Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 857 (Delegate La Vay)
Environmental Matters

Smart Growth - Priority Funding Areas - State Funding for Transit Facility Projects and Capital Improvements

This bill amends the Smart Growth and Neighborhood Conservation - Smart Growth Areas Act to provide that the State may not provide funding for a project to construct or make a "major capital improvement" to a "transit facility" within a priority funding area that is located in a county or municipal corporation exercising zoning authority unless the county or municipal corporation has adopted zoning ordinances regarding development density and permitted uses that are applicable to all development projects located within one-half mile of the transit facility.

Fiscal Summary

State Effect: Potential decrease in Transportation Trust Fund (TTF) and federal fund revenues and expenditures related to capital projects to the extent local jurisdictions do not modify zoning ordinances in accordance with the bill; expenditures could increase to identify and plan alternative projects. If local jurisdictions do modify their zoning ordinances but the bill results in a significant delay in projects, expenditures could increase.

Local Effect: The bill could have a significant impact on affected local jurisdictions.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The zoning ordinances adopted by a county or municipal corporation under the bill must: (1) change the zoning classification for the area within one-half mile of a transit facility to increase development density to a level that is at least 25% higher than the level in effect before construction or operation of the transit facility; and (2) be submitted for review by the Office of Smart Growth.

Major capital improvement means a new, expanded, or significantly improved facility that involves planning, environmental studies, design, right-of-way, construction, or purchase of essential equipment related to the facility. Transit facility means a station, terminal, or parking area, or any combination of these facilities that is: (1) owned or operated by the Maryland Transit Administration or the Washington Area Transit Authority; and (2) eligible to receive federal matching funds for a major capital improvement.

Current Law: The Smart Growth and Neighborhood Conservation - Smart Growth Areas (the Smart Growth Areas Act) (Chapter 759 of 1997) focused State spending in those areas that provide the most efficient and effective use of taxpayer dollars and support and revitalize existing neighborhoods and rural villages. The legislation targeted funding toward designated priority funding areas (PFAs), including: (1) those regions inside either of the two beltways; (2) areas currently zoned as industrial; (3) areas zoned as industrial in the future if served by a sewer system; (4) municipal corporations, including Baltimore City, if all areas annexed after January 1, 1997, meet specified density and water and sewer requirements; and (5) areas within a locally designated growth area that meets specified density and sewer requirements.

Beginning October 1, 1998, the State was prohibited from providing funding for any growth-related project not located within a PFA. However, there were exceptions provided under the 1997 legislation. The State may provide funding for a growth-related project not in a PFA if the Board of Public Works:

- determines that extraordinary circumstances exist as specified in statute; or
- approves the project as a transportation project that meets specified requirements such as a project connecting PFAs or a project maintaining an existing transportation system without an increase in highway capacity.

Requests for approval by the Board of Public Works may be made at the request of the governing body of the local jurisdiction or the cabinet secretary with approval authority over the project. The State also may allocate funding for a growth-related project not located in a PFA without approval from the Board of Public Works if:

- the project is required to protect public health or safety;
- the project involves federal funds, to the extent compliance would be inconsistent with federal law; or

- the growth-related project is necessary for a specified commercial or industrial activity that, by its nature, needs to be located away from other development.

The Smart Growth Areas Act required local governments to certify PFAs with the assistance of the Office of Planning, now the Maryland Department of Planning (MDP). Each county and municipality is required to submit a map and description of its PFAs consistent with the local comprehensive plan and the criteria established in Chapter 759 of 1997. Further, MDP is required to establish a process to review projects by the appropriate State agencies and provide each appropriate State agency and unit of State and local government with the location of PFAs.

Chapter 759 of 1997 grandfathered projects or programs that had been granted approval or commitments prior to October 1, 1998. Also not subject to the law were projects or programs: (1) having a valid permit or State commitment for a grant, loan, loan guarantee, or insurance for a capital project; (2) for which final review under the National Environmental Policy Act or Maryland Environmental Policy Act was completed prior to October 1, 1998; or (3) for which final review through the State Clearinghouse for Intergovernmental Assistance was completed by January 1, 1999.

