



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0265

Title: Phase out use of styrofoam in food-related businesses

Primary Sponsor: Marler, Marilyn

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$153,807	\$225,850	\$227,972
State Special Revenue	\$0	\$0	\$24,982	\$25,356
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$24,982	\$25,356
Net Impact-General Fund Balance:	<u>\$0</u>	<u>(\$153,807)</u>	<u>(\$225,850)</u>	<u>(\$227,972)</u>

Description of fiscal impact: HB 265 requires the Department of Environmental Quality to develop rules to implement and enforce restrictions on the use of expanded polystyrene foam (Styrofoam) at restaurants or food establishments, resorts and hotels, and for food packagers.

FISCAL ANALYSIS

Assumptions:

Department of Environmental Quality (DEQ)

1. HB 265 requires the DEQ to create a new program for phasing out the use of Styrofoam and provides the authority for rule making.
2. Because HB 265 will be codified within a new part in Title 75, Chapter 10, MCA, new rules will need to be drafted, made available for public comment, and adopted during FY 2023. The rules would need to establish a process for receiving, processing, and acting on applications for exemptions; would further define appropriate exemptions to section 3 of the bill; and would include an enforcement mechanism.
3. HB 265 provides rulemaking authority to establish a fee and deposit this dedicated revenue source in the environmental rehabilitation and response account.

4. This dedicated revenue is only an amount necessary to process exemption applications and would not be received until FY 2024 when rules are established, and fees are collected.
5. A 0.50 FTE environmental scientist specialist, 0.20 FTE environmental program manager, and .05 FTE paralegal would be needed for development of the program. The estimated salary and benefits for FTE would be \$76,322 in FY 2023 and general fund would be needed for program development until fees are collected.
6. Approximately 0.50 FTE environmental scientist specialist, 0.20 FTE environmental program manager, and 0.50 senior environmental sciences and enforcement specialist would be needed to administer the program. The estimated salary and benefits for FTE would be \$119,866 in FY 2024 and \$121,664 in FY 2025.
7. The requirements for implementation of the bill are phased, with the first prohibition beginning January 1, 2024 for restaurants or food establishments (for food/beverages to be served in the food establishment). The next phase begins on January 1, 2025, for restaurants, food establishments, resorts and hotels (for food to be consumed on or off the premises). The final phase begins January 1, 2026 for food packagers.
8. In accordance with the Department of Public Health and Human Services Food and Consumer Safety Bureau, it is estimated that 7,500 establishments would have to comply after full implementation of program.
9. Ongoing expenses would be required to review and process exemption requests, provide compliance assistance and training, perform inspections, address citizen complaints, and implement enforcement provisions.
10. There will also be ongoing operating expenses including travel, training, and outreach and are estimated to be \$35,964 in FY 2023, \$46,679 in FY 2024, and \$47,377 in FY 2025.
11. Money in the environmental rehabilitation and response account cannot be used to pay for administration and enforcement of HB 265; therefore, expenses for administration and enforcement would be paid from the general fund.
12. All administrative and enforcement expenses would also be paid from the general fund because the fee established in HB 265 is for processing of exemption applications only.
13. Only 15% of the costs to administer and enforce HB 265 are for processing exemption applications.

Department of Corrections (DOC)

14. The DOC does have facilities that maintain food service licenses which are not exempt from this bill. The department compared the average cost per case of current packaging to polystyrene free packaging to estimate the impacts. The estimated increase cost for non-Styrofoam packaging is \$39,943 in FY 2024 and \$79,885 in FY 2025.

Office of Public Instruction (OPI)

15. A preliminary study of the projected cost for the State of Maryland to phase out polystyrene packaging from public schools found the alternatives to polystyrene containers were two to three times the cost on average¹. However, since school district financial statements do not report expenditure data specifically for food packaging it is not possible to estimate the total cost for public schools in Montana.

Montana School for the Deaf and the Blind (MSDB)

16. The expenditure estimate of just over \$4,000 per year is based on the price to purchase paper or sugarcane compostable products compared to products currently used by the school.
17. The costs are based on purchasing through state procurement, using state contract reductions.
18. The school will continue to serve food in individual serving containers.

Montana University System

19. The MUS already uses non-Styrofoam packaging and would have no fiscal impact.

¹ MB Public Affairs, Fiscal Impacts of Prohibiting Expanded Polystyrene Food Service Products in Maryland, Jan 2017

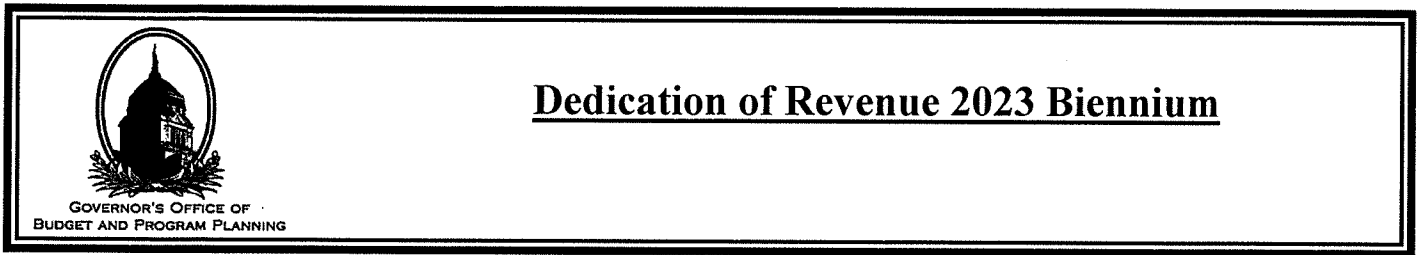
	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.00	0.75	1.20	1.20
<u>Expenditures:</u>				
Personal Services	\$0	\$76,322	\$119,866	\$121,664
Operating Expenses	\$0	\$77,485	\$130,966	\$131,664
TOTAL Expenditures	\$0	\$153,807	\$250,832	\$253,328
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$153,807	\$225,850	\$227,972
State Special Revenue (02)	\$0	\$0	\$24,982	\$25,356
TOTAL Funding of Exp.	\$0	\$153,807	\$250,832	\$253,328
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$24,982	\$25,356
TOTAL Revenues	\$0	\$0	\$24,982	\$25,356
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	(\$153,807)	(\$225,850)	(\$227,972)
State Special Revenue (02)	\$0	\$0	\$0	\$0

Technical Notes:

1. Fee revenue into the environmental rehabilitation and response account for processing exemption applications would displace a portion of the general fund expenditures beginning in FY 2024.
2. Codification of HB 265 in Title 75, Chapter 10, part 2, MCA would eliminate the need for adoption of enforcement rules and would eliminate potential challenges to those rules on grounds of unlawful delegation of legislative authority.

NOT SIGNED BY SPONSOR

_____ 2/8/21 _____ KA _____ 2/3/21
 Sponsor's Initials Date Budget Director's Initials Date



17-1-507, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay?**

No, the entities that pay benefit directly from the fee. The revenue is a fee received for the department's administrative cost to process the exemption application.

- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**

The revenue generated will partially offset the general fund needed to cover the cost to administer the program.

- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No**

No, revenue is limited, and general fund would still be needed.

- d) **Does the need for this state special revenue provision still exist? Yes No**

Yes, there is a need to develop rulemaking to set a fee and have a dedicated revenue account for administering the program.

- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending?**

No, legislated appropriation would still be needed.

- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need?**

No, this is new legislation.

- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency?**

There will be no impact to accounting/auditing. Program can be adequately be accounted for.