MARYLAND DEPARTMENT OF THE ENVIRONMENT

FISCAL ANALYSIS PROJECT UPDATE

JANUARY 2010

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MDE 2007 Fiscal Analysis Project: 2010 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 January 2010 update concludes that, despite two new and two expanded fees,[1] MDE's fiscal prognosis is very similar to the 2007 report. The agency is still unable to keep pace with increasing personnel costs and new mandates such as climate change legislation enacted in the 2009 legislative session. The 2010 Update also conclude that the annual increase in revenue needed to maintain current levels of staffing remains at $3M annually.

Since the completion of the original analysis in 2007, two new special funds have been established within MDE, permit fees in the Air Pollution Control program have been increased, and the authorized use of the Used Tire Cleanup and Recycling Fund has been broadened. MDE received 67 new positions through the Board of Public Works since 2008 to meet a portion of the increased workload associated with both the new and existing mandates. Despite these actions, ongoing statewide cost containment requirements have impacted MDE's ability to meet statutory mandates and have further reduced the special fund balances that MDE has become increasingly dependent on to meet basic program costs.

MDE reviews and updates the data from the 2007 Fiscal Analysis annually and continues to use this information to determine how existing resources within MDE can be reallocated to meet the highest priorities based on environmental and public health risks, and as a basis for decision-making related to cost containment requirements. One outcome of this ongoing review process is a departmental reorganization, finalized in FY 2009. This reorganization further streamlined operations by consolidating similar activities and by eliminating certain overhead functions such as the Customer Service Center, reallocating the positions to programs with a more direct impact to public health or the environment.

The 2010 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, to implement new fees in the Wetlands and Waterways Program and for the regulation of Coal Combustion By-products, and to expand the authorized use of the Used Tire Cleanup and Recycling Fund. These fees will provide revenue to support 34 new positions in the Wetlands Program, 6 new positions in the Air Pollution Control Program, and 11 new positions in the Solid Waste 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 despite furloughs and other statewide actions impacting salaries, 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 2009 the number of positions has increased. Regulatory mandates, such as number of regulated sites, complexity of permit application reviews, and public controversies regarding regulatory decisions continue to grow. Coal Combustion By-Products is a new area requiring regulation and inspection capacity for which MDE recently received eleven new positions to implement the regulations. Climate Change legislation, enacted in the 2009 Legislative Session requires ten new positions which MDE has not received. The staffing deficit identified in the 2007 report continues. The current position demand is estimated to be 323 positions.

- Salary expenses (wages and fringe benefit costs) per FTE are increasing at an average of 3.9% per year (Figure 2), despite savings from mandatory statewide furlough days initiated in fiscal 2009. These increases are largely due to salary adjustments for certain classifications and employee fringe benefit 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 1015.5 FTEs in FY 2010 (970 permanent and 44.5 contractual positions) to 843 FTEs by FY 2014, an average reduction of 43 FTEs per year (Figure 4). This is equivalent to one major MDE program function being eliminated annually, beginning in FY 2011.

Figure 1.

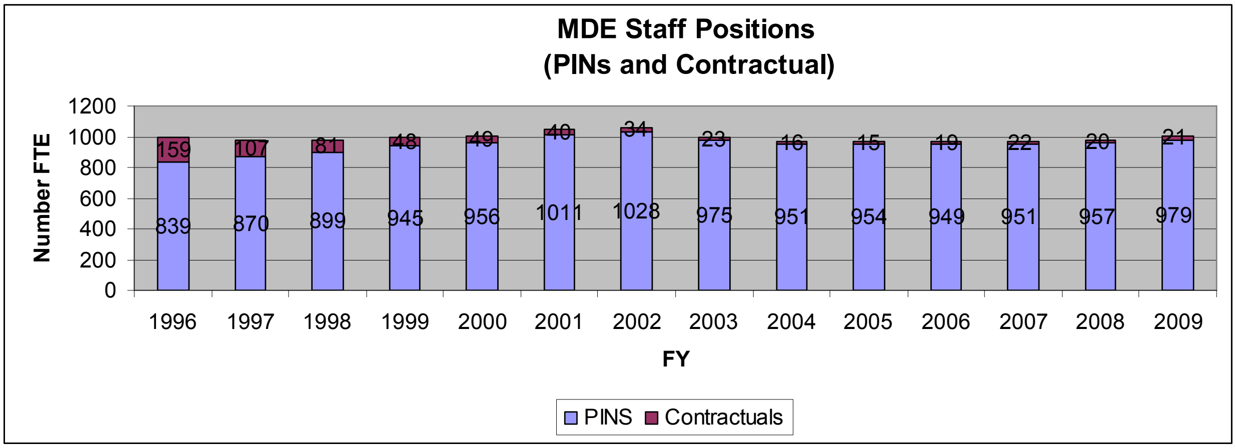


Figure 2.

