MARYLAND DEPARTMENT OF THE ENVIRONMENT

FISCAL ANALYSIS PROJECT UPDATE

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MDE 2007 Fiscal Analysis Project: 2009 Update

In 2007, the Maryland Department of the Environment completed an objective fiscal analysis of expenditures and revenues for ten years showing an internal structural deficit that, unless addressed, will require a reduction of FTEs beginning in fiscal year FY 2010. That analysis concluded that MDE had, in 2007, a one time gap of $25M and 370 FTEs to meet current mandates. That analysis also concluded that MDE's revenue would need to increase by $4M annually to maintain the current level of FTEs due to inflation and other fixed costs the agency does not control.

The 2009 update concludes that, despite an increase in one major fee and establishing one new major fee,[1] MDE's fiscal prognosis is very similar to the 2007 report. The agency is unable to keep pace with increasing health care costs and new mandates. The 2009 Update does conclude that the annual increase in revenue needed to maintain current levels of staffing has decreased to $3M annually.

MDE has used the results of the 2007 Fiscal Analysis as the basis for decision-making related to cost containment requirements by eliminating lower priority activities based on direct impact to public health or the environment. Activities eliminated or significantly reduced include administration based outreach and education, and recycling programming.

MDE is also using the results of the 2007 Fiscal Analysis to determine how existing resources within MDE can be reallocated to meet the highest priorities based on environmental and public health risks. This Phase, Phase 2, is ongoing, with a formal process in place to review the current function of each position as it becomes vacant against departmental needs and available funding.

The 2009 Update revises the MDE 2007 Fiscal Analysis to reflect current fiscal status of the agency.

Recommended actions have not changed as a result of the Update. Actions to address the internal structural deficit continue to include: identifying a mechanism to meet increased general fund staff costs; diversifying revenue for generally fund programs; ensuring dedicated fees are adequate to fund programs; and expanding available uses of special funds.

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[1] MDE has used the 2007 study to support legislation to increase permit fees in the Air Pollution Control Program and to implement new fees in the Wetlands and Waterways Program, a program that, for many years, was significantly understaffed and underfunded. These fees, now in effect, will provide revenue to support 34 new positions in the Wetlands Program and 6 new positions in the Air Pollution Control Program.

Update

MDE programs continue to rely on a combination of general, special, federal, and reimbursable funds to support activities. Due to increasing federal and state mandates, increases in salary and fringe benefit costs, and reductions in State general funds available for environmental programs over the past several years, MDE programs are increasingly dependent on non-general funds to support daily operations. As a result, special and federal fund expenditures are increasing faster than total revenues, which are insufficient for MDE to support all regulatory mandates and critical programs and activities.

Funding and Staffing:

- While the number of FTEs declined from 1,062 in FY 2002 (Figure 1) to 973 in FY 2007, from 2007 to 2008 the number of positions increased. Regulatory mandates, such as number of regulated sites, complexity of permit application reviews, and public controversies regarding regulatory decisions continue to grow. For example, Coal Combustion By-Products is a new area requiring regulation and inspection capacity for which MDE has not received new positions to implement the regulations. The staffing deficit identified in the 2007 report continues. The current position demand is estimated to be 349 positions.

- Salary expenses (wages and fringe benefit costs) per FTE are increasing at 3.5% per year (Figure 2), consistent with other State agencies. These increases are largely due to statewide cost-of-living adjustments, length of service salary increments, and employee health insurance subsidy costs.

- Based on the current trend of increasing cost/FTE, MDE's salary budget would need to increase by $3 million per year to maintain the current level of staffing (Figure 3).

- If MDE operating revenue does not increase to cover the increasing personnel costs, and if salary costs are not offset by reductions in operating costs, staffing levels are projected to decline from 1006 FTEs in FY 2009 (958 permanent and 48 contractual positions) to 830 FTEs by FY 2013, an average reduction of 44 FTEs per year (Figure 4). This is equivalent to one major MDE program function being eliminated annually, beginning in FY 2010.

Figure 1.

