

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 370 (Senator West, *et al.*)
Education, Health, and Environmental Affairs

Environment - Recycling - Commercial Properties

This bill requires each county recycling plan to address the collection and recycling of recyclable materials from specified large commercial properties. By October 1, 2021, the owner of a commercial property occupied by one or more commercial entities with a total of at least 200 full-time employees must provide for recycling for the employees on the property, as specified. The bill authorizes local governments to conduct inspections to enforce the bill's provisions and establishes a civil penalty for violations. **The bill's provisions relating to county recycling plans take effect October 1, 2020.**

Fiscal Summary

State Effect: The Maryland Department of the Environment (MDE) can implement the bill's changes with existing budgeted staff and resources. Revenues are not affected.

Local Effect: Local expenditures increase for some jurisdictions to revise their county recycling plans and, if they choose to use the bill's authority to conduct inspections, to enforce the bill. Local penalty revenues may increase, but local revenues from landfill tipping fees and the sale of recyclable materials may decrease. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary: Effective October 1, 2020, each county recycling plan must address the collection and recycling of recycling materials from commercial properties that are

occupied by one or more commercial entities with a total of 200 or more full-time employees.

By October 1, 2021, the owner of such a property must provide for recycling for the employees on the property, including (1) the provision of a recycling receptacle on the premises and (2) the removal (for further recycling) of all recyclable materials placed into the recycling receptacle. The required recycling must be carried out in accordance with the county recycling plan for the county where the property is located. A county may establish reporting requirements for an affected commercial property owner.

A person who violates the bill's recycling provisions is subject to a civil penalty of up to \$300 per day on which the violation exists. An enforcement unit, officer, or official of a county, a municipality, or any other local government may conduct inspections of a commercial property to enforce the bill's requirements. Any penalties collected pursuant to the bill must be paid to the county, municipality, or local government that brought the enforcement action.

The bill does not affect the authority of a county, municipality, or any other local government to enact and enforce recycling requirements that are more stringent than the bill's requirements, as specified. The bill also does not require a county to manage or enforce the recycling activities of a commercial property that is located within the boundaries of a municipality.

Current Law: Maryland's recycling policy is guided by the Maryland Recycling Act, which sets mandatory recycling rates for State government and local jurisdictions, as well as a voluntary statewide recycling goal of 60% by 2020. Each county (including Baltimore City) must prepare a recycling plan that addresses how the jurisdiction will achieve its mandatory recycling rate. The plan must be submitted to MDE's Office of Recycling for approval when the jurisdiction submits its water and sewerage plan at least every 10 years. At least every 2 years, each county must also submit a progress report to MDE, which must include any revision of or amendment to the county plan that has been adopted.

The county recycling plan must address a variety of topics, including methods to reduce the solid waste stream; the feasibility of source separation of the solid waste stream generated within the county; and the strategy for the collection, processing, marketing, and disposition of recyclable materials.

The Office of Recycling within MDE must submit biannual reports, in coordination with the Maryland Environmental Service, to the Governor and the General Assembly on specified information related to recycling in Maryland. Beginning in 2009, MDE combined the *Maryland Waste Diversion Activities Report* and the *Solid Waste Managed in Maryland Report* into one report.

Background: MDE is not directly involved in recycling at commercial properties and does not have the authority to require recycling at commercial properties. However, MDE notes that businesses may voluntarily report their recycling activities to counties through the “Annual Business Recycling Reporting Survey” form. Counties incorporate this data when reporting their recycling tonnages to MDE, and this data ultimately counts toward their mandatory recycling rates.

MDE further notes that some counties address commercial recycling in their county recycling programs. For example, Montgomery County requires all commercial businesses, regardless of employee size, to recycle and to report their activities to the Montgomery County Department of Environmental Protection. Prince George’s County requires business and commercial property owners to provide employees, tenants, and customers with an opportunity to recycle. Harford County (1) has established an online form where business can voluntarily report their recycling data and (2) provides assistance to businesses establishing recycling programs.

Local Revenues: Local government revenues may increase as a result of the collection of the \$300 per day civil penalty established by the bill for violations of the bill’s recycling requirements; pursuant to the bill, penalties are paid to the local jurisdiction that brought the enforcement action.

On the other hand, the bill may result in a decrease in revenues for locally owned refuse disposal systems, such as landfills and resource recovery facilities, due to a decrease in the collection of materials discarded in landfills and a decrease in the sale of recyclable materials. Landfills are funded in significant part through the payment of tipping fees, and resource recovery facilities earn significant revenue from the sale of recyclable materials.

Local Expenditures: Local government expenditures increase for some jurisdictions to revise their county recycling plans to incorporate the collection and recycling of recyclable materials from affected commercial properties, and potentially to revise their 10-year solid waste plans, as appropriate. To the extent that the changes to these plans are relatively minor, and can be accomplished within a county’s normal update and review schedule, these costs could be minimal. On the other hand, to the extent that county plans must be revised earlier than they otherwise would be, some counties may need to hire consultants, resulting in additional costs. Further, MDE advises that even minor amendments require public hearings and notice. If comments raised by MDE and during the required public hearing process require substantial revisions to a county plan, costs are higher.

Local expenditures may also increase to the extent local jurisdictions use the bill’s authority to conduct inspections to enforce the bill’s recycling provisions.

Local governments may also benefit to the extent that any increase in commercial property recycling under the bill assists counties in meeting their mandatory recycling rates under the Maryland Recycling Act.

Small Business Effect: Beginning October 1, 2021, any small businesses that own affected commercial buildings may incur additional costs to procure recycling bins that comply with the bill's specifications and to contract with recyclable materials haulers to ensure materials collected in the affected buildings are recycled. These additional costs, which are likely most significant in fiscal 2022 through 2024, may be offset in future years to the extent that affected businesses realize savings from a reduction in the payment of tipping fees for the disposal of solid waste at landfills.

If a small business is a tenant in an affected commercial property, the business may benefit from the recycling services offered as a result of the bill. However, if costs are passed along to tenants, lease payments may increase.

Small businesses engaged in the collection, transport, processing, or resale of recyclable materials may realize a meaningful increase in the demand for their services. However, small business waste disposal companies that do not specialize in the handling of recyclable materials may incur a loss of business.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Environmental Service; Harford and Montgomery counties; Northeast Maryland Waste Disposal Authority; City of College Park; Maryland Department of the Environment; Department of Legislative Services

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