HB 1175

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1175 (Delegate Davis)
Environmental Matters Education, Health, and Environmental Affairs

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Counties - Purchase of Development Rights

This bill authorizes Anne Arundel, Baltimore, Howard, and Prince George's counties to enter into an agreement to purchase development rights. Within specified limitations, each of the four counties may determine by resolution the provisions, terms, conditions, and duration of the agreement. A payment obligation in an agreement authorized by the bill is a general obligation of the county and may not be subject to annual appropriation. The agreement, however, is not subject to any limitations that would otherwise be required in the county's charter, public local law, or public general law. An agreement authorized by the bill, the transfer or assignment of the agreement, and any payment required are exempt from State and local taxes.

The bill takes effect June 1, 2007.

Fiscal Summary

State Effect: The bill would not materially impact State finances.

Local Effect: To the extent that the four counties would be able to enter into an agreement to purchase development rights under the bill, acquisition and legal expenditures would increase. Revenues would not be affected.

Small Business Effect: Potential meaningful if more small businesses, especially farms, would be able to sell development rights to certain counties.

Analysis

Current Law: Charter counties may provide for the borrowing of money on the faith and credit of the county and for the issuance of bonds or other debts. The amount and terms of the bonds and other debts are subject to the limitations imposed by the charter. Under State law, charter county debt is limited to 6% of real property assessable base and 15% of personal property and operating real property assessable base of the county. Certain types of debt, however, are excluded from this limitation: tax anticipation bonds and notes having a maturity of 12 months or less; special taxing district debt; and self-liquidating debt. In addition, charter counties may adopt lower limitations, and four have done so (Anne Arundel, Baltimore, Howard, and Wicomico).

Charter counties also have the authority to enact local laws relating to zoning and planning. Among their planning and zoning authority is the express power to establish a program for the transfer of development rights.

All four counties affected by the bill have adopted the charter home rule form of government.

Background:

Land Preservation Tools

Local governments have a variety of tools at their disposal to preserve agricultural and forestry land; among these are zoning, subdivision, and development procedures. In addition, local jurisdictions might use land preservation techniques such as the purchase of transferable development rights (TDRs), the purchase of development rights (PDRs), and innovative financing methods called installment purchase agreements (IPAs).

Under TDR programs, residents who occupy certain areas in a county (sending areas) are precluded from selling their land to developers. In exchange, these landowners are awarded TDRs which may be sold on the open market to developers. These rights are applied by developers to designated receiving areas (areas where the county is attempting to foster development). Generally, developers who purchase TDRs are allowed an increased density in these areas.

Sometimes paired with TDR programs, PDR and easement acquisition programs allow local jurisdictions to purchase development rights from landowners and then retire or extinguish those rights.

An IPA is an innovative payment plan that allows jurisdictions to stretch available funds while offering benefits to landowners. It essentially is a contract between a purchaser and a seller to pay unpaid principal at settlement as a balloon payment at the end of the term of the agreement. During the period of the agreement, the purchaser pays the seller tax-exempt interest on the unpaid principal.

As of January 2006, 10 counties in Maryland (Anne Arundel, Baltimore, Calvert, Carroll, Frederick, Harford, Howard, Montgomery, Washington, and Wicomico) had farmland PDR programs. Eleven counties (Calvert, Caroline, Charles, Harford, Howard, Montgomery, Queen Anne's, St. Mary's, Talbot, Washington, and Wicomico) had farmland TDR programs. According to the Maryland Agricultural Land Preservation Foundation, at least six counties use IPAs to purchase development rights, including Anne Arundel and Howard.

Local Fiscal Effect: To the extent that one of the affected counties purchases development rights using IPAs, acquisition and legal expenditures would increase. The fiscal impact on the county would depend on how many times it exercises this authority, which cannot be reliably estimated at this time. In any event, any agreement entered into by an affected county to purchase development rights would be part of the county's general obligation debt and may not be subject to annual appropriation by the county.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Howard County, Prince George's County, Maryland Association of Counties, Maryland Department of Agriculture, Maryland Department of Planning, Department of Legislative Services

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