

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1423

(Delegate Hecht, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Water Resources - Groundwater Appropriation or Use - Priority Funding Areas

This bill authorizes the Maryland Department of the Environment, in accordance with existing State policy and provided that it will not jeopardize the State's natural resources, to give priority for groundwater appropriations and use in Carroll, Frederick, or Washington counties to a public water system that provides water to specified municipal corporations or to specified priority funding areas. MDE is authorized to adopt regulations to implement the bill.

Fiscal Summary

State Effect: As drafted, MDE could implement the bill with existing budgeted resources.

Local Effect: Assuming MDE uses the bill's authority, certain local governments (generally municipalities) in the three affected counties could receive priority for groundwater appropriations and, as a result, could be able to permit more development at greater densities. Areas not given priority could be negatively affected by the bill's changes.

Small Business Effect: Potential meaningful impact in affected areas.

Analysis

Current Law:

Water Appropriation and Use

In order to conserve, protect, and use water resources of the State in accordance with the best interests of the people of Maryland, it is the policy of the State to control, so far as is feasible, appropriation or use of surface waters and groundwaters of the State. A permit must be obtained from MDE to appropriate or use or begin to construct any plant, building, or structure that may appropriate or use any waters of the State. An applicant must provide MDE with satisfactory proof that the proposed withdrawal of water will not jeopardize the State's natural resources. Before acting on any permit application, MDE must weigh all respective public advantages and disadvantages and make all appropriate investigations. Current regulations establish criteria MDE must follow in approving water appropriation or use permits.

In carrying out this mandate, MDE has evaluated the groundwater resources of the State and has developed methods of analysis to ensure that proposed water appropriation and use is in the best interests of the public and that it will not jeopardize the State's natural resources.

Priority Funding Areas

In 1997, Governor Glendening's Smart Growth and Neighborhood Revitalization legislative package was enacted in an effort to reduce the impact of urban sprawl on the environment and encourage growth in existing communities. The initiative, which was designed to protect Maryland's green spaces and to preserve the State's rural areas, aims to manage growth by restricting State funding to designated PFAs. The Smart Growth legislation established certain areas as PFAs and allowed counties to designate additional areas if they meet minimum criteria. **Exhibit 1** lists the areas initially established as PFAs and areas eligible for county designation.

Background: The natural limitation on the amount of groundwater that can be withdrawn without adversely impacting the State's natural resources has in some cases limited the amount of development that can be supported in municipalities that rely solely on groundwater from water table aquifers for water supply (primarily those located in the central "Piedmont" portion of Maryland). Each household on average uses approximately 250 gallons of water a day. In areas where the amount of groundwater recharge per acre is not sufficient, higher density developments must incorporate sufficient open space areas or otherwise restrict water use-associated land located outside

of the developed areas but still within the aquifer recharge area to ensure that the groundwater recharge is not exceeded by the water withdrawal.

Concern has been raised that the State's groundwater recharge policy encourages sprawl by limiting the amount of water available to municipalities for growth within town limits.

Exhibit 1
Smart Growth – Priority Funding Areas

Areas Initially Established by Law

Areas Eligible for County Designation

Municipalities

Areas with industrial zoning

Baltimore City

Areas with employment as the principal use which are served by, or planned for, a sewer system

Areas inside the Baltimore and Washington beltways

Existing communities within county-designated growth areas which are served by a water or sewer system and which have an average density of 2 or more units per acre

Neighborhoods designated for revitalization by the Department of Housing and Community Development

Rural villages

Enterprise and Empowerment Zones

Other areas within county-designated growth areas that, among other things, have a permitted density of 3.5 or more units per acre for new residential development

Certified Heritage Areas within county-designated growth areas

Source: Maryland Department of Planning

State Expenditures: MDE advises that, under the bill, it would be required to establish a comprehensive, coordinated priority system. Accordingly, MDE advises that its costs

would increase by approximately \$51,000 in fiscal 2009, increasing annually thereafter, to hire a water resources engineer to establish and implement the priority system and to develop related regulations.

Legislative Services advises, however, that the bill does not *require* MDE to establish a priority system; rather, it merely authorizes MDE to give priority to certain entities when considering permit applications. Accordingly, MDE could implement the bill's authority with existing budgeted resources.

According to MDE, any modifications to existing groundwater allocations which results in more water being appropriated to some areas would be offset in some way to ensure that the resource is being protected to the same level as it currently is.

Small Business Effect: To the extent the bill enables additional development in certain areas in Carroll, Frederick, and Washington counties, small businesses (contractors, other construction-related businesses, and service-oriented businesses) in those areas could benefit. To the extent the bill results in a decrease in development in other areas, small businesses in those areas could be negatively impacted. The bill could also have a negative impact on any small business landowners (such as farmers) not given priority for groundwater appropriations under the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 674 (Senator Brinkley) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of the Environment, Maryland Department of Planning, Maryland Municipal League, Maryland Association of Counties, Carroll County, Harford County, Montgomery County, City of Laurel, Department of Legislative Services

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