

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Joint Resolution 5 (Senators Forehand and Raskin)
Judicial Proceedings

REAL ID Act of 2005 - Protest and Repeal

This joint resolution protests the implementation of the Federal Real-ID Act of 2005; specifically, the treatment of the states as agents of the federal government by the U.S. Congress and the President. The resolution declares that Maryland refuses to enact legislation to implement the REAL-ID Act and urges Congress to repeal it.

Fiscal Summary

State Effect: Compliance with this resolution could jeopardize grants through the U.S. Department of Homeland Security; these grants totaled more than \$23.0 million for FY 2007. Significant Transportation Trust Fund (TTF) expenditures to implement the REAL-ID Act would be eliminated; in addition, TTF revenues would decrease as the Motor Vehicle Administration (MVA) would not have to raise its fees to cover implementation costs.

Local Effect: Compliance with this resolution could jeopardize grants through the U.S. Department of Homeland Security; these grants totaled approximately \$17.3 million for FY 2007.

Small Business Effect: None.

Analysis

Current Law: None.

Background: On May 11, 2005, President Bush signed into law the REAL-ID Act (REAL-ID) creating national standards for the issuance of state driver's licenses and identification (ID) cards. REAL-ID establishes certain standards, procedures, and requirements that must be met by May 11, 2008, if state-issued driver's licenses and ID cards are to be accepted as valid identification by the federal government. REAL-ID requires the U.S. Department of Homeland Security to adopt regulations clarifying the Act's provisions; as yet, regulations have not been adopted. A license or ID card would need to meet these standards in order to be used to enter a federal building, a commercial aircraft, or possibly even a FDIC-insured bank.

REAL-ID requires uniformity amongst all states in the design and information contained on a personal ID card and driver's license, including address and signature, a digital photo, machine-readable technology, and anti-counterfeiting measures. The MVA will also be required to verify all documents submitted for a personal ID or driver's license with the issuing agency, including proof of birth, proof of a Social Security number, and documentation of the individual's principal residence. This is likely to create longer wait times and could eliminate same-day service. In addition, the MVA will be required to verify that an individual is legally present in the country. The MVA will also need to obtain security clearances for workers issuing driver's licenses and ID cards.

The National Conference of State Legislatures has conducted a survey to determine the cost of implementing REAL-ID. The cost is estimated at \$11 billion over the first five years for all states. Maine has passed a resolution refusing to implement REAL-ID.

By statute, the MVA must recover the cost of 95% to 100% of its operating and capital expenditures through its miscellaneous fees. Thus, additional capital investment or increased operating expenditures resulting from the Act's implementation will result in fee increases or reductions in other areas.

In a briefing before the House Judiciary Committee on January 30 about REAL-ID, the Motor Vehicle Administrator stated that REAL-ID would cost at most \$150 million to implement in the State; however, this was considered a "worst case scenario." The administrator estimated that costs would likely be lower but could not reliably estimate how much lower. The administrator did state that, for every \$1.0 million that REAL-ID costs to implement, the MVA would need to raise driver's license fees by one dollar.

State Fiscal Effect: Compliance with this resolution could result in MDOT losing millions of dollars in U.S. Department of Homeland Security grants in future years. For example, MDOT advises that it has received nearly \$40 million since September 11, 2001; MDOT received \$3.7 million in grants for mass transit alone in federal fiscal 2006. In addition, the *Maryland Governor's Grants Office Annual Report: Federal Funds to*

State Agencies, FY 05 – FY 07 (annual report) states that MDOT is slated to receive an estimated \$23.0 million in fiscal 2007 for enhancing security at critical infrastructure and other emergency preparedness activities. MDOT could also lose grants from another program – the State Homeland Security Grants Program. The annual report indicates that Maryland is scheduled to receive \$21.7 million from this program in fiscal 2007, of which up to 20% could be retained at the State level. The balance would be distributed to local governments.

In addition, the federal government has required the states to implement other laws, such as lower blood alcohol limits, or risk losing federal highway aid. It is not yet clear whether federal highway aid would be at risk. MDOT is scheduled to receive an estimated \$1.2 billion in federal highway aid in fiscal 2007.

On the other hand, the MVA would have lower expenditures due to not implementing REAL-ID. The decrease could be as high as \$150 million. As the MVA would have had to raise its driver's license fees or other fees to cover costs associated with implementation, TTF revenues would be lower as well.

Local Fiscal Effect: Compliance with this resolution could jeopardize grants to jurisdictions from the U.S. Department of Homeland Security. MDOT advises that 80% of funds received from the federal government through the State Homeland Security Grants Program and the Urban Area Security Initiative Program must be distributed to local governments. Although the annual report does not include any funding from the Urban Area Security Initiative Program in fiscal 2007, it does include \$21.7 million through the State Homeland Security Grants Program, of which \$17.3 million is scheduled to go to local jurisdictions.

Additional Information

Prior Introductions: None.

Cross File: HJ 3 (Delegate Heller, *et al.*) – Rules and Executive Nominations.

Information Source(s): Comptroller's Office, Maryland Department of Transportation, Office of the Attorney General (Consumer Protection), Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2007
ncs/ljm

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