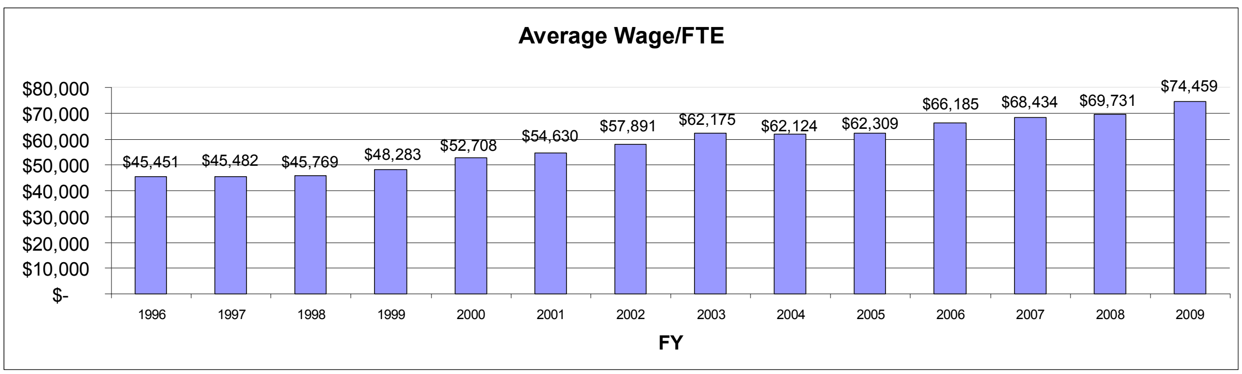


Figure 3.

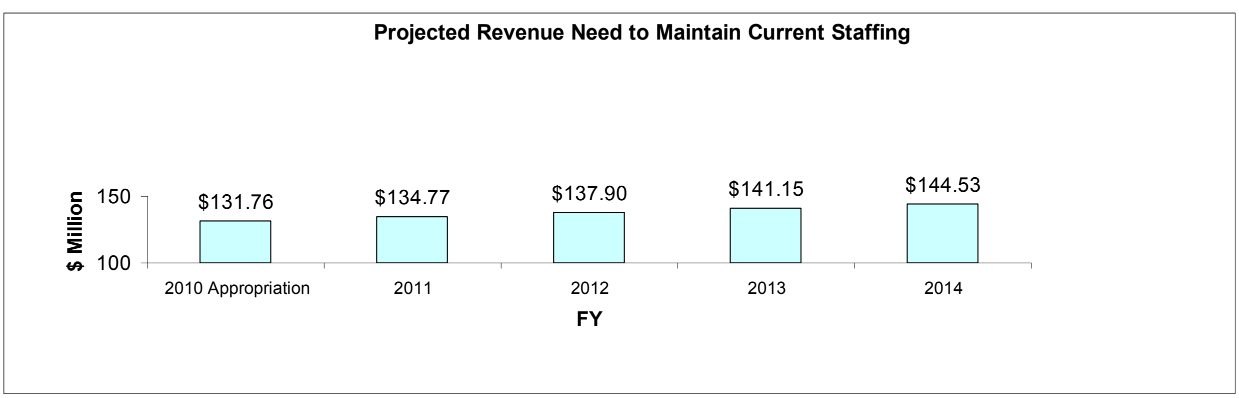
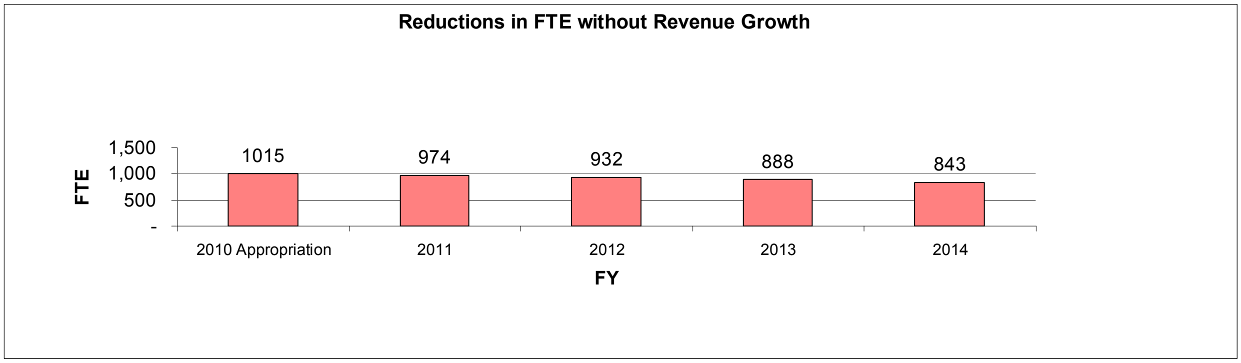


