HB 613

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 613 (Chair, Environmental Matters Committee and Chair, Ways and Means Committee, *et al.*) (By Request - Departmental - Planning)

Environmental Matters and Ways and Means | Budget and Taxation

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Sustainable Communities - Designation and Financing

This departmental bill authorizes specified local governments to finance the costs of infrastructure improvements located in or which support "sustainable communities," including the cost for operation and maintenance of infrastructure improvements in the same manner as transit-oriented development (TOD) districts. The Maryland Economic Development Corporation (MEDCO) may enter into agreements with specified local governments to issue bonds supported by tax increment financing (TIF) or other similar financing instruments on behalf of sustainable community infrastructure investments. By October 1, 2013, the Maryland Department of Planning (MDP) must produce a report on TIF best practices and, in consultation with MEDCO, develop an online TIF education course with a certification component. Local governments are prohibited from using the TIF authority established under the bill until a specified individual employed by the local government completes the education course.

Fiscal Summary

State Effect: Authorizing additional infrastructure project financing for local governments is not expected to materially affect State finances. Nonbudgeted revenues and expenditures may increase for MEDCO to the extent it issues additional TIF-backed bonds. MDP can produce the required report, develop the online TIF education course, and meet the other administrative requirements of the bill with existing budgeted resources.

Local Effect: Potential increase in property and other tax revenues for local governments that exercise their authority under the bill to finance infrastructure investments in sustainable communities. A portion of local tax revenues generated in sustainable communities may be dedicated to repayment of bonds issued by local governments or by MEDCO. Potential significant increase in annual debt service expenditures for local governments on bonds issued under the bill.

Small Business Effect: MDP has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill authorizes specified local governments to finance the costs of infrastructure improvements located in or which support "sustainable communities" as defined in the Housing and Community Development Article in the same manner as TOD districts. A special fund may be created by a local government to facilitate infrastructure improvement in sustainable communities under the bill.

In addition to the uses for TIF bond proceeds authorized under current law, the bill authorizes their use in sustainable communities for (1) historic preservation or rehabilitation; (2) environmental remediation, demolition, and site preparation; (3) parking lots, facilities, or structures of any type whether for public or private use; (4) highways or transit service that support sustainable communities; (5) schools; (6) affordable or mixed-income housing; and (7) stormwater management and storm drain facilities.

In addition, MEDCO may enter into agreements with specified local governments to use proceeds from a special taxing district, including TIF, to repay debt service on bonds or other similar financial instruments issued by MEDCO on behalf of sustainable community infrastructure improvements. TIF-supported bonds may cover the expense of construction, operation, or maintenance of various infrastructure improvements, and local tax revenues attributed to the development may be pledged for repayment of MEDCO bonds.

A local government that issues bonds, notes, or other similar instruments for a sustainable community as provided for under the bill, or that demonstrates to the appropriate unit of State government that the local government has funded infrastructure improvements in a sustainable community, must receive priority for other State funding for that sustainable community under the (1) Community Legacy Program; (2) Sustainable Communities Tax Credit Program; (3) Neighborhood Business Development Program; (4) Maryland Historical Trust Grant Program; and (5) African American Heritage Grant Program.

The bill may not be construed or interpreted to limit the use outside of a sustainable community of TIF as provided for in Title 12, Subtitle 2 of the Economic Development Article.

Local Government TIF Training and Certification

By October 1, 2013, MDP must (1) produce a models and guidelines report on TIF best practices and (2) develop an online TIF education course with a certification component in consultation with MEDCO. Both the report and the online TIF education course must include information on the services that MEDCO can offer local governments with regard to TIF in sustainable communities. Local governments are prohibited from using the TIF authority established under the bill until either the chief administrative officer or the chief financial officer of the local government completes the education course.

MDP must create a certification for completion of the course and keep a record of individuals who receive certification. MDP must forward the list of individuals who have received certification to MEDCO and the units of State government that are required to grant priority funding in certain sustainable communities, as discussed above.

