

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1465

(Delegate Wims)

Environment and Transportation

Education, Energy, and the Environment

Soil Conservation Districts - Small Ponds - Plan Review Fees

This bill authorizes a soil conservation district to recommend a fee system to a local governing body to cover the cost of the district's review of small pond plans and establishes procedures for the development and enactment of a fee system.

Fiscal Summary

State Effect: Special fund revenues may decrease relatively minimally beginning in FY 2025, as discussed below. Expenditures are not materially affected.

Local Effect: Soil conservation district revenues may increase beginning in FY 2025, as discussed below. Expenditures are not directly affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill authorizes each soil conservation district to recommend a fee system for enactment by the local governing body, to cover the cost of reviewing small pond plans. Any fees collected under a fee system established pursuant to the bill must be supplemental to county and State funds and may not (1) be used to reduce county or State funds or (2) exceed the cost of reviewing the plans.

To develop a fee system for review of small pond plans, each year a soil conservation district must determine, for the succeeding year, the reasonable costs of reviewing the plans. The fee system must be developed based on those costs and submitted to the local governing body. Within 90 days after the final fee system is submitted, the local governing

body must enact the fee system (to take effect within 90 days after the fee system was submitted) or enact a different fee system or otherwise provide funding. If the local governing body fails to accept or modify the fee system, the final fee system submitted by the soil conservation district takes effect on the 91st day after it is submitted, without requiring enactment by the local governing body.

“Small pond” means a reservoir, dam, or waterway obstruction that is exempt from a requirement to obtain a permit from the Maryland Department of the Environment (MDE) to construct, repair, or modify a reservoir, dam, or waterway obstruction.

Current Law:

Soil Conservation District Review of Small Pond Plans

A person must obtain a permit from MDE to construct, repair, or modify any reservoir, dam, or waterway obstruction. However, a person is exempt from the requirement of obtaining a permit from MDE if specified criteria are met, including that (1) the plans and specifications are approved by the appropriate soil conservation district or MDE’s designee; (2) the pond meets minimum standards for safety set forth in MDE rules and regulations; (3) the contributory drainage area is less than one square mile (640 acres); and (4) the pond is a low hazard structure the failure of which is unlikely to cause loss of life or property damage. The soil conservation district or MDE designee must notify MDE of any pond approved under the exemption.

MDE regulations contain specific standards and requirements for the review of small pond plans and specifications by a soil conservation district or MDE designee.

Fee System for Soil Conservation District Review of Grading and Sediment Plans

Soil conservation districts are authorized to recommend a fee system to a local governing body to cover the cost of reviewing grading and sediment control plans in the same manner authorized by the bill with respect to small pond plans. The procedures for the development and enactment of a fee system for review of grading and sediment control plans are also the same as those established in the bill for a fee system for review of small pond plans.

State Revenues: Special fund revenues may decrease relatively minimally beginning in fiscal 2025, to the extent the bill’s authorization of the establishment of fee systems for the review of small pond plans by soil conservation districts allows for more small pond plan reviews to be conducted by the districts, reducing (1) the number of reviews conducted by MDE and (2) the amount of corresponding fees paid to MDE for the reviews. MDE, however, does not expect the number of reviews it conducts to decrease significantly as a result of the bill.

MDE indicates that, currently, 11 soil conservation districts (Anne Arundel, Baltimore, Carroll, Cecil, Charles, Frederick/Catoctin, Harford, Howard, Montgomery, Prince George's, and Washington) review small pond plans to at least some extent (whether using district staff or a third party to conduct the reviews), with MDE reviewing any small pond plans in the State not reviewed by those soil conservation districts. MDE indicates that it reviews approximately 75 to 150 plans each year.

The application process for small pond plan review by MDE includes submitting a *Joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland* and paying a \$750 fee associated with the application, which is deposited in the Wetlands and Waterways Program Fund.

State Expenditures: Any reduction in the number of small pond plan reviews conducted by MDE is not expected to materially affect the department's expenditures.

Local Fiscal Effect: Soil conservation district revenues may increase beginning in fiscal 2025, to the extent districts recommend fee systems pursuant to the bill. The extent of revenues collected by any districts that establish a fee system likely vary, depending on the number of reviews conducted by the district and the fee amount(s) charged. As mentioned above, the application fee for MDE's small pond plan review is \$750 and fees charged by counties presumably may be of a similar magnitude. From among fiscal estimate responses provided by a small number of counties, (1) Anne Arundel County indicates that the small pond plan reviews conducted by the county's soil conservation district (averaging six per year) are outsourced to a third party and the cost per review is \$500 to \$1,000 and (2) Charles County used an assumption of a \$400 fee being charged for each of 25 reviews in its estimate of a relatively minimal increase in revenue for its soil conservation district of approximately \$10,000 annually if a fee system is established.

Small Business Effect: Small business applicants for small pond plan reviews may be meaningfully affected by the cost of fees established for soil conservation district review of the plans.

Additional Information

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

Designated Cross File: SB 196 (Senator Gallion, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Anne Arundel, Baltimore, Charles, Garrett, and Howard counties; Maryland Department of Agriculture; Maryland Department of the Environment; Maryland Association of Soil Conservation Districts; Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2024
km/lgc Third Reader - April 5, 2024

Analysis by: Kathleen P. Kennedy

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