

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 317 (Delegate Love)
Environmental Matters

Surface Mining - Performance Bond Cap - Repeal

This bill repeals the cap on the amount of a performance bond required to be filed with the Maryland Department of the Environment in connection with a noncoal surface mining permit. Instead, the bill requires MDE to ensure that the amount of a bond is sufficient to ensure compliance with federal and State environmental laws.

Fiscal Summary

State Effect: The bill would not significantly affect State operations or finances. MDE advises that there are very few bond forfeitures, and that when a situation does arise in which a bond does not fully cover reclamation costs, MDE seeks to recover any additional costs from the permittee.

Local Effect: The bill would not affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Prior to mining, a noncoal surface mining permit applicant must file a performance bond for each operation with MDE. Current law limits the amount of the bond to a maximum of \$1,250 per acre. A bond may not be filed for less than \$8,000. MDE is required to determine whether the total bond fee is unreasonable and excessive for a particular tract of land and whether a lower amount is sufficient to cover reclamation. On completion of the mining operation, and after the requirements of the permit have been fully met, MDE must release the bond. The bond is forfeited if the permittee fails to properly reclaim the affected land.

In addition to the State prosecuting a criminal action for violations of the State's surface mining laws, the Attorney General is authorized to bring a civil action in the circuit court of the county or city where a mining operation is located against any person who violates the State's surface mining laws or any regulation, permit, notice, or order issued pursuant to those laws.

Background: Concern has been raised that the current cap is insufficient to guarantee that the potential costs to reclaim, revegetate, or regrade a site, as well as remediate any environmental violations, are secured by an adequate performance bond. Although the current bond is limited to a maximum of \$1,250 per acre, MDE advises that current costs for reclamation are estimated at approximately \$7,000 per acre. According to MDE, the bond rates of nearby states range from \$500 per acre (Ohio) to the estimated cost of reclamation (Pennsylvania).

Small Business Effect: According to MDE, there are currently approximately 360 permitted noncoal surface mining operations in the State. Some of these may be considered small businesses. Current bond rates are \$1,250 per acre. Accordingly, for a 50 acre surface mine, the total bond under current law is \$62,500. The annual premium for such a bond is \$5 per \$1,000 of bond, or approximately \$312, and a letter of credit is approximately 2% of the principal, or \$1,250. Current costs for reclamation are estimated at \$7,000 per acre. Accordingly, for a 50 acre surface mine, the total bond under the bill's provisions could be about \$350,000. According to MDE, the annual premium for such a bond would be approximately \$1,750, and the cost of a letter of credit would total approximately \$7,000.

Additional Information

Prior Introductions: None.

Cross File: SB 122 (Senator Astle) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of the Environment, Department of Legislative Services

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mll/jr

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