

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 417

(Delegate N. King, *et al.*)

Environmental Matters

Environment - Golf Course Redevelopment - Environmental Assessment

This bill requires a person who is proposing to redevelop property that was previously used as a golf course to commission a comprehensive environmental characterization and assessment of the property before construction. The characterization and assessment must include a testing plan, soil and water samples, and an evaluation of the sampling results. The Maryland Department of the Environment (MDE) must establish an independent panel to review and approve the testing plan and evaluate the results of any samples taken. The bill prohibits a person from beginning construction unless the panel approves the testing plan and finds acceptable levels of contaminants in any samples taken on the property.

Fiscal Summary

State Effect: The bill could result in a minimal increase in general fund expenditures for MDE to staff the independent panel and to hold public hearings upon request. However, because the redevelopment of golf courses is not common, it is assumed that the bill would not have a significant impact on State finances.

Local Effect: The bill is not anticipated to have a significant direct impact on local finances. As owners of several golf courses, however, local governments could incur costs to commission the required studies if they were to redevelop any property subject to the bill's requirements.

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

Analysis

Bill Summary: The person proposing to redevelop the property is responsible for the costs of commissioning the study and ensuring that the results are accurate. The bill establishes requirements regarding environmental consultants to be commissioned for the characterizations and assessments as well as the samples that must be taken. The bill also establishes minimum sampling standards for golf courses with 18 holes or fewer that are contiguously contained within the property proposed to be redeveloped.

If the sampling results show the presence of contaminant levels in excess of the relevant risk-based standards, MDE must make public notice of the characterization and assessment and, upon request, hold a public hearing. In addition, before any construction, the person proposing to redevelop the property must remediate the site in accordance with existing State and federal laws and regulations.

Current Law: There are no State laws specifically regulating the redevelopment of golf courses. However, the State does regulate air, water, and land quality. With respect to sediment control, a person may not begin or perform any construction unless the person obtains an approved sediment control plan, maintains the provisions of the approved plan, and implements any sediment control measures reasonably necessary to control sediment runoff. “Construction” means land clearing, grubbing, topsoil stripping, soil movement, grading, cutting and filling, transporting, or otherwise disturbing land for any purpose. The term includes land disturbing activities for the purpose of constructing buildings, mining minerals, developing golf courses, and constructing roads and installing utilities.

With respect to hazardous substances, MDE is charged with determining if there is an imminent and substantial endangerment to the public health or welfare or to the environment. The Maryland Department of Agriculture also regulates the registration, labeling, and application of pesticides.

Chapters 1 and 2 of 1997 established the Voluntary Cleanup Program (VCP) within MDE to encourage the investigation of eligible brownfields properties, protect public health and the environment, accelerate the cleanup of eligible properties, and provide predictability and finality to the cleanup process. Brownfields are abandoned or underutilized industrial or commercial sites, located primarily in urban areas, which are either contaminated or perceived to be contaminated by hazardous substances. In addition to VCP, MDE also administers the State’s superfund program, which assesses suspected hazardous waste sites to control and remove environmental and public health threats through site cleanups and remedial actions.

Background: Because older golf courses have routinely been maintained with herbicides and pesticides, concern has been raised regarding the redevelopment of former golf courses into residential areas.

According to the Maryland State Golf Association (MSGA), there are approximately 170 golf courses in the State, of which about 60% 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. MSGA 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. According to the National Golf Foundation, nationwide 146 golf facilities closed in 2006.

Small Business Effect: Any entity, including a small business, that plans to redevelop property that has formerly been used as a golf course must comply with the bill's requirements prior to construction. Accordingly, developers (or any other entity proposing to redevelop property formerly used as a golf course) would incur costs to commission comprehensive environmental characterizations and assessments for affected properties. Engineering and environmental consulting firms that perform this type of work would benefit from the bill's requirements. According to MDE, based on average costs of several private vendors, laboratory analysis costs alone could total approximately \$2,150 *per sampling location*, assuming samples are composited. This estimate does not include costs associated with conducting fieldwork and preparing reports. Accordingly, the cost of each assessment could be significant.

Additional Information

Prior Introductions: Although not identical, SB 19/HB 1203 of 2005 would have prohibited a person from beginning or performing any construction on a property that had formerly been used as a golf course unless the person engaged an independent environmental consultant to take soil samples and test for specified contaminants. HB 1203 received an unfavorable report from the House Environmental Matters Committee. SB 19 was referred to the Senate Education, Health, and Environmental Affairs Committee but was withdrawn.

Cross File: SB 352 (Senator Conway, et al.) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of the Environment, Montgomery County, Prince George's County, Garrett County, Maryland State Golf Association, National Golf Association, Department of Legislative Services

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