

**Department of Legislative Services**

Maryland General Assembly

2002 Session

**FISCAL NOTE**

House Bill 901

(Delegate Rosenberg, *et al.*)

Economic Matters

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**Real Property - Eminent Domain - Relocation Assistance**

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This bill alters the limits on payments for relocation expenses made to displaced persons and creates a Task Force on Maryland's Eminent Domain Policy. The bill is effective June 1, 2002, and the provision that creates the task force sunsets May 31, 2003.

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**Fiscal Summary**

**State Effect:** Potentially significant impact on general fund and Transportation Trust Fund (TTF) expenditures due to the repealed limits on relocation expenses. The impact depends on the regulations and payment limits that certain State agencies must adopt under the bill. Any expense reimbursements for task force members are assumed to be minimal and absorbable within existing budgeted resources.

**Local Effect:** Potentially significant impact on expenditures depending on the regulations and limits on eminent domain payments that certain State agencies must adopt under the bill.

**Small Business Effect:** Small businesses that are eligible for State reimbursement of relocation expenses specified by the bill could receive higher payments for displacement costs, depending on the payment limits and regulations that certain State agencies must adopt under the bill. The impact cannot be determined at this time.

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**Analysis**

**Bill Summary:** The bill requires the Secretary of the Maryland Department of Transportation (MDOT) to determine the maximum amount of actual relocation expenses

that may be paid to a displaced person to reestablish a farm, nonprofit organization, or small business. It repeals the \$10,000 limit on the amount of those expenses and the limits on payments made in lieu of other compensation and provides that the in-lieu payments must be within a range determined by the Secretary of Business and Economic Development (DBED). The bill directs the Secretary of MDOT to adopt regulations to carry out these provisions by June 1, 2002.

The bill also creates a nine-member Task Force on Maryland's Relocation Assistance Policy to be appointed by the Secretary of MDOT and staffed by MDOT. The task force must:

- develop uniform regulations governing the administration of relocation assistance benefits;
- formulate potential changes in State law that relate to compliance with relocation assistance benefit requirements by a displacing agency that does not receive State or federal financial support; and
- evaluate the nature and extent of relocation assistance and formulate recommendations regarding the initial range of maximum limits thereon to be established by the Secretary together with measures to prevent potential abuses.

The task force must provide a preliminary report of its recommendations to the General Assembly by January 1, 2003. The task force terminates after May 31, 2003.

**Current Law:** Under the Maryland Constitution, the condemnation power may only be exercised for a "public use." The damages to be awarded for the taking of land is the fair market value. Where the land, or any part of it, taken contains improvements, the damages to be awarded must include the reasonable cost as of the valuation date of providing new improvements of substantially the same size, comparable character, and for the same purpose as those taken. Whenever a program or project undertaken by an agency will result in the displacement of a person, the displacing agency shall make a payment for:

- actual reasonable expenses in moving the person, his or her family, business, farm operation, or other personal property;
- actual direct loss of tangible personal property as a result of moving or discontinuing a business or farm operation; expenses must be reasonable as determined by the agency;
- actual reasonable expenses in searching for a replacement business or farm; and
- actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site as determined by the displacing agency, but not to exceed \$10,000.

In the alternative, a business may elect to receive a fixed payment according to the criteria established by the lead agency (the U.S. Department of Transportation), and may not be less than \$1,000 nor more than \$20,000 or the amount provided under the federal Uniform Relocation Assistance Act, whichever is greater. The maximum amount provided under federal law for relocation expenses is also \$20,000.

A displacing agency means any public or private agency or person carrying out:

- a program or project with federal financial assistance;
- a public works program or project with State financial assistance; or
- acquisition by eminent domain or by negotiation.

A public agency includes the State, a political subdivision, or any of their agencies, boards, or commissions having the right to acquire real property for public purposes. A private agency means any public or private utility company, railroad, person, or other organization having the right to acquire real property for a public purpose.

**Background:** Maryland's law is modeled on the federal counterpart. The federal Uniform Relocation Assistance and Real Property Acquisition Policies Act was enacted in 1970 to provide a uniform policy for compensating persons displaced as a result of federal and federally assisted programs, in order to prevent disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

**State Expenditures:** The bill's impact on general funds and the TTF will vary according to the displacement agency that is exercising eminent domain and cannot be reliably determined at this time. For example, the Maryland Aviation Administration advises that the costs of reimbursing property owners for properties acquired under the BWI Noise Program are paid by the Federal Aviation Administration. The State Highway Administration advises it handles approximately 24 cases annually at a cost of \$500,000. The Maryland Transit Administration (MTA) anticipates the effect to be minimal as most of the properties that it acquires are unimproved parcels.

State law confers broad power on the MTA to acquire property; however, the statute that governs MTA does not address the issue of whether MTA is required to pay the fair market value or the replacement value in the purchase of commercial property. Federal law allows the State to use federal funds for the compensation of fair market value and associated relocation costs for transportation facilities, but not full market value. The Department of Legislative Services advises that the difference between full and fair market value can be significant.

**Additional Comments:** This bill affects any public or private agency that acquires property by eminent domain and, therefore, could have a significant impact on private businesses, such as utilities or railroad companies that acquire property by eminent domain.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Transportation, Office of the Attorney General,  
Department of Legislative Services

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