

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1101

(Montgomery County Delegation)

Environment and Transportation

Education, Health, and Environmental Affairs

Municipal Corporations - Closed Swimming Lake - Regulation
MC 32-16

This bill exempts a “closed swimming lake” that is located within and maintained by a municipality, and that is only accessible to residents of the municipality, from regulations that apply to public bathing beaches under the Code of Maryland Regulations (COMAR) 26.08.09 or any county regulations related to public swimming facilities. Instead, a municipality that maintains a closed swimming lake must establish a policy to assess and monitor the water quality of the closed swimming lake. The policy must be consistent with specified COMAR requirements regarding sanitary quality, tiered monitoring, and public notification. A “closed swimming lake” means a body of water that is 1.5 acres in surface area or less, is used for swimming, and does not have a circulation system.

The bill takes effect June 1, 2016.

Fiscal Summary

State Effect: Excluding closed swimming lakes from specified State regulatory provisions has no material impact on State finances or operations.

Local Effect: Potential decrease in local expenditures to the extent that a municipality no longer needs to comply with specified State and county regulations with respect to a closed swimming lake located within the municipality. The magnitude of any such impact depends on an affected municipality’s facilities and the policy it establishes under the bill.

Small Business Effect: None.

Analysis

Current Law: Public bathing beaches are regulated by the Maryland Department of the Environment (MDE) under COMAR 26.08.09. Under those regulations, “beaches” are natural waters, including points of access, used by the public for swimming, bathing, surfing, or other similar water contact activities. Beaches are places where people engage in or are likely to engage in activities that could result in immersion in or ingestion of the water. Beaches are designated as such from Memorial Day through Labor Day.

A beach that the owner or operator holds open to the public for bathing, swimming, or other water recreation and which abuts a pond, lake, quarry, stream, bay, or other water body is defined through regulation as a “permitted beach.” An owner or operator of such a beach must obtain a permit to operate the beach from the approving authority (either MDE or its designee).

Among other things, current regulations set forth requirements for permitted beaches that relate to (1) toilet facilities; (2) service by public sewerage or an approved sewage disposal system; (3) an adequate supply of potable drinking water; and (4) adequate trash disposal containers. A sanitary survey must be conducted to demonstrate that the beach does not represent a public health risk before an operating permit may be issued.

Current regulations also establish requirements for water quality monitoring at permitted beaches. The sampling frequency varies depending on specified tiered categories of beaches, based on how frequently the beaches are used and their risks of pollution. At a minimum, beaches must be monitored monthly. The approving authority must close a beach and provide prompt public notification if pollutants reach specified levels.

Background: The Department of Legislative Services is aware of at least one “closed swimming lake” in Maryland, Maple Lake, which is located in the Town of Washington Grove in Montgomery County. According to the town’s 2009 master plan, the lake was originally constructed from 1910 to 1911 for swimming, boating, and ice harvesting. Maple spring, the lake’s source, is part of the headwaters system of Great Seneca Creek. The lake is open for recreational use, and lifeguards are stationed at the lake from Memorial Day weekend through Labor Day weekend. It is unknown whether there are any other “closed swimming lakes” in the State.

Local Effect: Under the bill, a closed swimming lake is exempt from several regulatory requirements, including those related to (1) annual permitting, including the submission of an operating plan; (2) potable drinking water and sanitary facilities, including toilets; and (3) appeals. However, a closed swimming lake must establish a policy consistent with specified COMAR requirements regarding sanitary quality, tiered monitoring, and public notification. Thus, the magnitude of any impact on a municipality that operates a closed

swimming lake depends on the current facilities offered and the policy it establishes pursuant to the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, cities of Bowie and Takoma Park, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2016
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