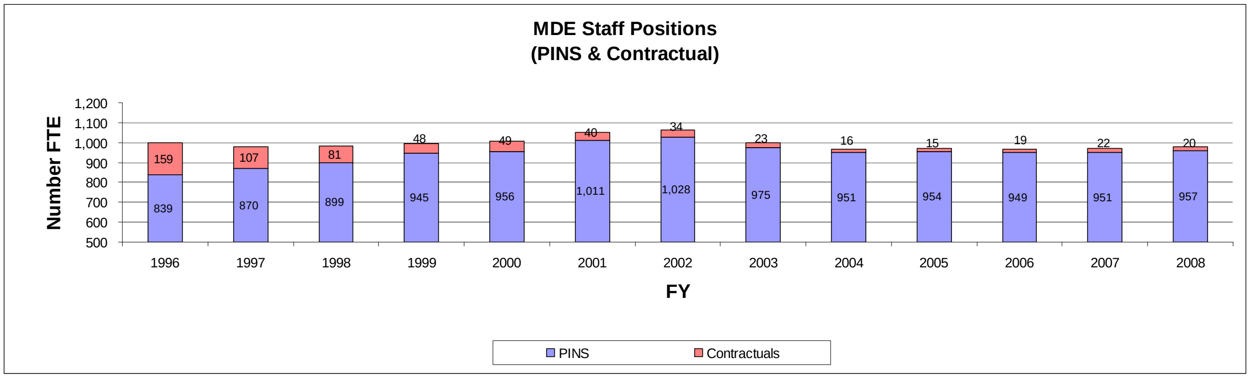


Figure 2.

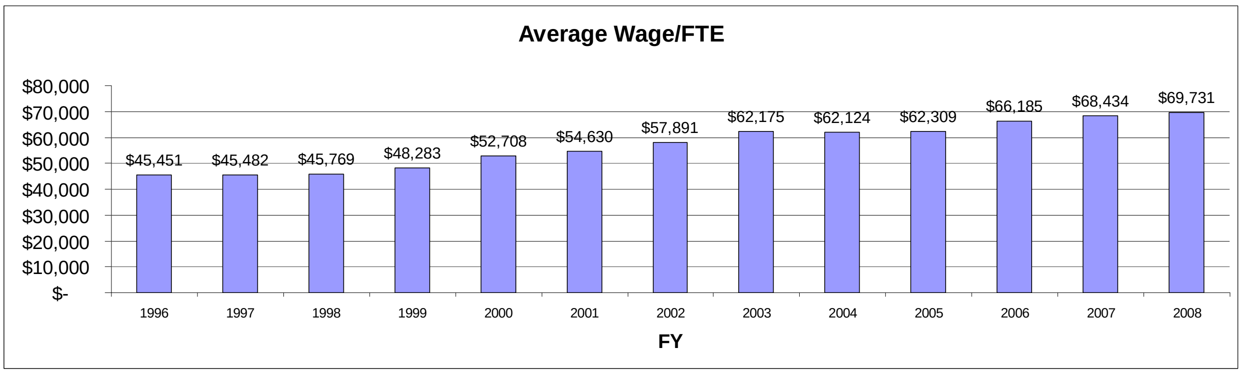


Figure 3.