Current Law:

Infrastructure Improvement Financing

The General Assembly has granted 12 counties (Anne Arundel, Baltimore, Calvert, Cecil, Charles, Garrett, Harford, Howard, Prince George's, St. Mary's, Washington, and Wicomico), all municipalities, and Baltimore City broad authority to create special taxing districts and to levy *ad valorem* taxes and issue bonds and other obligations for purposes of financing infrastructure improvements. The types of infrastructure improvements authorized under current law include storm drainage systems, water and sewer systems, roads, sidewalks, lighting, parking, park and recreational facilities, libraries, schools, transit facilities, and solid waste facilities. The funding available for these improvements is also available for infrastructure improvements or the operation and maintenance of infrastructure improvements in or supporting TOD or a State hospital redevelopment.

Tax Increment Financing

TIF is a public financing method that uses future gains in tax revenues to finance current improvements. It is designed to channel funding toward improvements in distressed or underdeveloped areas where development might not otherwise occur. TIF creates funding for public projects that may otherwise be unaffordable to localities, by borrowing against future property tax revenues.

Chapter 182 of 2009 (HB 300) authorized certain counties and municipalities to finance the costs of certain infrastructure improvements located in or supporting TOD. The Act authorized MEDCO to enter into agreements with certain local governments to use proceeds from a special taxing district, including TIF, to repay debt service on bonds issued by MEDCO on behalf of TOD projects. Chapter 726 of 2010 (HB 1161) extended the same financing authority for the counties, municipalities, and MEDCO to State hospital redevelopments.

Maryland Economic Development Corporation

MEDCO is a nonbudgeted entity that allows the State to own or develop property for economic development purposes. MEDCO was created in 1984 with the mission to help expand, modernize, and retain existing State business and to attract new business to the State.

MEDCO purchases or develops property that is leased to others under favorable terms, and it makes direct loans to companies throughout the State to maintain or develop facilities. It also often serves as the conduit for loans administered by the Department of Business and Economic Development (DBED). MEDCO issues bonds to raise funds for its loans. The bond debt consists primarily of revenue bonds and notes payable to government agencies such as DBED. The debt represents nonrecourse obligations because MEDCO is not liable to bondholders and lenders in the event of a project or borrower default. Each project must have self-supporting revenues, and no projects are cross-collateralized. As a result, MEDCO debt is not debt of the State, and there is no implied State guaranty or State obligation to protect bondholders from losses.

Designation as a Sustainable Community

There are multiple pathways and associated timeframes to designation as a sustainable community. A community legacy area approved by the Community Legacy Board prior to June 1, 2010, is considered a sustainable community until December 31, 2013. Similarly, any designated neighborhood approved by the Secretary of Housing and Community Development prior to June 1, 2010, is considered a sustainable community until December 31, 2013.

By December 31, 2013, a sponsor must file an application to redesignate any approved designated neighborhood as a sustainable community for projects to remain eligible for financial assistance from the various programs that support sustainable communities.

A sustainable community designated (or resdesignated) after June 1, 2010, retains its designation for five years. To maintain a sustainable community designation, an updated action plan and application must be sent every five years to the Department of Housing and Community Development (DHCD). There is no limit on the number of times an area may be redesignated as a sustainable community.

A sustainable community also includes an area that has been designated as a Base Realignment and Closure (BRAC) revitalization zone or has been designated as a TOD district. The areas do not need to apply for redesignation, but they must submit an action plan to be eligible to apply for sustainable community resources.

Background: The bill is the result of efforts by the Funding Workgroup of the Sustainable Growth Commission which was established in 2010 and is staffed by MDP. The workgroup focuses on identifying new financing mechanisms to support the State's Smart, Green, and Growing initiatives, and it researched TIF extensively in 2011.

According to DHCD, there are approximately 150 sustainable communities in the State, including BRAC and TOD districts that are automatically designated. A map of both sustainable communities and TOD districts as of January 2012 can be found in the **Appendix – Sustainable Communities and Transit-Oriented Development Districts**. Current State programs that provide financial incentives to designated sustainable communities include:

- *Community Legacy Program* – Administered by DHCD, the program provides local governments and community development organizations with financial assistance to strengthen communities through such activities as business retention and attraction, encouraging homeownership, and commercial revitalization. Program funds are restricted to designated sustainable communities. The fiscal 2014 capital budget includes $6.0 million in general obligation (GO) bonds for the program.

