Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 502 Delegate Glassman, et al.)
Environmental Matters

Municipal Corporations - Transfer of Development Rights - Agriculturally Zoned Land

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This bill requires a legislative body of a municipal corporation to establish a program for the transfer of development rights (TDR) when it reclassifies as residential land annexed agriculturally zoned land that is outside of the county's designated growth area. The TDR program must require that 50% of the increased density of the land that is reclassified must be purchased by a TDR from outside of the designated growth area of the county in which the municipal corporation is located. The legislative body of the municipal corporation may make a payment to the county's agricultural preservation program. The development rights value of the payment must be based on the average cost paid by the Maryland Agricultural Land Preservation Foundation (MALPF) for development rights for the prior fiscal year.

Fiscal Summary

State Effect: To the extent that the bill results in an increase in the local commitment of funds under the State's matching funds program for agricultural land preservation, MALPF special fund expenditures to provide matching funds would increase. Any such increase cannot be estimated at this time.

Local Effect: Potential significant increase in expenditures for some local jurisdictions to develop and maintain a TDR program and to make voluntary payments to counties. Potential increase in county revenues for agricultural land preservation activities. Potential decrease in tax revenues for affected municipalities with a corresponding increase in revenues for counties. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful. To the extent that the bill increases development costs for annexed land that is zoned agricultural, small businesses involved with the development or purchase of affected land could incur increased costs.

Analysis

Current Law: In order to encourage the preservation of natural resources and to facilitate orderly growth and development in the State, the legislative body of a county or municipal corporation, including Baltimore City, that exercises authority granted by the State zoning and planning law may establish a program for the transfer of development rights.

Background: According to the Maryland Department of Planning (MDP), from 1997 to 2000, 16 municipalities in ten counties submitted petitions for the annexation of land that was zoned agricultural. However, this includes all land for which annexation petitions were submitted, regardless of whether the land was within designated county growth areas.

A TDR program is one tool generally used by local jurisdictions to protect land from development. While several counties have established TDR programs, according to MDP no TDR programs exist that effectively provide for interjurisdictional transfers of development rights from a county to a municipality.

MALPF was created by the General Assembly in 1977 to preserve agricultural land in the State. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for a minimum of five years. Landowners who agree to place their farms within a district may sell a development rights easement on that property to the State. The total funds available to MALPF for the purchase of easements are equally divided to provide general allotted funds and State matching funds. The total amount of the general allotted funds is divided equally among the 23 counties during “Round 1” offers, which is the round under which easement purchase requests within each county compete for available funds. The other half of the available funds are used for up to a 60% match in those counties which participate in the State matching funds program. Once general allotted funds are depleted, the State provides up to a 60% match for county easement purchases up to $1 million in any county in any fiscal year. Once these funds are exhausted, the remaining easement requests compete statewide in “Round 2.” Round 2 funding consists of unused general allotted funds and unused State matching funds. In fiscal 2000, 17 counties participated in the State matching funds program.

Local Fiscal Effect: The bill's requirement to establish a TDR program would only apply to the legislative bodies of those municipal corporations that reclassify as residential land annexed agriculturally zoned land that is outside the county's designated growth area. Accordingly, the bill will not affect Howard and Baltimore counties or Baltimore City because those jurisdictions do not have any municipal corporations. To effectuate a TDR between a county and a municipality, however, the county in which the municipal corporation is located would also have to have a TDR program in place. Legislative Services advises that the actual number of local jurisdictions that will be affected by the bill is unknown. Based on information provided by MDP relating to past petitions for annexation of agriculturally zoned land, the bill could have the most significant impact in Frederick and Harford counties. In calendar 2000, of the 549 acres of land involved in annexation petitions submitted, approximately 351 acres were located within Frederick County and 155 acres were located within Harford County.

While several counties have established TDR programs, MDP advises that no TDR programs exist that effectively provide for interjurisdictional transfers of development rights between a county and a municipality. Accordingly, for affected local jurisdictions, the bill could result in a significant increase in expenditures related to the development and operation of a TDR program. For example, the City of Westminster in Carroll County reports that it could cost $10,000 to develop a program, $10,000 to implement it, and $10,000 in annual operating costs. Leanardtown in St. Mary's County advises that if it were able to model its TDR program after an existing TDR program, it could most likely develop a TDR program for approximately $3,300. The town reports that annual operating costs are estimated at approximately $500.

The bill does not require municipal corporations to make payments to county agricultural land preservation programs, but if a municipal corporation chooses to do so, the bill provides that the payment would be based on the average cost paid by MALPF for development rights for the prior year. According to MALPF, the average cost paid for development rights varies dramatically from one year to the next and varies significantly from one area to another. In addition, MALPF advises that the acquisition price is based on the lesser of the landowner's asking price or the calculated easement value. For information purposes only, in fiscal 1999 the average acquisition cost paid by MALPF for development rights easements was approximately $1,619 per acre, ranging from a low of $443 per acre in Somerset County to a high of $6,000 per acre in Calvert County.

If a municipal corporation makes a payment to a county agricultural land preservation program, the bill could result in an increase in county funds available for agricultural land preservation activities. This assumes, however, that the affected county has an agricultural land preservation program in place. Because the bill does not require that a municipal corporation make such a payment, and because any such payment cannot be accurately estimated at this time, any increase in county revenues cannot be estimated.

For a county that participates in the State matching program for agricultural land preservation, if the county increases its commitment of funds as a result of the bill, the bill could result in an increase in matching funds from the State for county agricultural land preservation activities.

To the extent that the bill results in a decrease in the annexation of land affected by the bill and an increase in the development of land outside of municipal corporations, the bill could result in a decrease in tax revenues for municipal corporations with a corresponding increase in county tax revenues.

Additional Information

Prior Introductions: HB 865 of 1999 would have required legislative bodies of counties and municipal corporations that exercise planning and zoning authority to establish a program for the transfer of development rights. The bill was referred to interim study.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Maryland Department of Planning; Allegany, Prince George's, and Talbot counties; City of Westminster; Leanardtown; Town of Bel Air; Department of Legislative Services

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