

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 343

(Delegate Munoz)

Environment and Transportation

Education, Energy, and the Environment

Environment - Dredged Material - Containment, Redeposit, and Oversight

This bill (1) authorizes the Maryland Department of the Environment (MDE) and the Board of Public Works (BPW) to approve the redeposit of dredged material at the Hart-Miller Island Dredged Material Containment Facility under specified conditions; (2) authorizes MDE to approve contained areas for the redeposit of dredged material at a large redevelopment site, as specified; (3) expands the duties of the Hart-Miller-Pleasure Island Citizens Oversight Committee; and (4) modifies the duties and membership of the Cox Creek Citizens Oversight Committee. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: State operations and finances may be significantly affected to the extent that the Hart-Miller Island Dredged Material Containment Facility is reopened and the State is involved with the operations of the facility, as discussed below.

Local Effect: Baltimore County revenues may increase significantly from payments resulting from any community benefits agreement entered into under the bill; county expenditures increase correspondingly to fund benefits to communities.

Small Business Effect: Minimal or none.

Analysis

Bill Summary/Current Law:

Approval of Contained Areas for the Deposit of Dredge Spoil and the Placement of Dredged Material at the Hart-Miller Island Dredged Material Containment Facility

Under current law, except for dredge spoil from local dredging projects initiated by Baltimore County in the waters of Baltimore County, MDE may not approve any contained

area for the redeposit of spoil within five miles of the Hart-Miller-Pleasure Island chain in Baltimore County.

Also under current law, dredge spoil may not be deposited in the Hart-Miller Island Dredged Material Containment Facility after the first of the following to occur: (1) the maximum height of dredge spoil deposited in the containment facility reaches specified heights; or (2) January 1, 2010. Current law further specifies that new dredge spoil dredged from a channel may not be deposited in the south cell.

The bill modifies statutory provisions relating to the placement of dredged material in the vicinity of the Hart-Miller-Pleasure Island chain by:

- authorizing MDE to approve contained areas for the redeposit of dredged material at a large redevelopment site, and specifying that only dredged material from a location within one mile of the shoreline of such a site may be redeposited in such a contained area;
- authorizing MDE and BPW, notwithstanding any other law, and on or before December 31, 2027, to approve the redeposit of dredged material at the Hart-Miller Island Dredged Material Containment Facility if (1) the dredged material is from a location within one mile of a large redevelopment site and (2) the person undertaking the project has, after consultation with the Hart-Miller-Pleasure Island Citizens Oversight Committee, entered into an enforceable community benefits agreement with Baltimore County by December 1, 2024, that, among other things, requires the person to pay a sum of money to Baltimore County (and establishes a related payment schedule) for the purpose of funding benefits to communities in the vicinity of the Hart-Miller Island Dredged Material Containment Facility;
- specifying that the fee payable for each cubic yard of dredged material deposited at the Hart-Miller Island Dredged Material Containment Facility in accordance with the bill may not exceed the State's actual incremental costs of operating and maintaining the Hart-Miller Island Dredged Material Containment Facility, to the extent such costs arise from the redeposit of dredged material authorized by the bill, as specified, and must be in addition to the payments required by the community benefits agreement; and
- specifying that nothing in the bill authorizes MDE to approve the redeposit of dredged material within five miles of the Hart-Miller-Pleasure Island chain in Baltimore County using confined aquatic disposal.

Under current law, "large redevelopment site" means any real property (1) consisting of one or more contiguous parcels that are collectively more than 500 acres; (2) that is being used, or was formerly used, for industrial purposes and manufacturing; and (3) for which

MDE has received one or more applications for participation in the Voluntary Cleanup Program or one or more plans for remedial action by a responsible party, the owner or operator of the site, or a prospective purchaser of the site in accordance with statutory provisions relating to the release of hazardous substances into the environment.

Hart-Miller-Pleasure Island Citizens Oversight Committee Duties

Under current law, the Hart-Miller-Pleasure Island Citizens Oversight Committee must monitor and provide oversight regarding the future development, use, and maintenance of the Hart-Miller-Pleasure Island chain and the water quality immediately surrounding the islands.

