HB 1294

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1294 (Delegate Trueschler, *et al.*)
Environmental Matters

Resource Conservation Planning Act of 2005

This bill establishes various requirements for local jurisdictions relating to land conservation and energy planning. The bill also repeals the statutory allocation of State transfer tax revenues and provides that such revenues be allocated as provided in the State budget. Finally, the bill provides that it is the intent of the General Assembly that, for fiscal 2007 through 2016, at least 20% of the total amount provided in the State budget for school construction be allocated for repair or replacement of energy-inefficient building components in school buildings.

The bill's provisions that repeal the statutory allocation of transfer tax revenues take effect July 1, 2007 and sunset June 30, 2017.

Fiscal Summary

State Effect: General fund expenditure increase of $63,900 in FY 2006 to review plans. The FY 2007 estimate is annualized and adjusted for inflation; it is assumed that the review functions would be completed by the end of FY 2007. The repeal of the statutory allocation of transfer tax revenues from FY 2008 through 2017 could result in a significant increase in general fund revenues and a corresponding decrease in special fund revenues. The impact of the bill's language regarding school construction funding is unclear, but could result in a significant increase in funding needs.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	$0	$0	-	-	-
SF Revenue	0	0	(-)	(-)	(-)
GF Expenditure	63,900	83,100	0	0	0
Net Effect	($63,900)	($83,100)	$0	$0	$0

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

Local Effect: Local expenditures could increase significantly to prepare plans. State aid to local governments under Program Open Space (POS) could be significantly affected from FY 2008 through 2017 due to the repeal of the statutory allocation of transfer tax revenues. The language regarding school construction funding also could have significant impacts on affected local jurisdictions. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill requires "applicable jurisdictions" to develop a land conservation plan and submit it to the Maryland Department of Planning (MDP) for review by April 30, 2006. MDP must comment by October 1, 2006 if it determines that the proposed plan is not in compliance with the bill's requirements. By December 31, 2006, applicable jurisdictions must adopt a resource conservation zoning regulation.

The bill also requires each county to develop an energy conservation plan relating to "applicable public buildings" and submit it to MDP by April 30, 2006. MDP must review such plans in coordination with the Maryland Energy Administration (MEA). MDP must comment by October 1, 2006 if it determines that the proposed plan is not in compliance with the bill's requirements.

"Applicable jurisdiction" means a governmental entity in the State having planning and zoning authority. The term does not include a municipal corporation of the State, Baltimore City, or a county in which at least 18% of the land area is owned by the State or federal government. "Applicable public building" means a structure that is county-owned, has been in existence for at least 30 years, provides a method of controlling energy usage within its exterior envelope, has at least 10,000 square feet of floor space, and has a permanent heating system. The term includes a public school building.

Current Law:

Planning

Article 66B governs zoning and planning in the State. Local planning commissions are required to develop and approve a plan that must: (1) be recommended to the local legislative body for adoption; and (2) serve as a guide to public and private actions and decisions relating to development. The plan, at a minimum, must contain a statement of goals and standards, a land use plan element, a transportation plan element, a community facilities plan element, a mineral resources plan element under specified conditions, recommendations for land development regulations, recommendations for the designation of areas of critical concern, and a sensitive area element. The plan may include other elements such as conservation elements and natural resources elements. For charter counties and Baltimore City, the plan must include a transportation plan element, a mineral resources plan element under specified circumstances, recommendations for land development regulations, and a sensitive areas element.

The Maryland-National Capital Park and Planning Commission is the agency in the Maryland-Washington Regional District that operates as the planning authority and develops plans governing areas within the regional district, including most of Montgomery and Prince George's counties. The district councils approve and amend those plans.

State Transfer Tax

The State transfer tax funds several programs in the Department of Natural Resources (DNR) and the Maryland Department of Agriculture. A portion of State transfer tax revenues (3%) is earmarked to defray administrative costs within DNR, MDP, and the Department of General Services. The remainder of the revenue is dedicated to various programs including POS, the Maryland Agricultural Land Preservation Fund (MALPF), Rural Legacy, and the Heritage Conservation Fund. **Exhibit 1** shows the statutory distribution of State transfer tax revenues after administrative costs are deducted.

Exhibit 1
Distribution of State Transfer Tax Revenues

POS	75.15%
POS Land Acquisition	1.00
MALPF	17.05
Rural Legacy	5.00
Heritage Conservation Fund	1.80
Total	**100.0%**

Of the transfer tax revenues distributed to POS, $1 million may be transferred by an appropriation in the State budget or by budget amendment to the Maryland Heritage Areas Authority Financing Fund within the Department of Housing and Community

Development. Of the remaining funds, half is allocated for State acquisition and half is allocated to local governing bodies for acquisition and development of land for recreation and open space purposes.

State Fiscal Effect:

Planning Provisions

General fund expenditures could increase by an estimated $63,885 in fiscal 2006, which accounts for the bill's October 1, 2005 effective date. MDP advises that one permanent full-time position is needed to review plans, and MEA advises that one-half of a permanent full-time position is needed to review plans. However, the Department of Legislative Services (DLS) advises that it appears that the added responsibilities incurred by this legislation are not permanent and thus could be performed by contractual employees. This estimate reflects the cost of hiring one contractual planner within MDP and a part-time contractual energy performance specialist within MEA to review plans submitted by local jurisdictions. It includes salaries, fringe benefits, and ongoing operating expenses.