Figure 4.



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 still 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 continue to increase, 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. The FY 2010 appropriation includes $51.4 million in special fund appropriation (Figure 5), a significant increase over prior years. The increase includes additional appropriation from the Maryland Clean Air Fund and the Used Tire Cleanup and Recycling Fund resulting from legislative actions increasing fees in the Clean Air Fund and expanding authorized uses of the Tire Fund.

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

- General funds have declined, from a peak of $45 million in FY 2002 to $36.5 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; 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. MDE is currently reviewing all special funds and has introduced legislation to consolidate a small number of these funds to provide additional financial support for the environmental programs included in the legislation.

Figure 5.

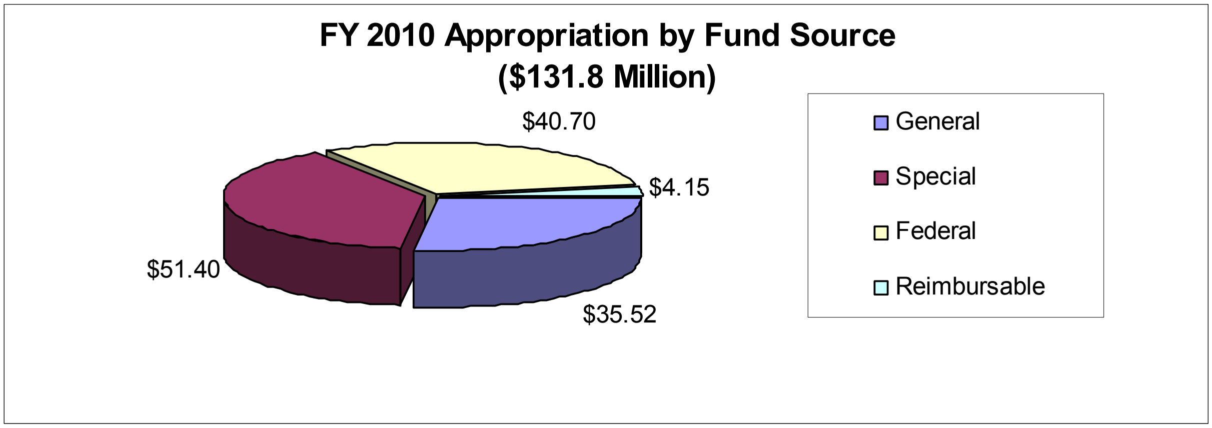


Figure 6.

