

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

House Bill 5 (Delegate Guns, et al.)

Environmental Matters

Referred to Economic and Environmental Affairs

Brownfields - Voluntary Cleanup and Revitalization Programs

This amended bill establishes a Voluntary Cleanup Program in the Maryland Department of the Environment (MDE) and a Brownfields Revitalization Program in the Department of Business and Economic Development (DBED). The purpose of these programs is to provide incentives, both financial and legal, for the cleanup of properties contaminated with controlled dangerous substances.

Fiscal Summary

State Effect: Special fund expenditure increase of \$97,700 in FY 1997 for DBED administrative costs; indeterminate but significant increase in general and special fund expenditures for financing incentives. General fund expenditure increase of \$5,000 for Department of Assessments and Taxation administrative costs. Indeterminate but significant increase in special fund fee revenues; indeterminate effect on tax revenues.

Local Effect: Potential minimal expenditure increase. Indeterminate effect on tax revenues.

Fiscal Analysis

Bill Summary: The purpose of the Voluntary Cleanup Program is to accelerate cleanup of contaminated properties using cleanup standards designed to protect public health. The program also provides predictability and finality to the cleanup of eligible properties. An eligible person may apply for the Voluntary Cleanup Program by providing all required information and an application fee of \$1,000 or \$5,000, depending upon the level of liability relief sought by the applicant and the contamination status of the property involved. The applicant, if approved, must submit a cost affidavit every three months after the approval date, certifying the costs incurred during the voluntary cleanup project. The applicant must pay an oversight fee equal to 10% of the costs incurred, excluding those incurred for

construction, equipment, materials, or laboratory analysis. All fees are to be deposited into the Voluntary Cleanup Fund. MDE must declare the application's eligibility within 30 days and may review an eligible applicant's proposed action plan according to the future intended use of the site.

MDE may issue an "assurance letter" to an applicant who has submitted all necessary information and whose property is either not contaminated or has not been contaminated by the applicant. MDE must issue liability relief letters both when a response action plan has been approved (a no further action letter), and when the plan has been completed (a no action letter). MDE must appoint an environmental liaison, who must encourage coordination amongst various jurisdictional agencies, and provide information on financing opportunities. Specific liability exemptions are made for banking and governmental entities.

Under the Brownfields Revitalization Program, DBED will provide financial incentives for the redevelopment of contaminated properties in order to promote cleanup activities, further economic development, and prevent urban sprawl. DBED must publish a list of sites that qualify for financial incentives by October 1, 1997. Criteria for choosing sites include categories such as potential economic development and the public benefit of cleanup. The list of sites must be updated annually, and the final list may not contain more than 125 sites during any 12-month period. DBED must develop a program of financial incentives to assist persons who participate in the Brownfields Revitalization Program.

For five years following a voluntary cleanup at a Brownfields site, each taxing jurisdiction must grant a property tax credit equaling 50% of the improved assessed value of the property including specified improvements. Thirty percent of the increased assessment is contributed to the Voluntary Cleanup Fund at MDE and the taxing jurisdiction may grant any portion of the remaining 20% of increased assessment as a tax credit. The 30% of tax revenues accumulating to the Voluntary Cleanup Fund are to be used by:

- MDE for activities associated with a voluntary cleanup project if the applicant fails to complete the project or a responsible person is unavailable; and
- DBED for financial incentives.

A balance of \$500,000 must be retained for voluntary cleanup projects as specified above; if the balance falls below this amount, MDE may allocate moneys from the DBED financing incentive account to these purposes.

State Effect:

Fee Revenues

MDE reports that it currently does not know on a county-by-county basis the number of potential sites located around the State. However, assuming that 80 sites under the Brownfields Revitalization Program and the Voluntary Cleanup Program apply, special fund fee revenues would total \$80,000 to \$400,000. Additional oversight fees would accumulate due to the 10% of cost provision, although the amount of such fees cannot be precisely estimated at this time. According to MDE, this 10% of cost provision would apply primarily to the cost of necessary scientific and technical studies that the applicant would have to submit. This fee structure is based on the department's assumption that its costs to have planning and engineering personnel review the studies would be 10% of the cost to produce them. A small site with medium to moderate contamination could require study costs of approximately \$15,000 to \$50,000. These costs could increase to \$50,000 to \$250,000 for a medium site, and can be as high as \$2.5 million for an extremely large site. Assuming that of the 80 applications there is one large site, 29 medium sites, and 50 small sites, total study costs could range from \$4.7 million to \$12.3 million. MDE would receive between \$470,000 and \$1.23 million from the 10% oversight fee. Therefore, under this scenario with 80 applications, total application and oversight fees accumulating to MDE would range from \$550,000 to \$1.6 million.

