

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 340 (Delegate Ruth, *et al.*)
 Health and Government Operations

Climate Change - Attorney General Actions, Climate Change Restitution Fund,
 and Climate Change Restitution Fund Advisory Council

This bill expresses that, for the protection of the health and safety of the State’s citizens and environment, it is the General Assembly’s intent that a publicly traded entity that derives at least 50% of its revenues from coal, oil, or gas, with a market capitalization greater than \$1.0 billion and its subsidiaries be held accountable for any tortious or otherwise unlawful conduct on the part of the entity or subsidiary that has contributed to climate change, as specified. To that end, the bill explicitly authorizes the Attorney General to investigate, commence, and prosecute or defend any civil or criminal suit or action that holds these publicly traded entities accountable, and to hire outside counsel for assistance, as specified. The bill also establishes (1) the Climate Change Restitution Fund (CCRF) to pay for programs that prevent, mitigate, or repair harms caused by climate change; (2) the Climate Change Restitution Fund Advisory Council; and (3) related reporting requirements. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: No assumed effect in FY 2025. To the extent significant investigation and litigation are undertaken pursuant to the bill’s authority, State expenditures increase, potentially significantly, perhaps beginning as early as FY 2026. Special fund revenues for the new fund *may* increase, likely no earlier than FY 2027; special fund expenditures increase correspondingly. Special fund revenues and expenditures for multiple State agencies *may* increase, likely no earlier than FY 2027, to the extent they are the recipients of any funding. General fund revenues increase from interest earnings through FY 2028, to the extent any special fund revenues are attained.

Local Effect: To the extent that local governments are the recipients of funding under the bill, local revenues and expenditures increase, likely no earlier than FY 2027.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill explicitly authorizes the Attorney General to investigate, commence, and prosecute or defend any civil or criminal suit or action that holds accountable a publicly traded entity that derives at least 50% of its revenues from coal, oil, or gas, with a market capitalization greater than \$1.0 billion or its subsidiaries for any tortious or otherwise unlawful conduct on the part of the entity or subsidiary that has contributed to climate change through fraud, deception, or any other mechanism, action, inaction, or practice. The Attorney General is authorized to hire outside counsel (on a contingency fee basis) to assist with an action brought under the bill if the Attorney General determines that it would be in the State's best interest.

Climate Change Restitution Fund

The bill establishes CCRF, a special fund administered by the Maryland Department of Emergency Management (MDEM). The stated purpose of the fund is to pay for programs that prevent, mitigate, or repair harms caused by climate change. The fund consists of (1) all revenues received by the State resulting either directly or indirectly from any judgment against or settlement with an entity in an action brought under the authorizations under the bill; (2) interest earnings; and (3) any other money from any other source accepted for the benefit of the fund.

The fund may only be used to (1) pay for programs that prevent, mitigate, or repair harms caused by climate change, as specified, and (2) pay administrative expenses related to the Climate Change Restitution Fund Advisory Council and the distribution of funds to related programs. Money expended from the fund for programs to prevent, mitigate, or repair harms caused by climate change is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the programs.

Climate Change Restitution Fund Advisory Council

The bill establishes the Climate Change Restitution Fund Advisory Council in MDEM. The stated purpose of the advisory council is to provide information to the Governor, the Attorney General, and the General Assembly on climate change and the distribution of CCRF. MDEM's Office of Resilience must staff the advisory council. Members of the advisory council may not receive compensation but are entitled to reimbursement for travel expenses.

The advisory council must develop a report that identifies (1) the consequences of climate change within Maryland; (2) the geographic areas and economic sectors within the State that are likely to be impacted by climate change, and the consequences of climate change on these geographic areas and economic sectors; (3) any other disruptions, damages, or

harms likely to be caused by climate change, including specified changes and harms; and (4) methods to prevent, mitigate, or repair the likely disruptions, damages, or harms caused by climate change. The report must be completed within six months of any legal filing authorized under the bill, unless an earlier timeframe is requested by the Attorney General. The report must be updated annually if there are active cases that have been brought under the bill's authority or if there are unallocated funds within CCRF. The advisory council must also develop a report by November 1 of any year in which there are unallocated funds that recommends methods for distributing the unallocated funds, as specified, and updates to the methods to prevent, mitigate, or repair the likely disruptions, damages, or harms caused by climate change. All reports must be submitted to the Governor, the Attorney General, and the General Assembly and posted on MDEM's website.

