

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 1196

(Senator Middleton)

Education, Health, and Environmental Affairs

Health and Government Operations

Tri-County Council for Southern Maryland - Financing Purchase or Lease of
Property - Exemption From Procurement Law

This emergency bill repeals a provision in current law that requires the Tri-County Council for Southern Maryland (TCC) to finance the purchase or lease of property in accordance with State procurement law. It further specifies that State procurement law does not apply to the purchase or lease of property by TCC.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances. A portion of the funding for the proposed land purchase has already been appropriated, and any additional funding is not contingent on this bill. No effect on revenues.

Local Effect: No direct effect on local governmental operations or finances as TCC is a quasi-State entity. To the extent that the bill facilitates the purchase of land for economic development purposes, the counties and municipalities of Southern Maryland may benefit.

Small Business Effect: None. The bill does not directly affect small businesses.

Analysis

Current Law: TCC consists of 39 members, of whom 31 are voting members and 8 are nonvoting members. The council is a cooperative planning and development unit for Calvert, Charles, and St. Mary's counties. The purposes of the council are to (1) foster the physical, economic, and social development of the region and (2) use effectively the assistance provided to the region by the State. The council initiates and coordinates plans

and projects for the development of human and economic resources of the region as a Southern Maryland planning and development unit. The council may:

- adopt a seal;
- sue;
- adopt bylaws and rules for the conduct of its business;
- enter into contracts and agreements;
- borrow money and accept advances, loans, grants, contributions, and any other form of assistance from the federal government, the State, or other public or private source;
- give any required security;
- include in any contract for financial assistance with the federal government any reasonable and appropriate condition imposed under federal law that is not inconsistent with the purposes of the council; and
- execute any instrument and act as necessary, convenient, or desirable to carry out its powers and the purposes of the council.

Chapter 207 of 2015 authorizes TCC to accomplish the purposes of the council, to use any money available to it to finance the purchase or lease of property only by (1) one or more specified Southern Maryland counties; (2) the Maryland Food Center Authority; or (3) another entity, as determined by the council, that is authorized to finance or purchase property. The council may finance the purchase or lease of property by any combination of Anne Arundel, Calvert, Charles, Prince George's, and St. Mary's counties. If the council determines that money should be used for these purposes, in accordance with State procurement law, the council must request and evaluate proposals and then make a selection. The council may lease office space for its own use; otherwise the council is prohibited from owning or leasing property.

Procurement of Real Property

Purchase of land by the State is the exclusive purview of the Land Acquisition Division within the Department of General Services (DGS). However, DGS is not responsible for acquiring land for a local project or for the Department of Natural Resources for open space and other specified purposes.

The preferred method for procuring a lease of real property is competitive sealed proposals. A request for proposals (RFP) for a lease of real property must include (1) a work statement that is used for the evaluation of proposals; (2) a statement of factors, including price, that will be used in evaluating proposals; and (3) a statement of the relative importance of each factor. State law specifies notification requirements, the terms under which a procurement officer may negotiate with offerors, and the conditions for awarding a contract for a lease.

If TCC determines that money should be used to finance the purchase or lease of property for specified purposes, it must (1) prepare and issue an RFP; (2) evaluate responses to the request; and (3) select an entity to purchase or lease property.

Background: TCC’s mission is to serve as a forum for the discussion and resolution of issues affecting the Southern Maryland region. Activities of the council include research, information management, and the preparation of a regional plan. All of the activities of the council are designed to assist federal, State, and county governments in better performing their respective duties.

TCC operates its agricultural programs through the Southern Maryland Agricultural Development Commission (SMADC), which works with the council to develop programs to stabilize the region’s agricultural economy as Maryland farmers transition away from tobacco production. Funds from the Cigarette Restitution Fund are appropriated annually to the Maryland Department of Agriculture, which then issues grants to the council.

In fiscal 2015, SMADC began exploring the opportunity to acquire land in an area suitable to serve the Southern Maryland region in order to develop a regional Agri-Business and Center for Food Innovation (known as a “food hub”), using approximately \$1.0 million of its fiscal 2015 pay-as-you-go budget. At the time, the council (of which SMADC is a part) was not authorized in statute to acquire or own property. Thus, Chapter 207 allowed the council to finance the purchase of land by one or more of the specified Southern Maryland counties.

In March 2016, TCC’s Executive Board directed SMADC to focus exclusively on the creation of a meat slaughter/processing facility that is convenient to the region’s farmers. Colocation of the “food hub” with the meat processing facility was deemed impractical at that time. TCC is now seeking to use the same funding to establish the meat processing facility within a 30-mile radius of the town of Hughesville. The total cost of the facility is expected to be between \$3.0 million and \$4.0 million, and TCC hopes to finance the project through a loan/grant arrangement with the Maryland Agricultural and Resource-Based Industry Development Corporation. In November 2016, it issued an RFP for land to purchase for the facility in 2016 but did not receive any proposals. It anticipates re-issuing the RFP following enactment of this bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles County; Tri-County Council for Southern Maryland;
Department of Legislative Services

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510