

MEMORANDUM

TO: County Council

FROM: *MK* Michael Faden, Senior Legislative Attorney

SUBJECT: **Public Hearing:** Bill 60-10, Erosion and Sediment Control - Violations

Bill 60-10, Erosion and Sediment Control - Violations, sponsored by Councilmember Elrich, was introduced on December 14, 2010. A Transportation, Infrastructure, Energy and Environment Committee worksession is tentatively scheduled for January 27, 2011 at 2:00 p.m.

Bill 60-10 would increase the maximum civil penalty for a violation of the County sediment control law from \$500 (initial offense) or \$750 (later offense) to \$1000.

This packet contains:	<u>Circle #</u>
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Bill No. 60-10
Concerning: Erosion and Sediment
Control - Violations
Revised: 12-9-10 Draft No. 1
Introduced: December 14, 2010
Expires: June 14, 2012
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Elrich

AN ACT to:

- (1) increase the maximum civil penalty for violations of the County sediment control law; and
- (2) generally amend the law regarding enforcement of sediment control requirements.

By amending

Montgomery County Code
Chapter 19, Erosion, Sediment Control, and Storm Water Management
Section 19-69

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

LEGISLATIVE REQUEST REPORT

Bill 60-10

Erosion and Sediment Control - Violations

DESCRIPTION: Bill 60-10 would increase the maximum civil penalty for a violation of the County sediment control law from \$500 (initial offense) or \$750 (later offense) to \$1000..

PROBLEM: Inadequate level of civil fines to deter violations of the County sediment control law.

GOALS AND OBJECTIVES: Increase compliance with the County sediment control law.

COORDINATION: Department of Permitting Services, Planning Board

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Michael Faden, Senior Legislative Attorney, 240-777-7905

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Currently Class A.

BILL 60-10



NAN
CC
SBF
LL
MF

OFFICE OF MANAGEMENT AND BUDGET

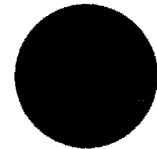
Isiah Leggett
County Executive

MEMORANDUM

Joseph F. Beach
Director

January 11, 2011

060032



TO: Valerie Ervin, President, County Council
FROM: Joseph F. Beach, Director, Office of Management and Budget
SUBJECT: Council Bill 60-10, Erosion and Sediment Control - Violations

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

Bill 60-10 would increase the maximum civil penalty for a violation of the County sediment control law from \$500 (initial offense) or \$750 (repeat offense) to \$1,000.

FISCAL AND ECONOMIC SUMMARY

As proposed, the bill will not have a significant fiscal impact to the County. Violators of the Sediment Control law have the right to a hearing in District Court and the proposed increase in fines could result in more violators opting for a hearing as opposed to paying the fine. The Judge may render a verdict of guilty and will set the fine from \$0 to the allowable maximum. In most sediment control cases resolved in court, the Judge sets the fine well below the maximum permitted. Any additional revenues that may result from the higher assessed fines could be offset or diminished if the number of cases heard in court increases and the Judge were to impose a reduced fine. If the number of hearings increase, the Office of the County Attorney and the Department of Permitting Services have indicated that they would reallocate existing resources to cover costs associated with the increase in the number of hearings and will absorb any additional costs within the current budget appropriation.

The Department of Finance concludes that the proposed increase for the maximum penalty would not have an economic impact as the increase in fines is not so significant that construction or development would be deterred.

The following contributed to and concurred with this analysis: Michael Reahl, Department of Permitting Services; Marc Hansen, County Attorney; Mike Coveyou, Department of Finance; and Amy Wilson, Office of Management and Budget.

JFB:aw

- c: Kathleen Boucher, Assistant Chief Administrative Officer
- Dee Gonzalez, Offices of the County Executive
- Carla Reid, Director, Department of Permitting Services
- Marc Hansen, County Attorney
- Mike Coveyou, Department of Finance
- John Cuff, Office of Management and Budget
- Amy Wilson, Office of Management and Budget

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Office of the Director