HB 888

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 888 (Delegate Guns, *et al.*)
Environmental Matters

Natural Resources - Transferable Development Rights - Rural Legacy Program

This bill expands the authority of the Rural Legacy Board (the board) to purchase, hold, and resell transferable development rights (TDRs), limits the resale of TDRs to priority funding areas, and requires that 50% of the proceeds from the resale of TDRs must be used by the local government in which the development is located to fund capital projects.
The Economic Growth, Resource Protection, and Planning Commission and the State Office of Planning, in consultation with county planning departments, must report to the Governor and specified committees of the General Assembly by December 15, 2000 relating to the types of locally adopted TDR programs and the potential impacts of Rural Legacy Program purchases and resales of TDRs on the Rural Legacy Program, county programs, and landowners.

The bill takes effect January 1, 2001.

Fiscal Summary

State Effect: Depending on the fair market value, the purchase price, the selling price, and the number of transactions involving TDRs, the bill could have a meaningful impact on revenues and expenditures related to the Rural Legacy Program. Potential increase in general fund expenditures of $27,800 in FY 2001 to manage a TDR program. Future year costs would reflect annualization, inflation, and ongoing operating expenses.

Local Effect: Potential meaningful.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The board may adopt regulations to implement procedures for the purchase and sale of TDRs and for the use of the proceeds related to the purchase and sale of TDRs. The bill provides that:

- in a county with a locally adopted TDR program, and with the approval of the county, funds for the program may be used to purchase TDRs in the county in accordance with the locally adopted TDR program;
- the board, in its evaluation and comparison of county applications, may not make its determination solely on the basis of whether a county has adopted a TDR program authorizing board purchases and sales of TDRs;
- the right to resell the development right must be stated in the instrument of purchase;
- the board shall maintain records concerning real property from which TDRs are purchased and real property to which rights are resold and transferred;
- the county must provide to the board information relating to those records;
- TDRs may be resold only to owners or option purchasers of real property located in priority funding areas, including municipalities, within the county in which the rights were purchased;
- the proceeds associated with the resale of TDRs must be distributed as follows: (1) 50% must be used by the local government in which the development using TDRs is located to fund capital projects in the county or municipal corporation which is receiving TDRs; and (2) 50% must be returned to the program for use in the county in which the proceeds were generated; and
- proceeds from the resale of TDRs may not be used for operating expenses.

Current Law: The Rural Legacy Program was established in 1997 to enhance agricultural, forestry, and environmental protection while maintaining the viability of resource-based land usage and proper management of tillable and wooded areas through accepted agricultural and agricultural practices for farm production and timber harvests. It provides funds to rural legacy sponsors (local governments and land trusts) to purchase interests in real property from willing sellers, including easements and fee estates, focused in designated Rural Legacy Areas. Funds under the program may be used to purchase a development right as part of an easement or fee acquisition, to be held by the titleholder and the board, and may be sold only within the same jurisdiction, pursuant to local law.

Background: The Rural Legacy Board has the authority to use funds for the acquisition of TDRs where consistent with a local TDR ordinance. Some local TDR ordinances limit the resale of TDRs to prescribed receiving areas. Others allow the resale of TDRs to other areas within the county. Currently, the board is not involved in the TDR market. Only local governments, the private sector, and local landowners are involved.

The board is comprised of the Secretary of the Department of Natural Resources, the Secretary of the Maryland Department of Agriculture, and the Director of the Office of Planning. The program is funded through the State transfer tax and general obligation bonds. In fiscal 2000, the Rural Legacy Program was funded at $24.5 million ($10.6 million in PAYGO special funds; $13.9 million in general obligation bonds). The fiscal 2001 budget includes $27.9 million in funds for the Rural Legacy Program ($11.9 in PAYGO special funds; $16 million in general obligation bonds). Since 1998, the program has expended $439,000 of the $54.3 million received.

State Fiscal Effect: Under this bill, 50% of the proceeds from the resale of TDRs would be directed to the local jurisdictions in which the development using TDRs is located. Only 50% of the proceeds would be returned to the Rural Legacy Program for use in the county in which the proceeds were generated. Legislative Services advises that it has no reliable information on which to estimate an average TDR price, or the number of TDR transactions that would take place as a result of the bill. Accordingly, the net fiscal impact of the bill is unknown; it depends largely on the fair market value of TDRs as well as the sale and purchase prices.

If the board decides to purchase, hold, and sell TDRs pursuant to this bill, general fund expenditures for administration could increase by an estimated $27,800 in fiscal 2001, which accounts for the bill's January 1, 2001 effective date. This estimate reflects the cost of hiring one real estate specialist to manage and track the purchase and sale of TDRs. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	$23,100
Operating Expenses	4,700
Total FY 2001 State Expenditures	**$27,800**

Future year expenditures would reflect (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

It is assumed that the Office of Planning could submit the required report using existing budgeted resources.

Local Fiscal Effect: Local jurisdictions in priority funding areas would benefit from receiving 50% of the proceeds of the resale of TDRs to be used for capital projects. However, rural legacy sponsors that do not currently have TDR programs may need to establish TDR programs to successfully compete for available grants. Rural legacy sponsors would be limited to reselling TDRs within priority funding areas. Because 50% of the proceeds from the sale of TDRs would go towards capital projects in those priority funding areas instead of going back to the program for use in the county in which the proceeds were generated, local sponsors would have to use a larger share of their rural legacy grants to purchase additional TDRs. The net fiscal effect on local jurisdictions is unknown; it depends largely on the fair market value of TDRs as well as the sale and purchase prices.

Small Business Effect: To the extent that the board's involvement in the TDR market results in a price different from what the fair market value of TDRs would be without State involvement, developers could face either higher or lower costs to purchase TDRs. Any small businesses associated with the development of local capital projects would benefit due to the increase in local funding available for those projects.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Office of Planning, Department of Legislative Services

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