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FISCAL NOTE
Revised

Senate Bill 513 (Senator Frosh. *et al.*)

Economic and Environmental Affairs

**Environment - Brownfields Revitalization Incentive and Voluntary Cleanup
Programs**

This bill makes changes to the Brownfields Revitalization Incentive and Voluntary Cleanup programs. The bill: (1) expands the ability of the Department of Business and Economic Development (DBED) to award funds under the Brownfields Revitalization Incentive Program (BRIP); (2) alters BRIP participation requirements for local jurisdictions; and (3) alters the types of properties that qualify as eligible Brownfields sites.

Fiscal Summary

State Effect: Potential increase in special fund expenditures and revenues due to increased grant and loan activity beyond what is budgeted for FY 2001. The proposed FY 2001 budget already includes an \$800,000 special fund appropriation to the Brownfields Revitalization Incentive Fund. Potential increase in tax revenues from increased economic activity.

Local Effect: Potential increase in tax revenues to the extent that the bill spurs increased economic activity.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill allows DBED to provide a low-interest loan or grant to a person in order to conduct the environmental site assessment of a Brownfields site that is required for participation in the Voluntary Cleanup Program (VCP). The person must: (1) apply for the assistance prior to applying for participation in the VCP; and (2) meet eligibility requirements established by DBED. A recipient of a grant must repay the grant if the person, within 12

months after receiving the grant, does not apply to and receive approval from MDE to participate in VCP or for the implementation of a corrective action plan.

Further, a low-interest loan must convert to a market rate loan if the recipient, within 12 months after receiving the loan, does not apply to and receive approval from MDE to participate in VCP or for the implementation of a corrective action plan. If an environmental assessment is financed in whole or in part with a BRIP grant, or by a BRIP loan that is in payment default, the information contained in the assessment is the property of the State. Conversely, if an assessment is financed by a BRIP loan, or by a BRIP grant that is repaid, the information contained in the assessment is the property of the person who contracted for the assessment.

The bill further alters how a local jurisdiction may participate in BRIP. A county or municipality may participate by submitting a list to DBED that ranks the potential Brownfields sites in the county or municipality in the order of priority for redevelopment. The list must be updated annually. The bill repeals the requirement that participating jurisdictions enact the necessary legislation to grant the property tax credits. Instead, the bill authorizes the participation of jurisdictions that enact such credits. Any money received by the fund from local jurisdictions must only be used for Brownfields sites in the taxing jurisdictions that have enacted the property tax credit on or before June 1, 2000.

The bill alters the types of properties that qualify as a Brownfields site. The bill specifies that a Brownfields site includes property that is owned by an innocent purchaser. An innocent purchaser is a person who can establish by a preponderance of the evidence that at the time the person acquired an interest in a site containing a hazardous substance, the person did not know and had no reason to know that any hazardous substance was disposed of on, in, or at the site.

Current Law: The BRIP, administered by DBED, provides property tax credits for the redevelopment of Brownfields sites in participating jurisdictions. To participate, for each of the five taxable years following the first revaluation of an eligible property, the participating jurisdiction:

- must grant a property tax credit of 50% of the property tax attributable to the increase in assessment (including improvements to the site);
- must contribute 30% of the property tax attributable to the increase in assessment to the Brownfields Revitalization Incentive Fund; and
- may grant a property tax credit up to an additional 20% of the remaining property tax attributable to the increase in assessment.

This program also targets loans and grants toward properties contaminated by hazardous waste or oil. Property owners may only receive assistance under the BRIP after applying to the VCP or after receiving approval from MDE to implement a corrective action plan. Only those individuals deemed inculpable for the contamination may participate in the BRIP. Inculpable persons and those who are responsible for the contamination but who did not knowingly violate environmental laws are eligible applicants for the VCP. The VCP, administered by MDE, streamlines the process used to clean up eligible properties that are, or are perceived to be, contaminated by hazardous waste.

Background: Of the 175 counties and municipalities in the State, only Allegany, Baltimore, and Montgomery counties, Baltimore City, and three municipalities, Colmar Manor, Taneytown, and the City of Salisbury, have elected to participate in the BRIP.

By the end of calendar 1999, 35 sites have been accepted into the Voluntary Cleanup Program. Cleanup is underway at six of the approved sites, and cleanup is pending at 13 other sites. There have been 15 applications to the Brownfields program. To date, no grants or loans have been awarded; however, DBED advises that it will award approximately \$600,000 by the end of fiscal 2000.

State Fiscal Effect: The Brownfields Revitalization Incentive Fund has a fund balance of about \$1.4 million, comprised of general fund appropriations beginning in fiscal 1998 and investment income. DBED expects that by the end of fiscal 2000, \$600,000 will be awarded, leaving \$800,000 available for projects in fiscal 2001. It is expected that there will be sufficient demand under current law to deplete the fund balance in fiscal 2001. The proposed fiscal 2001 budget does not include a general fund appropriation to the fund. However, DBED's capital improvement program projects that annual PAYGO appropriations to the Brownfields fund will be \$1 million through fiscal 2005.

Because the bill expands the eligible uses of awarded funds, it is expected that the bill will increase the number of applicants to the program. It is further expected that the bill will increase the grant and loan activity in the underutilized fund. Therefore, it is likely that special fund expenditures and related revenues from interest payments could increase beyond the \$800,000 budgeted for fiscal 2001. Any such increase cannot be reliably estimated at this time. DBED could handle any administrative workload increase with existing resources. Additionally, if the bill results in an increase in useful, redeveloped properties, future tax revenues could increase.

Local Fiscal Effect: Local property tax revenues may be positively affected to the extent that the bill results in the remediation of additional properties. Additionally, to the extent that this legislation spurs employment and economic development, income tax revenues would increase.

Local governments that participate in the program are required to submit an annual list to DBED which ranks the potential Brownfields sites within the jurisdictions in the order of priority for redevelopment. The seven jurisdictions that currently participate and any new participating jurisdictions could handle this requirement with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Maryland Department of the Environment, Montgomery County, Baltimore City, Department of Legislative Services

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Analysis by: Jody J. Minnich

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510