

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 24

(Delegate Boyce, *et al.*)

Environment and Transportation and  
Economic Matters

Education, Energy, and the Environment

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Department of the Environment - Environmental Justice Evaluation of  
Environmental Permit Applications

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This bill requires the Maryland Department of the Environment (MDE) to conduct an additional environmental justice (EJ) evaluation of a “permit” application (other than a general permit application) received on or after October 1, 2024, if, after reviewing an EJ score in accordance with current law, MDE determines that the EJ score is above the 75th percentile statewide. If, based on the findings of the additional EJ evaluation, MDE determines that a permit would have a substantial impact on the health of a surrounding community, MDE may deny a permit or impose conditions in the permit to address EJ concerns, as specified. In addition, MDE must maintain a specified website or application relating to pending permit applications. MDE is authorized to charge a reasonable fee to cover its costs to implement the above provisions. Finally, MDE must (1) consult with specified stakeholders in developing implementing regulations and (2) consider methods to improve outreach and notice to underserved and overburdened communities regarding specified public participation processes for tentative permit determinations.

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**Fiscal Summary**

**State Effect:** State expenditures (all/multiple funds) for affected State agencies, as permit applicants, may increase beginning in FY 2025, as discussed below. MDE anticipates that it can implement the bill using existing resources. To the extent MDE sets any fees through regulation, as authorized by the bill, general fund revenues increase accordingly.

**Local Effect:** The bill may affect local governments as permit applicants, as discussed below. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful.

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## Analysis

### Bill Summary/Current Law:

#### *Scope of Title 1, Subtitle 6 of the Environment Article*

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; (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; and (8) potable water reuse permits.

#### *Environmental Justice Screening for Certain Environmental Permit Applications*

*Under current law*, a person who is applying for a permit under § 1-601(a) of the Environment Article must 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. 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.

*Under current law*, “EJ Score” means an overall evaluation of an area’s environment and existing EJ 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 EJ concern; (2) determine an overall EJ Score for census tracts in the State; and (3) view additional context layers relevant to an area.

*The bill* establishes a new subtitle (Subtitle 7A – Environmental Justice Evaluation of Environmental Permit Applications) that establishes additional requirements for certain permit applications. *Under the bill*, for a permit application (other than a general permit application) received by MDE on or after October 1, 2024, MDE must perform an additional EJ evaluation of the permit application if, after conducting an EJ score review in accordance with current law, MDE determines that the EJ score is above the 75th percentile statewide.

If an applicant is applying for more than one permit for the same facility, the bill allows MDE to conduct only one additional EJ evaluation for the facility unless MDE determines that more than one evaluation is necessary. This provision does not limit MDE's authority to hold or require additional public hearings for a permit.

If, based on the findings of the additional EJ evaluation conducted pursuant to the bill, MDE determines that a permit would have a substantial impact on the health of the surrounding community, MDE may address EJ concerns by (1) denying the permit or imposing permit conditions (for a permit for a new pollution source or a permit that allows for an increase in pollution from an existing source) and (2) imposing permit conditions (for the renewal of an existing permit that would not result in an increase in pollution from an existing source).

*Under the bill*, MDE must also maintain a publicly accessible website, part of a website, or application that identifies pending permit applications with specific census tracts.

*Under the bill*, MDE is authorized to charge a reasonable fee to cover its costs associated with implementing the above provisions, including the costs to MDE to provide technical assistance to permit applicants and residents of relevant census tracts as needed to comply with the bill.

“Permit,” under these provisions of the bill, means a permit listed under § 1-601(a) of the Environment Article. The term does not include (1) a general discharge permit for residential or commercial construction or (2) a general discharge permit to construct an electricity substation.

*Under the bill*, MDE must adopt regulations to implement the new subtitle. In initially developing the regulations, MDE must consult with specified stakeholders on the following issues: (1) the scope and parameters of the additional EJ evaluation; (2) the applicability of any fee established under the bill, including any limits on the types of technical assistance subject to the fee and any potential maximum cap on the fee; (3) the potential types of conditions that could be placed on permits pursuant to the bill; (4) mitigating and aggravating factors that could assist MDE in determining when to place a condition on a permit or deny a permit under the bill, as specified; and (5) how MDE can integrate EJ considerations into certain general permits during their next permit renewal period.

#### *Improving Outreach and Notice Effectiveness in the Permitting Process*

*The bill* requires MDE to consider methods to improve outreach and notice effectiveness to underserved and overburdened communities regarding informational meetings and public hearings and comment for tentative permit determinations.

## **State/Local/Small Business Effect:**

### *Maryland Department of the Environment Implementation*

MDE anticipates that it can implement the bill's requirements with existing budgeted resources. Even so, the bill authorizes MDE to charge a reasonable fee to cover its costs associated with implementing the new subtitle (including the costs to provide technical assistance to permit applicants and residents of relevant census tracts as needed to comply with the bill), which could include the costs associated with any time spent by existing staff in implementing those provisions. MDE advises that it will determine through the stakeholder process what fee, if any, might be appropriate for each permit. Accordingly, to the extent MDE establishes any fees through regulation, general fund revenues increase accordingly.

### *Effect on Permit Applicants and Permit Holders*

The bill's impact on any entity that applies for a new permit or for a permit renewal affected by the bill (which could include State agencies, local governments, and small businesses) cannot be accurately assessed at this time and will depend largely on the regulations adopted by MDE under the bill. The effects depend on a number of unknown factors, including how MDE will make a determination that a permit would have a substantial impact on the health of the surrounding community, how many permit applications are affected, permit actions taken by MDE to address EJ concerns pursuant to the bill, and whether MDE charges any fees to cover its costs (and the level of any such fees).

Depending on the permit actions taken by MDE pursuant to the bill, for any permit application that triggers the new EJ evaluation requirement, there could be potentially significant permit delays and increased costs. The Maryland Department of Transportation, the Department of Housing and Community Development, and the University System of Maryland all note these potential operational and fiscal effects. Any such impacts begin as early as fiscal 2025.

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## **Additional Information**

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

**Designated Cross File:** SB 96 (Senator Jackson) - Education, Energy, and the Environment.

**Information Source(s):** Maryland Department of the Environment; Public Service Commission; Department of Natural Resources; Maryland Department of Transportation; Department of Commerce; Maryland Department of Emergency Management; Department of General Services; Department of Housing and Community Development; Department of Juvenile Services; Maryland Department of Labor; Maryland Department of Planning; Department of Public Safety and Correctional Services; Maryland Energy Administration; Maryland Insurance Administration; Maryland Department of Agriculture; Maryland Department of Health; Alcohol, Tobacco, and Cannabis Commission; Baltimore City Community College; University System of Maryland; St. Mary's College of Maryland; Interagency Commission on School Construction; Anne Arundel and Montgomery counties; Department of Legislative Services.

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