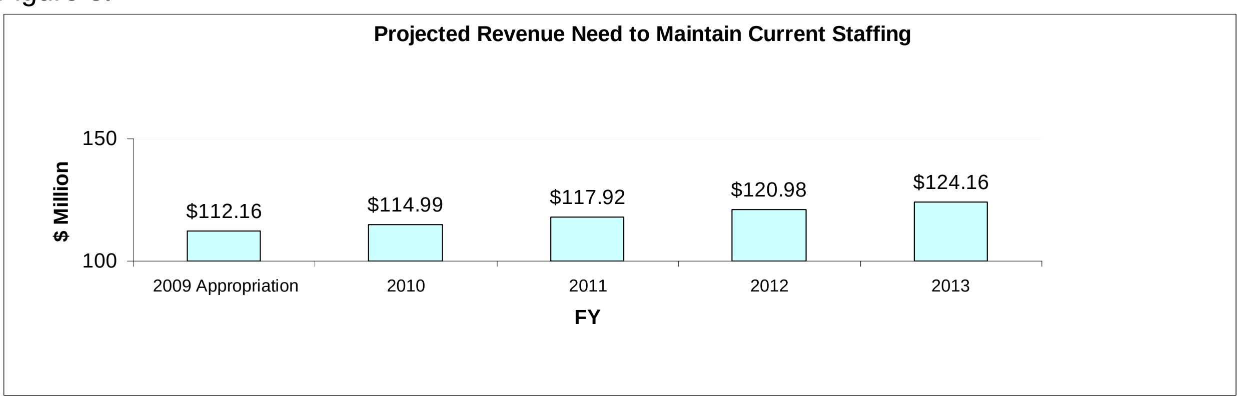
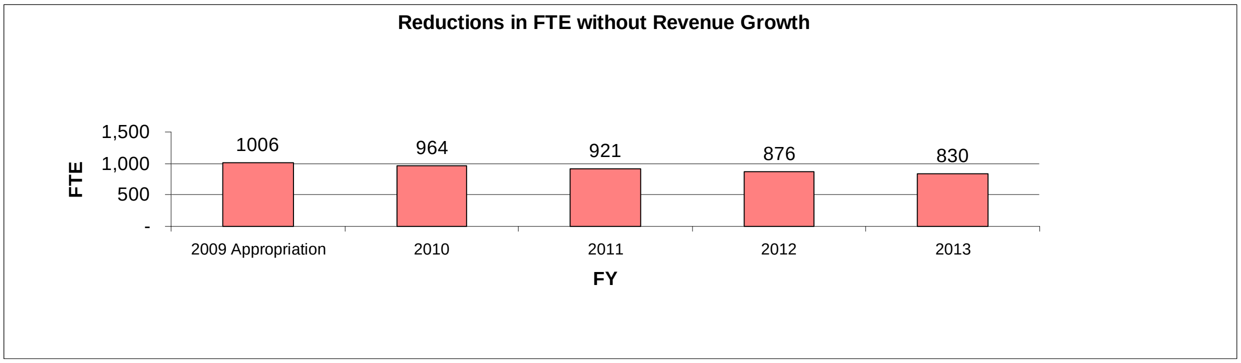


Figure 4.



It is also important to note that (1) certain federal grants require that a baseline level of effort be maintained, and if MDE falls below that level, the agency risks the loss of federal funds; (2) the current staffing level is not adequate to meet water quality goals as illustrated by the number of impaired waters in Maryland and apparent lack of progress on the Bay Restoration; and (3) federal and state mandates keep increasing, often without adequate staffing or funding to support these new requirements.

Sources of Funds

- MDE's operating budget relies on a combination of General, Federal, and Special funds, with modest support from Reimbursable funds. Overall MDE's budget has not kept up with inflation in recent years (Figure 5).

- MDE has limited control over fixed costs such as salaries and fringe benefits, rent, utilities, fuel, and debt service. Rent at MDE headquarters will increase by over $1 million annually in the near future.

- General funds have declined, from a peak of $45 million in FY 2002 to $37.9 million in FY 2009. The gap has been offset primarily by increased Special fund expenditures (Figure 6).

- Figure 7 shows the cumulative year-over-year MDE expenditure increase, compared to the average rate of increase of 4.5% per year, which indicates that:

    - Federal funds did not keep up with the rate of increase;
    - General funds kept up with the rate of increase through FY 2004 but have declined nearly 25% since then; and
    - Special funds filled the shortfall by spending down of fund balances - a trend that is not sustainable.

- Many of the fees collected to support the special funded programs have not been increased over the course of time and cannot be adjusted to reflect workload increases and inflation without statutory changes. For example, the Industrial Discharge Permit fee under the Clean Water Fund have not been raised since 1993, and several permit fees in the Mining Program have not been increased since the 1970's.

Figure 5.

