

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 228 (Delegate Barve, *et al.*)
 Economic Matters

**Maryland Aviation Administration - Baltimore-Washington International
 Thurgood Marshall Airport - Management of Food Service and Retail
 Concessions**

This bill requires the Maryland Aviation Administration (MAA) to terminate its concessions program lease with AIRMALL USA (AirMall) for the Baltimore-Washington International Thurgood Marshall Airport (BWI) by October 1, 2017. The bill also (1) authorizes MAA to enter into a lease with a concessions developer to provide food service and retail operations at BWI; (2) establishes provisions relating to continuing and terminating specified leases; and (3) establishes requirements relating to the competitive solicitation process that must be used to find a company to replace AirMall.

The bill’s provisions are severable.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by as much as \$500,000 in FY 2017 to conduct the required competitive solicitation process. TTF expenditures increase by as much as \$4 million in FY 2018 for costs associated with terminating the lease contract with AirMall; TTF revenues increase correspondingly in FY 2018 because the bill requires the company that replaces AirMall to provide a capital investment equal to or greater than any debt owed to AirMall when the lease is terminated. Any other impacts that may result from the bill cannot be estimated and are not reflected in this analysis.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
SF Revenue	\$0	\$4,000,000	\$0	\$0	\$0
SF Expenditure	\$500,000	\$4,000,000	\$0	\$0	\$0
Net Effect	(\$500,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal. Most employers that operate a food, beverage, or retail business within BWI are not considered small businesses.

Analysis

Bill Summary: By February 1, 2017, MAA must issue a request for proposals to operate and manage the food service and retail concessions program at BWI. The request for proposals must require any responding company to provide a capital investment to MAA that is equal to or greater than the debt owed to AirMall when its lease is terminated.

If MAA terminates a lease with a concessions developer before the end of the lease or of any extension options contained in the lease, MAA must:

- require that any subsequent lease with a concessions developer continue any existing sublease agreements that are in effect under the same provisions and for the minimum period of time that the sublease would have remained in effect had the original lease not been terminated; or
- enter into a direct lease with any food service or retail operator that assumes the sublease in the manner described above.

If a sublessee is in a month-to-month or shorter tenancy, the sublessee is entitled to at least 18 months of continued tenancy. However, the bill's provisions may not be construed to preclude a landlord and sublessee from agreeing to a period that is longer than the 18-month minimum.

Current Law/Background: AirMall entered into a retail management lease contract with MAA in 2004, and the lease's termination date is March 31, 2022. The lease agreement allows for an early termination without cause after April 1, 2017, with six months' notice. AirMall leases space in BWI from MAA and then subleases those spaces to food service, retail, and certain service concession operators. AirMall encompasses 120,000 square feet of concessions space within BWI and subleases to 46 business entities that run 95 establishments within the airport.

MAA, as a unit of the Maryland Department of Transportation, has responsibility for fostering, developing, and regulating aviation activity throughout the State. MAA is responsible for operating, maintaining, and developing BWI (a State-owned airport) as a major center of commercial air carrier service in the State and Martin State Airport as a general aviation facility and as a support facility for the Maryland Air National Guard and the Maryland State Police.

Chapter 284 of 2007 made Maryland the first state to require State service contractors to pay their employees a “living wage.” Although the bill may require MAA to enter into a direct lease with any food service or retail operator in some circumstances, a lease does not constitute a State service contract under the living wage law. Therefore, lessors are not required to pay their employees the State’s living wage.

State Fiscal Effect: Because the bill specifies that MAA must issue a request for proposals to replace AirMall by February 1, 2017, and cancel its lease with AirMall by October 1, 2017, this analysis assumes that expenditures related to the proposal process occur in fiscal 2017, and that any impacts related to terminating the lease with AirMall occur in fiscal 2018, as described below.

Competitive Solicitation Process

TTF expenditures increase by as much as \$500,000 in fiscal 2017, which reflects costs for MAA to hire a consultant to conduct the competitive solicitation process required by the bill.

Terminating the Lease with AirMall

MAA advises that if it terminates its lease with AirMall as required by the bill, it must reimburse AirMall between \$3 million and \$4 million of unamortized investments that AirMall has made at BWI; however, the bill requires the company that replaces AirMall to provide a capital investment to MAA that is equal to or greater than the debt owed when the lease is terminated. Therefore, TTF expenditures increase by as much as \$4 million in fiscal 2018 when it terminates the lease, but TTF revenues increase correspondingly in the same fiscal year when MAA contracts with the company that takes over the retail management program.

Additional Information

Prior Introductions: None.

Cross File: SB 409 (Senator Manno, *et al.*) – Finance.

Information Source(s): Maryland Department of Transportation, Department of Legislative Services

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kb/lgc

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