MDE Administrative Costs and Financial Assistance

MDE reports that it would need \$398,779 for the first year of the program (\$563,943 for fiscal 1998) due to the need to hire 15 additional personnel, with associated equipment and operating expenditures. However, the Department of Fiscal Services advises that this legislation should not necessitate any expenditure increases at MDE. Unrelated to this legislation, MDE's fiscal 1997 budget includes a general fund appropriation of \$387,328 for the implementation of a voluntary Brownfields cleanup program (Brownfields Initiative). The proposed budget includes two permanent positions (\$113,238), six contractual positions (\$225,440), and operating costs (\$48,650). The envisioned program will include three Geologist IIIs and two Public Health Engineers to develop site specific cleanup standards and guidelines for performing site assessments, and to evaluate site cleanup plans; a Toxicologist to develop statewide industrial and residential standards for soil, groundwater, and surface water; an Assistant Attorney General to draft and review proposed program legislation and negotiate consent orders with program participants, and an Office Secretary to provide support services.

While MDE believes that the budgeted Brownfields Initiative is different from the programs set up by this bill and would require separate funding, DFS advises that the programs could be consolidated. MDE's budget for the Brownfields Initiative assumes that 100 sites will be in the clean-up process during any one year. If the number of sites exceeds 100 in the out-years, MDE expenditures could increase. While the time frames for MDE approval that are

set up in this bill could necessitate additional expenditures on personnel, any such increased staffing would depend upon the number of sites involved. Therefore, the program could be initiated as budgeted, with any additional staffing contingent upon program demand. DFS further advises that the Brownfields Initiative is currently budgeted using general funds; these general funds could be replaced by special funds as MDE begins to receive fee revenues.

Under the bill, MDE is allowed to accept and administer loans and grants. To the extent that funds become available, expenditures for these purposes could increase under this authority. MDE envisions that it could use this authority in specific instances involving local governments which have ownership of a site but lack sufficient funds for the cleanup process. MDE could potentially use this authority for other uses, depending upon the amount of funds available.

DBED Administrative Costs and Financial Incentive Programs

Administrative expenditures could increase by an estimated \$97,664 in fiscal 1997, which reflects the bill's October 1, 1996 effective date. This estimate reflects the cost of hiring one Administrator II, one Industrial Development Officer, and one Office Secretary to work with MDE in selecting and listing Brownfields sites and develop financial incentives packages. It includes salaries of \$63,690, fringe benefits, one-time start-up costs, equipment purchases, and ongoing operating expenses.

Salaries and Fringe Benefits	\$86,089
Computer & Office Equipment	10,000
Other Operating Expenses	<u>1,575</u>
FY 1997 Administrative Expenditures	\$97,664

Future year expenditures below reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses.

FY 1998	\$117,664
FY 1999	\$122,048
FY 2000	\$126,602
FY 2001	\$131,332

While DBED reported that they would need \$25,000 annually, and an additional \$25,000 in the first year, for contractual services to handle database management, this should not be necessary. Since the listing of Brownfields sites is a shared responsibility with MDE, any computer database management needed can be handled with the additional personnel above.

The financial incentives specified in the bill could be provided from existing programs within the Division of Financing Programs (the Maryland Industrial Land Act and the Maryland Industrial and Commercial Redevelopment Fund). While the amount of incentives to be given under this program is currently unknown, DBED's incentives for a typical financing project range from \$300,000 to \$2,000,000. If any of the incentive packages include loans, DBED will receive loan repayments plus interest.

Allowing DBED to use the Voluntary Cleanup Fund for its financial incentives would decrease the amount of money needed from existing programs within the Division of Financing Programs. It is not specified whether loan repayments would accrue to the Voluntary Cleanup Fund or directly to DBED.

