

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 40 (Delegate D'Amato. *et al.*)

Environmental Matters

Environment - Dredge Spoil - Beneficial Placement

This bill prohibits the dumping, depositing, or scattering of any earth, rock, soil, waste matter, muck, or other material excavated or dredged from the Chesapeake Bay or its tidal tributaries into or onto the area of the bottomlands or waters known as Site 104 before February 1, 2002. The bill establishes a 15-member oversight commission on Chesapeake Bay dumping, describes its composition, and requires the Department of Legislative Services to staff the commission. The bill requires the commission to: (1) investigate land-based alternatives for the placement of dredge spoils; (2) investigate sources of federal funds to offset any cost differential between land-based placement and water-based placement; (3) submit an interim report on specific placement options to the Governor and the General Assembly on or before January 1, 2001; and (4) submit a final report on specific placement options to the Governor and the General Assembly on or before January 1, 2002. The bill also allows the commission to submit a report on other information as it deems necessary after January 1, 2002.

The bill takes effect June 1, 2000.

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, Transportation Trust Fund (TTF) expenditures could increase by \$10.2 million in FY 2002 to deposit the material elsewhere. TTF expenditures for oyster restoration would decrease; revenues for the oyster program in the Department of Natural Resources (DNR) would decrease correspondingly. This assumes that the federal government allows the placement of dredge spoil in Site 104 to go forward.

Local Effect: Minimal.

Small Business Effect: Minimal.

Analysis

Current Law: There is no specific prohibition against depositing dredge spoils at Site 104; however, the Maryland Department of the Environment (MDE) must issue a water quality permit for the site before placement can begin. Currently, the open water placement of dredge spoil is only permitted in the vicinity of Pooles Island.

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 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 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 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 million cubic yards 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.

The 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 four-month 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 at Site 104 before February 1, 2002. Because the Port Administration advises that Site 104 will not be available for use until October 1, 2001, at the earliest, the bill's prohibition would, at a maximum, only affect one dredging season. Currently, the Port Administration plans to deposit approximately 3.4 mcy of dredged material at Site 104 during the fiscal 2002 dredging season (fall 2001 through spring 2002). At \$2.50 per cubic yard, special fund expenditures to place the material at Site 104 is estimated at \$8.5 million in fiscal 2002.

This bill would prohibit the placement of the material at Site 104 until February 2002. 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 dredged material at existing sites before February 2002 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 \$10.2 million in fiscal 2002 (\$3 per cubic yard x 3.2 mcy). This estimate assumes that all of the dredged material that is expected to be placed at Site 104 during the fiscal 2002 dredging season would be deposited by February 2002.

The estimate does not include any potential long-term costs related to overloading at existing sites or any offsetting federal funds that could pay for some of the increase in costs. The estimate also does not include any additional costs that could result from the commission's recommendations. Any such costs cannot be estimated at this time, but would not be a direct result of the bill.

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.

Any expense reimbursements for commission members and staffing costs for the Department of Legislative Services are assumed to be minimal and absorbable within existing budgeted resources.

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 Economic and Environmental Affairs Committee and the Environmental Matters Committee held hearings on the bills. The Environmental Matters Committee reported HB 756 favorably.

Cross File: SB 26 (Senator Astle) - Economic and Environmental Affairs.

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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