

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 49 (Delegates Oaks and Rosenberg)
Environmental Matters

**Communications Towers - Zoning and Other Regulatory Approval - Adjacent
Local Jurisdiction**

This emergency bill prohibits a local jurisdiction (including charter counties and Baltimore City) from granting zoning or other regulatory approval for a communications tower that is to be located within 500 yards from another local jurisdiction, unless the tower satisfies the requirements of each jurisdiction. A person seeking approval for the tower must submit a written statement from each appropriate jurisdiction confirming that the tower satisfies each jurisdiction's requirements. The bill is construed to apply retroactively to any application for approval that is pending or has been filed on or after the bill's introduction date.

Fiscal Summary

State Effect: None.

Local Effect: Any operational impact or increase in local government expenditures should be minimal and absorbable within existing resources. Revenues would not be affected.

Small Business Effect: None.

Analysis

Current Law: Article 66B, which is amended by the bill, governs zoning and planning in the State and has limited applicability to charter counties and Baltimore City. Article 66B specifically provides that a local legislative body and the Mayor and City Council of

Baltimore may regulate, among other things (1) the height, number of stories, and size of buildings and other structures; and (2) the location and use of buildings, signs, structures, and land. Charter counties are granted the authority to enact local laws relating to zoning and planning by Article 25A § 5, commonly known as the Express Powers Act.

Under federal law, radio broadcasting is regulated by the Federal Communications Commission. Generally, a local government has the authority to make decisions regarding the placement, construction, and modification of personal wireless service facilities. Under the federal Telecommunications Act of 1996, however, a state or local government's zoning decision cannot unreasonably discriminate among providers of equivalent services, nor can it prohibit or have the effect of prohibiting the provision of personal wireless services.

Local Fiscal Effect: Operationally, the bill would likely require a local jurisdiction to amend its zoning regulations and alter hearing procedures. Moreover, it would also likely result in increased expenditures related to notifying adjacent jurisdictions about the potential placement of a communications tower near their respective boundary.

Prince George's County advises that any such impact would be minimal and could be absorbed within existing resources.

Kent County advises that it may require additional staff time to perform extra steps to ensure applications are in compliance. Since, on average, the county only receives two applications for such structures each year, the new requirements should not have a significant impact.

Montgomery County advises that there would be some cost incurred by the county to draft and process zoning text amendments, and if adjacent jurisdictions need to be notified of such structures there may be an increase in postage expenditures and associated costs.

The City of Frostburg advises that bill's requirements would increase municipal expenditures by approximately \$100 per communications tower application for postage and additional staff time.

While the impact may vary by jurisdiction, given that the bill would likely apply in a limited number of cases annually, it is assumed that any operational or fiscal impact would be minimal and could be absorbed within a local jurisdiction's existing resources.

Additional Information

Prior Introductions: None.

Cross File: Although SB 218 is identical and identified as a cross file, the bills have different applicability dates due to their different introduction dates.

Information Source(s): Maryland Department of Planning, City of Frostburg, Kent County, Montgomery County, Prince George's County, Washington County, Worcester County, Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2007
bfl/hlb

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