

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 168 (Senator Simonaire)
Education, Energy, and the Environment

Environmental Justice in Confined Aquatic Disposal Act

This bill prohibits (1) the Maryland Department of the Environment (MDE) from processing or making any recommendation to the Board of Public Works (BPW) regarding an application for the alteration of any tidal wetland or waters of the State submitted for the purpose of constructing a “confined aquatic disposal cell” within five miles of a residential overburdened community and (2) BPW from approving such an application. A “confined aquatic disposal cell” means an underwater containment structure that stores contaminated sediments in a depression in the bottom of a body of water.

Fiscal Summary

State Effect: In the near term, the bill primarily has an operational impact on several State agencies, including MDE, the Maryland Port Administration (MPA) within the Maryland Department of Transportation, and the Maryland Environmental Service (MES), as discussed below. There may be future impacts on State finances, but those are uncertain at this time, as discussed below.

Local Effect: The bill’s prohibition may have operational and fiscal impacts on local governments in the future, as discussed below.

Small Business Effect: Minimal.

Analysis

Current Law:

Restrictions on Redepositing Dredged Material, Sewage Sludge, and Other Material Excavated or Dredged from the Chesapeake Bay and Its Tidal Tributaries

Statute contains several restrictions relating to the placement of dredged material, sewage sludge, and other material excavated or dredged from the Chesapeake Bay and its tidal tributaries, as follows:

- A person may not redeposit in an unconfined manner dredged material from Baltimore Harbor into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portions of its tributaries outside of Baltimore Harbor. However, the dredged material may be redeposited in contained areas that are approved by MDE.
- A person may not redeposit in an unconfined manner Baltimore County tributary dredged material into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portions of its tributaries within five miles of the Hart-Miller-Pleasure Island chain in Baltimore County.
- Except pursuant to specified provisions relating to the redeposit of dredged material at Pooles Island, a person may not redeposit in an unconfined manner dredged material into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portions of its tributaries except when used for a beneficial use project undertaken in accordance with State and federal laws. However, the dredged material may be redeposited in contained areas that are approved by MDE.
- A person may not dump, deposit, scatter, or release sewage sludge (by any means) into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portions of its tributaries within five miles of the Hart-Miller-Pleasure Island chain in Baltimore County.
- Finally, a person may not redeposit dredged material or other material excavated or dredged from the Chesapeake Bay or its tidal tributaries into or onto the area of the bottomlands or waters of the Chesapeake Bay known as the deep trough.

Wetlands Regulation

Wetlands in the State are protected, and the Wetlands and Waterways Program within MDE administers a statewide program for the management, conservation, and protection of Maryland's tidal wetlands and nontidal wetlands and waterways. Pursuant to current law and MDE regulations, and subject to certain exceptions, a person may not dredge, fill, or construct or reconstruct structures in:

- State wetlands, without a license issued by BPW (or MDE, as MDE is delegated authority to authorize certain activities in State wetlands); or
- private wetlands, without a permit issued by MDE.

Dredged Material Management Program and Executive Committee

The 2001 Dredged Material Management Act established, among other things, the Dredged Material Management Program (DMMP) and the DMMP Executive Committee to provide oversight and guidance over the State's dredging needs through a rolling 20-year capacity/placement plan. DMMP prioritizes beneficial use and innovative reuse as the preferred placement options in Maryland. The work product from DMMP provides planning guidance for MPA to manage dredged material from the shipping channels in the Chesapeake Bay, Baltimore Harbor, and the Chesapeake and Delaware Canal. MPA deposits the dredged material across its [five active dredged material placement sites](#).

Maryland Environmental Service

MES is an instrumentality of the State and a self-supporting, not-for-profit public corporation that serves State, local, and federal agencies and the private sector through designing, planning, financing, constructing, operating, and monitoring projects for water and wastewater treatment, solid waste management, composting, recycling, dredged material management, hazardous materials cleanup, stormwater services, and renewable energy. MES operates on a fee-for-service basis under contract. As part of its [dredging-related operations](#), MES supports MPA and DMMP.

State Fiscal Effect: The immediate impacts of the bill are primarily operational. According to DMMP's [2020 Annual Report](#), MPA completed a confined aquatic disposal (CAD) pilot project in 2019. MPA and MES further note that MPA is currently working to develop a second CAD pilot project, and the CAD subcommittee of the DMMP's Bay Enhancement Working Group is exploring technical aspects of such a project. According to MPA, substantial resources have gone into researching the viability of CAD sites in the Chesapeake Bay. Because the bill does not prohibit all CAD projects, it is unclear how the bill's prohibition will ultimately affect future CAD projects. However, the bill's restrictions may limit the State's options for the future disposal of dredged material. To the extent future projects are prohibited due to the bill, State finances are affected, but any such impact cannot be predicted in advance.

Additionally, MDE notes that the definition of "confined aquatic disposal cell" under the bill does not include standards to determine whether affected sediments are contaminated. As a result, MDE incurs an operational impact to establish compliance criteria for this restriction. Additionally, MDE advises that, under the bill, additional screening needs to occur for CAD permit applications because MDE is prohibited from processing and

making recommendations to BPW for applications for a CAD project within five miles of a residential overburdened community. MDE notes that this type of screening is not aligned with the department's current application intake process and necessitates additional steps. While MDE can absorb this impact with existing staff, MDE anticipates that the additional workload may result in permit processing delays.

BPW advises that the bill does not affect its operations or finances.

Local Fiscal Effect: Although there is no known immediate impact on local governments, there could be an operational impact on local governments, similar to the impact described above on MPA, to the extent that the bill's prohibition eliminates future dredged material management options for local governments. Any future impact on local finances cannot be estimated at this time.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Environmental Service; Maryland Department of the Environment; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2025
km/lgc

Analysis by: Kathleen P. Kennedy

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