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1997 Regular Session
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CF 7lr0858

By: Senator Collins (Baltimore County Administration) and Senators Sfikas and Stone

Introduced and read first time: January 23, 1997

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Dredge Spoil - Hart-Miller-Pleasure Island**

3 FOR the purpose of prohibiting the disposition of dredge spoil at the Hart-Miller Island
4 Dredged Material Containment Facility after a certain date and from exceeding
5 certain heights in certain cells; prohibiting the Board of Public Works from issuing
6 a license or an amendment to a license authorizing the disposition of dredge
7 material in the Hart-Miller Island Dredged Material Containment Facility after a
8 certain date and from exceeding certain heights in certain cells; requiring certain
9 State agencies to hold public meetings concerning the development of the
10 Hart-Miller Island Dredged Material Containment Facility; requiring certain State
11 agencies to enter into a memorandum of understanding or an amendment to the
12 memorandum of understanding by a certain date that will include certain
13 information; and generally relating to dredge spoil at Hart-Miller-Pleasure Island.

14 BY repealing and reenacting, with amendments,
15 Article - Environment
16 Section 5-1103 and 16-202
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1996 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Environment**

22 5-1103.

23 (a) (1) Except for dredge spoil from local dredging projects initiated by
24 Baltimore County in the waters of Baltimore County, the Department may not approve
25 any contained area for the redeposit of spoil within 5 miles of the Hart-Miller-Pleasure
26 Island chain in Baltimore County.

27 (2) A contained area described in paragraph (1) of this subsection may not
28 exceed the approximately 1,100 acre size provided in the projects U.S. Army Corps of
29 Engineers permit dated November 22, 1976.

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1 (3) (I) THE MAXIMUM HEIGHT OF DREDGE SPOIL DEPOSITED IN THE
 2 HART-MILLER ISLAND DREDGED MATERIAL CONTAINMENT FACILITY MAY NOT
 3 EXCEED:

4 1. 44 FEET ABOVE THE MEAN LOW WATER MARK IN THE
 5 NORTH CELL; OR

6 2. 28 FEET ABOVE THE MEAN LOW WATER MARK IN THE
 7 SOUTH CELL.

8 (II) ON OR AFTER JANUARY 1, 2010, DREDGE SPOIL MAY NOT BE
 9 DEPOSITED IN THE HART-MILLER ISLAND DREDGED MATERIAL CONTAINMENT
 10 FACILITY.

11 (b) (1) Except as provided in paragraph (2) of this subsection, only spoil from
 12 the excavation or dredging of Baltimore Harbor, its approach channels, and Baltimore
 13 County tributary spoil from an approved dredging project in any of the Baltimore County
 14 tributaries of the Chesapeake Bay may be redeposited in a contained area described in
 15 subsection (a) of this section.

16 (2) Only dredge spoil from local dredging projects initiated by Baltimore
 17 County in the waters of Baltimore County may be redeposited in any additional contained
 18 area for the redeposit of spoil authorized under subsection (a)(1) of this section.

19 16-202.

20 (a) A person may not dredge or fill on State wetlands without a license.

21 (b) The Secretary shall assist the Board in determining whether to issue a license
 22 to dredge or fill State wetlands. The Secretary shall submit a report indicating whether
 23 the license should be granted and, if so, the terms, conditions, and consideration required
 24 after consultation with any interested federal, State, and local unit, and after issuing
 25 public notice, holding any requested hearing, and taking any evidence the Secretary
 26 thinks advisable.

27 (c) (1) Upon receipt of a report by the Secretary, the Board shall decide if
 28 issuance of the license is in the best interest of the State, taking into account the varying
 29 ecological, economic, developmental, recreational, and aesthetic values each application
 30 presents. If the Board decides to issue the license, the issuance of the license shall be for
 31 consideration and on terms and conditions the Board determines. Every license shall be
 32 in writing.

33 (2) With respect to an application for a license to fill or construct a shore
 34 erosion control structure other than riprap on State wetlands, the Board may issue the
 35 license without public notice if the fill area is less than 300 feet in length parallel to the
 36 fast land as close to the fast land as structurally feasible but not more than 10 feet
 37 channelward of the mean high water line and if after a site visit the report of the
 38 Secretary recommends that the license be granted. The Board may issue a license without
 39 public notice where an emergency exists caused by act of God, natural disaster,
 40 catastrophe, or other similar natural event when the health, safety, or welfare of the
 41 citizens of the State would be jeopardized by a delay caused by time requirements for
 42 public notice. However, the license may be granted by the Board only with the

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1 concurrence of the Secretary. The Secretary shall provide prompt public notice of the
2 emergency license issuance and the opportunity to submit written comments or to request
3 a hearing to determine whether the emergency license shall be revoked or made
4 permanent. If a hearing is requested, the hearing shall be scheduled within 30 days of the
5 emergency issuance of the license.

