

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 886 (Delegate Pena-Melnyk, *et al.*)
 Environment and Transportation

Environment - Refuse Disposal Systems - Public Notice and Hearing Requirements

This bill expands public notice and hearing requirements related to amendments and renewals of refuse disposal system permits. Specifically, before the Maryland Department of the Environment (MDE) approves the amendment or renewal of a permit for a refuse disposal system, it must (1) provide notice of the permit amendment or renewal in accordance with Subtitle 6 of Title 1 of the Environment Article (Public Participation in the Permitting Process) and (2) hold a public hearing.

Fiscal Summary

State Effect: General fund expenditures increase by \$58,900 in FY 2018 for MDE to hire an engineer to implement the additional notice and hearing requirements. Future year expenditures reflect annualization and ongoing costs. Revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	58,900	73,400	76,800	80,300	84,000
Net Effect	(\$58,900)	(\$73,400)	(\$76,800)	(\$80,300)	(\$84,000)

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

Local Effect: Minimal increase in expenditures for any local government that owns or operates a facility subject to a refuse disposal system permit to pay for additional public notice and hearings. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Current Law/Background:

Permit Action Requiring Public Notice and Public Hearing

Adequate public notice and an opportunity to request a public informational meeting and a public hearing are required for a new or materially altered refuse disposal permit for a landfill or incinerator. There is no public hearing requirement for a renewal or minor modification of an existing refuse disposal permit for a landfill or incinerator. Further, there is no public hearing requirement for a new or materially altered refuse disposal permit for a facility other than a landfill or incinerator (such as a processing facility or a transfer station).

Notice Requirements under Title 1, Subtitle 6 of the Environment Article

For permit applications subject to Title 1, Subtitle 6, notice must be posted at least once a week for two consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area for which a proposed facility is located. MDE may require notice of an informational meeting or a public hearing by mail to each person requesting the meeting or hearing, and MDE may require that the notice be posted at the proposed facility or at public facilities in the geographical area of the proposed facility. An applicant bears all notice costs incurred by MDE, and MDE may require the applicant to publish and send the required notices.

MDE must also electronically post notice of an application for a permit on its website and provide a method for interested persons to electronically request any additional notices related to an application for a permit.

Procedural Requirements for Refuse Disposal Permits

MDE advises that as a matter of policy, the department implements certain procedural requirements that exist in statute – *only* for new or materially altered refuse disposal permits for landfills and incinerators – to *all* refuse disposal permits.

Refuse disposal permits have five-year terms, and MDE requires permittees to submit a renewal application and provide notice of the renewal to each member of the General Assembly in whose district the landfill is located. MDE advises that it uses the permit renewal process as an opportunity to update the permit to meet any new regulatory requirements, update citations to outdated construction documents (*e.g.*, the erosion and sediment control approval by the local soil conservation district has to be updated and reapproved every five years), and change references to contact numbers, when appropriate.

Pursuant to current law, material alterations to the permit during renewal process are not approved without undergoing the full public notice procedures required under § 1-602 of the Environment Article.

MDE advises that the projected lifetime of a county municipal solid waste landfill may exceed 50 years, so the initial permit review includes a detailed technical evaluation, confirmation from the local government that the facility meets zoning and land use requirements and conforms to the county's solid waste management plan, and a detailed public participation process. In addition, MDE has the authority under § 9-214 of the Environment Article to revoke or refuse to renew a landfill permit if its continued operation would be injurious to public health or the environment or if there is any other good cause.

MDE provided the following examples of changes to landfills and incinerators that are considered material alterations and trigger public notice and hearing requirements under current law: a change to the permitted shape or capacity of the landfill; a significant change to the design of the landfill, such as decreasing from two liners to one liner; a change in the ownership of a facility; and a change to a design feature that was of particular concern to the public during the original public comment period.

Permitted Refuse Disposal Facilities in the State

There are currently 82 permitted refuse disposal facilities that are affected by the bill. Of these 82 facilities, 41 are privately owned, 38 are owned by counties or municipalities, and 3 are operated by the Maryland Environmental Service (MES) on behalf of certain counties.

State Expenditures: General fund expenditures for MDE increase by \$58,875 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of hiring one regulation and compliance engineer to handle the additional public hearings and notices anticipated as a result of the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses, including travel and supplies. The information and assumptions used in calculating this estimate are stated below:

- the engineer is responsible for completing an updated fact sheet for affected facilities for distribution at hearings, coordinating hearing dates with permittees, arranging the draft permits and other pertinent documents to be placed in the local repository, arranging for court reporters to make transcripts of the hearings, traveling to and attending the hearings, and reviewing and responding to public comments;
- the amount of work required to prepare for and hold each public hearing is significant;

- depending on the level of public interest in a facility, the length of any given hearing and the number and complexity of public comments that must be addressed can be extensive;
- the Solid Waste Program within MDE currently has four permit writers and two supervisors who work on refuse disposal permits, and the program does not have sufficient resources to absorb the additional duties established by the bill; and
- an average of 16 to 17 additional hearings are anticipated each year.

Position	1
Salary and Fringe Benefits	\$52,305
Equipment/Operating Expenses	<u>6,570</u>
Total FY 2018 State Expenditures	\$58,875

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

This estimate only reflects MDE’s additional staffing costs and does not include any additional costs associated with holding the actual hearings or publishing the required notices. While MDE pays for costs associated with publishing notices and obtaining court reporters, the applicant reimburses MDE for such costs. MDE advises that if there are any costs associated with booking hearing venues, the applicant pays for those costs directly.

Any impact on MES is anticipated to be minimal.

Additional Information

Prior Introductions: None.

Cross File: SB 890 (Senator Rosapepe) - Education, Health, and Environmental Affairs.

Information Source(s): Baltimore, Carroll, Montgomery, and Queen Anne’s counties; Maryland Department of the Environment; Department of Legislative Services

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mm/lgc

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