The bill expands these responsibilities to include monitoring and providing oversight regarding (1) the redeposit of dredged material at the Hart-Miller Island Dredged Material Containment Facility and (2) any community benefits agreements entered into under the bill.

Cox Creek Citizens Oversight Committee Duties

The Cox Creek Citizens Oversight Committee was established by Chapter 83 of 2001 to (1) monitor the redeposit of Anne Arundel County dredged material and other dredged material in the Cox Creek Area and (2) hear and dispose of complaints lodged by individuals affected by the redeposit of Anne Arundel County dredged material and other dredged material in the Cox Creek area. The bill modifies the statutory duties of the committee to instead require it to:

- monitor the management of dredged material at the Cox Creek Dredged Material Containment Facility;
- advise the Maryland Port Administration (MPA) of complaints lodged by individuals affected by the redeposit of Anne Arundel County dredged material and other dredged material in the Cox Creek area;
- provide input and feedback to MPA regarding the management of dredged material at the Cox Creek Dredged Material Containment Facility; and
- make recommendations to MPA on the potential impact that activities at the containment facility may have on nearby communities and natural resources.

Under current law, the committee must also appoint a member from the committee to serve as a liaison to the Innovative Use Advisory Committee. The bill modifies this requirement to reflect the current name of the committee (the Innovative Reuse Committee).

Cox Creek Citizens Oversight Committee Membership

Under current law, the Governor must appoint the Cox Creek Citizens Oversight Committee members, and the committee consists of 12 members that represent various entities and interests. The bill makes the following changes to the composition of the committee:

- instead of 2 members from the North County Land Trust, the committee must include 1 member of the land trust that holds the conservation easement of the Cox Creek Forest Conservation Easement Area;
- instead of 1 member of the Anne Arundel County Watermen's Association, the committee must include 1 individual who represents recreational birding in Anne Arundel County;
- the committee no longer includes 1 member of the Maryland Saltwater Sport Fishermen's Association;
- instead of 1 member of the South Baltimore Business Alliance, the committee must include 1 member of the Baltimore Industrial Group; and
- the committee must include 2 individuals who represent a waterfront community in the northern part of Anne Arundel County.

Maryland Port Administration and the Dredged Material Management Program

Pursuant to current law, MPA, through its efforts to increase waterborne commerce, promotes the economic well-being of the State and manages the State-owned facilities at the Helen Delich Bentley Port of Baltimore. MPA is governed by its Executive Director and the Maryland Port Commission. MPA is expressly authorized to acquire, construct, reconstruct, rehabilitate, improve, maintain, lease as lessor or as lessee, repair, and operate either directly or through State-created private operating companies port facilities within its territorial jurisdiction, including the dredging of ship channels and turning basins and the filling and grading of land.

Through its [Dredged Material Management Program](#), MPA maintains the shipping channel in the Chesapeake Bay, Baltimore Harbor, and the Chesapeake and Delaware Canal. MPA deposits the dredged material across its [five active dredged material placement sites](#).

Maryland Environmental Service

The Maryland Environmental Service (MES) is an instrumentality of the State and a self-supporting, not-for-profit public corporation that serves State, local, and federal agencies and the private sector through designing, planning, financing, constructing, operating, and monitoring projects for water and wastewater treatment, solid waste

management, composting, recycling, dredged material management, hazardous materials cleanup, stormwater services, and renewable energy. MES operates on a fee-for-service basis under contract. As part of its [dredging-related operations](#), MES supports MPA and the Dredged Material Management Program.

Wetlands Regulation

Wetlands in the State are protected, and the Wetlands and Waterways Program within MDE administers a statewide program for the management, conservation, and protection of Maryland's tidal wetlands and nontidal wetlands and waterways. Pursuant to current law and MDE regulations, and subject to certain exceptions, a person may not dredge, fill, or construct or reconstruct structures in:

- State wetlands, without a license issued by BPW (or MDE, as MDE is delegated authority to authorize certain activities in State wetlands); or
- private wetlands, without a permit issued by MDE.

