HB 374

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 374 (Delegate Ports)
Commerce and Government Matters

Real Property - Condemnation - Retention of Property

This bill prohibits the State, a county, or a municipal corporation, if it acquires title to property through condemnation other than for purposes of public health or public safety, from selling, leasing, or otherwise transferring the property for a period of at least 30 years.

Fiscal Summary

State Effect: While the exact impact of the bill cannot be readily estimated, expenditures would increase to maintain properties that would otherwise be sold. General fund and Transportation Trust Fund revenues would decrease to the extent the State is restricted from selling or leasing properties. Special fund revenues from the State property tax would decrease to the extent properties taken through condemnation remain in State ownership. Foregone economic development opportunities.

Local Effect: Expenditures would increase to maintain properties that would otherwise be sold. Revenues would decrease to the extent counties and municipal corporations are restricted from selling or leasing properties. Property tax revenues would decrease to the extent properties taken through condemnation remain in local government ownership. Foregone economic development opportunities.

Small Business Effect: Minimal.

Analysis

Current Law: Under the Maryland Constitution, the condemnation power may only be exercised for a "public use." Under *Prince George's County v. Collington Crossroads, Inc.*, 275 Md. 171 (1975), public use does not necessarily mean that the public must be permitted to use the property or that the government must retain title to the condemned property. Projects reasonably designed to benefit the general public by significantly enhancing economic growth are public uses, at least where the exercise of the condemnation power provides an impetus that private enterprise cannot provide.

Possible plaintiffs to a condemnation action under Maryland law include the federal government, the State, a county, a municipal corporation, a corporation that transmits or supplies natural or artificial gas, an oil pipeline corporation, a telephone or telegraph company, a water company, and a railroad company.

Background: The power of condemnation is frequently used for economic development and neighborhood revitalization purposes, where the government acquires the property and subsequently leases or sells it to a private entity that develops the property. Further, a portion of a parcel is frequently sold when the entire parcel taken through condemnation is not used for the project for which the parcel is taken.

State and Local Fiscal Effect: The exact impact of the bill cannot be readily estimated. However, the bill would prevent the State, a county, or a municipal corporation from using condemnation for economic development or neighborhood revitalization purposes. Montgomery County advises that much of its Silver Spring Redevelopment Project relies on the acquisition of property through condemnation. The Maryland Aviation Administration's (MAA) airport operations at Baltimore/Washington International Airport (BWI) include leasing airport property to airlines, concessionaires, and other airport tenants. MAA would not be able to use condemnation to expand airport operations at BWI.

The bill would require the State, a county, or a municipal corporation to retain properties no longer needed for the purposes for which the properties were condemned. The State, a county, or a municipal corporation would be required to incur upkeep expenses for properties no longer needed.

State and local property tax revenues would decrease to the extent properties taken through condemnation remain in government ownership. For example, the State Highway Administration frequently sells sections of properties that were taken through condemnation but are unneeded for highway projects. The State real property tax rate is $.084 per $100 of assessed value. All State property tax revenues are credited to a special fund, the Annuity Bond Fund, dedicated exclusively to paying the debt service on State general obligation bonds. Local governments generally have the authority to set their own property tax rates.

Additional Information

Prior Introductions: None.

Cross File: SB 159 (Senator Harris) – Judicial Proceedings.

Information Source(s): Department of Assessments and Taxation; Department of General Services; Department of Transportation (Maryland Aviation Administration); Carroll, Cecil, Harford, Montgomery, and Prince George's counties; Department of Legislative Services

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