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. In addition to the Smart Growth Areas Act, the original Smart Growth initiative included:

- the Rural Legacy Program, which protects large contiguous tracts of rural lands by providing funds to local governments and land trusts for the purchase of conservation easements;

- the Brownfields Voluntary Cleanup and Revitalization Incentive Program, which provides loans, grants, and property tax credits to encourage the cleanup and development of abandoned or underutilized industrial or commercial sites;

- the Job Creation Tax Credit, which promotes job creation and revitalization in PFAs by providing income tax credits to business owners who create at least 25 full-time jobs that pay at least minimum wage; and

- the Live Near Your Work Program, a partnership among the Department of Housing and Community Development, local governments, businesses, and institutions, which provides cash incentives for employees to buy homes near their work in targeted neighborhoods.

During the 2001 session, the Smart Growth program was expanded to include: the GreenPrint Program, designed to enhance current land preservation efforts; the Community Legacy Program, designed to fill funding gaps in existing community development programs; the Office of Smart Growth (OSG), a “one-stop” shop for Smart Growth, established to provide overall coordination of the program; and enhanced funding for community parks and public transportation.

According to OSG, one of the main principles of Smart Growth is to provide a variety of transportation choices in the State. Fiscal 2003 begins the second of a six-year transit initiative approved during the 2001 session. The primary goal of the Governor’s Transit Initiative (GTI) is to double transit ridership in the State by 2020.

State Fiscal Effect: The Governor’s proposed fiscal 2003 budget for the Mass Transit Administration includes $417.8 million in capital expenditures (including $211.9 million in special funds, $204.6 million in federal funds, and $1.3 million in other funds, including Maryland Transportation Authority bond financing and local funds). The proposed fiscal 2003 budget also includes $516.2 million in operating expenditures (including approximately $471.1 million in special funds and approximately $45 million in federal funds). Of these amounts, the budget includes $40.4 million in capital expenditures and $31.3 million in operating expenses for the GTI.

Because the bill makes State funding for a transit facility in a PFA contingent on a local jurisdiction changing the zoning classification of all property within one-half mile of the transit facility, the bill could result in a significant delay in projects or cancellation of projects. Because one cannot predict the extent to which local governments will modify their zoning ordinances in accordance with the bill, the bill’s fiscal impact cannot be reliably estimated at this time.

To the extent a capital improvement is significantly delayed as a result of the bill, costs for land acquisition and labor could increase, resulting in an increase in costs associated with the project. To the extent a capital improvement in a given area is prohibited as a result of the bill, TTF expenditures could decrease or be redirected to other modes of transportation (such as highways) or other projects. Costs related to the planning and development of alternative projects or routes would likely increase. Federal fund expenditures would also be affected.

The bill also could affect TTF and federal fund revenues. First, if the bill delays or prevents a project from being completed, any revenues that would have been generated as a result of the project would be foregone. Second, the bill could result in a decrease in federal fund revenues from the Federal Transit Administration to the extent transit projects are prohibited as a result of this bill.

OSG could handle the bill’s requirements with existing budgeted resources.

Local Fiscal Effect: By making State funding for a transit facility in a PFA contingent on a local jurisdiction changing the zoning classification of all property within one-half mile of the transit facility, the bill could have a significant impact on local jurisdictions.

The bill requires affected local jurisdictions to consider modifying their zoning ordinances. Local jurisdictions would likely have to hold hearings and coordinate with other affected jurisdictions. To the extent that an affected local jurisdiction does not modify its zoning ordinance in accordance with the bill, any State funding to the local government for capital improvements to a transit facility would be lost. In addition, to the extent a proposed project is canceled as a result of this bill, any benefits that the local government would have received from the transit facility would be forfeited.

To the extent that an affected local jurisdiction modifies its zoning ordinance to ensure that a proposed transit project moves forward, the local jurisdiction could incur an increase in expenditures to provide government services (such as police, fire, and rescue) and infrastructure associated with an increased zoning classification density. If, however, the bill redirects growth that would otherwise be spread out over a larger area, costs for such services could decrease in the long run.

Small Business Effect: Legislative Services advises that the bill could have considerable direct and indirect economic impacts, all of which cannot be described, forecasted, or quantified in this fiscal note. To the extent the bill encourages or discourages economic development in a given jurisdiction, the bill could have positive or negative impacts on small businesses that cannot be reliably estimated at this time. (For example, the cost, availability, and quality of public transportation and other government services, as well as the cost of housing and opportunities for employment could all be affected).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office (Office of Smart Growth); Maryland Department of Planning; Maryland Department of the Environment; Calvert, Caroline, Howard, and Prince George's counties; Department of Legislative Services

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