

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1186
Ways and Means

(Delegate Howard)

Transportation - State Highway Administration - Sale or Lease of Highway
Naming Rights

This bill authorizes the State Highway Administration (SHA) to sell or lease the naming rights for all or part of a State highway to a private entity for periods of at least one-year duration. This authority is limited to public relations or advertising purposes and may not be construed to require that any highway sign or mailing address be altered. Private entities that purchase or lease naming rights may erect outdoor signs along the highway to advertise the designation and the private entity; however, all costs associated with a sign must be paid by the private entity. Outdoor signs authorized by the bill (1) may not be erected without SHA approval; (2) may not detract from the safety of the traveling public, as determined by SHA; (3) must be esthetically appropriate, as determined by SHA; and (4) are subject to Regulation of Outdoor Advertising provisions in the Transportation Article and other specified laws. All proceeds from the sale or lease of naming rights must be credited to the Transportation Trust Fund (TTF).

Fiscal Summary

State Effect: TTF revenues increase potentially significantly in FY 2012 and subsequent years due to selling or leasing naming rights. Expenditures are not materially affected.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law: SHA may name or rename any State highway.

SHA is authorized to place signs, signals, or markers along any State highway to inform the traveling public of directions, distances, danger, or other information. Signs, signals, and markers placed along an interstate must conform to applicable federal standards. Any person who removes, damages, or defaces any sign, signal, or marker placed by SHA is guilty of a misdemeanor and on conviction is subject to a fine of up to \$100.

Subject to specified exceptions, a person may not erect or maintain any outdoor sign outside the limits of any municipal corporation and within 500 feet of a State highway unless the person has a permit issued by SHA for that sign. A person may not erect or maintain any outdoor sign along or near any federal aid primary highway, unless the person has been issued a permit. Federal law and regulations require states to control advertising on the sides of federally funded highways. Failure to control the outdoor advertising may result in the loss of federal highway aid.

Background: Due to the economic downturn and growing state budget shortfalls, many states are seeking to identify new revenue sources for transportation projects. A bill was recently introduced in Florida (Florida HB 313) that authorizes the sale of naming rights and lease space for commercial advertising to be displayed on state transportation property. In addition, the Massachusetts Bay Transportation Authority coordinates advertising on a variety of transportation facilities, including outdoor billboards it owns throughout eastern Massachusetts.

Chapters 525 and 526 of 2010 established the Blue Ribbon Commission on Transportation Funding. The commission was tasked with reviewing, evaluating, and making recommendations on a variety of issues, including (1) the current State funding sources and structure of TTF; (2) short- and long-term transit and highway construction and maintenance funding needs; (3) options for public-private partnerships to meet transportation funding needs; (4) the structure of regional transportation authorities and their ability to meet transportation needs; and (5) options for sustainable, long-term revenue sources for transportation. The commission must submit an interim report by January 1, 2011, and a final report by November 1, 2011, providing findings and recommendations to the Governor and the General Assembly.

In February 2011, the commission released an interim report that recommends (1) adopting an amendment to the Maryland Constitution prohibiting transfers from TTF to nontransportation purposes, except in specified fiscal emergencies; (2) retaining the existing portion of sales and corporate tax revenue dedicated to TTF; (3) restoring highway user revenue to local governments; (4) raising \$800 million in net new annual funding for transportation through a combination of net new revenues and bonding; (5) increasing leveraging and bonding; and (6) removing the cost-recovery cap for Motor Vehicle Administration fees.

State Revenues: TTF revenues increase potentially significantly in fiscal 2012 and subsequent years to the extent State highway naming rights are sold or leased. The bill's impact will depend largely on the extent to which strong private entity interest exists and SHA negotiates lucrative sale and lease rates.

However, SHA advises that failing to adhere to federal outdoor advertising requirements could lead to the loss of 10% of most federal highway aid. Legislative Services assumes SHA would only use the authority under the bill in a manner consistent with federal requirements.

Small Business Effect: The bill has a meaningful impact to the extent small businesses benefit from purchasing naming rights to a State highway.

Additional Comments: SHA advises that the bill may not be consistent with federal requirements. The Federal Highway Administration's *Manual on Uniform Traffic Control Devices* prohibits, generally, the use of highway rights-of-way for advertising purposes. SHA further advises that federal regulations require highway rights-of-way to be devoted exclusively to public highway purposes.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Florida Legislature, Massachusetts Bay Transportation Authority, Federal Highway Administration, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2011
mc/lgc

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