

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE

House Bill 662 (Delegate Hutchins. *et al.*)

Environmental Matters

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**Chesapeake Bay - Dredged Material Management**

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The bill alters the definition of “deep trough” to include any region that is within the area of the Chesapeake Bay known as Site 104. The bill also requires the Port Administration to submit a strategic plan on dredged material management for comment to the Legislative Policy Committee and the General Assembly by December 1 of each year.

The bill takes effect July 1, 2000.

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**Fiscal Summary**

**State Effect:** Based on the Maryland Port Administration’s current plan to begin placement of dredged material at Site 104 in FY 2002, and assuming that the federal government allows the placement of dredge spoil in Site 104 to go forward, Transportation Trust Fund (TTF) expenditures could increase by \$29.4 million from FY 2002 through FY 2005 to deposit the material elsewhere. This estimate assumes that the Port Administration would place all dredged material at existing sites during that time. It does not include any offsetting federal funds that could pay for some of the increase in costs. TTF expenditures for oyster restoration would decrease; revenues for the oyster program in the Department of Natural Resources (DNR) would decrease correspondingly. Potential significant increase in TTF expenditures to replace lost disposal capacity. Potential loss of federal funds and loss of revenue from port activity if an alternative site is not found.

**Local Effect:** Minimal.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** The strategic plan must:

- address the short- and long-term dredged material placement needs of the Port of Baltimore;
- project needed shipping capacity and commerce at the port;
- identify channels and navigation areas to be maintained and expanded;
- identify sites for placement of dredged material, with capacities and time lines for use;
- identify placement options, including locations and characterizations of the options at each location;
- generally assess the environmental impact of placement options at the identified locations;
- address the availability of, and promote the responsible use of, beneficial uses of dredged material; and
- report on efforts to coordinate with federal, State, and local governments and agencies in implementing economically and environmentally sound containment and beneficial uses of dredged material that best address the needs of the Port of Baltimore and the Chesapeake Bay.

MVA must consider comments received from the Legislative Policy Committee and the General Assembly and must include additional or other viable placement sites to address concerns raised over existing or previously identified primary placement sites in prior strategic plans.

**Current Law:** The dumping of material dredged from the Chesapeake Bay or its tidal tributaries is prohibited in the deep trough, an area defined as any region that is south of the Chesapeake Bay Bridge and north of a line extending westerly from Bloody Point and has a depth exceeding 60 feet.

**Background:** Dredged material is collected as a result of the need to periodically dredge the bottom of the major approach channels to the Port of Baltimore, as well as the port itself, to ensure that these waterways are deep enough to allow ships to enter and exit the port without scraping the bottom. According to the Port Administration, about four to five million cubic yards (mcy) of material has to be dredged from the Chesapeake Bay annually to maintain shipping channels to Baltimore. Over time, the amount of dredged material is expected to increase to accommodate the increasing size of new ships.

Currently, most of the material dredged from the upper bay and Baltimore Harbor is placed at the Hart-Miller-Pleasure Island Dredged Material Containment Facility, located off the coast of Baltimore County. The facility is divided into a north cell and a south cell. The south cell

has been filled to its maximum planned height of 28 feet and plans are now being implemented to turn it into a park and recreation site. On June 5, 1996, the Board of Public Works modified the license for filling the north cell to authorize the Port Administration to fill it to a maximum of 44 feet. The license also provides that this filling may not continue beyond the year 2009 "without authorization by the Maryland General Assembly and Board of Public Works."

Chapters 573 and 574 of 1997 codified the status quo in the south cell and the limits recently placed on the north cell by the Board of Public Works. The Acts prohibit the height of dredged material deposited in the Hart-Miller-Pleasure Island Dredged Material Containment Facility from reaching 44 feet above mean low water in the north cell and 28 feet above mean low water in the south cell, as well as the deposit of any dredge spoil on or after January 1, 2010.

In addition to Hart-Miller-Pleasure Island, a small amount of dredged material is currently placed at an open water site called Pooles Island. Another containment facility is under construction on Poplar Island. In order to get the maximum use and life expectancy out of both the Hart-Miller-Pleasure Island and Poplar Island facilities, the Port Administration advises that another facility is needed as the amount of material that needs to be dredged exceeds the planned dredging and redeposit schedule.

A 1996 task force examined long-term options for handling the roughly 108 mcy of material expected to be dredged over the next 20 years. The Governor's Action Plan for Dredged Material Management recommended that a combination of six sites, including an unspecified open water site, be used to dispose of clean dredge spoil. The Port Administration has recommended one open water site, known as "Site 104," as a short-term placement option that would hold up to 18 mcy of clean dredged material from the upper bay. Site 104, located about a half mile north of the Bay Bridge and a mile west of Kent Island, was used as a disposal site from 1924 until 1974; however, new permitting is required to re-open the site.

Should use of Site 104 be permitted, the U.S. Army Corps of Engineers (the Corps) would be in charge of the dredging operation. In February 1999, the Corps completed a draft Environmental Impact Statement (dEIS) that concluded that the use of Site 104 as a disposal site would not pose significant environmental damage. The Chesapeake Bay Foundation, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the U.S. Environmental Protection Agency publicly criticized the Corps' evaluation of the project. After review and analysis of public concerns and consultation with those agencies, the Corps announced in early August that it would formally revise the dEIS. According to the Port Administration, a revised dEIS is not expected until June 2000, which will delay the use of Site 104 as a disposal site until October 2001, at the earliest.

