

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 389 (Delegate Healey, *et al.*)
Appropriations and Environment and
Transportation

State Highways - Sidewalks and Bicycle Pathways - Maintenance and Repair

This bill repeals the requirement that a sidewalk constructed along a State highway or a sidewalk or bicycle pathway constructed along an urban highway must be maintained and repaired by the political subdivision in which it is located.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase, likely significantly, as the bill shifts responsibility for the maintenance and repair of specified sidewalks and bicycle pathways from local governments to the State Highway Administration (SHA). Although a reliable estimate of the increase in TTF expenditures cannot be made, costs likely exceed \$1.0 million annually and could be significantly higher, as discussed below. Revenues are not affected.

Local Effect: Local expenditures decrease, likely significantly, as the bill shifts responsibility for the maintenance and repair of specified sidewalks and bicycle pathways from local governments to the State, as discussed below. Revenues are not affected.

Small Business Effect: Minimal or none.

Analysis

Current Law:

Sidewalks Along State Highways

SHA may require any developer of an industrial, commercial, or apartment area along a State highway to construct sidewalks parallel to the highway, with the agreement of the

appropriate local government. However, sidewalks may not be required if SHA determines that:

- the establishment of sidewalks would be contrary to public safety;
- the cost of establishing the sidewalks would be too great considering the need for them or their probable use; or
- the sparsity of population, the existence of other available ways, or any other factor indicates that there is no need for the sidewalks.

After any such sidewalk is constructed, it must be maintained and repaired by the political subdivision in which it is located.

Sidewalks and Bicycle Paths Along Urban Highways

Sidewalks must be constructed at the time of construction or reconstruction of an “urban highway,” or in response to the request of a local government unless (1) SHA determines that the cost or impacts of constructing the sidewalks would be too great in relation to the need for them or their probable use or (2) the local government indicates there is no need for sidewalks. An “urban highway” is a highway, other than an expressway, that meets certain technical specifications, is located within the boundaries of a municipality, and is part of the State highway system.

If sidewalks or bicycle pathways are constructed or reconstructed as part of a roadway construction or reconstruction project, SHA must fund the sidewalk or bicycle pathway construction or reconstruction as a part of the cost of the roadway project. In general, if sidewalks or bicycle pathways are constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, the cost to construct or reconstruct the sidewalk or bicycle pathway must be shared equally between the State and local governments. However, other provisions apply with respect to sidewalks or bicycle pathways constructed or reconstructed within sustainable communities and priority funding areas.

After any such sidewalk or bicycle pathway is constructed, it must be maintained and repaired by the political subdivision in which it is located. Subject to approval and the availability of funds, however, SHA must promptly reimburse a political subdivision for any preapproved and documented costs incurred in reconstructing a segment of sidewalk or bicycle pathway that has deteriorated to the extent that repair is not practical or desirable for public safety.

State Highway Administration – General Responsibilities

SHA must plan, select, construct, improve, and maintain the State highway system. “State highway system” is defined as the system of State-owned primary and secondary highways throughout the State. A “State highway” is any public highway owned by the State. The term “highway” includes (1) rights-of-way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, railroad grade separations, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, *including bicycle and walking paths* and (2) any other property acquired for the construction, operation, or use of the highway.

State/Local Expenditures: As noted above, the bill repeals the requirement that a sidewalk constructed along a State highway or a sidewalk or bicycle pathway constructed along an urban highway must be maintained and repaired by the political subdivision in which it is located. Because other statutory provisions require SHA to maintain the State highway system, which includes bicycle and walking paths, the bill shifts the responsibility to maintain and repair sidewalks constructed along State highways and sidewalks and bicycle pathways constructed along urban highways from local governments to SHA.

Thus, TTF expenditures increase, likely significantly, for SHA to maintain and repair affected sidewalk and bicycle infrastructure. SHA advises that the full extent of the cost to do so cannot be reliably estimated without a full inventory of the affected infrastructure. Although SHA did not provide any information on the potential number of miles of sidewalks and bicycle pathways that could be affected by the bill or the estimated cost per mile to maintain and repair such infrastructure, SHA advises that total maintenance and repair costs could range from \$1.0 million annually to \$10.0 million annually depending on the length and state of repair of affected sidewalks and bicycle pathways.

Local government expenditures – in total – decrease correspondingly.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 514 (Senator A. Washington) - Judicial Proceedings.

Information Source(s): Maryland Department of Transportation; Maryland Association of Counties; Maryland Municipal League; Anne Arundel and Frederick counties; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2024
km/lgc

Analysis by: Richard L. Duncan

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