

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 497

(Delegate Kach, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Oil Discharge - Groundwater Contamination - Reimbursement for Costs

This bill requires a person responsible for specified groundwater contamination to reimburse specified property owners for costs incurred, up to \$250, for testing for groundwater contamination. Reimbursement is limited to the costs for conducting one test for each notice received by a property owner in accordance with current law. If a responsible person fails to reimburse a property owner, the property owner may bring an action in District Court for the reimbursement.

Fiscal Summary

State Effect: The bill could result in an increase in State expenditures (estimated at \$25,000 per event) if a State agency is a responsible person required to reimburse property owners under the bill. On the other hand, if a State agency is an affected property owner, it could become eligible for reimbursement by a responsible person for costs incurred for groundwater testing. The bill's changes are not anticipated to materially affect the operations of the District Court.

Local Effect: The bill could result in an increase in local expenditures (estimated at \$25,000 per event) if a local government is a responsible person required to reimburse property owners under the bill. On the other hand, if a local government is an affected property owner, it could become eligible for reimbursement by a responsible person for costs incurred for groundwater testing.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Chapter 539 of 2005, as amended by Chapter 538 of 2007, requires the Maryland Department of the Environment, upon a finding that specified contaminants, such as methyl tertiary butyl ether (MTBE), are present in a monitoring well located in a high risk groundwater use area in excess of specified levels, to notify the appropriate local health department and, unless the local health department agrees to do so, each owner of property located within one-half mile of the site from which the sample was taken. The person responsible for the oil discharge must reimburse MDE or the local health department for the costs associated with providing the required notice.

Current regulations define a “high risk groundwater use area” as all areas served by individual wells in Anne Arundel, Baltimore, Carroll, Cecil, Charles, Calvert, Frederick, Harford, Howard, Montgomery, and Prince George’s counties. MDE advises, however, that it will be proposing regulations to limit that definition to Baltimore, Carroll, Cecil, Frederick, and Harford counties.

Background: According to MDE, since Chapter 539 took effect on October 1, 2005, there have been 19 public notifications of groundwater contamination in 5 counties (Baltimore, Carroll, Cecil, Frederick, and Harford). MDE advises that the average mailing has been to 100 property owners. MDE further advises that the sampling required to detect the compounds of concern averages \$250.

Based on information provided by Harford County, MDE currently determines if the responsible person has to perform any sampling, which is the responsibility of the responsible person. However, the required sampling may only pertain to immediately adjacent properties if there is no indication that the contamination has migrated off site. In these cases, however, the other property owners that were notified of the contamination (those within a one-half mile radius of the site) may also want to have their water tested. While the local health department may test some wells where it determines there is a need, for other property owners the local health department may recommend that they have their water tested on their own. This bill would provide a means for property owners who receive notification to recoup costs incurred for such testing.

State/Local Fiscal Effect: State agencies and local jurisdictions could be responsible persons that would be required to reimburse property owners for the testing of groundwater contamination, up to \$250 each. Although the number of future incidents in which the State or a local jurisdiction would be the responsible person cannot be reliably estimated at this time, assuming an average of 100 properties per notification at a cost of \$250 each, costs to reimburse property owners could total \$25,000 per event.

(Legislative Services notes, however, that actual costs will vary depending on the population of the area in which the contamination occurs.) On the other hand, if an affected property owner is a State agency or local jurisdiction, the entity could benefit from being able to recoup its testing costs (up to \$250).

Small Business Effect: Any small business deemed a responsible person could be required to pay an estimated \$25,000 per event in reimbursements to property owners, as described above. On the other hand, if an affected property owner is a small business, the owner could benefit from being able to recoup its testing costs (up to \$250). Private labs could benefit to the extent the bill results in an increase in demand for their services.

Additional Information

Prior Introductions: Similar legislation was introduced as HB 711 of 2006. The bill passed both the House and the Senate with amendments. A conference committee was appointed but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Anne Arundel County, Carroll County, Garrett County, Harford County, Prince George's County, Department of Legislative Services

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