

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 269 (Senator Hester, *et al.*)
 Budget and Taxation

Comprehensive Flood Management Grant Program - Awards for Flood Damage and Mandatory Funding

This bill expands the policy and purposes of provisions of State law regarding flood control and watershed management to include infrastructure repairs, debris removal, and emergency protection work associated with a flood event. The bill authorizes the Maryland Department of the Environment (MDE), under its existing comprehensive flood management grant program, to award grants to subdivisions that have incurred at least \$1 million in infrastructure damage by a flood event that occurred on or after January 1, 2009, as specified. Finally, the bill requires the Governor, for each fiscal year, to include in the annual State budget an appropriation of at least \$5 million for the comprehensive flood management grant program. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: General fund expenditures increase by \$5.2 million in FY 2020 for grant funding and staff; future years reflect ongoing costs and the bill’s mandated appropriation. Although not mandated, this analysis assumes funding is provided in FY 2020. Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2021.**

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	5,158,700	5,148,900	5,153,900	5,159,100	5,164,600
Net Effect	(\$5,158,700)	(\$5,148,900)	(\$5,153,900)	(\$5,159,100)	(\$5,164,600)

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

Local Effect: Local grant revenues and expenditures increase significantly.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: MDE may award grants to qualifying subdivisions for an amount up to 50% of the combined cost of infrastructure repairs, debris removal, and emergency work associated with a flood event. Grants awarded pursuant to the bill's provisions must be used for infrastructure repairs, debris removal, or emergency protection work associated with the flood event, including costs that have already been incurred. MDE must prioritize awarding grants under the bill to subdivisions in which infrastructure damage (1) occurred in a locally designated historic district or (2) caused by a flood event has occurred more than once within the previous five years.

Current Law/Background: For the purposes of State law regarding flood control and watershed management, "subdivision" is defined as any county, including Baltimore City, and any incorporated municipality that has the authority to adopt and enforce land use and control measures for the areas within its jurisdiction.

Flood Control and Watershed Management Program and Comprehensive Flood Management Grant Program

There is a flood control and watershed management program within MDE. Among other things, the program is responsible for (1) assisting in the development of guidance to minimize the impacts of flooding and (2) providing State guidelines and technical assistance to local governments to manage flood areas.

MDE's comprehensive flood management grant program was established in 1976 to promote the development of local flood management plans, fund studies of watersheds, and support capital projects for flood control and watershed management. MDE advises that the program was historically funded through the capital budget, and funds were used for flood prevention. Pursuant to statute, only county and municipal governments are eligible to receive grants under the program. According to MDE, the program has not been funded since 2002 and is not currently operational. However, the Governor's proposed fiscal 2020 capital budget includes \$5 million in general obligation (GO) bonds for the program. The proposed capital funding is for fiscal 2020 only; the *Capital Improvement Program* (CIP) does not include any funding for the program beyond fiscal 2020.

For flood control and watershed management capital projects that do not involve federal funds, the grant program may provide up to 75% of the project costs, and local governments must provide matching funds of at least 25% of project costs. For projects that involve federal funding, the State may provide up to 50% of the nonfederal share, and local governments and private funds must provide at least 50% of the nonfederal share.

MDE notes that capital projects related to infrastructure repair are eligible for funding under existing law if the repairs are part of a local flood management plan. However, MDE advises that debris removal and emergency protection work conducted after a flood event are considered operating projects, are generally coordinated through the Maryland Emergency Management Agency (MEMA), and are not eligible for capital grants through MDE's existing grant program.

National Flood Insurance Program and Federal Hazard Mitigation Grant Program

All Maryland counties and 92 municipalities participate in the National Flood Insurance Program (NFIP). This program makes flood insurance available to property owners in participating communities. In return, local governments must adopt ordinances to manage development within 100-year floodplains to prevent increased flooding and minimize future flood damage.

MDE's Water and Science Administration is the State's coordinating office for NFIP. In order to participate in NFIP, local communities must adopt and enforce a floodplain management ordinance containing minimum requirements specified by federal law, which apply in floodplain areas mapped by the Federal Emergency Management Agency (FEMA). In addition, the ordinance should reflect State laws and policies.

FEMA's Hazard Mitigation Grant Program is one of three federal programs that provide funding for eligible mitigation planning and projects. The Hazard Mitigation Grant Program is designed to help communities implement hazard mitigation measures following a Presidential Major Disaster Declaration. The key purpose of the federal grant program is to enact mitigation measures that reduce the risk of loss of life and property from future disasters.

