SB 977

Department of Legislative Services

Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 977 (Chair, Finance Committee)
(By Request – Departmental – Transportation)

Finance

Maryland Transit Administration - Passenger Railroad Services Contracts - Resolution of Contract Disputes

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This departmental bill requires that binding arbitration be used to resolve any contract dispute between the Maryland Transit Administration (MTA) and railroad companies if the disputed contract is awarded as a sole source contract and is for railroad passenger services along the Brunswick, Camden, and Penn rail lines. It exempts contract disputes that arise from such contracts from the jurisdiction of the Maryland State Board of Contract Appeals (BCA).

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: Potential future contract cost savings for MTA's access to CSX- and Amtrak-owned rail lines in return for bringing dispute resolution procedures in line with rail industry standards.

Local Effect: None.

Small Business Effect: The Maryland Department of Transportation has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law/Background: MTA operates MARC commuter rail service on the Penn Line owned by Amtrak and the Brunswick and Camden lines owned by CSX. To operate the Penn Line service, MTA contracts with Amtrak to gain access to the rail line. When Congress chartered Amtrak in 1970, it mandated that District of Columbia contract law, which favors arbitration over litigation or administrative appeals, would govern Amtrak's contracts. However, that provision was repealed as part of broader 1997 legislation that restructured Amtrak's operation and governance. In the absence of that provision, MTA contract disputes with Amtrak are now subject to BCA's jurisdiction. MTA also reports that contract disputes arising from its contracts with CSX are also subject to BCA's jurisdiction. According to MTA, it is a long standing tradition within the rail industry that disputes are settled by binding arbitration.

State Fiscal Effect: MTA reports that in its most recent contract negotiation with CSX, it made financial concessions in exchange for subjecting CSX to BCA's jurisdiction, as required under State procurement law. However, it could not provide the amount of those concessions in time for inclusion in this fiscal and policy note. Amtrak also requested concessions during its negotiations, but MTA successfully negotiated to keep them out of the contract.

Both CSX and Amtrak have indicated that future contracts could be jeopardized, or could require additional concessions, if contract disputes are not subject to binding arbitration, as is the norm in the rail industry. Their concern stems from their belief that BCA would favor State agencies over their contractors in the resolution process. By bringing dispute resolution procedures in line with rail industry standards, MTA would avoid making future concessions and facilitate its access to those rail lines.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Department of Legislative Services

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ncs/rhh

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