

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

Senate Bill 523 (Senator Frosh) (Article 66B Study Commission)
Economic and Environmental Affairs

Land Use

This bill amends provisions of the State zoning and planning law (Article 66B) that apply to counties operating under the commission or code home rule form of government and to all municipalities except those in the Maryland-Washington Regional District. The bill also clarifies which provisions of Article 66B apply to Baltimore City.

The bill is contingent upon passage of SB 624/HB 889, the non-substantive legislation that recodifies Article 66B.

Fiscal Summary

State Effect: None. The bill only affects specified local jurisdictions.

Local Effect: Potential meaningful impact in jurisdictions choosing to implement the authority granted by the bill. Potential minimal increase in revenues.

Small Business Effect: Minimal. To the extent that the bill expands or expedites the receipt of variances, small businesses in counties choosing to implement the authority could benefit.

Analysis

Bill Summary: This bill authorizes a local legislative body to authorize the planning director or other designee to grant administrative adjustments from specified requirements in a zoning ordinance. The local legislative body must: (1) consult with the planning commission and the board of appeals; (2) provide public notice of the proposed criteria and procedures; (3) provide an opportunity for public hearing; and (4) provide an opportunity for public review and comment. The bill also identifies the required criteria for administrative

adjustments, identifies procedures that may be used, and requires that a decision of an application include written findings of fact. The bill also authorizes a local legislative body to provide for the appeal of a decision to the board of appeals.

A local legislative body may also authorize how the uses allowed in a zoning classification are to be applied to a particular improved property by granting an “adaptive reuse” if the local legislative body makes specific findings of fact that: (1) the change is consistent with the plan for the local jurisdiction; (2) the change is in the public interest and provides a positive benefit to the community; and (3) literal enforcement of the zoning classification would deprive the owner of all reasonable economically viable use of the property. An adaptive reuse is defined as a change granted by a local legislative body to the use restrictions in a zoning classification, as those restrictions are applied to a particular improved property.

The bill also:

- provides that if a recording or a transcript of a recording is not prepared in the normal course of the board’s proceedings, the party who requests a copy must pay the cost of preparing the recording or transcript;
- provides that an appeal to a circuit court may not be heard *de novo*;
- amends provisions of current law relating to hearing examiners, boards of appeals, regulations recommended to local legislative bodies, acceptable forms of securities, and the granting of permits in a historic district;
- clarifies that the Board of County Commissioners in Frederick County may only overrule by majority vote an action of the planning commission under specified sections of Article 66B; and
- clarifies existing law and repeals specified sections of current law as amended by SB 624/HB 889.

Current Law: Five counties (Allegany, Caroline, Kent, Queen Anne’s, and Worcester counties) operate under the code home rule form of government. Ten counties (Calvert, Carroll, Cecil, Charles, Dorchester, Frederick, Garrett, St. Mary’s, Somerset, and Washington counties) operate under the commission form of government. The authority to grant an administrative adjustment to a zoning ordinance in a code home rule county, most commission counties, and most municipalities lies with the board of appeals, with specified exceptions.

Background: This bill is a direct result of the Article 66B Study Commission in an attempt to provide greater authority to local jurisdictions with respect to zoning and planning.

Local Fiscal Effect: If a local jurisdiction chooses to use the authority to grant administrative adjustments, the fiscal impact will vary depending on the extent to which the

authority is used. For example, Kent County advises that the authority to grant administrative adjustments is expected to significantly reduce county expenditures for hearings related to zoning applications and to expedite the authorization of variances in that county. Allegany, Caroline, Queen Anne's, and Worcester counties report that the authority to grant administrative adjustments will have a minimal fiscal impact, if any. Both Caroline and Queen Anne's counties advise that they will most likely choose not to implement the authority because the number of hearings before the boards of appeals is not excessive in those counties. The number of commissioner counties and the number of municipalities choosing to implement this authority is unknown.

To the extent that a local jurisdiction cannot already grant adaptive reuses, the bill could result in an increase in zoning cases in jurisdictions choosing to use this new authority. The number of local jurisdictions choosing to implement this authority, however, cannot be predicted at this time. Legislative Services advises that it is reasonable to assume that local jurisdictions would only use this authority if it is expected to result in a net benefit.

The bill's provision providing that appeals of zoning decisions may not be heard *de novo* could result in a decrease in expenditures for local boards of appeals to the extent that it reduces the amount of time required to hear each appeal.

The bill could result in a minimal increase in local revenues pursuant to the bill's requirement that in cases where there is a request for a recording or transcript, the person making the request must pay the cost of preparing the recording or transcript.

Additional Information

Prior Introductions: None.

Cross File: HB 904 (Delegate Guns) - Environmental Matters.

Information Source(s): Maryland Office of Planning; Baltimore City; Allegany, Caroline, Howard, Kent, Montgomery, Prince George's, Queen Anne's, and Worcester counties; Maryland Municipal League; Department of Legislative Services

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