- *Neighborhood Business Development Program* – Administered by DHCD, the program provides loans through gap financing, *i.e.*, subordinate financing, to new or expanding small businesses and nonprofit organizations. Program funds are restricted to designated sustainable communities. The fiscal 2014 capital budget includes approximately $5.9 million for the program ($1.0 million in GO bonds, $3.0 million in pay-as-you-go general funds, $1.4 million in pay-as-you-go special funds, and $0.5 million in nonbudgeted funds).

- *Maryland Sustainable Communities Tax Credit* – Administered by the Maryland Historical Trust, State income tax credits are available based on a percentage of the qualified capital costs expended in the rehabilitation of a qualified structure.

Nonhistoric qualified rehabilitated structures in designated sustainable communities can be eligible for a 10% credit. A 20% credit for historic structures is also available. The program awarded $11.2 million in credits in fiscal 2011 and $7.0 million in credits in both fiscal 2012 and 2013.

- *Job Creation Tax Credit* – Administered by DBED, the tax credit is designed to encourage businesses to expand in or relocate to the State. Enhanced incentives are provided in designated revitalization areas, including sustainable communities. The standard credit is 2.5% of annual wages up to $1,000 per new job. For businesses located in a revitalization area, the credit is 5% of annual wages up to $1,500 per new job, and the threshold to qualify for the tax credit drops from 60 to 25 jobs created.

- *Sidewalk Retrofit Program* – Administered by the Maryland Department of Transportation, the program helps finance the construction and replacement of sidewalks along State highways. The program covers 50% of the cost for approved projects. For projects located in a sustainable community, the program covers 100% of the cost. The *2013-2018 Consolidated Transportation Program* includes $2.4 million for the program in fiscal 2014.

State Fiscal Effect: The authorization of additional infrastructure project financing for local governments is not expected to materially affect State finances. Nonbudgeted revenues and expenditures may increase for MEDCO to the extent it issues additional TIF-supported bonds for local governments for infrastructure improvements in sustainable communities, however, the amount cannot be reliably estimated at this time.

MDP advises that it has prepared models and guidelines reports in the past using existing staff and that the department has the information that it needs to include in the report readily available. In addition, MDP has experience developing online training programs similar to the TIF education course required under the bill. For example, pursuant to Chapters 180 and 181 of 2009 (SB 280/HB 297), MDP developed the Planning Commissions, Planning Boards, and Board of Appeals Education Course – an online training program with a certification component. Thus, MDP advises that it can implement the bill with existing budgeted resources.

Local Fiscal Effect: Property and other tax revenues may increase for local governments that choose to finance infrastructure investments in sustainable communities. A portion of local tax revenues generated in sustainable communities may be dedicated to repayment of bonds issued under the bill. Annual debt service expenditures may increase significantly for local governments on bonds issued under the bill.

Generally, MEDCO may issue conduit debt for development projects by dedicating a portion of operating revenues for repayment of the bond principal and interest. In instances where the project does not generate enough revenues through the special taxing district, the local government may be responsible for repayment of the debt.

Additional Information

Prior Introductions: A similar bill, HB 1467 of 2012, received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of Planning; Department of Business and Economic Development; Maryland Department of Transportation; Maryland State Department of Education; Maryland Department of the Environment; Department of Housing and Community Development; Maryland Economic Development Corporation; Maryland Association of Counties; Kent, Montgomery, and Worcester counties; Baltimore City; City of Salisbury; towns of Bel Air and Leonardtown; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2013
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Revised - Clarification/Updated Budget Information - April 24, 2013