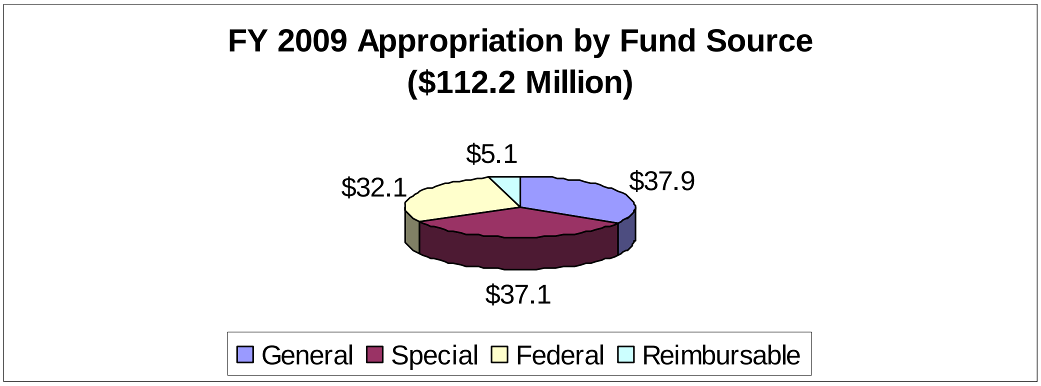


Figure 6.

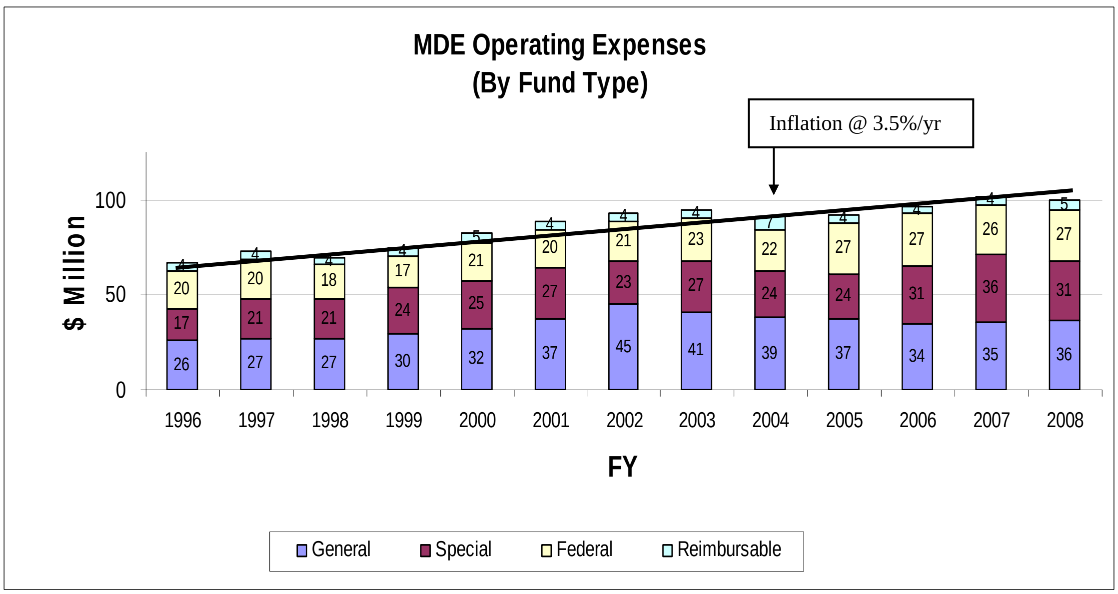
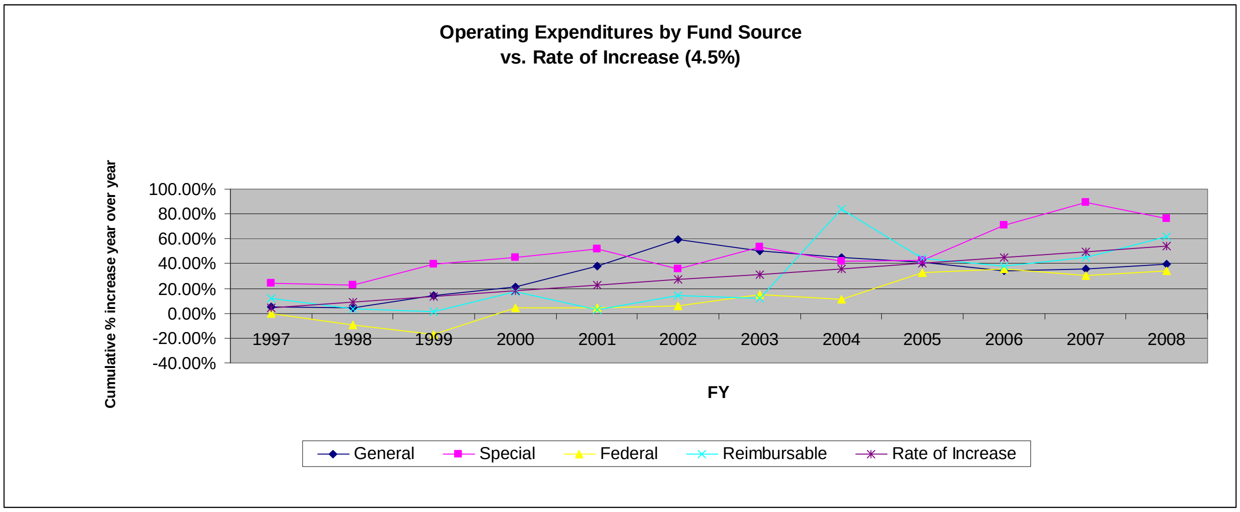


