

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 803 (Delegate Pugh, *et al.*)
Environmental Matters

Eminent Domain - Moving, Relocation, and Reestablishment Expenses

This bill repeals the limits on payments to persons displaced by a condemnation action.

Fiscal Summary

State Effect: State expenditures related to the exercise of condemnation through eminent domain could increase under the bill. The increase cannot be reliably estimated but could be significant depending on the number, types, and locations of persons displaced by a condemnation action. Revenues would not be affected.

Local Effect: Local government expenditures related to the exercise of condemnation through eminent domain could increase under the bill. The increase cannot be reliably estimated but could be significant depending on the number, types, and locations of persons displaced by a condemnation action. Local revenues would not be affected.
This bill imposes a mandate on a unit of local government.

Small Business Effect: Potential meaningful.

Analysis

Current Law: When land is acquired by condemnation, the condemning agency must pay a displaced person for: (1) actual reasonable moving expenses for moving the person, the person's family, business, farm operation, or other personal property; (2) actual direct loss of tangible personal property as a result of moving or discontinuing a business or farm operation, up to the agency's determination of the reasonable expenses that would have been required to relocate the personal property; (3) actual reasonable expenses in searching for a replacement business or farm; and (4) actual reasonable

expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, up to \$10,000.

In lieu of those allowable expenses, a person who is displaced from a place of business or farm operation and meets criteria established by the agency may elect to accept a fixed payment from the agency. Such payments range from \$1,000 to \$20,000, or the amount provided under the federal Uniform Relocation Assistance Act, whichever is greater. The limits are the same under the federal Act.

A person at whose expense any personal property, dead body, grave marker, or monument must be removed as a reasonably necessary consequence of condemnation is generally entitled to an allowance for the cost of removing and placing the item or body in another location. The allowance does not include any compensation for loss of profit, goodwill, or for the acquisition of another location.

Chapter 446 of 2004 established a Task Force on Business Owner Compensation Proceedings. The task force made several recommendations regarding business owner compensation; however, it did not develop comprehensive legislation containing those recommendations. This bill reflects the subject matter of one of those recommendations. The task force did not develop any estimates as to the cost of its recommendations or current payments to business owners displaced by condemnation actions.

State Expenditures: The number of condemnation actions that the State may bring varies from year to year. The number and types of businesses granted relocation assistance as part of a condemnation action will also vary but is a frequent part of the condemnation process.

For illustrative purposes, over the past five fiscal years, the amount spent by the State Highway Administration on business relocation ranged from a low of approximately \$130,000 in fiscal 2003 to a high of approximately \$601,000 in fiscal 2001. The precise amount attributable to business reestablishment costs is unknown. It is expected that these amounts could increase greatly under the bill. However, the Federal Highway Administration, by regulation, may pay a proportional share of these costs in the same proportion as its share of the project costs. Any increase in the State's payments for relocation and reestablishment costs would be lessened by the amount paid by the federal government. The federal share for an eligible highway project may vary but is generally 80% of the project's costs.

Small Business Effect: Small businesses whose relocation expenses exceed the statutory limits would benefit to the extent that their expenses exceed the statutory limits.

Additional Information

Prior Introductions: Identical bills, SB 274 and HB 385, were introduced during the 2004 session. HB 385 received an unfavorable report from the House Environmental Matters Committee, and SB 274 was withdrawn.

Cross File: None.

Information Source(s): Town of Bel Air, Caroline County, Howard County, Washington Suburban Sanitary Commission, Department of Business and Economic Development, Maryland Department of Transportation, Department of Legislative Services

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nas/hlb

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