Current Law:

Maryland's Attorney General and Enforcement of the Environment Article

The Attorney General is an elected official who serves a four-year term of office. Pursuant to the State Constitution, the Attorney General has enumerated responsibilities, including investigating, commencing, and prosecuting or defending any civil or criminal suit or action, as specified, which the General Assembly, by law or joint resolution, or the Governor, directs to be investigated, commenced, and prosecuted or defended. The Attorney General does not, however, have general authority to prosecute crimes in the absence of specific statutory authority or an executive order. The Attorney General also has and must perform any other duties and possess any other powers as the General Assembly prescribes by law. For example, the Attorney General is specifically authorized under § 6-106.1 of the State Government Article to investigate, commence, and prosecute or defend any civil or criminal suit or action that is based on the federal government's action or inaction that threatens the public interest and welfare of the residents of the State with respect to protecting the natural resources and environment of the State.

The Secretary of the Environment must carry out and enforce the provisions of the Environment Article of the *Annotated Code of Maryland* (to which the bill's provisions regarding the authority of the Attorney General are added). The Attorney General is the legal adviser of and must represent and otherwise perform all of the legal work for each officer and unit of the State government, unless a law expressly provides for a general counsel as the legal adviser and representative of the officer or unit.

Maryland Department of Emergency Management and the Office of Resilience

MDEM is responsible for coordinating the State response in any major emergency or disaster. This includes supporting local governments as needed or requested and

coordinating assistance with the Federal Emergency Management Agency and other federal partners. MDEM manages many of the federal grants that fund a broad range of initiatives leading to enhanced protection from and responses to the full range of natural and man-made disasters that could threaten the State's citizens.

Chapter 482 of 2022 established the Office of Resilience within MDEM. Led by the Chief Resilience Officer (CRO), the office must (1) coordinate and administer federal prevention, protection, mitigation, and recovery-focused programs; (2) administer State mitigation grants and loans; (3) identify flood risk assessment tools for use by programs and projects statewide; (4) administer other programs as directed by the Secretary of Emergency Management and CRO; (5) prioritize vulnerable communities and ensure that investments are made with a focus on environmental justice; and (6) conduct outreach and provide technical assistance to local jurisdictions to support the development of local resiliency plans.

State/Local Fiscal Effect: The various potential fiscal impacts are generally dependent on (1) the extent to which the Office of the Attorney General (OAG) uses its authority under the bill to pursue actions related to climate change; (2) the timing of any actions; and (3) whether any actions result in judgments or settlement awards for the State (and the corresponding amounts). Although a reliable estimate of the fiscal impact of the bill cannot be made beforehand, additional information regarding various impacts is included below.

Administrative Costs

Office of the Attorney General: OAG advises that administrative costs to implement the bill are approximately \$723,600 in fiscal 2026, and at least \$878,500 annually thereafter, which reflects the need to hire four assistant Attorneys General and two investigators to handle the increased workload under the bill.

The Department of Legislative Services (DLS) generally concurs that to the extent that OAG robustly pursues accountability for tortious and otherwise unlawful conduct that has contributed to climate change, as authorized under the bill, OAG incurs potentially significant expenditures. However, without actual experience under the bill and additional information regarding how OAG derived its assessment – including if OAG's anticipation of hiring permanent staff mitigates any additional need to hire outside counsel, as authorized by the bill – a reliable estimate of the increase in staffing costs and a timeline under which staff may be needed cannot be determined at this time. Even so, DLS anticipates that OAG expenditures may increase significantly, potentially beginning as early as fiscal 2026, as any investigations and legal proceedings are initiated and pursued.

Based on the assumption that OAG incurs expenditures, as referenced above, there is no anticipated material impact on the workload of legal staff within the Maryland Department of the Environment (MDE).

