

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 881
Economic Matters

(Delegate Conroy, *et al.*)

Finance

Maryland Economic Development Corporation - Condemnation of Property

This bill states that, when exercising the power of eminent domain for any project, the condemnation powers of the Maryland Economic Development Corporation (MEDCO) cannot exceed the condemnation powers of the county or municipal subdivision in which the property is located.

Fiscal Summary

State Effect: None. The bill would not substantively change State activities or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: MEDCO has the power to acquire real property or rights or easements in it by condemnation for projects in accordance with all laws applicable to the condemnation of property for public use. However, in exercising the power of eminent domain for any project, the action must be approved by resolution of the legislative body of each political subdivision in which the property is located. The resolution must pass with a two-thirds majority vote.

Background: In 1984, the General Assembly approved the creation of MEDCO to boost development in neglected areas of the State and specifically to redevelop an unused

property in Western Maryland. MEDCO is governed by a 12-member board of directors of State officials and private business owners who are appointed by the Governor with the advice and consent of the Senate. MEDCO relies on its own revenues to support its activities and does not receive any appropriations from the State, nor are its employees State employees.

MEDCO's original role was to develop vacant industrial sites that failed to attract private investment and help State and local economic development agencies modernize, retain, and attract businesses. MEDCO has completed over 172 projects since its inception, including the Chesapeake Bay Conference Center, the Rocky Gap golf resort, the headquarters for the Chesapeake Bay Foundation, and the headquarters for the Maryland Department of Transportation. None of the projects involved using eminent domain.

As of June 30, 2004, MEDCO had outstanding debt of \$1.6 billion, of which 34.8% was issued for other State entities. Although MEDCO's revenue has been increasing over the past three years, so have its expenditures. MEDCO's expenditures have exceeded revenues in each fiscal year since fiscal 2002. In fiscal 2004, MEDCO's expenditures exceeded revenues by \$22 million. That same year, MEDCO's net liabilities exceeded its assets by \$23.2 million. MEDCO has a number of projects under construction, including several apartment/dormitory projects for State universities.

MEDCO is eligible for financial assistance under the Smart Growth Economic Development Infrastructure Fund, also referred to as "One Maryland." One Maryland assistance is administered by the Department of Business and Economic Development (DBED), and can be provided in the form of a loan, conditional loan, or investment. Assistance is provided to finance the acquisition, improvement and rehabilitation of land, and for infrastructure projects intended to advance economic development and help create or retain jobs in the community. Counties that currently meet the restrictions limiting One Maryland assistance to qualified distressed counties are Baltimore City, and Allegany, Caroline, Cecil, Dorchester, Garrett, Somerset, and Worcester counties. Chapter 216 of 2004 consolidated One Maryland with the Maryland Economic Development Assistance Authority and Fund (MEDAAF).

MEDCO initiated its first projects under One Maryland in fiscal 2000. MEDCO acts as a conduit for funding to the jurisdiction or project in question. DBED advises that loans to MEDCO are nonrecourse lending, *i.e.*, MEDCO is under no obligation to repay DBED for the financial assistance unless the project earns money, some of which flows back to MEDCO. From fiscal 2000 to 2003, DBED approved 12 projects using MEDCO as a conduit for a total of \$25.4 million in funding. In fiscal 2004, DBED approved two additional projects with funding assistance of \$6.8 million, and MEDCO worked on eight projects using One Maryland funding. DBED advises that it is not currently working on

any One Maryland projects using MEDCO as a conduit, nor does it anticipate any such projects in the near future.

State Fiscal Effect: None. DBED advises that it is not currently involved in any projects that would be affected by the limit on MEDCO's power of eminent domain.

Additional Comments: The Department of Legislative Services advises that as MEDCO relies on its own revenues to support its activities, any additional costs or limits on potential projects that would occur because it lacked condemnation authority would not directly affect the State but could affect MEDCO's finances. However, since MEDCO has never used eminent domain powers in its activities, limiting MEDCO's eminent domain powers is unlikely to have any fiscal effect on MEDCO.

Additional Information

Prior Introductions: Bills to eliminate MEDCO's power of eminent domain were introduced as HB 659 and SB 716 in the 2004 session, HB 716 in 2003, and HB 71 in 2002. SB 716 received an unfavorable report from the Finance Committee, HB 659 was withdrawn. HB 71 in 2002 passed the House and was heard by the Budget and Taxation Committee; HB 716 was withdrawn after a hearing by the Economic Matters Committee.

Cross File: None.

Information Source(s): Anne Arundel County, Washington County, Montgomery County, Prince George's County, Kent County, Worcester County, Department of Business and Economic Development, Department of Legislative Services

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n/rhh

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