SB 81

Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 81 (Chairman, Finance Committee)
(By Request – Departmental - Transportation)

Finance

State Highway Administration - Controlled Access Highways - Use of Rest Area Property

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This departmental bill authorizes the State Highway Administration (SHA) to operate or grant a permit to operate motels, restaurants, gas stations, or other automobile service stations along controlled access highways, unless prohibited by federal regulation. SHA may enter into revenue-producing agreements with private contractors to operate such businesses.

Fiscal Summary

State Effect: Potentially significant increase in Transportation Trust Fund (TTF) revenues due to SHA receiving a portion of sales revenue from retail establishments operating at SHA rest areas. Potential decrease in TTF expenditures of up to $1 million annually if retail establishments assumed full responsibility for maintenance of affected rest areas.

Local Effect: None.

Small Business Effect: The Maryland Department of Transportation has determined that this bill has minimal or no impact on small business (attached). Legislative Services disagrees with this assessment as discussed below.

Analysis

Current Law: Controlled access highways have restrictions on where a vehicle can enter and exit a highway, such as a specific on and off ramp. Uncontrolled access roads are where private property owners along the highway can create an access point to the highway anywhere on their property.

Any land near or along a State highway may be acquired to: (1) protect the highway or scenery along or near it; (2) landscape the highway; (3) provide parking and service areas along the highway; or (4) for any similar purpose. However, a motel, restaurant, or gasoline or automobile service area may not be operated or permitted by SHA or by any other agency or political subdivision of the State on any highway or related parking or service area the land for which was acquired under Title 8, Subtitle 3 of the Transportation Article.

State regulation grants SHA the power to pass rules to regulate behavior at rest areas but also prohibits any type of selling or advertising items; posting notices or signs; hiring, leasing, or letting out merchandise; or displaying or exhibiting merchandise. All of these activities would be necessary to sell services such as gas, food, or beverages to travelers at privatized rest areas.

Under federal law, 23 U.S.C. 111, a state cannot permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the interstate highway system. Exemptions are made for certain toll roads, such as the New York State Thruway or the New Jersey Turnpike, that were built before the roads were designated as interstates. This law was enacted to prevent unfair advantages for companies located on the interstate as opposed to companies located off the interstate at an exit.

Background: Many states, including Maryland, have rest areas along nontoll highways. These rest areas do not have gas stations or fast-food; instead they have rest rooms, parking, vending machines, and sometimes information on the region and lodging along the road. Numerous state legislatures and other interest groups have proposed privatizing rest areas in various states and allowing retail establishments to operate in them.

According to the National Transportation Safety Board (NTSB), a 1998 research study sponsored by the Federal Highway Administration and the Arkansas State Highway and Transportation Department indicates that there is some advantage to commercializing rest areas, including reduced costs and increased services and vehicle safety.

There are 16 rest areas in Maryland. Two are under the jurisdiction of the Maryland Transportation Authority (MdTA), Maryland House and Chesapeake House. Of the 14 under SHA authority, 7 are on the interstate highway system and 7 are on the national highway system. SHA proposes to privatize the seven rest areas on the national highway system:

- US 15 South Welcome Center (Frederick County)
- US 301 North Crain Memorial Welcome Center (Charles County)
- US 301 Welcome Center (Queen Anne's County)
- US 13 North Welcome Center (Worcester County)
- US 219 Cove Road Rest Area (Garrett County)
- US 50 Sailwinds Welcome Center (Dorchester County)
- US 13 South Welcome Center (Somerset County)

State Fiscal Effect: TTF revenues could increase significantly; the magnitude of the increase would depend on the details of any contract with private entities and the schedule for privatization of the rest areas. For illustrative purposes, if SHA were to model its contract after MdTA, revenues would increase significantly, with little or no reduction in expenditures.

MdTA works with Marriott as a managing agent at its two rest areas, but MdTA conducts most of the repairs and maintenance. The restaurant pays Marriott a share of revenues from sales, and Marriott pays MdTA a portion of that revenue. The gas stations, which work with MdTA directly, pay a per gallon fee on gas sold to MdTA, along with a percentage on any other items sold – snacks, tire repair, etc. MdTA advises that, in fiscal 2004, Maryland House and Chesapeake House combined generated revenues for MdTA of $8.1 million.

Another option would be for SHA to work with a management company that accepted responsibility for the maintenance and repair of the rest areas. SHA would receive less of the sales revenue from commercial retail establishments at the rest areas but would no longer spend as much money on maintenance. SHA advises that it spends approximately $1 million per year on upkeep at the seven rest areas; therefore, TTF expenditures could decrease by as much as $1 million per year if full responsibility for maintenance were shifted. However, it is likely that SHA would retain responsibility for some portion of maintenance at the seven rest areas. TTF revenues would also increase under this option.

Small Business Effect: There is a potentially meaningful impact on retail food and gas establishments within 10 or 15 miles of the rest area. These establishments could lose business due to the availability of food and gas at rest areas. Franchise owners who received licenses to operate retail food or gas businesses at these rest areas would benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Evergreen Freedom Foundation, Landline Magazine, Cascade Policy Institute, The Times-News, Nephi, Utah, Virginia Transportation Research Council, American Association of State Highway and Transportation Officials, Idaho Transportation Department, Department of Legislative Services

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