

INSIDE WASHINGTON/Local leaders eye proposed brownfields law

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A proposal to create a nationwide uniform law to govern future uses of contaminated parcels of land or brownfields; is drawing criticism from local government organizations. The National Conference of Commissioners on Uniform State Laws (NCCUSL), an organization of state-appointed lawyers charged with examining the feasibility of such nationwide undertakings, is advancing the idea of a national law.

But spokespeople from the National League of Cities and the National Association of Counties worry that such a law would step too heavily on local toes. "I understand what they are trying to do, but I don't think it can be handled by the state legislatures," says Cameron Whitman, NLC's director of policy and federal relations.

"We are quite wary of any uniform land use law," says Stephanie Osborn, associate legislative director for NACo. "Frankly, from our perspective, it is a local decision."

NCCUSL wants to ensure that all 50 states have the same laws governing the future use of land that has been flagged by federal or state regulators as being polluted. The group argues that unified state laws will help put dormant land parcels back into use.

Such laws, NCCUSL says, would instill confidence in national financial lenders and real estate companies that traditionally have shied away from developing contaminated sites for fear of future lawsuits. The law would create institutional controls designed to govern pollution at the contaminated sites even after the property changes ownership, according to Bill Breetz, chairman of NCCUSL's environmental covenants drafting committee.

Breetz suggests such a uniform law would relieve cities and counties of the burden of having to care for property that has been abandoned by former owners. The law would make it easier to sell such property, thus putting the land back on the tax rolls. "The tax revenues are what drive local communities" he says. "It's significant to local communities when parcels of real estate are not [generating tax revenue]".

Equally important is the fact that such a law would ensure the future health and safety of a community's population by guaranteeing institutional controls for the land.

So far, 17 states have laws similar to the one the conference is pushing, but he characterizes them as "all over the lot." A draft proposal for a uniform law could be ready by August 2002 with the final law finished and ratified by the conference within 12 months of that date. It would then be sent to the state legislatures, Breetz says.

Congressional lobbyists representing local interests are skeptical about the changes of such a proposal working without the direct involvement of Congress and the White House. According to Breetz, the federal government has shown strong interest in the plan and is funding the project. The Environmental Protection Agency, and the energy and defense departments provided input at a November meeting and are expected to attend future meetings as well.

The issue of a uniform law for institutional controls of contaminated property is of particular interest to the defense department, which is responsible for finding new uses for closed military bases, many of which sit on land that falls under the category of brownfields, Breetz says.

"The DOD is increasingly finding a need to dispense with military bases," he says. "They want to see enforceable laws [that will help them sell the property]."

Osborn and Whitman are waiting to see the language of the legislation before they ratchet up the heat, and both note that they do not necessarily oppose the idea behind it. Even Whitman notes that "there needs to be a federal law." Breetz says NCCUSL plans to contact city and county groups in the future to seek their input.