Congress recently addressed the proposal to place dredged material at Site 104 with the enactment of the Energy and Water Development Appropriations Act (Public Law 106-60). In the conference committee report for H.R. 2605 (House Report 106-336), the conferees expressed their concerns about the potential approval of the site and imposed upon the Corps an obligation to thoroughly analyze and review all practicable alternatives.

**State Fiscal Effect:** The bill could result in a delay in implementing the upper bay placement option of the Governor’s Action Plan for Dredged Material Management because it would eliminate the option of dumping some dredged material in open water. Specifically, it would eliminate Site 104. Currently, the Port Administration plans to deposit 9.8 mcy of dredged material at Site 104 from fiscal 2001 through fiscal 2005 as follows:

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	Total
MCY	0	3.4	4	0.3	2.1	9.8

If Site 104 is not an option, the State has two options regarding the dredging program, both of which have cost implications: (1) overload existing placement sites until another disposal site is located; or (2) defer or cancel planned channel improvement projects for the Port of Baltimore.

The Port Administration advises that overloading existing placement sites will most likely cause a reduction in the total capacity of those sites, estimated at approximately four to five mcy in the long term. Assuming that existing dredge placement sites would be overloaded and replacement sites found, the long-term cost of the dredging program would increase by an indeterminate but significant amount.

The Port Administration advises that Site 104 will not be available for use until October 1, 2001, at the earliest. At \$2.50 per cubic yard, special fund expenditures to place dredged material at Site 104 between fiscal 2002 and fiscal 2005 is estimated at \$24.5 million (9.8 mcy x \$2.50 per cubic yard). Assuming the Port Administration’s plan to begin placement of dredged material at Site 104 in fiscal 2002 is not further delayed, special fund expenditures to deposit the dredge material at existing sites would increase by an estimated \$1 per cubic yard to \$5 per cubic yard in placement and transportation costs. Assuming an average increase in costs of \$3 per cubic yard, special fund expenditures could increase by an estimated \$29.4 million from fiscal 2002 through fiscal 2005 as follows:

	FY 2002	FY 2003	FY 2004	FY 2005	Total
Capacity (mcy)	3.4	4	0.3	2.1	9.8
Dollars in millions	\$10.2	\$12	\$0.9	\$6.3	\$29.4

This estimate assumes that the Port Administration would place all dredged material at existing sites during that time. It does not include any offsetting federal funds that could pay for some of the increase in costs.

The Port Administration advises, however, that overloading at existing sites is only a short term solution. To create new capacity for the deposit of dredged material, the Port Administration advises that site evaluations could cost at least \$250,000 per site assessment. In addition, transportation costs for dredged material are estimated as follows: \$.10 per mile x the number of miles from the channels x the holding capacity of the facility. As a result, the farther a future site is from the upper bay channels, the higher the transportation costs. Total placement costs at Site 104 are estimated at approximately \$45 million (18 mcy x \$2.50 per cubic yard). The Port Administration estimates that the cost of other forms of disposal can range from approximately \$6.50 per cubic yard for a containment facility to a range of \$10 per cubic yard to over \$20 per cubic yard for a beneficial use site. In the long run, to replace the total lost capacity of approximately 22.5 mcy (18 mcy planned for Site 104 and approximately 4.5 mcy due to overloading), the costs to build and operate an alternative site could range from approximately \$145 million to about \$280 million, depending on the type of facility used. These estimates assume an average cost of \$12.50 per cubic yard for beneficial use sites and do not include any offsetting federal funds.

Pursuant to a 1996 agreement between the Maryland Department of Transportation (MDOT) and DNR, MDOT contributes \$1 to DNR's oyster restoration program from the TTF for every cubic yard of dredged material placed in open water over six years. If the placement of dredged material in open water decreases, contributions to the oyster program would decrease accordingly.

If the Port Administration does not find a suitable disposal site for the placement of dredge material, it might have to delay or cancel planned channel improvement projects for the Port of Baltimore. The Port Administration advises that not only would this most likely result in a loss of federal funds, but the lack of navigable depths in the shipping channels would reduce the competitiveness of the port.

It is assumed that the Port Administration could submit the strategic plan, as required by the bill, using existing budgeted resources.

**Small Business Effect:** If dredged material disposal sites are not found within the next ten years, dredging in the bay could be limited as there will be fewer sites on which to redeposit the spoil. This could result in the loss of cargo ships that can enter Baltimore Harbor. To the extent that this happens, any small business relying on the port for economic activity will be impacted.

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### **Additional Information**

**Prior Introductions:** SB 325/HB 756, SB 465, HB 624, HB 910, HB 912, and HB 954 of 1999 all related to the dumping of dredged material. The Senate Economic and Environmental Affairs Committee and the House Environmental Matters Committee held hearings on the bills. The House Environmental Matters Committee reported HB 756 favorably.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Maryland Department of Transportation (Port Administration), Department of Natural Resources, Department of Legislative Services

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