

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1157 (Delegate Niemann)
Environmental Matters

Economic Development - Construction Projects - Demolition

This bill directs the State and certain construction project owners, developers, and contractors to provide employment and training for low-income individuals. It also requires local governments to regulate specific aspects of demolition projects and related salvage disposal and prohibits them from issuing a demolition permit until the provisions of regulation or law are met. It clarifies that expenditures eligible for the State heritage tax credit include demolition, subject to certain requirements.

Fiscal Summary

State Effect: Potentially significant increase in general fund revenues in FY 2005 and annually thereafter. Revenues would not be affected.

Local Effect: Potentially significant expenditures for some local jurisdictions to comply with the bill. The bill also affects administrative processes. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful. The bill would affect the hiring practices of construction or trade contractors and place additional responsibilities and restrictions on building material disposal. It also could delay construction projects.

Analysis

Bill Summary: The bill's provisions are described below.

Employment and Training for Low-income Individuals

The bill declares that it is the State's policy to ensure that the employment, job training, and other economic opportunities generated by Department of Housing and Community

Development (DHCD) programs and other construction financing programs funded by the State be directed (to the greatest extent possible) to low-income persons, particularly those who are in search of greater employment opportunity. A low-income individual means someone whose household income is less than 30% of the area median income.

It also requires an owner or developer who has received at least \$200,000 of financial assistance for a residential or nonresidential construction project to try to hire or train low-income individuals (as described below). The requirement also applies to contractors or subcontractors that perform work on those projects if the contract or subcontract exceeds \$100,000. Developers and contractors for federally assisted public housing projects that are covered by the federal Housing and Urban Development Act are exempt. The bill directs the Secretary of Housing and Community Development to adopt regulations to carry out these requirements.

A person must use his or her best efforts to give opportunities for training and employment to low-income individuals who live within the census tract in which a construction project is located or in an adjacent census tract. Priority should be given to those who live within a five-mile radius of the project. This requirement applies to demolition, including deconstruction, salvage, and reduction and abatement of lead-based paint hazards. A person is not required to hire an individual who does not meet the requirements of a position. Similarly, a person must attempt to award contracts to businesses that provide economic opportunities for low-income individuals.

Demolition Regulation and Requirements

The bill directs local governments to enact laws or regulations that require an owner of a building or structure to arrange for a salvage period before demolishing the building or structure unless: (1) the owner has purchased salvage or deconstruction services that equal at least 5% of the total cost of demolition; or (2) the local jurisdiction determines that unsafe conditions require immediate demolition. A local jurisdiction must establish laws or regulations relating to:

- the timing and length of salvage periods;
- access to the building or structure for the salvage or deconstruction crews;
- minimum qualifications for the salvage or deconstruction crews; and
- the assumption of liability by the salvage or deconstruction crews for their work.

A demolition permit cannot be issued unless these requirements are met. Deconstruction means the nondestructive disassembly of a major element of a building or structure, including walls, floors, roofs, and mechanical and electrical systems, for the purpose of

harvesting and reuse. Salvage means the nondestructive removal of a building or structure component, including doors, fixtures, furnishings, and appliances, for harvesting and reuse.

The bill expands the definition of a qualified rehabilitation expenditure that can be claimed for the heritage tax credit to include demolition if: (1) the business or individual certifies to the director of the Maryland Historical Trust (MHT) that salvage or deconstruction of the structure has been completed and describes the types and quantities of materials harvested from the structure; (2) the business or individual advertises for salvage or deconstruction services for the structure in a journal or web site approved by MHT at least two weeks before demolition and receives no responses; or (3) the MHT director has issued a written explanation stating why salvage or deconstruction of the structure is not feasible.

Current Law: While State law requires a certain percentage of State procurement contracts to be awarded to minority business enterprises, it does not require private or State employers to provide contracts, training, or employment for low-income individuals for construction projects.

Local jurisdictions that issue demolition permits have the discretion to determine what is required to issue a permit, subject to the State building code and other laws. Construction debris that is not a controlled hazardous substance is generally deposited in rubble landfills in accordance with county solid waste management plans.

The heritage tax credit program (created by Chapter 601 of 1996) terminates June 1, 2004. Under the program, a person may claim a tax credit in an amount equal to 20% of the taxpayer's qualified rehabilitation expenditures for the rehabilitation of a certified heritage structure, for the taxable year in which a certified rehabilitation is completed. Expenditures include any amount expended in rehabilitation of a structure that is part of a plan approved by the MHT director.

State Expenditures: The bill requires DHCD to issue regulations to carry out the provisions related to hiring and training low-income individuals for most State-funded projects, not just those funded by the department. The bill's intent for enforcing these provisions is unclear and no enforcement authority is specified. Accordingly, the cost of the bill is unclear. If DHCD is responsible for monitoring compliance, general fund expenditures could increase by approximately \$250,000 in fiscal 2005 to hire five staff members to provide oversight and administration.

The Department of Legislative Services notes that there are hundreds of State-funded projects in the fiscal 2005 capital budget that involve construction or renovation; the number of projects for which demolition is required is unknown.

DHCD advises that the departmental program most directly affected by the legislation is Community Legacy, which provides financing for local governments to demolish deteriorated buildings and structures. The bill could also affect demolition activity funded under the Neighborhood Business Development Program or the Neighborhood Partnership Program. DHCD further advises that the bill would likely create delays in awarding funds under these programs and would create additional reporting requirements for recipients in order to document compliance.

Local Effect: Two of the three counties that responded to a request for information indicated that the bill would increase their costs. The estimates varied by jurisdiction. Worcester County advised it might charge a salvage or inspection fee to recover its cost, estimated to be 5% of the demolition cost. Montgomery County anticipates that it would cost \$175,755 to hire three additional staff in the Department of Permitting Services and for additional operating expenses. The county observes that a new permit would be needed for salvage and that bonding requirements would need to be established. Kent County commented that the bill would adversely affect economic development in rural areas.

Small Business Effect: A significant number of subcontractors in the State are small businesses, particularly trade contractors such as carpenters. A 2001 U.S. Census survey indicates that 24,949 special trade contracting establishments were self-employed (establishments may include multiple locations of one firm). The bill could delay construction projects if local demolition permits are not issued, thus disrupting work for those subcontractors. The number of permits that would not be issued cannot be predicted. The bill also directs contractors to provide contracts for other businesses that hire low-income persons. To the extent that subcontractors who do not meet this requirement would not be awarded contracts, they would be affected.

Additional Comments: The bill could increase the cost of real estate if contractors or owners pass on the costs of providing training or other services, arrangements for salvage, and any construction delays experienced when the owner does not meet requirements for a local demolition permit.

Additional Information

Prior Introductions: None.

Cross File: SB 750 (Senators Britt and Forehand) – Finance.

Information Source(s): Department of Housing and Community Development, Montgomery County, Kent County, Worcester County, Department of Legislative Services

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