Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 684 (Senator Pinsky, *et al*.)
Education, Health, and Environmental Affairs

Zoning - Construction Permits - Retail Stores Over 120,000 Square Feet

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This bill amends the State zoning and planning law (Article 66B) to prohibit a planning commission from approving a permit to construct a large retail store over 120,000 square feet. The bill also prohibits the district councils in Montgomery and Prince George's counties from approving such a permit. The bill only applies to permits approved on or after October 1, 2002.

Fiscal Summary

State Effect: The bill would not directly affect State operations or finances.

Local Effect: The bill could have a significant impact on some local jurisdictions' operations. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful. To the extent the bill encourages or discourages economic development in affected jurisdictions, there could be positive or negative impacts on small businesses. Because future growth cannot be predicted, the impact to small businesses cannot be reliably estimated at this time.

Analysis

Current Law: Article 66B governs zoning and planning in the State. It has limited applicability to charter counties and Baltimore City. Local planning commissions are required to develop and approve a plan that must: (1) be recommended to the local legislative body for adoption; and (2) serve as a guide to public and private actions and decisions relating to development. The plan, at a minimum, must contain a statement of goals and standards, a land use plan element, a transportation plan element, a community facilities plan element, a mineral resources plan element under specified conditions, recommendations for land development regulations, recommendations for the designation of areas of critical concern, and a sensitive area element. For charter counties and Baltimore City, the plan must include a transportation plan element, a mineral resources plan element under specified circumstances, recommendations for land development regulations, and a sensitive areas element.

The Maryland-National Capital Park and Planning Commission (M-NCPPC) is the agency in the Maryland-Washington Regional District that operates as the planning authority and develops plans governing areas within the Regional District, including most of Montgomery and Prince George's counties. The district councils approve and amend those plans.

Background: In 1997 the General Assembly adopted Governor Glendening's Smart Growth legislative package aimed at encouraging growth in existing communities and reducing the impact of urban sprawl on the environment. This initiative was designed to protect and preserve the State's green spaces and rural areas by managing growth and restricting State funding to designated priority funding areas, which include all municipalities, the areas inside the Baltimore and Washington beltways, and additional areas designated by county governments.

The Office of Smart Growth, which was established by the General Assembly during the 2001 session, has identified ten principles of the State's Smart Growth program. These include: (1) mix land uses; (2) take advantage of compact building design; (3) create housing opportunities and choices; (4) create walkable communities; (5) foster distinctive, attractive communities with a strong sense of place; (6) preserve open space, farmland, natural beauty, and critical environmental areas; (7) strengthen and direct development toward existing communities; (8) provide a variety of transportation choices; (9) make development decisions predictable, fair, and cost-effective; and (10) encourage community and stakeholder collaboration in development decisions.

According to the Maryland Department of Planning (MDP), retail stores that may be over 120,000 square feet in size typically include discount department stores and warehouse clubs. In a report regarding these "big box retailers," MDP notes that there has been significant growth in the retail trade industry in recent years. MDP advises that while there are some positive aspects of retail development, such as the ability to benefit under-served markets, the expansion of large-scale retailers have reduced the number of competitors/tenants (i.e., retailers both small and large) in shopping centers throughout the United States.

MDP further advises that since 1992, there has been an increasing concern regarding the proliferation of big-box development in Maryland. Some local jurisdictions have addressed the issue. For example, Kent County regulates big-box development through its local comprehensive plan; by upholding language in that plan, the county rejected a proposal for a 98,000 square foot Wal-Mart in Chestertown. Talbot County prohibited a proposal to build a 131,000 square foot Home Depot near Easton based primarily on traffic concerns. In May 2000, legislation was introduced in Anne Arundel County that would have restricted retail uses exceeding 65,000 square feet of floor area on any one floor of a structure. The bill was defeated in July 2000, however.

In its report, MDP cites several studies relating to the impacts of big-box development on the economy of a given area. MDP concludes that "… there are both positive and negative impacts of big-box stores. The positive aspects include strong, initial growth in overall retail sales as well as in the general merchandise and specialty categories. Another positive aspect is increased sales in the eating and drinking category, particularly among restaurants near big-box stores. The negative aspects include a reduction in big-box retail sales after the first three years of a big-box development and a reduction in the number of non-big-box stores, particularly stores in close proximity and/or in direct competition with a big-box."

State and Local Fiscal Effect: To the extent that the bill encourages the development of mixed-use or small, neighborhood commercial use, the future growth in State and local expenditures for government services (such as police, fire, rescue, water, and sewer) could be slowed. On the other hand, if large stores are prohibited in the State, it may discourage the development of large shopping malls and associated stores, potentially resulting in the relocation of such development to neighboring states and an associated loss of revenues to affected jurisdictions, including the State. Legislative Services advises that because the extent to which economic development will be affected by the bill is unknown, the bill's impact cannot be reliably estimated at this time.

Because planning is traditionally a function of local governments, the bill will have a direct impact on affected jurisdictions by prohibiting them from permitting large scale development. Montgomery County advises, for example, that it generates approximately $200,000 in permitting fees for each 120,000 square foot building.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Planning, Governor's Office (Office of Smart Growth), Caroline County, Howard County, Montgomery County, Prince George's County, Department of Legislative Services

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