this time.

Effect on Permit Applicants and Permit Holders

The bill's impact on any entity that applies for a new permit or a permit renewal (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 analyses and related information are 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 analyses and describe related 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: HB 1200 (Delegate Wells) - Environment and Transportation.

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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Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510