

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 786 (Senators Haines and Middleton)
Education, Health, and Environmental Affairs

Environment - Privately Licensed Sanitarians - Soil Percolation Tests

This bill prohibits a county or local health department from prohibiting a person from directly hiring or scheduling a privately licensed sanitarian to conduct a soil percolation test. If a person obtains a test from a privately licensed sanitarian, a county or local health department must accept the test results.

Fiscal Summary

State Effect: The bill is not anticipated to significantly affect State operations or finances. It is assumed that the bill would not result in a significant increase in the number of license applications submitted to the State Board of Environmental Sanitarians.

Local Effect: Potentially significant decrease in fee revenues currently collected by local health departments for soil percolation tests. Operationally, the bill would prohibit local health departments from verifying or questioning private test results; this could result in an increase in the number of lots developed with septic systems than would otherwise occur. As a result, this could eventually result in an increase in workload and costs for local health departments to address failing septic systems.

Small Business Effect: Potential meaningful impact on private sanitarians to the extent the bill results in an increase in the demand for their services. In addition, developers and other small businesses could be affected to the extent the bill results in additional development than would otherwise occur.

Analysis

Current Law: Satisfactory soil percolation tests are required for any property to be served by an on-site sewage disposal (septic) system. For conventional septic systems, other than sand mounds, the percolation rate must be between 2 and 30 minutes per inch. For sand mounds, the vertical permeability must be between 2 and 60 minutes per inch. Except in areas of the coastal plain specifically delineated in a groundwater protection report, there must be at least four feet of satisfactory unsaturated soil below the bottom of a septic system.

Current law authorizes the Maryland Department of the Environment to establish a privatization program for performing soil percolation tests in one or more counties in the State. The health department for any county seeking to establish such a program is directed to work with MDE to implement the program.

In general, to practice as an environmental sanitarian in Maryland, a person must be licensed by the State Board of Environmental Sanitarians within MDE. To qualify for a license, an applicant must pass an examination. Various application, examination, license, and renewal fees apply.

Background: The purpose of a percolation test is to determine the suitability of soils for the installation of a septic system and treatment of sewage effluent. More specifically, a percolation test measures the ability of the soil to absorb liquid. The suitability of soil for the subsurface disposal of sewage is determined by its physical characteristics and percolation rates.

According to MDE, during one of the building booms in the late 1980s, the local health departments had a difficult time keeping up with the demand for soil percolation tests. As a result, Chapter 508 of 1992 authorized MDE to establish a privatization program. MDE advises that privatization programs were established in Carroll, Charles, and Howard counties. Carroll and Howard counties no longer have privatization programs, and the program in Charles County requires the consultant to schedule the test with the health department so that it has the option of witnessing the test.

In some counties, such as Talbot, the local health department allows private sanitarians to conduct preliminary tests, but the local health department then conducts its own tests to verify the results and determine if a site is suitable for a septic system. Talbot County advises that in a large percentage of cases, the local health department disagrees with the private consultants' test results. MDE also indicates that local health departments have found discrepancies between the tests performed by health department personnel and the

private sector. Based on that information, this bill could allow more lots (especially marginal or inappropriate lots) to be developed using septic systems.

According to MDE, under the current workload, counties are not experiencing backlogs with respect to soil percolation tests.

Local Effect: The bill could result in a decrease in local revenues from fees currently collected by local health departments for conducting soil percolation tests. It is unknown how many people would opt to hire their own sanitarian to perform a percolation test. Based on information provided by the Department of Health and Mental Hygiene, local health departments currently collect an estimated \$690,000 in fee revenues; this estimate assumes that 23 local health departments conduct, on average, 150 percolation tests each year at \$200 per test. Accordingly, while the total decrease in fee revenues that may result from this bill cannot be reliably estimated, it could be significant.

DHMH, the Maryland Association of County Health Officers, the Maryland Association of Counties, and Talbot County advise that because the bill would require counties and local health departments to accept private test results, local health departments would no longer be able to monitor the process or challenge the results of such tests. As noted above, this could result in additional lots being developed with septic systems than would otherwise occur.

To the extent the bill results in lots being developed on sites that are not suitable for septic systems, in the long run, this could result in an increase in workload and costs for local health departments to address failing septic systems.

Additional Comments: Legislative Services notes that the bill refers to “privately licensed sanitarians.” However, the State Board of Environmental Sanitarians advises that there is no *private* licensure in Maryland. It is assumed that the intent of the bill is to apply to privately *employed* sanitarians that are licensed by the State. According to MDE, there are currently 736 sanitarians and sanitarians-in-training registered by the board, most of which are employed by local health departments (528) or DHMH/MDE (116). Of the total, 70 are privately employed, 22 are retired, and an estimated 450 perform soil percolation tests. According to MDE, there are also an unknown number of sanitarians licensed by the National Environmental Health Association.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Maryland Department of the Environment, State Board of Environmental Sanitarians, Maryland Association of County Health Officers, Allegany County, Montgomery County, Talbot County, Baltimore City, Maryland Association of Counties, Department of Legislative Services

Fiscal Note History: First Reader - February 29, 2008
mll/jr

Analysis by: Lesley G. Cook

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