

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1203

(Delegate Rosenberg, *et al.*)

Environmental Matters

Environment - Construction on Golf Course Property - Soil Samples

This bill prohibits a person from beginning or performing any construction on a property that has formerly been used as a golf course unless the person engages an independent environmental consultant to take soil samples and test for specified contaminants.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: Although the bill could result in additional enforcement responsibilities for the Maryland Department of the Environment (MDE), any additional workload could be handled with existing resources.

Local Effect: Although the bill could result in additional enforcement responsibilities for local jurisdictions with delegated authority for sediment control programs, any additional workload could be handled with existing resources.

Small Business Effect: Potential meaningful impact on developers and others who plan to construct on any property that has formerly been used as a golf course.

Analysis

Bill Summary: An independent environmental consultant hired under the bill must be chosen jointly with any community association affected by the construction. The consultant must take at least 10 soil samples from the property. The samples must be taken from a depth of at least four feet from specified locations. Each sample must be

tested for arsenic, lead, cadmium, mercury, chlordane, and DDT. At least one sample must be duplicated to confirm lab results.

The consultant must make results available to any community association affected by the construction; the consultant must include a projected environmental impact for each substance found. If a detrimental public health or environmental impact is projected, an independent environmental consultant must be hired to perform a site-specific risk assessment.

Current Law: MDE is responsible for the implementation and supervision of the Erosion and Sediment Control Program. Before any person begins any construction, the appropriate approval authority must first receive, review, and approve the proposed earth change and the sediment control plan. Approval authority generally lies with: (1) the appropriate local soil conservation district; (2) any municipality not within a soil conservation district; and (3) MDE, if a State or federal plan. A person may not begin or perform any construction unless the person obtains an approved sediment control plan, implements the measures contained in the plan, conducts the construction as specified in the plan, maintains the provisions of the plan, and implements any sediment control measures reasonably necessary to control sediment runoff.

Background: The proposed redevelopment of the Bonnie View Country Club in Baltimore City and Baltimore County has raised concerns with the surrounding communities. The country club, which was originally built in the 1930s, was acquired by Beazor Homes to be developed into private homes. The surrounding communities hired an environmental expert to examine possible hazards associated with the proposed development; the research reported that golf courses as old as the one at the country club typically used toxic pesticides and herbicides such as arsenic, cadmium, mercury, chlordane, and DDT. Neighboring communities are worried that converting a former golf course into a residential community could pose a substantial threat to air and water quality on the site and to surrounding community residents. While the developer hired a firm to conduct soil sampling and analysis on the site, concern has been raised regarding the methods used and, therefore, the accuracy and completeness of its findings.

According to the Maryland State Golf Association (MSGGA), there are approximately 170 golf courses in the State, about 60% of which are privately-owned. The State of Maryland owns the golf course at Rocky Gap State Park. A handful of courses are owned by quasi-governmental agencies. Local governments own the vast majority of remaining courses. MSGGA advises that over the past few decades, approximately one golf course has been lost to development every three years. In the past 20 years, about 10 courses have scaled down in size, with a portion of the property being sold for development.

State/Local Expenditures: Although the bill does not specifically address enforcement, due to the addition of the bill's provisions to the sediment control subtitle, MDE would ultimately be responsible for enforcing the bill's provisions. Local jurisdictions would be responsible for enforcement in those jurisdictions that have been delegated authority for sediment control programs by MDE. In addition, although the bill does not assign review or approval authority to State or local regulatory agencies, community associations are likely to seek assistance from State and local agencies as a result of the bill. Accordingly, the bill could result in an increased workload for MDE and local jurisdictions. Because the redevelopment of golf courses is not all that common, however, it is assumed that any increase in workload could be handled with existing resources.

Because the bill applies to any construction on any property that has formerly been used as a golf course, as owners of golf courses, the State and local governments could incur increased expenditures for any testing needed prior to future construction activities. Although the extent to which the State and local governments will construct on affected land is unknown, it is assumed that the direct costs to comply with the bill's requirements would likely not have a significant impact on State and local finances.

Small Business Effect: Any entity, including a small business, that plans to construct on land that has formerly been used as a golf course must comply with the bill's requirements prior to beginning or performing any construction activity. Accordingly, developers, builders, contractors, and others would incur costs to perform the required sampling, testing, and any site-specific risk assessments that may result. Engineering and environmental consulting firms that perform this type of work would benefit from the bill's requirements. According to MDE, laboratory analysis costs for a pesticide scan and priority pollutant metals range from \$215 to \$250 per sample, not including collection, packaging and transport, lab certification, data validation, and other costs. Although the direct costs for sampling and testing would likely not have a significant impact on any given entity, additional costs, potentially significant, could be incurred to conduct any site-specific risk assessments that may result. In addition, Legislative Services advises that, although the bill does not directly address mediation, according to MDE, if contamination is found, cleanup costs for any given entity could be significant.

Additional Comments: MDE advises that the bill's requirements are similar to those that would be required for a Phase II environmental site assessment under the American Society for Testing and Materials Standard Guide for Environmental Site Assessments. These standards are used by environmental consultants for investigation for the potential presence of contaminants within the scope of the federal Comprehensive Response, Compensation, and Liability Act for commercial real estate transactions; the standards

are also applied to the State's brownfields sites as well as sites that choose to enter MDE's Voluntary Cleanup Program.

Legislative Services notes that, because the bill's requirements would apply to any person whose property has formerly been used as a golf course, homeowners and others would be subject to the bill's requirements.

Additional Information

Prior Introductions: None.

Cross File: SB 19 (Senator Brochin) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of the Environment, Department of Natural Resources, Baltimore City, Prince George's County, Maryland State Golf Association, Department of Legislative Services

Fiscal Note History: First Reader - March 13, 2005
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