

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 624

(Delegate Amprey)

Environment and Transportation

Education, Energy, and the Environment

Environment - Suppliers of Water - Notification Requirements

This bill alters provisions governing notice requirements applicable to a water supplier when a water system is not in compliance with State drinking water regulations. The bill authorizes additional means of communication for such notices and requires that at least three authorized means of communication be used for notices provided by water suppliers that serve at least 3,300 customers. The bill also requires a water supplier to *directly deliver* notice of a violation (1) no later than 30 days after learning of a violation that has the potential for long-term health effects and (2) within one year after learning of a violation that does not have the potential for short- or long-term health effects, as specified. If there is a confirmed positive test for *E. coli*, a water supplier must give notice to the Maryland Department of the Environment (MDE) and the Maryland Department of Emergency Management (MDEM); also, if there is a positive test, a water supplier must immediately begin preparations for issuing a boil water advisory. Finally, the bill expands water testing and notice requirements related to the presence of methyl tertiary butyl ether (MTBE).

Fiscal Summary

State Effect: General fund expenditures increase by \$41,900 in FY 2024; out-years reflect annualization, inflation, and ongoing costs. State revenues are not affected.

| (in dollars) | FY 2024 | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
|----------------|------------|------------|------------|------------|------------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 41,900 | 46,700 | 48,800 | 51,000 | 53,800 |
| Net Effect | (\$41,900) | (\$46,700) | (\$48,800) | (\$51,000) | (\$53,800) |

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

Local Effect: Expenditures may increase for some local governments that own/operate water systems, as discussed below. Local revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Maryland Department of the Environment General Requirement to Adopt Notice Requirements

Under current law, the Secretary of the Environment must adopt notice requirements by rule or regulation that comply with the statutory notice requirements. The rules or regulations must establish notification standards and procedures that include the manner, frequency, form, and content of the notices.

Statutory Notice Requirements for Drinking Water Violations, Generally

Under current law, a water supplier must give notice to MDE and people served by the system and give written notice to noncollegiate educational institutions, public schools, family child care homes, and child care centers when the water system (1) fails to comply with an applicable maximum contaminant level, treatment technique requirement, or testing procedure prescribed by a drinking water regulation or fails to perform required monitoring; (2) is subject to variance granted for an inability to meet a maximum contaminant level or an exemption; (3) fails to comply with the requirements set by a variance or exemption; or (4) has concentration levels of an unregulated contaminant for which the State may require notice due to the risk of public health.

Under current law, each notice must (1) state the nature of possible health effects; (2) be provided to people served by the water system; and (3) be in a form that is readily understandable by the affected population.

Under current law, the notice must be issued in a timely manner by means of radio, television, newspaper of general circulation, written notice, or other means acceptable to MDE. *Under the bill*, the notice must be issued in a timely manner by one of the following means: (1) radio; (2) television; (3) newspaper of general circulation; (4) written notice; (5) *text message*; (6) *robocall*; or (7) any other means authorized by MDE. However, a water supplier that owns or operates a community water system that serves at least 3,300 customers must issue the notice in a timely manner *by at least three* of those listed means.

Under current law, for violations that have the potential to have serious adverse effects on human health from short-term exposure, the water supplier must provide notice as soon as practicable, but no later than 24 hours after the violation occurs. For other violations, the water supplier must provide written notice to each person served by the system in an annual report or by mail no later than one year of the violation. The bill modifies the requirements

for violations *other* than those that have the potential to have serious adverse effects on human health from short-term exposure (the changes are shown in italics). *Under the bill*, for other violations *that have the potential for long-term health effects*, the water supplier must *directly deliver* notice to each person served by the system *as soon as practicable, but no later than 30 days after learning of the violation*. Further, *under the bill*, for other violations (those that do not have the potential to have serious adverse effects on human health as a result of short-term exposure or that do not have the potential for long-term health effects), the water supplier must *directly deliver* notice to each person served by the system no later than one year after learning of the violation.

Notice Requirements Specific to E. Coli

Under current regulations (COMAR 26.04.01.11-4), if any routine or repeat sample is total coliform-positive, the water supplier must conduct additional analysis to determine if *E. coli* is present. If *E. coli* is present, the water supplier must notify MDE by the end of the day, as specified. A violation of *E. coli* standards in drinking water requires Tier 1 notification, and pursuant to Tier 1 standards, the water supplier must contact MDE and provide a Tier 1 public notice as soon as practicable, but within at least 24 hours of learning of the violation. The water supplier must also comply with any additional requirements that MDE establishes, which may include the timing, form, manner, frequency, and content of repeat notices or other actions designed to reach all individuals serviced. Public notice must be provided using at least one of the following forms of delivery: (1) appropriate broadcast media (such as radio and television); (2) posting the notice in conspicuous locations throughout the area served; (3) hand delivery of the notice to persons served; or (4) another delivery method approved by MDE in writing.

The bill requires a water supplier to give notice to MDE and MDEM if there is a confirmed positive test for *E. coli* in the system. Also, if there is a positive test for *E. coli* in a water system, the water supplier must immediately begin preparations for issuing a boil water advisory.

Testing for Presence of Methyl Tertiary Butyl Ether and Related Notice Requirements

Under current law, each nontransient noncommunity water system, including those systems that primarily provide bottled water, must test water provided by the system for the presence of MTBE at a frequency determined by MDE and report the test results to MDE. *The bill* expands this requirement to apply to community water systems and specifies that each community water system and nontransient noncommunity water system must *ensure* that the water provided by the system *is tested* for the presence of MTBE.

Under current law, if a test for the presence of MTBE indicates that the level of MTBE in the drinking water exceeds the State advisory level, as determined by MDE, the water

system must give notice to (1) the persons regularly served by the water system and (2) if the water system serves a child care center, an elementary or secondary school, or any other facility that regularly serves minors, the parents or legal guardians of all minors regularly served by the water system. *The bill* expands this provision to include notification to the parents or legal guardians of students of institutions of higher education.

State Expenditures: General fund expenditures for MDE increase by \$41,911 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring one part-time (50%) regulatory and compliance engineer to review additional notification methods for community water systems that serve more than 3,300 people for adequacy. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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|---|-----------------|
| Position | 0.5 |
| Salary and Fringe Benefits | \$34,359 |
| Operating Expenses | <u>7,552</u> |
| Total FY 2024 State Expenditures | \$41,911 |

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

MDEM can receive notices of positive *E. coli* test results using existing budgeted resources. The bill does not establish any specific requirements for MDEM.

Any impact on State agencies that own/operate water systems is not anticipated to be significant.

Local Expenditures: Local governments that own/operate water systems that serve more than 3,300 people must prepare additional means of issuing notices of drinking water violations, which has an operational impact and may result in an increase in local expenditures. The impact is likely more pronounced for smaller jurisdictions that may have limited access to radio, newspapers, and/or television as a potential means for issuing required public notices.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Maryland Department of Emergency Management; Maryland Department of Health; Maryland Environmental Service; Harford and Montgomery counties; City of College Park; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2023
km/lgc Third Reader - March 28, 2023
Revised - Amendment(s) - March 28, 2023

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