State Fiscal Effect:

Hart-Miller Island Dredged Material Containment Facility Operations

Hart-Miller Island has not been an active dredged material placement site since 2009. The island is currently owned by the Department of Natural Resources (DNR); the southern section of the island is now [a State park](#), and MPA advises that the northern section of the island is being converted into greenspace.

According to MPA, the potential placement of dredged material at the Hart-Miller Island Dredged Material Containment Facility made possible by the bill relates to a proposed project by Tradeport Atlantic to construct a new container terminal at its Sparrows Point property. The project is likely to produce a significant amount of dredged material that will need to be deposited at a permitted dredged material containment facility.

The fiscal impact on the State associated with the possible reopening of the Hart-Miller Island Dredged Material Containment Facility is unknown at this time and will depend largely on which entity is ultimately responsible for reopening and/or operating the facility. MPA advises that not all dredged material placement facilities in Maryland are operated by MPA through the State's Dredged Material Management Program; some facilities are operated by counties, and there is nothing that prevents a private entity from operating a dredged material placement facility if they secure the appropriate permits. MPA further advises that it will likely *not* be able to operate the Hart-Miller Island Dredged Material Containment Facility due to preexisting contractual obligations.

In any event, MPA advises that there will be initial costs to reopen the northern section of the island (estimated by MPA to be in the range of \$7.0 million to \$9.0 million); the extent to which the State will be responsible for such costs is unknown. In addition to those initial costs, there will be ongoing costs to administer, manage, and staff the reopened facility (estimated by MPA at approximately \$6.5 million annually). Although the extent to which the State will be involved in the operation of the facility (if it is reopened) is unknown, to the extent the State incurs any costs related to the placement of dredged material at the facility, it is assumed that fees collected by the State from Tradepoint Atlantic would offset such costs. (As noted above, the bill specifies that the fee payable for each cubic yard of dredged material deposited at the facility may not exceed the State's actual incremental costs of operating and maintaining the facility – to the extent such costs arise from the redeposit of dredged material authorized pursuant to the bill – expressed on a per-cubic-yard basis.)

The Department of Legislative Services cannot independently verify the costs estimated by MPA at this time.

Approval of Contained Areas at a Large Redevelopment Site

In addition to authorizing MDE and BPW to approve the redeposit of dredged material at the Hart-Miller Island Dredged Material Containment Facility, the bill also authorizes MDE to approve contained areas for the redeposit of dredged material at a large redevelopment site. In December 2023, Tradepoint Atlantic [applied to the U.S. Army Corps of Engineers](#) for a permit for the Sparrows Point container terminal project; according to the proposed action as cited in the *Federal Register*, the project plan includes the construction of an offshore dredged material containment facility in the Patapsco River on the west side of Coke Point (near Sparrows Point). MDE advises that, absent the bill, such a facility would be prohibited. If such an area is approved, the extent to which State finances may be affected is unknown.

Department of Natural Resources – Hart-Miller Island Park Operations

As noted above, the southern section of Hart-Miller Island is now a State park. DNR advises that it is unclear if the park will be able to remain open should the island be reopened to accept dredged materials. To the extent DNR must reduce or eliminate park operations, DNR finances are affected. Any such impact is speculative, however.

Maryland Department of the Environment and the Board of Public Works

MDE advises that the review and approval of dredged material placement sites is a routine process for MDE and, therefore, the bill is not anticipated to materially affect MDE

operations or finances. BPW also advises that the bill does not affect its operations or finances.

Local Fiscal Effect: Baltimore County revenues increase to the extent that the Hart-Miller Island Dredged Material Containment Facility is reopened and the Tradepoint Atlantic container terminal project moves forward. Among other conditions, MDE and BPW may only approve the redeposit of dredged material at the facility if the person undertaking the dredging project has entered into an enforceable community benefits agreement that, among other things, requires payments to Baltimore County for the purpose of funding benefits to communities in the vicinity of the Hart-Miller Island Dredged Material Containment Facility. Although a reliable estimate of the payments cannot be made, the impact could be significant.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 20 (Senator Simonaire) - Education, Energy, and the Environment.

Information Source(s): Maryland Department of Transportation; Department of Natural Resources; Maryland Department of the Environment; Board of Public Works; *Federal Register*; Department of Legislative Services

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