Salaries and Fringe Benefits	$62,822
Operating Expenses	1,063
Total FY 2006 MDP/MEA Expenditures	**$63,885**

MEA also advises that an additional part-time employee may be needed to provide technical assistance with respect to Energy Performance Contracts that it anticipates would be used to implement energy savings programs. DLS advises that the need for any staff for this purpose is unclear at this time.

Fiscal 2007 expenditures reflect: (1) full salaries with 4.6% annual increases and 6.8% employee turnover; and (2) 1% annual increases in ongoing operating expenses. It is assumed that the contractual employees would not be needed after fiscal 2007. DLS notes that the bill's timeframe for the development of plans is ambitious; to the extent plans are not completed and reviewed within the bill's timeframe, costs could continue. In addition, to the extent the intent of the bill is for these review functions to be ongoing and the plans to be updated over time, permanent employees would be needed.

In addition to the direct costs of reviewing plans, the bill's provisions relating to resource conservation zoning could have a long-term impact on property values in affected areas, which could result in a decrease in State property tax revenues.

State Transfer Tax Allocation

By repealing the statutory allocation of transfer tax revenues and providing that such revenues would be allocated as provided in the State budget, the bill gives the Governor flexibility as to how such revenues would be allocated from fiscal 2008 through 2017. Because the Governor's future budget proposals cannot be predicted, it is unclear what impact this provision would have on the agencies and programs that currently receive funding from transfer tax revenues. However, because the bill could result in a significant increase in general fund revenues and a corresponding decrease in special fund revenues, funding for these agencies could be significantly affected. **Exhibit 2** shows the estimated transfer tax revenues from fiscal 2008 through 2010, as estimated by the Bureau of Revenue Estimates in December 2004. The estimates do not include over attainment; accordingly, the total amount of funding that could be reallocated as a result of the bill could be higher than these estimates.

Exhibit 2
Estimated Transfer Tax Revenues
Fiscal 2008 – 2010
($ in Millions)

	FY 2008	FY 2009	FY 2010
Revenues	$202.4	$214.4	$221.8

Source: Bureau of Revenue Estimates

Legislative Services notes that, as introduced, the Budget Reconciliation Act of 2005 (HB 148/SB 127) would redirect a decreasing percentage of transfer tax revenues to the general fund for fiscal 2006 though 2009 and would permanently redirect any over attainment to the general fund.

School Construction Funding

As an expression of intent to fund a program does not mandate an appropriation, it is unclear to what extent the bill's provision regarding the allocation of school construction funding from fiscal 2007 through 2016 would have on State finances. The Department of Budget and Management advises that requiring at least 20% of budgeted school construction funding to be allocated for repairing or replacing building components deemed energy-inefficient could result in an increase in the total cost of public school construction, which could result in a delay or cancellation of other school construction projects. For informational purposes, the Governor's proposed fiscal 2006 budget forecasts capital funding for public school construction of $100 million annually from fiscal 2007 through 2010. In its February 2004 report, the Task Force to Study Public School Facilities recommended that at least $250 million per year for the next eight years be provided to address public school construction needs.

Local Fiscal Effect:

Planning Provisions

Local expenditures could increase significantly to prepare the required land conservation and energy efficiency plans and to adopt resource conservation zoning regulations. Some counties would need to hire consultants to develop plans. Talbot County advises that it would be difficult to complete the required plans in the timeframe established by the bill.

According to MEA, the energy-related tasks could cost approximately $100,000 for smaller counties and approximately $1 million for larger counties. Baltimore City reports that the energy-related plans could cost millions of dollars. In the long run, assuming implementation of plans, the bill could result in energy savings.

In addition to the direct costs of developing plans, the bill's provisions relating to resource conservation zoning could have a long-term impact on property values in affected areas, which could result in a decrease in local property tax revenues.

State Transfer Tax Allocation

By providing the Governor with flexibility over how to allocate transfer tax revenues, State aid to local governments under POS could be significantly affected.

School Construction Funding

To the extent the bill results in the reallocation of public school construction for energy-related improvements, the bill could result in a delay in or cancellation of other public school construction projects, which could have significant impacts on affected local jurisdictions. To the extent energy-efficient improvements are made, affected local jurisdictions could realize energy savings in the long run.

Small Business Effect: It is unclear to what extent the bill's planning provisions would impact small businesses; however, if implemented, the resource conservation zoning provisions could severely restrict development, which could have significant impacts on small businesses. The bill's provisions that repeal the statutory allocation of the transfer tax revenues could have negative impacts on farmers and other small businesses that benefit from the State's land preservation and recreation programs; presumably, other small businesses could benefit from these provisions depending on how the transfer tax revenues are distributed throughout the State budget. Small businesses involved in energy-efficiency improvements could benefit from the bill's energy-related provisions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Planning, Maryland Energy Administration, Department of Budget and Management, Department of General Services, Department of Natural Resources, State Department of Assessments and Taxation, Comptroller's Office (Bureau of Revenue Estimates), Baltimore City, Montgomery County, Talbot County, Department of Legislative Services

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