

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1436 (Delegate Donoghue)
Environmental Matters

**Washington County - Zoning and Land Use - Actions Concerning Hospitals and
Medical Campuses - Bonds and Other Security**

This emergency bill provides that, in Washington County, a party to an appeal of certain zoning actions relating to land use of hospitals or medical campuses must post a bond or deposit other security with the circuit court under specified conditions if the appeal is likely to increase the project's cost due to delay, interference with financing, or increased interest payments.

Fiscal Summary

State Effect: None.

Local Effect: This bill would not directly affect Washington County finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: A party to an appeal of a zoning action by the Washington County Commissioners or a decision by the Board of Appeals of Washington County relating to land use that concerns hospitals or medical campuses must post a bond or deposit other security with the circuit court under certain conditions.

Such a bond or the deposit of other security is required if a construction project for a hospital or medical campus will be, or is reasonably likely to be, subject to:

- increased costs due to a delay of the project;
- an inability to secure necessary financing due to a contingency imposed by a lender which may only be satisfied by resolution of the litigation; or
- increased interest payments due to the pendency of litigation.

The circuit court must hold a hearing to determine the amount of the bond or other security, which must be equal to the amount of reasonably anticipated cost increases resulting from the delay. An appeal is presumed to delay a project for 24 months unless otherwise rebutted. If a party fails to post a bond or other security with the circuit court within 15 days after the amount is determined, the court must dismiss the case without prejudice. A party appealing a decision of the circuit court must post an additional bond or security in the amount of \$100,000.

A bond is not required to be posted by a person engaged in the construction of a hospital or medical campus, nor by the Board of County Commissioners.

Current Law: Washington County is a commission county governed by a five-member Board of County Commissioners. Zoning ordinances in the county are promulgated by the Washington County Planning Department.

Background: The bill is related to an appeal of a zoning ordinance amendment intended to facilitate construction of the relocated Washington County Hospital in Hagerstown. Construction of the \$235 million facility was approved by the State Health Care Commission in 2005. The hospital is owned by Washington County Health System, a nonprofit corporation that provides health care services to residents of Western Maryland, southern Pennsylvania, and the panhandle of West Virginia. Several county residents had filed an appeal of zoning variances approved by the county for the hospital project. A Washington County circuit court judge upheld the variances, but an appeal was filed with the Maryland Court of Special Appeals.

The hospital estimates that it may experience savings to bond and interest costs from this bill that would approach \$40,000 per day, and could total up to \$120 million depending on how long construction would have otherwise been delayed.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Washington County, Department of Legislative Services

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