Maryland Department of Emergency Management: MDEM advises that its administrative costs to administer CCRF and staff the Climate Change Restitution Fund Advisory Council increase by approximately \$536,600 in fiscal 2026 and by at least \$652,900 annually thereafter to hire five new employees (two program managers, two administrators, and one fiscal clerk) and for contractual services to support data collection, assessment, and report drafting. MDEM generally notes that the additional tasks under the bill are outside the current scope of the Office of Resilience, and that the department lacks the resources to administer the fund or staff the advisory council.

Although the advisory council is to meet at the chair's request and provide a method for public comment, DLS notes that a significant portion of the work of the advisory council (and by extension, MDEM's role in staffing the council) appears to be linked to any actions undertaken by OAG. For example, while the advisory council is generally charged with developing a specified report, additional language states that the report is to be completed within six months *after any related legal filing* (unless requested earlier by OAG). Further, as this analysis assumes that CCRF's primary source of revenues is derived from any settlements/awards, the magnitude of any funding requiring distribution (and associated administrative costs) is likely to vary considerably in any given year. Accordingly, a reliable estimate of MDEM's overall staffing needs (and associated costs) cannot be made at this time. Even so, DLS advises that MDEM may incur at least minimal general fund expenditures beginning as early as fiscal 2026; significant expenditures may be incurred, depending on the extent to which actions taken by OAG trigger increased responsibilities for the advisory council/MDEM. While general funds are assumed to be needed to support any costs, at least initially, *if* any judgements or settlement awards are eventually realized, because administrative expenses are an authorized purpose of the fund, the need for general fund expenditures may be mitigated in future years.

Climate Change Restitution Fund

In General: Special fund revenues to CCRF increase to the extent that revenues are collected from judgments or settlements reached as a result of the explicit authorization for OAG to initiate investigations and litigation that would not have otherwise been undertaken absent the bill. Although the magnitude and timing of any increase cannot be reliably estimated in advance, DLS anticipates that given the complexity of litigation potentially initiated under the bill, any potential revenues are likely not realized until fiscal 2027 *at the earliest*. Special fund expenditures from the fund are assumed to increase correspondingly in any year that funding is available.

State Agencies and Local Governments as Funding Recipients: To the extent that State agencies and local governments are eligible and receive funding for programs that prevent, mitigate, or repair harms caused by climate change, State and local revenues and corresponding expenditures may increase. However, as discussed above, any potential funding is likely not available until fiscal 2027 *at the earliest*, and the magnitude of any such funding cannot be reliably estimated in advance.

Additional Impacts

Interest Earnings: Although the bill indicates that interest earnings of the new special fund remain in the fund, the bill does not amend Section 8 of Chapter 717 of 2024 (the Budget Reconciliation and Financing Act of 2024) which requires, notwithstanding any other provision of law, that interest earnings from special funds (with certain exceptions) accrue to the general fund from fiscal 2024 through 2028. Thus, to the extent that any special fund revenues are attained through judgments/settlements, general fund revenues increase from interest earnings of the new special fund through fiscal 2028. The fund is exempted from a similar requirement under § 6-226(a)(2) of the State Finance and Procurement Article that applies from fiscal 2029 forward.

Judiciary: Although the bill may result in additional case filings, it is not anticipated to materially impact the Judiciary.

Expense Reimbursements: Any expense reimbursements for advisory council members are assumed to be minimal and absorbable within existing budgeted resources.

Small Business Effect: Small businesses may be affected to the extent that they are eligible and receive funding from CCRF, should any revenues be attained. If the Attorney General hires a law firm that qualifies as a small business to provide outside counsel on a contingency fee basis (as authorized by the bill), the bill may have a meaningful effect.

Additional Comments: MDE's Climate Change Program has numerous reports available on its [website](#) that address the impacts of climate change in Maryland and contain the State's plan to address those impacts.

Additional Information

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

Designated Cross File: None.

Information Source(s): Calvert and Prince George’s counties; Maryland Association of Counties; Maryland Department of Emergency Management; Maryland Municipal League; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2025
km/jkb

Analysis by: Kathleen P. Kennedy

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