Figure 7.



FY 2006 Special Fund increase is primarily due to higher expenditures in the Clean Water Fund, Tire Fund, Revolving Loan Fund and Department's Indirect Cost recovery.

Although MDE actively applies for additional federal funds through competitive grants, federal grants fulfill only a portion of the total needs, and typically require some level of matching funds.

Special fund revenues contribute significantly to the Department's ability to address specific environmental and public health issues. However, the Department's inability to adjust fees without statutory changes to address workload increases and inflation significantly hampers its efforts to meet its mandates. In addition, because most fees have not been updated to keep up with the true cost of the activity, the number of special funds showing annual deficits is increasing.

Conclusions

Despite two recent legislative changes to generate new sources of non-general fund revenue, MDE's revenues continue to not keep pace with the rate of inflation and new requirements, and are currently inadequate to fulfill the Department's mandates despite significant and documented productivity gains. Adding to the gap between revenues and inflation-adjusted needs, are the cost associated with rapidly increasing federal and state mandates, the complexity of regulatory issues, and the increasing numbers of regulated entities, which are growing faster than inflation. Caps and inflexible limits on spending of special funds, the inability to adjust fees for increasing actual costs and the inability to fill positions or receive new positions even when special funds are available exacerbate the challenge.

Through Phase II of the study, decisions are being made to reduce MDE's core mission based on available revenue, recognizing the loss of positions for lower risk programmatic areas such as Recycling. Policy decisions are needed regarding the following:

1. Identifying a mechanism to provide for MDE's increased general fund staffing costs.
2. Diversifying fund sources for programs which are entirely dependent on general funds, such as the Solid Waste Program.
3. Ensuring that fees and other revenues are adequate to fully fund mission-critical

programs. Where applicable, legislative or regulatory changes should be made to allow periodic adjustment of special fees to account for inflation and workload adjustments, so that revenues can support the actual cost of the activity.

4. To enable the Department to address the highest environmental and public health priorities, single-purpose special funds could be combined, with a concurrent expansion in the eligible use of these funds. For example, revenues currently deposited into the Sediment Control Fund could be redirected to the Maryland Clean Water Fund, and its statutory uses could be expanded to include administration of the Sediment Control Program. This revenue-neutral approach would be very helpful, but not a complete solution to these challenges facing the Department.

These options are not exclusive of each other and there may be other options that could be considered.