

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 101 (Chairman, Budget and Taxation Committee)
 (By Request – Departmental – Assessments and Taxation)
 Budget and Taxation

Property Tax - Railroads and Public Utilities - Operating Real Property

This departmental bill adds the following to the definition of operating real property for a railroad or public utility: a system of property firmly positioned in a pathway and capable of long-term use for the transportation, storage, or distribution of a product; the interests in the real property that form the pathway; and pipelines and tanks. The bill also expands the definition of operating personal property (including cables, lines, poles, and towers) that applies exclusively to public utilities to all entities.

The bill applies to any amended personal property reports filed after January 1, 2003. The bill is effective June 1, 2003 and applicable to all tax years after June 30, 2003.

Fiscal Summary

State Effect: State Annuity Bond Fund revenues would increase by \$1.6 million beginning in FY 2004 with a corresponding decrease in general fund expenditures. Future years reflect changes in the assessable base. It would also prevent the potential reduction of \$6.6 million in Annuity Bond Fund revenues in FY 2003.

(\$ in millions)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
SF Revenue	\$1.6	\$1.6	\$1.7	\$1.7	\$1.6
GF Expenditure	(1.6)	(1.6)	(1.7)	(1.6)	(1.6)
Net Effect	\$3.3	\$3.2	\$3.3	\$3.3	\$3.3

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: This bill would not affect local governments because personal and real property are generally taxed at the same rate.

Small Business Effect: The Department of Assessments and Taxation (SDAT) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The current definition of operating real property does not specifically identify a system of property firmly positioned in a pathway and capable of long-term use for the transportation, storage, or distribution of a product; the interests in the real property that form the pathway; and pipelines and tanks. The State's personal property tax rate is 0%, and the real property tax rate is \$0.21.

Background: In September 2002, the Maryland Court of Appeals ruled in *Colonial Pipeline v. SDAT* that easements, pipelines, and tanks used by railroads and public utilities were personal property, not real property. SDAT has been taxing such property as real property for decades. The court ruled that such property was trade fixtures (personal property) and not subject to State property tax.

The court decision requires SDAT to reclassify all easements, pipelines, and tanks of public utilities from real property to personal property for the taxable year beginning July 1, 2003. The reclassification will exempt over \$791 million of utility property currently subject to State taxation.

State Fiscal Effect: This bill, in negating the Court of Appeals decision, will increase State property tax revenues credited to the Annuity Bond Fund and decrease general fund expenditures by an equivalent amount. The property tax revenues assumed in the fiscal 2004 State budget are based on the change in property classification resulting from the court's decision. The court's decision results in the exemption of over \$779,000,000 of utility property from the State property tax causing a reduction of revenues for the State Annuity Bond Fund of \$1,637,000 annually beginning fiscal 2004. This revenue reduction required increased State general fund appropriations to the Annuity Bond Fund in fiscal 2004 in order to meet State debt service requirements. Additionally, public utilities are able under current law to file amended operating property returns for fiscal 2000, 2001, 2002, and 2003 requesting reclassification of this property. If all eligible companies filed such amended returns, the State would realize an additional one-time revenue reduction in fiscal 2003 of \$6,646,000.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Assessments and Taxation, Public Service Commission, Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2003
s/jr Revised - Clarification - January 31, 2003

Analysis by: Karen S. Benton

Direct Inquiries to:
(410) 946-5510
(301) 970-5510