Battle shifts to clinics in water-quality fight

Bill would require University of Maryland’s law school to disclose clients or lose funds

BY STEVE LASH
steve.lash@mddailyrecord.com

The General Assembly is giving students at the University of Maryland School of Law a lesson in the consequences of litigation they probably did not expect.

Eastern Shore lawmakers, upset by legal-clinic representation of environmentalists suing Perdue Farms and family farmers, have backed provisions in budget bills that would require the school to disclose the names of clinic clients for the past five years — or lose up to $750,000 in funding.

The effort has been somewhat beaten back in the Senate. Last week, senators adopted an amendment limiting the disclosure requirement to the school’s environmental law clinic going back only two years under a penalty of $250,000 in lost funds.

The University of Maryland School of Law’s 23 clinics provide 110,000 hours of legal aid annually, according to Phoebe A. Haddon, the school’s dean. University officials have submitted reports on the clinics’ work to legislators at their request, but the legislative initiative would mark the first time such reports would be tied to funding, Haddon said.

“The moment you attach a requirement of reporting to money, you’re saying, ‘We’ll be watching you,’ ” Haddon added. “My concern is the legislature may be willing to tie funds allocated for educational purposes to an outcome that is desirable to this dispute.”

The House of Delegates has yet to vote on its version of the budget, which contains the five-year provision. Del. Norman H. Conway, D-Wicomico and Worcester, did not return telephone messages seeking comment on the provision, which he supports.

Neither version of the budget bill imposes reporting demands on the legal clinics at the University of Baltimore School of Law. A spokesman for the school declined to comment.

Chilling effect

Sen. Brian E. Frosh said he introduced the Senate amendment to protect the “academic freedom” of the law clinic’s students as best he could. Frosh, D-Montgomery, voiced regret that even under his compromise measure, the environmental clinic would still have to disclose its clients under penalty of lost funds.

“I don’t think it’s a good provision even with my amendment,” said Frosh, who chairs the Senate Judicial Proceedings Committee.

Compelled disclosure “chills the law school’s participation in cases,” as clients will be less willing to use the clinic, Frosh said.

That chilling effect was the goal of the provision’s supporters, Frosh said.

He also predicted the supporters would not be satisfied with mere disclosure but would look at the names of the clients and seek to punish the school if the lawmakers did not like whom the school was representing, Frosh said.

“If we don’t like it, the next step is we’re going to take your money away,” Frosh said, addressing what he believes is the supporters’ thought process.

But an Eastern Shore Republican who supports the disclosure provision said his constituents have a right to the names of the clients of a public university’s legal clinic. These constituents include farmers who, unlike Perdue, cannot afford to fight litigation.

“The taxpayers that I represent have a real problem with University of Maryland law students being used to sue the family farmer,” said Sen. Richard F. Colburn. “I can’t believe that these types of lawsuits should be used by a clinic to gain some type of legal expertise when we need family farms.”

The dispute that sparked the legislative provision was filed by the clinic on behalf of the Assateague Coastal Trust and the Waterkeeper Alliance. The groups are suing Perdue Farms and other farmers, alleging their activities polluted the Pocomoke River, in violation of clean-water laws.

Perdue Farms, with $4.6 billion in annual sales, is a major Eastern Shore employer.

The company’s chairman, Jim Perdue, expressed his concern about the lawsuit to Eastern Shore legislators, said company spokesman Luis Luna.

Environmental groups have expressed their dismay with the disclosure provision.

“You shouldn’t have to worry about the repercussions of standing up for something you believe in,” said Alison Prost, an attorney at the Chesapeake Bay Foundation and a former student member of the law school’s environmental clinic.

Dru Schmidt-Perkins, executive director of 1000 Friends of Maryland, said her group used the clinic as counsel for a transportation and air-quality lawsuit several years ago.

“They gave us resources that there was no way we could have had on our own as a nonprofit organization,” she said. “It’s chilling that a state like Maryland with a strong environmental ethic would allow this attack to go forward. I think it looks bad for the state and not just environmentally.”

But Colburn, the Eastern Shore senator, said the environmental groups’ strong support for the clinic shows the importance of disclosure and letting the public know on whose behalf the students are litigating.

“This seems pretty one-sided,” he said, referring to the clinics’ representation of environmentalists. “You can have the law students defend the family farms.”

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