State Expenditures:

Mandated Funding for the Comprehensive Flood Management Grant Program

As discussed above, the Governor's proposed capital budget includes \$5 million in GO bond funding for the comprehensive flood management grant program for fiscal 2020 only. Both MDE and the Department of Budget and Management advise that the proposed capital funding was not included in anticipation of this bill and is not intended to support the expanded purposes of the grant program under the bill.

Accordingly, general fund (or PAYGO general fund) expenditures increase by \$5 million annually beginning in fiscal 2020 to provide grants under the program. This estimate assumes that, because, effective June 1, 2019, the bill expands the authorized uses of the grant funds to include some operating projects that cannot be funded using GO bonds, the

bill’s mandated appropriation must be met through a separate appropriation in the operating budget. Thus, it is assumed that either general funds or PAYGO general funds are appropriated for the program. Additionally, although the mandated appropriation does not take effect until fiscal 2021, this estimate assumes that funding is also provided in fiscal 2020.

The Department of Legislative Services notes, however, that because some of the additional projects authorized to be awarded grants under the bill *can* be funded with GO bonds, in future years, it is possible that the bill’s mandated appropriation may be met using some combination of general funds and GO bonds. To the extent that this occurs, the need for general funds in the out-years decreases.

Administrative Expenses

This analysis assumes that the \$5 million annual appropriation discussed above is used exclusively for grant awards. Thus, in addition to the general funds needed to provide grants, general fund expenditures also increase by \$158,667 in fiscal 2020, which accounts for a 30-day start-up delay. This estimate reflects the cost of hiring two regulatory and compliance engineers within MDE to (1) staff the grant program; (2) coordinate project funding; (3) coordinate with MEMA, as appropriate; (4) review project plans and specifications; (5) award grant funds; and (6) manage funded projects. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the grant program has not been active for approximately 15 years, and the two previous staff positions for the program have since been eliminated;
- although there is proposed capital funding for the program in fiscal 2020, no future capital funding is anticipated in the absence of the bill; however, the bill’s mandated appropriation continues in perpetuity, requiring permanent staff;
- additional general funds (beyond those appropriated for grants) are required to cover MDE’s administrative costs;
- MDE does not currently provide funding for flood response activities and does not have expertise in this area; and
- MDE’s existing staff does not have the capacity to administer the grant program as expanded by the bill.

Positions	2
Salaries and Fringe Benefits	\$147,637
Operating Expenses	<u>11,030</u>
FY 2020 MDE Administrative Costs	\$158,667

Future year administrative expenditures reflect salaries with annual increases and employee turnover and ongoing operating expenses.

It is assumed that MEMA can coordinate with MDE using existing budgeted resources. MEMA is already required, under current law, to review and approve local response plans under the existing grant program.

Local Fiscal Effect: Because only counties and municipalities are eligible for grants under the program, grant revenues and expenditures for local governments (or reimbursements for costs already incurred) increase significantly for those local governments that successfully apply for and receive grants as a result of the bill.

Because the bill mandates funding for the program beginning in fiscal 2021, and because the bill expands the purposes for which grants under the program may be used, it is assumed that the bill reduces costs that otherwise may have been incurred by local jurisdictions. Also, because the bill allows grants to be awarded for costs that have already been incurred (those incurred on or after January 1, 2009), the bill likely results in reimbursements to some local jurisdictions for eligible costs of projects already undertaken. Additionally, MDE advises that State grant funds provided under the bill may enable local jurisdictions to leverage additional federal grant funds.

MDE advises that, given the flood damage that has been incurred in recent years in Ellicott City and Annapolis, grant awards to those jurisdictions could easily use the entire mandated appropriation for several years.

Small Business Effect: Small business involved in flood mitigation, flood repairs, or debris removal projects may benefit from an increase in business resulting from the additional funding provided as a result of the bill. Additionally, small business owners may benefit from funding passed through from local governments for infrastructure repairs. Finally, small businesses in a location that receives flood mitigation funding benefit from protection from damage during flood events.

Additional Information

Prior Introductions: None.

Cross File: HB 428 (Delegate C. Watson, *et al.*) - Environment and Transportation and Appropriations.

Information Source(s): Anne Arundel, Baltimore, Montgomery, and Somerset counties; Governor's Office; Department of Budget and Management; Maryland Department of the

Environment; Maryland Department of Planning; Board of Public Works; Military Department; Federal Emergency Management Agency; Department of Legislative Services

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md/lgc

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