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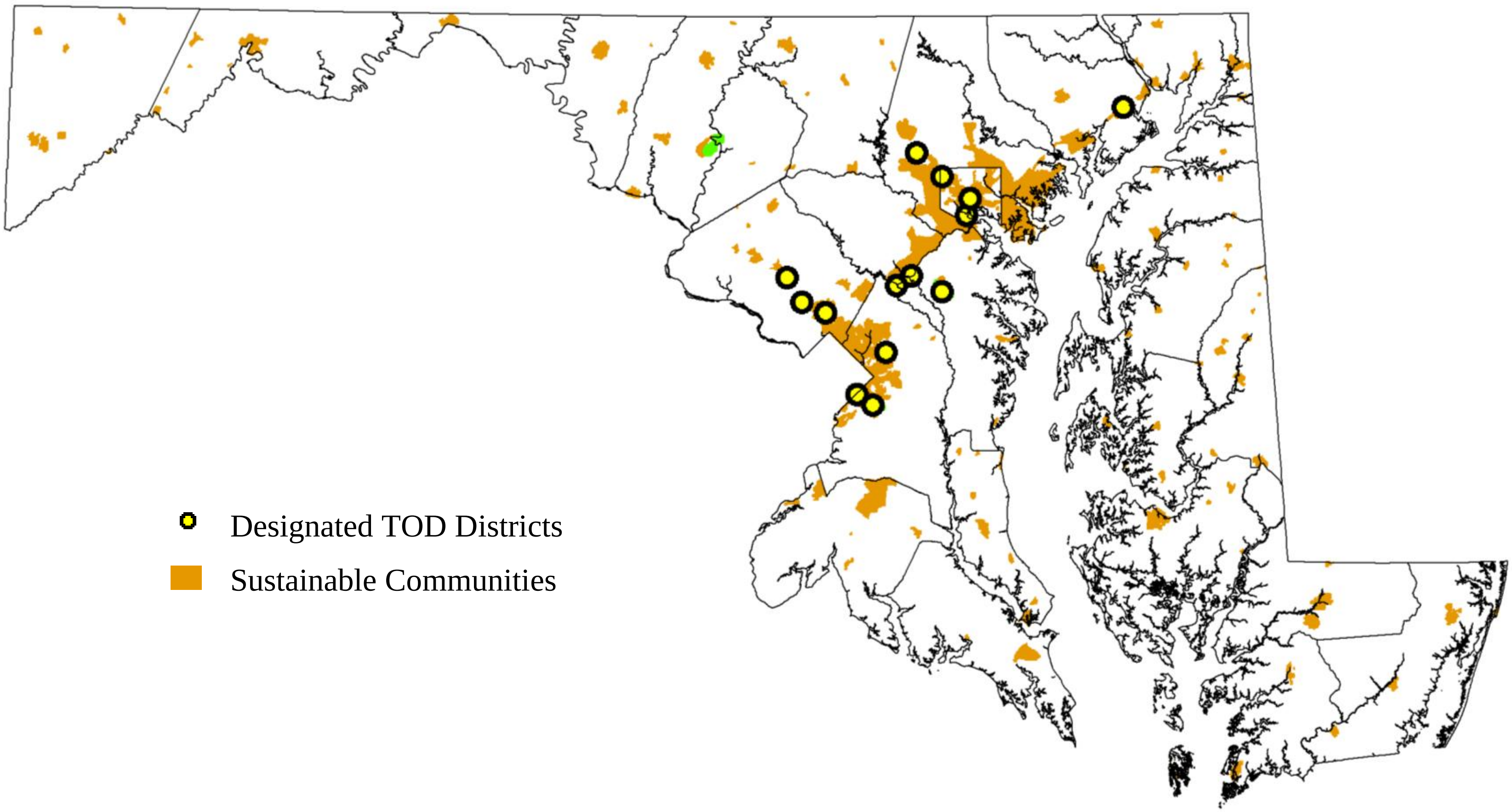
Appendix – Sustainable Communities and Transit-Oriented Development Districts
January 2012



Source: Maryland Department of Planning, Department of Legislative Services

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Smart, Green, and Growing – Sustainable Communities – Financing and Designation

BILL NUMBER: HB 613

PREPARED BY:
(Dept./Agency) Department of Planning

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

____ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

__X___WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

There is the potential for increase in property and other tax revenues as a result of Sustainable Communities in counties and municipalities that exercise this authority. A portion of local tax revenues generated by Sustainable Communities may be dedicated to repayment of bonds issued by MEDCO.