6 (3) If the report of the Secretary recommends that a license be granted, the
7 Board may issue the license without public notice:

8 (i) To fill or construct a shore erosion control structure of riprap on
9 State wetlands if the fill area is less than 500 feet in length parallel to the fast land as
10 close to the fast land as structurally feasible but not more than 10 feet channelward of the
11 mean high water line;

12 (ii) To repair or replace a bulkhead for the purpose of shore erosion
13 control where the bulkhead is presently functional, but is deteriorating or damaged,
14 provided that the repair or replacement structure does not extend more than 18 inches
15 channelward of the existing structure. Repair or replacement may include riprap placed
16 along the base of the bulkhead, provided that the riprap shall not extend more than 10
17 feet channelward of the bulkhead;

18 (iii) To fill near shore shallow water bottom extending no more than 35
19 feet channelward of the mean high water line provided the fill area is less than 500 feet in
20 length parallel to the fast land for the purpose of shore erosion control by landscaping
21 and wetland plant establishment;

22 (iv) To construct or repair a private noncommercial boat ramp
23 provided the ramp does not exceed 12 feet in width and extend more than 30 feet
24 channelward of the mean high water line; or

25 (v) To maintenance dredge a mooring, private or commercial boat
26 ramp, mobile boat hoist slip, or marine railway when no more than 100 cubic yards of
27 material nor an area greater than 1,500 square feet need to be dredged.

28 (4) With respect to the maintenance dredging of projects in State wetlands
29 for which a license is to be issued, the license may include provision for periodic
30 maintenance dredging if recommended by the report of the Secretary provided that the
31 maintenance dredging be effected:

32 (i) Within the area, depth, and in conformity with other limitations
33 contained in the license;

34 (ii) That no more than 500 cubic yards of material be dredged at each
35 maintenance dredging to restore licensed works;

36 (iii) That the material from maintenance dredging be deposited upon
37 the designated or other upland site approved by the Secretary; and

38 (iv) That the Secretary be notified and approve of each maintenance
39 dredging operation.

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1 (5) The provisions for periodic maintenance dredging under paragraph (4)
2 of this subsection shall be effective for no more than 6 years beyond the date of issuance
3 of the license.

4 (6) If the licensee desires to continue maintenance dredging beyond the
5 expiration date authorized in paragraph (5) of this subsection, the licensee must obtain a
6 new license by submitting an application to the Board for review in accordance with the
7 procedures of this section.

8 (d) The provisions of this section do not apply to any operation for:

9 (1) Dredging and filling being conducted as of July 1, 1970, as authorized
10 under the terms of an appropriate permit or license granted under the provisions of
11 existing State and federal law;

12 (2) Dredging of seafood products by any licensed operator, harvesting of
13 seaweed, or mosquito control and abatement as approved by the Department of
14 Agriculture;

15 (3) Improvement of wildlife habitat or agricultural drainage ditches as
16 approved by an appropriate unit; or

17 (4) Routine maintenance or repair of existing bulkheads, provided that
18 there is no addition or channelward encroachment.

19 (E) (1) THE BOARD MAY NOT APPROVE A LICENSE OR AN AMENDMENT TO
20 A LICENSE AUTHORIZING THE DREDGE MATERIAL DEPOSITED IN THE
21 HART-MILLER ISLAND DREDGED MATERIAL CONTAINMENT FACILITY TO EXCEED
22 AN ELEVATION OF:

23 (I) 44 FEET ABOVE MEAN LOW WATER MARK IN THE NORTH CELL;
24 AND

25 (II) 28 FEET ABOVE MEAN LOW WATER MARK IN THE SOUTH CELL.

26 (2) ON OR AFTER JANUARY 1, 2010, THE BOARD MAY NOT APPROVE A
27 LICENSE OR AN AMENDMENT TO A LICENSE AUTHORIZING THE DEPOSIT OF
28 DREDGE MATERIAL AT THE HART-MILLER DREDGED MATERIAL CONTAINMENT
29 FACILITY.

30 [(e)] (F) Any person who violates any provision of this section is guilty of a
31 misdemeanor. Upon conviction, the person is subject to a fine not exceeding \$1,000 with
32 costs imposed in the discretion of the court.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland
34 Department of Transportation and the Department of Natural Resources, in consultation
35 with the Baltimore County government, shall hold at least two public meetings to receive
36 public input on the development of the Hart-Miller Island Dredged Material
37 Containment Facility as a park and recreational facility. After the public meetings, the
38 Department of Transportation and the Department of Natural Resources, in consultation
39 with the Baltimore County government, shall enter into a memorandum of understanding
40 or agree to an amendment to the existing memorandum of understanding concerning
41 Hart-Miller-Pleasure Island by December 30, 1997 on a concept plan for the

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1 development of the south cell and the north cell of the Hart-Miller Island Dredged
2 Material Containment Facility as a park and recreational facility. The memorandum of
3 understanding or an amendment to the existing memorandum of understanding shall
4 include concept plans for habitat restoration and recreational facilities, time lines for
5 completion of the concept plans, construction plans and construction, and the State
6 agencies responsible for implementing and funding the plans. The memorandum of
7 understanding or the amendment to the memorandum of understanding shall provide
8 that the development of the south cell will be substantially completed by July 1, 2002 and
9 the development of the north cell will be substantially completed by July 1, 2013.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 1997.