

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 971

(Chair, Judicial Proceedings Committee)

(By Request – Departmental – Transportation)

Judicial Proceedings

Relocation Assistance Program - Reestablishment Expenses

This departmental bill increases the limit on expenses, from \$10,000 to \$50,000, that a displacing agency in a condemnation action must pay to reestablish a farm, nonprofit organization, or small business at its new site. The bill also increases the limit on the alternative fixed payment, from \$20,000 to \$50,000, that a displaced person may elect in lieu of actual relocation expenses for a business or farm operation.

Fiscal Summary

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

Local Effect: Local government expenditures related to the exercise of eminent domain through condemnation 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: The Maryland Department of Transportation has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: When land is acquired by condemnation, the displacing agency, after receiving an application, must pay a displaced person for:

- actual reasonable moving expenses for moving the person, the person's family, business, farm operation, or other personal property;
- 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;
- actual reasonable expenses in searching for a replacement business or farm; and
- 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.

Background: Chapter 446 of 2004 established a Task Force on Business Owner Compensation in Condemnation 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.

The State Highway Administration (SHA) advises that the limits on relocation expenses have been at their current levels for at least 20 years.

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. The bill's changes represent a 500% increase in the maximum amount for actual reestablishment expenses and a 250% increase in the amount of the alternative fixed payment for all relocation expenses.

SHA advises that it has averaged five business relocations annually and estimates that of these, three would involve actual relocation expenses and the other two would opt for the alternative fixed payment. Based on this, Transportation Trust Fund expenditures related to relocations could increase by \$180,000 annually beginning in fiscal 2008.

Over the past six fiscal years, the amount spent by SHA on business relocation ranged from a low of \$130,000 in fiscal 2003 to a high of \$601,000 in fiscal 2001. The precise amount attributable to business reestablishment costs is unknown.

The Federal Highway Administration, by regulation, may pay a proportional share of relocation 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.

Additional Information

Prior Introductions: Similar bills were introduced in the 2006 session. HB 803 and HB 962 received unfavorable reports from the House Environmental Matters Committee. SB 526 received a hearing in the Senate Judicial Proceedings Committee but no further action was taken. Over 40 bills combined were introduced in the 2006 session that would have restricted or otherwise altered the use of eminent domain; all the bills failed.

Cross File: None.

Information Source(s): Maryland Department of Planning, Department of General Services, Board of Public Works, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2007
mll/hlb

Analysis by: T. Ryan Wilson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

