

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1100 (Delegates Kach and V. Clagett)
Environmental Matters

Natural Landscape Design - Noxious Weeds - Prohibitions

This bill authorizes a person to grow “native or naturalized plants” to any height as part of a “natural landscape design” except under specified conditions. While the bill generally prohibits a county or municipality from restricting the use of native or naturalized plants in a natural landscape design, it authorizes a county or municipality to pass an ordinance prohibiting a person from growing noxious weeds. Finally, the bill provides that natural landscape design is exempt from local setback requirements.

Fiscal Summary

State Effect: Potential increase in State expenditures for the control of noxious weeds. Revenues would not be affected.

Local Effect: Potential increase in local expenditures for the control of noxious weeds. The bill limits a local jurisdiction’s ability to restrict the growth of native or naturalized plants.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Native or naturalized plant” means a plant that is indigenous to the area of the State in which it is being grown or has adapted to the environment of that area in a manner that allows it to grow without artificial assistance. It includes ferns, grasses, shrubs, trees, and wildflowers. “Natural landscape design” means a planned and

designed yard or landscape intended to control, direct, and maintain the growth of native or naturalized plants.

A county or municipality may only prohibit or restrict the planting and cultivating of a native or naturalized plant that is on the noxious weed list of the State or local jurisdiction or creates a clear and present hazard to public health or safety. A person may not plant or cultivate a plant that is on such a list or creates a public health or safety hazard.

The unaided growth of a noxious weed is permitted, however, if the growth is incidental to the development of a natural landscape design. Specified prohibitions and requirements under the Weed Control Law relating to importing, transporting, permitting, and controlling noxious weeds do not apply to the growth of noxious weeds authorized under the bill.

Current Law: The Maryland Weed Control Law was enacted in 1969 to protect private and public lands against the spread of noxious weeds. Johnson grass, shatter cane, and several types of thistles have been designated as noxious because of their invasiveness, difficulty to control, and economic and aesthetic impact on property in the State. The Secretary of Agriculture is authorized to institute programs of control and eradication and to enter into agreements with counties, subdivisions, adjoining states, and federal agencies to do so. Each landowner or person who possesses and manages land infested with a noxious weed is required to eradicate or control the noxious weed on that land by using practices that the Secretary prescribes, including mowing, cultivating, or treating with an approved herbicide. No person may import or transport a noxious weed in the State in any form capable of growth or contaminate any uninfested land with a noxious weed through the movement of rootstocks, seed, soil, mulch, nursery stock, farm machinery, or any other artificial medium.

Because there is no exemption for the use of native plants in natural landscape designs under the Weed Control Law, it applies to those activities. In addition, many local jurisdictions have weed control ordinances.

Background: Although many local ordinances restrict the growth of weeds, the use of native plants in natural landscape designs has been encouraged by government agencies in part because such plants are considered environmentally beneficial. In 1996, a federal Executive Order directed federal agencies to, among other things, use regionally native plants for landscaping; design, use, or promote construction practices that minimize adverse effects on the natural habitat; and seek to prevent pollution by, among other things, reducing fertilizer and pesticide use.

State Expenditures: The Governor's proposed fiscal 2005 budget includes \$498,960 in general funds for the Weed Control Program within the Maryland Department of Agriculture. To the extent the bill results in the spread of noxious weeds to areas where control is mandated, program expenditures would increase. In addition, as landowners, State agencies (such as the Department of Natural Resources, the State Highway Administration, and others) are responsible for the control of noxious weeds on their properties and, therefore, could also incur increased costs.

Local Fiscal Effect: Funding for noxious weed control programs are traditionally done on a 50-50 cost share basis with participating counties; currently 20 counties participate. To the extent the bill results in the spread of noxious weeds to areas where control is mandated, local weed control program costs would increase. In addition, as landowners, local governments are responsible for the control of noxious weeds on their properties and, therefore, could also incur increased costs.

Small Business Effect: All businesses, large and small, are required to control noxious weeds on their properties. To the extent the bill results in the spread of noxious weeds to areas where control is mandated, costs to control such weeds would increase.

Additional Comments: Presumably, the use of native or naturalized plants as part of a natural landscape design could reduce a landowner's costs related to irrigation and the purchase of fertilizer and pesticides, as native plants are generally more tolerant of local climatic conditions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Garrett County, City of Laurel, Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2004
mh/jr

Analysis by: Lesley Cook

Direct Inquiries to:
(410) 946-5510
(301) 970-5510