State Tax Revenues & the Voluntary Cleanup Fund

The State real property tax rate is \$.21 per \$100 of assessed value; see below under "Local Effect" for potential impact on State tax revenues and payments into the Voluntary Cleanup Fund. The Department of Assessments and Taxation would incur administrative costs of \$5,000 in fiscal 1997 to implement this tax credit program.

Local Effect: The bill provides that for five years 50% of the increase in assessed value of a remediated Brownfields site is given as a tax credit to the property owner; 30% is contributed to the Voluntary Cleanup Fund. The taxing jurisdiction may grant the remaining 20% of increased value as a tax credit; it may also extend the tax credit an additional five years if the Brownfields site is located in a designated enterprise zone. Due to this distribution of funds, local governments could incur a minimal expenditure increase in their property tax collection activities.

Local governments will be affected to the extent that Brownfields sites are located in their jurisdiction. Local property tax rates vary from \$.95 to \$3.243 per \$100 of assessed value for the 23 counties in fiscal 1996; Baltimore City's rate is \$5.85 (see Exhibit 1). Within municipal corporations, rates varied from \$.08 to \$2.62 in fiscal 1996 and are in addition to county rates. The amount of tax credit and fund contribution would vary depending upon the local property tax rate and the prevailing market value of real estate in the area. Eight counties reported that they probably do not have any Brownfields sites; the remaining counties have an unknown number of potential sites.

For illustrative purposes, Baltimore City reports that it has approximately 20 to 25 sites comprising roughly 500 acres that are known or believed to be contaminated and vacated. Baltimore City officials believe it possible that 10 sites comprising 150 acres would be cleaned up in the first five years under this program. Assuming that new industrial properties are valued at \$30 per square foot and one-third of the acreage is covered, \$67.5 million in increased value is affected. The assessed value of these properties would be 40% of the cash value, or \$27 million. At Baltimore City's local property tax rate of \$5.85 per \$100 of assessed value, this equates to property tax revenues of \$1,579,500 that would have been collected. Instead, \$789,750 would be taken as mandatory tax credits by the property owner; \$315,900 may be kept by Baltimore City or granted as an additional tax credit; and \$473,850 would go to the Voluntary Cleanup Fund. This represents the amount in the fifth year after all the properties have been cleaned up; in the first year only a few of these sites would be eligible.

Without this program, a certain number of sites would feasibly have been cleaned up anyway. The increased assessed value of these sites represent revenues lost for five years to local governments. If 40 acres of the 150 acres above would have been cleaned up, this would equate to \$336,960 in foregone property tax revenues to Baltimore City if only the mandatory tax credit is given. However, it is unlikely that all the properties involved would be comprised of totally new development as is assumed in these examples. If some new development were added to an existing base, then foregone revenues would be in the range of \$150,000 to \$275,000. In addition, any independent increases to property values due to inflation or market trends would be lost for all properties.

State real property tax assessments on these same 150 acres would amount to \$56,700 in the fifth year, with \$28,350 in mandatory tax credits to the property owner; \$11,340 may be kept by the State or granted as an additional tax credit; and \$17,010 would go to the Cleanup Fund. Assuming the same 40 acres would have been cleaned up, this represents \$12,247 in foregone revenues assuming only the mandatory credit is given (\$5,000 to \$9,000 if some existing development). Total State and local mandatory property tax credits for Baltimore City would equal \$818,100; additional discretionary tax credits could equal \$327,240. The

total distribution to the Voluntary Cleanup Fund would be \$490,860. Again, these are the totals for the fifth year of the program (fiscal 2001).

Once the five year period for each property is completed, local and State revenues would increase by the amount of tax derived from the increased value of the property after cleanup. Additionally, to the extent that this legislation spurs employment and economic development, tax revenues would increase.

Information Source(s): Maryland Department of the Environment; Department of Business and Economic Development; Department of Assessments and Taxation; Baltimore City; Howard, Harford, Wicomico, Calvert, Caroline, Garrett, Cecil, Prince George's, Carroll, St. Mary's, Anne Arundel, Talbot, Somerset, Queen Anne's, Montgomery, Dorchester, Kent, Worcester, and Washington counties; Department of Fiscal Services

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