

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 1242

(Senator Conway)

Finance and Budget and Taxation

Health and Government Operations and
Ways and Means

Burial Sites – Access, Required Consultation, and Tax Credit

This bill establishes responsibilities for a person who enters a burial site or the land encompassing the site under the authorization of a specified agreement. The owner of a specified burial site or the land encompassing the burial site that has been in existence for more than 50 years must consult with the Director of the Maryland Historical Trust about the proper maintenance for the site. The bill also authorizes a local property tax credit for property owners that conduct maintenance and repair to a burial site. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: There is no material impact on State finances or operations.

Local Effect: Local government tax revenues decrease (and expenditures may increase minimally) to the extent that the property tax credit is authorized.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Access to Burial Sites

Under current law, a number of “person[s] in interest” may request access to a private burial site. The bill clarifies that if a property owner of a burial site (or land surrounding

the site) grants access to the burial site in accordance with the terms of a signed “permission to enter” agreement, the property owner *must*, rather than *may* grant the access.

Under current law, if an owner allows a person to enter a burial site, the owner is not liable to the person for damages in a civil action for an injury to the person or the person’s property except for willful or malicious acts or omissions. Under the bill, a person entering another’s land for specified reasons related to burial sites is responsible for ensuring that his or her conduct does not damage the land, cemetery, or gravesites, and that person is liable to the property owner for any damage resulting from his or her access.

Consultation with the Maryland Historical Trust

Under the bill, an owner of a burial site or the land encompassing a burial site that has been in existence for more than 50 years and in which the majority of persons interred in the burial site have been interred for more than 50 years must consult with the Director of the Maryland Historical Trust about the proper treatment of markers, human remains, and the environment surrounding the burial site. Advice provided by the Maryland Historical Trust is not binding on the owner of the burial site.

Local Property Tax Credit for Improving a Burial Ground

Under current law, specified cemeteries and mausoleums that are owned by a nonprofit organization are exempt from State and local property taxes. The bill authorizes a new local property tax credit. The Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation are authorized to grant a property tax credit against the local property tax imposed on an improvement of real property that substantiates, demarcates, commemorates, or celebrates a burial ground. A local government may establish the amount and duration of, eligibility criteria for, regulations and procedures for the application and uniform processing of requests for, and any other necessary provisions to implement such a property tax credit. The credit is applicable to all taxable years beginning after June 30, 2018.

Local Fiscal Effect: Local property tax revenues decrease to the extent that the authorization for a property tax credit is used. The amount of the decrease depends on the number of applicable burial grounds, the amount of qualifying improvements that are made, and the amount of the property tax credit authorized by a local government. Local expenditures may increase minimally to implement a property tax credit.

Additional Information

Prior Introductions: None.

Cross File: HB 877 (Delegate Knotts, *et al.*) - Health and Government Operations and Ways and Means.

Information Source(s): Baltimore City; Kent, Montgomery, and Worcester counties; cities of Salisbury and Westminster; Maryland Municipal League; Town of Leonardtown; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Department of General Services; Maryland Department of Health; Department of Labor, Licensing, and Regulation; Maryland Department of Planning; State Department of Assessments and Taxation; Department of Legislative Services

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