

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1289 (Delegates Bozman and Conway)
Environmental Matters

Environment - Bonding Requirement - Local Authority

This bill authorizes a county or municipal corporation to require an applicant for a rubble landfill permit or sewage sludge utilization permit to file a surety bond or other security with the local governing body before the county completes its review and determination of the proposed refuse disposal system or sewage sludge composting or storage facility. The bill establishes requirements regarding the bonds and provides that these bonds would be in addition to other bonding and security requirements set forth in State law.

Fiscal Summary

State Effect: The bill would not directly affect State operations or finances.

Local Effect: To the extent the bill's authority is used by local governments, it could provide additional protection for local governments. However, it could also result in an increase in costs for local governments that apply for permits subject to any additional bonding requirements established as a result of the bill. In addition, the bill could have an indirect impact on local governments if the bill results in an increase in the cost of services provided by affected permittees.

Small Business Effect: Meaningful.

Analysis

Bill Summary: For a rubble landfill permit applicant, the bond must be in the amount of \$150,000 per acre of land to which the permit applies. For an applicant for a sewage sludge utilization permit, the bond must be in the amount of \$5,000 for each acre of land to which the permit applies. In either case, the bond must remain in effect for 50 years

and must contain a provision that it cannot be canceled by the surety, bank, or other issuing entity at any time for any reason.

Current Law: The Secretary of the Environment may not issue a permit to install, materially alter, or materially extend a refuse disposal system until, among other things, the county has completed its review of the proposed system and has provided to the Maryland Department of the Environment (MDE) a written statement that the refuse disposal system meets all applicable county zoning and land use requirements and is in conformity with the county solid waste plan. In general, before MDE issues a refuse disposal permit for a landfill, incinerator, or transfer station to any private person, the applicant must file a bond with MDE or deposit a security with the governing body of the local jurisdiction where the facility will be located. For a rubble landfill, unless otherwise required by federal law or regulation, a bond filed must be in the amount of \$10,000 for each acre of land to which the permit applies; it may not be less than \$250,000. In general, the term of the bond must be for the duration of the operation of the landfill and an additional five years after the closing of the landfill.

Before MDE may issue a sewage sludge utilization permit, the applicant must file with MDE acceptable evidence of a bond or other security and satisfy specified other requirements. Current regulations generally require the following bond amounts: (1) \$5,000 for transportation permits and research projects; (2) \$25,000 for permits to apply sludge to land at agricultural rates; (3) \$50,000 for permits to apply sludge to land at marginal land rates; (4) \$125,000 for permanent facilities; and (5) \$75,000 for other projects. For permits to apply sludge to land at agricultural rates or at marginal land rates, current regulations authorize MDE to allow a sewage sludge utilizer to file one bond to cover more than one utilization site. Liability under the bond must remain in effect until the expiration date of the permit.

MDE may not issue a permit to install, materially alter, or materially extend a sewage sludge composting facility or storage facility until it meets all zoning and land use requirements of the county where the facility is to be located and, in the case of a sewage sludge composting facility, MDE has a written statement that the board of county commissioners or the county council does not oppose the permit issuance.

Background: As of January 31, 2006, MDE advises that there were seven permitted rubble landfills and 760 active sewage sludge utilization permits.

Local Fiscal Effect: The extent to which local governments will use the authority provided by the bill is unknown. If a local government chooses to exercise the bill's authority, however, local governments could benefit from the protection afforded by the additional bonds. MDE advises that, with respect to rubble landfills, the proposed bonding requirement approximates the amount required to apply a closure cap to a rubble landfill. With respect to sewage sludge utilization permits, the proposed bonding

requirement approximates the amount needed to grade and seed a site, but not to remove sludge or compost.

On the other hand, a local government itself could be an applicant for a permit affected by the bill and, therefore, could incur costs to meet any additional bonding requirements. In addition, the bill could have an indirect impact on local governments to the extent the bill results in an increase in the cost of services provided to local governments by affected permittees. For example, as owners of wastewater treatment plants, local governments could incur additional costs if sewage sludge management companies increase their service bids in an effort to offset the additional costs to provide the bonds.

Allegany County reports that the increase in workload associated with establishing the additional bonding requirements would likely not be worth the effort. Baltimore City reports that, if the bill's authority is used, the additional bonding requirements could effectively stop all beneficial reuse of biosolids on land.

Small Business Effect: According to MDE, at least eight businesses owning either an operating or proposed rubble landfill in the State could be affected by the bill. In addition, at least three commercial sewage sludge application companies are currently doing business in the State. Some or all of these may be considered small businesses. Affected businesses would incur significant costs to meet any additional bonding requirements established as a result of the bill. According to MDE, the impact could be very significant to ruinous. Other businesses could be affected to the extent the bill results in an increase in the cost of services provided by affected permittees.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Allegany County, Montgomery County, Talbot County, Baltimore City, Maryland Municipal League, Washington Suburban Sanitary Commission, Department of Legislative Services

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Analysis by: Lesley G. Cook

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