



Maryland Department of the Environment
Fiscal Year 2024 Operating Budget
Response to the Department of Legislative Services Analysis

Senate Budget and Taxation Committee
Public Safety, Transportation & Environment Subcommittee
Senator Sarah Elfreth, Chair
February 24, 2023

House Appropriations Committee
Transportation and the Environment Subcommittee
Delegate Marc Korman, Chair
February 27, 2023

This response addresses the Legislative Analyst's issues noted for discussion and the recommended actions. The Maryland Department of the Environment (MDE or Department) is prepared to discuss the items as requested.

Fiscal 2023

1. Federal Stimulus Funds

The Department of Legislative Services (DLS) recommends that MDE comment on potential funding opportunities available through the Inflation Reduction Act and MDE's planned efforts to pursue competitive funding.

Department Response: MDE is completing an inventory of federal funding available to the Department. MDE is prioritizing grant funds with an Environmental Justice focus such as the EJ Government to Government grant program. We intend to compete for as many grants as possible.

Proposed Budget Change

1. Personnel

DLS recommends that budget bill language be added to restrict funding pending the proper budgeting of personnel expenditures for the fiscal 2023 actual and the fiscal 2024 working appropriation in the correct statewide subjects with the fiscal 2025 budget submission.

Department Response: The FY22 actual expenditure data was provided to DBM as part of MDE's FY24 budget review for submission to DLS; the confirmatory letter has been drafted and will be submitted to DLS. MDE's Salary Allocation software program is being updated to automate reporting in the form requested by DLS. Currently MDE staff must manually compile and submit the data.

Issues

1. Water Supply Program Understaffing Addressed

DLS recommends that MDE comment on how it plans to meet the goal of the combined 102 regular positions and contractual FTEs and \$13.3 million in funding for the Water Supply Program in fiscal 2024 given that the fiscal 2024 budget only includes 86 regular positions and contractual FTEs and \$10.5 million.

Department Response: MDE will continue to work with DBM and the Governor's Office to add additional positions until the total number of required positions is reached. In FY23 there were 67 positions in Water Supply. In FY 24 MDE expects to have 86 staff with 16 additional positions being requested in coordination with DBM to achieve the goal of 102 positions.

2. Compliance and Enforcement Position Quarterly Reports

DLS recommends that the annual enforcement and inspection position strength assessment and vacant position budget bill language be added to MDE's budget.

Department Response: MDE will continue to provide the requested information.

3. Special Fund Shortfalls

DLS again recommends that MDE comment on why it is using general fund revenue to support the Water and Science Administration, the Land and Materials Administration, and the Air and Radiation Administration instead of revising the outdated fee structures. DLS also recommends that budget bill language be added restricting funding pending the submission of a report on revised fee structures for the fees supporting the Maryland Clean Water Fund, Lead Poisoning Prevention Fund, and the Maryland Clean Air Fund.

Department Response: MDE will work with the Administration regarding revisions to the fee structure. As mentioned in the DLS analysis, the current fee structure does not support the polluter pays principle. This is partially due to reductions in the number of permitted or licensed facilities due to plant closures, changes in the number of rental properties, and reduced tire sales, combined with increased salary and operating costs.

4. Maryland Used Tire Cleanup and Recycling Fund Annual Report Submitted

DLS recommends that language be added to restrict funding pending the submission of the Maryland Scrap Tire annual report on November 1, 2023.

Department Response: MDE believes these reports have been submitted in a timely manner and respectfully disagrees with withholding funds pending the submission.

Recommended Actions

1. Add the following language to the general fund appropriation:

provided that \$200,000 of this appropriation made for the purpose of general administrative expenses in the Land and Materials Administration may not be expended pending the submission of the Maryland Scrap Tire annual report. The requested report shall be submitted no later than November 1, 2023. The budget committees shall have 45 days from the date of the receipt of the report to review and comment. Funds restricted pending the receipt of the report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Department Response: MDE believes these reports have been submitted in a timely manner and respectfully disagrees with withholding funds pending the submission.

2. Add the following language to the general fund appropriation:

provided that \$200,000 of this appropriation made for the purpose of general administrative expenses may not be expended until the Maryland Department of the Environment (MDE), in cooperation with the Department of Budget and Management, submits a confirmatory letter to the budget committees indicating that MDE's prior year actual personnel expenditures up to and including fiscal 2023 and the fiscal 2024 working appropriation personnel expenditures are budgeted in the correct statewide subobjects. The confirmatory letter shall be submitted with the fiscal 2025 budget submission, and the budget committees shall have 45 days from the date of the receipt of the confirmatory letter to review and comment. Funds restricted pending the receipt of a confirmatory letter may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the confirmatory letter is not submitted to the budget committees.

Department Response: MDE and DBM will provide the data as requested and respectfully disagree with the recommendation to withhold funds pending submission of a confirmatory letter.

3. Add the following language to the general fund appropriation:

Further provided that \$100,000 of this appropriation made for the purpose of general operating expenses may not be expended until the Maryland Department of the Environment submits a report to the budget committees on revised fee structures for the fees that support the Maryland Clean Water Fund, Lead Poisoning Prevention Fund, and Maryland Clean Air Fund to ensure that the special funds can adequately support the Water and Science Administration, the Land and Materials Administration, and the Air and Radiation Administration, respectively, and to reduce the need for general fund support. The report shall be submitted by December 1, 2023, and the budget committees shall have 45 days from the date of the receipt of the report to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or

otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Department Response: MDE will work with the Administration regarding revisions to the fee structure and will provide the requested report. MDE respectfully disagrees with the recommendation to withhold funds pending submission of the report.

4. Add the following section:

SECTION XX. AND BE IT FURTHER ENACTED, That \$200,000 of the general fund appropriation in the Maryland Department of the Environment (MDE) and \$200,000 of the general fund appropriation in the Maryland Department of Agriculture (MDA) made for the purpose of general operating expenses may be expended only for the purpose of filling vacant compliance and enforcement positions provided, however, that no funds may be expended until MDE and MDA jointly prepare and submit quarterly reports on July 1, 2023; October 1, 2023; January 1, 2024; and April 1, 2024.

Department Response: MDE and MDA will continue submitting the quarterly reports in a timely manner and respectfully disagree with the recommendation to withhold funds pending submission of the reports.