

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 353

(Delegate Cullison)

Health and Government Operations

Education, Health, and Environmental Affairs

State Government - Automated Mapping-Geographic Information Systems -
System Services Costs

This bill repeals the authority of governmental units (1) to adopt a fee structure for providing automated mapping-geographic information system (GIS) services and (2) to sell GIS services to the general public for a fee reflecting the cost of providing the GIS services. The bill also repeals the requirement that (1) only a person who has entered into a contract with a governmental unit may have online access to the geographic data in a system under the terms of the contract; (2) copy privileges must be specified in the contract; and (3) online access is limited and may not include the ability to enter, alter, or delete data or to access information that would otherwise be denied under the Maryland Public Information Act (PIA). The bill authorizes a governmental unit to charge an additional fee of up to \$50 for GIS products.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: Minimal impact on State finances. Most State agencies largely provide GIS services for free under an open data model. General and special fund revenues may increase minimally, to the extent State agencies choose to charge the additional fee for GIS products.

Local Effect: Minimal impact on local finances. Most local governments provide GIS services for free under an open data model, although some may still use the current GIS services cost model. Revenues may increase minimally, to the extent local governments choose to charge the additional fee for GIS products.

Small Business Effect: Minimal.

Analysis

Bill Summary: A governmental unit may adopt a fee structure that will cover the cost of producing a new GIS product in a digital or other format, or the cost of reproducing an existing GIS product in printed, hard copy, digital, or other format. The fee structure may include an additional charge of up to \$50. GIS products include any depiction, representation, or compilation of spatial data produced in printed, digital, hard copy, or other format.

Current Law: Under the State Government Article, a GIS is a system in which geographically referenced data are entered and stored electronically and can be manipulated to display selected geographic data. GIS products are drawings, lists, maps, narrative descriptions, photographs, or other hard copy formats that depict spatial data. GIS services are electronic access to data in the system, online access to data in the system, and software programs to access data in the system.

Governmental units are authorized to adopt a fee structure for GIS products and GIS services that will cover the cost of providing the products and services. Governmental units may sell GIS products and GIS services to the general public for a fee that reflects the cost of providing the products or services and may reduce or waive fees for GIS products and GIS services that are to be used for a public purpose. The cost of providing GIS services includes a reasonable share of overhead costs (such as quality control; hardware/software; and data gathering, entry, and maintenance).

Background: Chapter 69 of 2014 established the Council on Open Data to promote the State's policy that open data be machine readable and released to the public in ways that make the data easily accessible and usable, including through the use of open data portals. The council is chaired by the Secretary of Information Technology (DoIT) and is comprised of representatives from other State agencies, the General Assembly, local governments, and the private and nonprofit sectors. The council must provide guidance and policy recommendations, including recommended legislation, to promote the State's open data policy and must report to the Governor and the General Assembly on or before January 10 of each year.

In its January 2015 report, the council recommended the repeal or modification of the State Government Article statute relating to GIS services. According to the council, the statute was enacted in 1992 with the goal of funding the "first generation" of digital maps. The council made several findings regarding the law and its current practical effects: (1) the law has tended to raise the cost and lower the velocity of data distribution; (2) the law is inconsistent with the intent of the State's newly enacted open data policy, which encourages free online data distribution; (3) the law is inconsistent with the State's newly

enacted open data policy because it establishes a special status for geographic data, while the State's open data policy treats alphanumeric and geographic data equally; (4) public data is valuable only if it is used, and data use will likely increase if costs are lowered and contracts are not required; (5) the financial returns from data sales have decreased to the point that no council members, nor anyone from contacted local governments, objected or reported a significant financial impact if they lost the authority to charge for system overhead costs; (6) unlike online distribution, physical distribution of CDs, DVDs, paper maps, and related products have a marginal cost of distribution; and (7) the law allows government entities to recover the cost of preparing and distributing physical products in a more convenient and efficient way than if the transaction were handled under the PIA.

Expanding on the council's findings, DoIT additionally advises that the current requirement that governmental units enter into contracts before sharing GIS data is inefficient, as it impedes data sharing between agencies and necessitates governmental units to enforce contracts and defend copyrights, which can be costly. DoIT also advises that the current law was enacted in 1992, when GIS were still novel and expensive. In contrast, GIS are now widely and freely available, such that the current GIS services cost model is outdated.

Given its findings, the council recommended that the General Assembly (1) revoke the authority of government entities to sell mapping products at prices that attempt to recoup overhead costs of the source system; (2) eliminate the requirement that government entities enter into contracts with recipients of data; and (3) retain the ability of government entities to recover the cost of preparing and distributing offline system products such as CDs, DVDs, and hard-copy maps. The council provided draft legislation with its report; the bill adopts this draft legislation with minor stylistic changes.

State Fiscal Effect: DoIT advises that the current GIS services cost model is outdated and costly to administer and enforce. As a result, DoIT and other State agencies largely provide GIS services for free under an open data model. Specifically, DoIT, the Maryland Department of Planning (MDP), the Maryland Department of Transportation, and the Department of Natural Resources all advise that they already provide GIS services through State websites at no charge. The Council on Open Data also consists of representatives from 25 State agencies; the council reports that none of its members objected or reported possible significant financial impact from losing the authority to charge for system overhead costs.

The bill authorizes State agencies to charge an additional fee of up to \$50 for GIS products. Therefore, general and special fund revenues may increase minimally, to the extent State agencies choose to charge the additional fee.

Local Fiscal Effect: Many local governments provide GIS services for free under an open data model, although some may still use the current GIS services cost model. However, the Council on Open Data also consists of representatives of local governments from across the State; these representatives, along with additional local governments polled by these representatives, reported minimal to no financial impact from losing the authority to charge for system overhead costs.

The bill also authorizes local governments to charge an additional fee of up to \$50 for GIS products. Therefore, local revenues may increase minimally, to the extent that local governments choose to charge the additional fee.

Small Business Effect: Some GIS data is already freely available to private business entities through a variety of forums (*e.g.*, Google Maps, Open Street Map). DoIT and MDP advise that small businesses that make frequent use of government geographic data (*e.g.*, surveyors, real estate firms, civil engineers, information technology firms, and architects) may benefit favorably from the repeal of the contract requirement for GIS services.

However, small businesses that purchase GIS products from governmental units may have to pay an additional fee of up to \$50.

Additional Information

Prior Introductions: None.

Cross File: SB 94 (Senator Ferguson, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Council on Open Data; Anne Arundel, Dorchester, Garrett, and Montgomery counties; State Department of Assessments and Taxation; Department of Natural Resources; Department of Information Technology; Maryland Department of Planning; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2015
md/hlb Revised - House Third Reader - March 26, 2015

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