

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 359

(Senator Rosapepe)

Finance

Environment and Transportation

Department of Transportation - Urban Tree Program - Establishment

This bill requires the Maryland Department of Transportation (MDOT), in consultation with specified State agencies, local governments, businesses, communities, and residents, to develop an urban tree program to replace trees that are removed during the construction of a transportation facility project, including the area impacted by the Purple Line project. MDOT must collaborate with the Maryland Department of the Environment (MDE), the Department of Natural Resources (DNR), and any other necessary State agency to identify sources of funding available for the replacement of trees pursuant to the bill.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) and nonbudgeted expenditures increase to implement the urban tree program, as discussed below. MDE and DNR can coordinate with MDOT using existing resources. TTF revenues may increase, as discussed below.

Local Effect: Local government revenues may increase if MDOT provides grants to local governments under the program; local grant expenditures increase correspondingly.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: In developing the program, MDOT must consult with (1) MDE and DNR's Forest Service; (2) representatives of businesses located in the communities where trees are removed as part of a transportation facility project; (3) representatives of communities where trees are removed as part of a transportation facility project; (4) local governments for the communities in which trees are removed as part of a transportation

facility project; and (5) residents of communities where trees are removed as part of a transportation facility project.

The program must provide for the replacement of trees in communities where trees are removed as part of a transportation facility project and prioritize the initial replacement of trees in communities that are affected by environmental justice issues or the “heat island effect.” Trees may be replaced on State, county, municipal, or private property.

“Heat island effect” means the phenomenon that occurs when buildings, roads, and other infrastructure absorb and re-emit heat from the sun, causing urban areas to experience higher temperatures than surrounding areas.

The bill may not be construed to abrogate or limit the applicability of any requirements or other provisions in the Natural Resources Article that apply to the replacement of trees that are removed during the construction of a transportation facility project.

Current Law:

Maryland Department of Transportation

MDOT’s responsibilities to operate and maintain the State’s transportation systems are carried out through modal units that are organized by mode of transportation. For example, the State Highway Administration (SHA) is in charge of maintaining the State’s highways and roadways and the Maryland Aviation Administration is responsible for maintaining the State’s airports. Additionally, with the exception of the District of Columbia Metrorail system, MDOT and the Maryland Transit Administration (MTA) are generally the agencies responsible for the construction and operation of transit lines in the State, including the Purple Line. The Purple Line Project is currently in the construction phase, with revenue operations scheduled for December 31, 2022.

Forest Conservation Act

The Forest Conservation Act (FCA) establishes minimum forest conservation requirements for land development, and local governments with planning and zoning authority are required to develop local forest conservation programs that meet or are more stringent than the requirements of FCA. FCA applies to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State or local government, on areas 40,000 square feet (0.9 acres) or greater, subject to certain exceptions.

Pursuant to FCA, a proposed construction activity, including for transportation facility projects, goes through a process of evaluating existing vegetation on a site and the

development of a forest conservation plan for the site defining how forest area will be retained and/or afforestation or reforestation will be undertaken. If afforestation or reforestation requirements cannot be reasonably accomplished on-site or off-site (which can include use of off-site forest mitigation banks), payment may be made into the applicable forest conservation fund (fee-in-lieu payments) to be spent by the State or the local government on reforestation and afforestation, maintenance of existing forest, and achieving urban canopy goals.

State Fiscal Effect: MDOT advises that it plans to incorporate the urban tree program into its project planning and implementation activities for all modal units (*e.g.*, MTA and SHA) and the Maryland Transportation Authority (MDTA). MDOT, its modal units, and MDTA have experience with planting trees and paying for tree replacements as part of transportation facility projects under FCA; however, the bill likely results in even more tree replacements than are currently required by FCA. Although MDOT has not yet determined the best manner in which to implement the bill, it is considering doing so through a combination of State-sponsored projects and grants to local communities.

Thus, TTF and nonbudgeted expenditures increase beginning in fiscal 2022 to develop and implement the urban tree program, including planning and coordination costs, costs to plant and maintain new trees, and/or costs to provide grants to local communities. However, a reliable estimate of the cost to implement the program cannot be made at this time, as it depends on numerous unknown factors, including the location and scope of future transportation facility projects and how the program is ultimately implemented.

Additionally, TTF revenues may increase beginning in fiscal 2022 if MDOT, MDE, and DNR are able to identify and obtain funding for the program from other sources, as envisioned by the bill; however, any such increase cannot be reliably predicted. MDOT advises that it has already begun to work with MDE and DNR to discuss funding opportunities and potential partnerships for the program. For purposes of this analysis, it is assumed that any funds identified and secured for the program are deposited into TTF.

For illustrative purposes, MDOT estimates that the total cost to plant and maintain one acre of trees for 10 years is approximately \$69,150, which includes \$33,150 for the initial plantings and \$3,600 annually for maintenance. Through partnerships, economies of scale, and other factors, MDOT anticipates the cost per acre to decrease over time.

Small Business Effect: The program established as a result of the bill likely creates opportunities for small businesses that specialize in tree planting and/or maintenance. Nurseries also likely benefit.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 80 (Delegate Charkoudian) - Environment and Transportation.

Information Source(s): Maryland Department of Transportation; Montgomery and Prince George's counties; cities of Bowie and Laurel; Maryland Department of the Environment; Department of Natural Resources; Department of Legislative Services

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