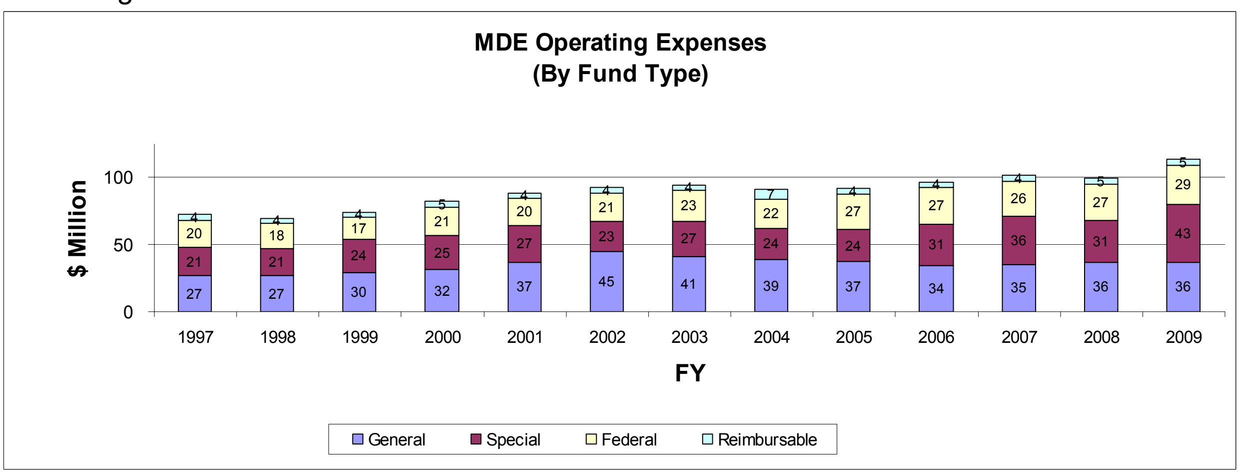
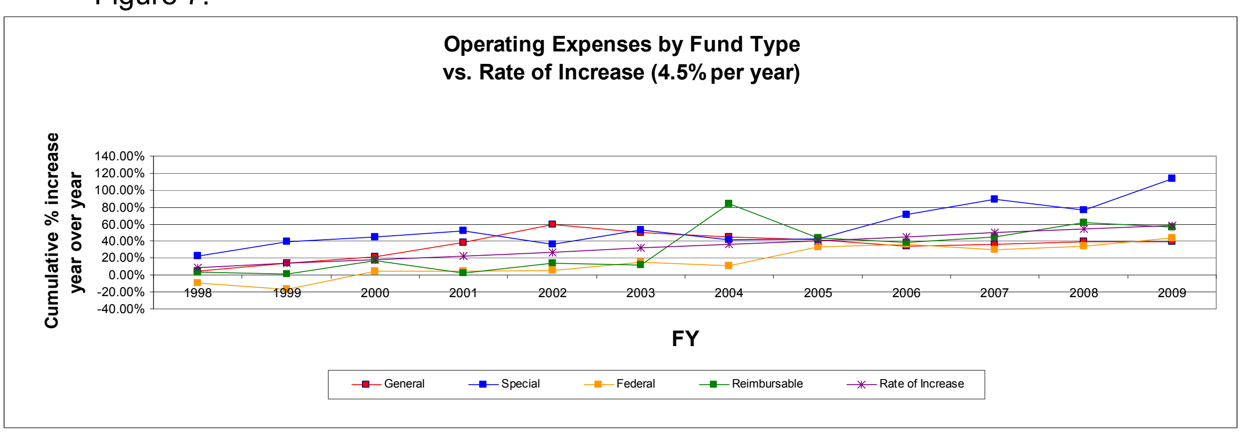


Figure 7.



FY 2009 Special Fund increase is primarily due to higher expenditures in the Air Pollution Control Program and from the Used Tire Cleanup and Recycling Fund.

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 continues to hamper 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 four recent legislative changes to generate new sources of non-general fund revenue, MDE's revenues do 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, to a lesser degree than in the past, the inability to fill positions or receive new positions even when special funds are available exacerbate the challenge.

Through Phase II of the study, MDE is reducing core functions such as the Voluntary Cleanup Program based on available revenue and is recognizing the loss of positions for lower risk programmatic areas such as Recycling and the Customer Service Center. To address these fiscal trends and gaps, the following recommendations are made:

1. Identify a mechanism to provide for MDE's increased general fund staffing costs.
2. Diversify fund sources for programs which are largely dependent on general funds.
3. Ensure 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 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 should be combined, with a concurrent expansion in the eligible use of these funds. This revenue-neutral approach would be very helpful, but not a complete solution.
5. Authorized uses of existing special fund sources could be expanded to include related activities similar to the expanded use of the Used Tire Cleanup and Recycling Fund approved during the 2009 legislative session.