HB 1441

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1441 (Delegate Anderson)
(By Request – Baltimore City Administration)

Ways and Means Budget and Taxation

Baltimore City - Tax Increment Financing and Special Tax Districts - MEDCO

This bill amends the Baltimore City Charter to allow tax proceeds from special taxing districts, including a tax increment financing development district, to be used to repay debt service on bonds and other debt instruments issued by the Maryland Economic Development Corporation (MEDCO), the State, or any agency, department, or political subdivision. The bill provides for the circumstances and uses of a special fund established with respect to a special taxing district in Baltimore City.

The bill authorizes Baltimore City to use funds remaining in the special funds, provided no payment on bonds is outstanding, for purposes specified by current law, accumulate for future debt service payments, or to pay debt service on other outstanding bonds. Baltimore City may enact an ordinance creating a special fund with respect to a special taxing district, even though no authorized bonds have been issued by the city with respect to that special taxing district. The taxes allocated to such special fund must thereafter be paid over to the special fund, as long as an ordinance remains in effect.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Potential increase in individual and corporate income taxes and sales taxes as a result of economic development in Baltimore City. Expenditures would not be affected.

Local Effect: Potential significant increase in Baltimore City property, income, hotel, and admission and amusement taxes and parking revenues as a result of economic development projects. Potential significant increase in annual debt service expenditures on bonds issued by MEDCO or other governmental entities on behalf of the city.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 624 of 1994 provided Baltimore City with the authority to participate in tax increment financing projects but prohibited it from pledging its full faith and credit or unlimited taxing power for the payment of such bonds. However, Article XI, Section 7 of the Constitution of Maryland provides that the Mayor and City Council of Baltimore may not create any public debt for Baltimore City without first seeking authorization from the General Assembly and then submitting a proposed ordinance on the issue to the voters of Baltimore City for their required majority approval.

Chapter 66 of 2000 allowed Baltimore City to more easily participate in tax increment financing by permitting the issuance of appropriation risk bonds. The pledge of tax increment revenues for the payment of these bonds is subject to an annual appropriation by the mayor and city council. Chapter 66 also stipulated that these bonds may not be backed by the full faith and credit or unlimited taxing authority of the city.

Chapter 626 of 2001 authorized Baltimore City to designate special taxing districts, at the request of property owners, where the city will make infrastructure improvements by issuing bonds or other obligations for financing and assessing the property owners either an *ad valorem* or special tax to pay the principal and interest on the bonds or obligations.

Background: The following is a brief overview of tax increment financing, special taxing districts in Maryland, and the Maryland Economic Development Corporation.

Tax Increment Financing

Tax increment financing is a method of public project financing whereby the increase in the property tax revenue generated by new commercial development in a specific area, the tax increment financing (TIF) district, pays for bonds issued to finance site improvements, infrastructure, and other project costs located on public property.

The TIF district typically consists of a blighted area in need of economic revitalization. Usually, a sponsoring jurisdiction creates a TIF district in order to demonstrate a public commitment to the economic and social viability of an area, thereby encouraging privately financed economic development. In a TIF district, the local government "freezes" the existing property tax base, and uses the property tax revenue from this base as it would normally use such funds. Over time, the partnership between the private sector and local government leads to enhanced economic growth which increases the district's taxable real property valuation above its frozen base. The difference between the current tax base and the frozen base in each future year is termed the incremental valuation. The local government apportions the property tax revenue on the incremental valuation to a special account to pay debt service on the bonds and to potentially pay for additional public expenditures in the TIF district. The TIF district ceases to exist upon the retirement of the bonds, and after that time all property tax revenue may be appropriated by normal means.

Special Taxing Districts

All counties have authority to establish special taxing districts for limited purposes, such as providing drainage improvements or providing street lighting. In addition, the governing bodies of counties that have adopted charter home rule or code home rule also have broad authority under the Express Powers Act to create special taxing districts to carry out most municipal services.

The General Assembly has granted nine counties (Anne Arundel, Calvert, Charles, Garrett, Howard, Prince George's, St. Mary's, Washington, and Wicomico) and Baltimore City broad authority to create special taxing districts and to levy *ad valorem* taxes and issue bonds and other obligations for purposes of financing infrastructure improvements. The types of infrastructure improvements authorized include storm drainage systems, water and sewer systems, roads, lighting, parking, parks and recreational facilities, libraries, schools, transit facilities, and solid waste facilities. In Prince George's County, this authority has been expanded to include levying hotel rental taxes and financing the cost for the construction, renovation, and maintenance of convention, conference, and visitors' centers. As it applies to financing projects in special taxing districts, the definition of "cost" generally includes the construction, reconstruction, renovation, and all lands, structures, or property acquired or to be acquired by the county. It also includes extensions, enlargements, improvements, necessary services, plans and studies, administrative expenses, and certain finance charges and interest associated with the project.

Special taxing districts finance the services they provide in two ways. In some instances, the special taxing district finances capital improvements through the issuance of bonded debt and the debt is repaid over time with tax revenue collected within the special taxing district. In other cases, the tax revenues collected within a special taxing district are used to pay for operating expenditures and capital improvements on an ongoing basis.

Maryland Economic Development Corporation

The Maryland Economic Development Corporation (MEDCO) is a nonbudgeted entity that allows the State to own or develop property for economic development purposes. MEDCO was created in 1984 with the mission to help expand, modernize, and retain existing Maryland business and to attract new business to the State.

MEDCO purchases or develops property that is leased to others under favorable terms. MEDCO also makes direct loans to companies throughout the State to maintain or develop facilities, and it often serves as the conduit for loans administered by the Department of Business and Economic Development (DBED). MEDCO issues bonds to raise funds for its loans. The bond debt consists primarily of revenue bonds and notes payable to government agencies such as DBED. The debt represents nonrecourse obligations because MEDCO is not liable to bondholders and lenders in the event of a project or borrower default. Each project must have self-supporting revenues, and no projects are cross collateralized. As a result, MEDCO debt is not debt of the State, and there is no implied State guaranty or State obligation to protect bondholders from losses.

MEDCO has been involved in 202 projects through fiscal 2007. Of these, MEDCO owns and operates 14 as operating facilities, meaning the agency is involved in management decisions and it has a hand in ensuring successful daily operations. For all other projects, MEDCO serves as an arms-length financing entity.

The corporation is governed by statute under Article 83A, Sections 5 201 through 5-216. A 12-member board of directors manages the corporation's affairs and appoints the executive director. The Secretaries of Business and Economic Development and Transportation serve as *ex-officio* voting members. MEDCO's activities complement the marketing and financing programs of DBED. There are currently nine full-time and two part-time professional staff members.

Chapter 338 of 2001 was enacted as emergency legislation to amend MEDCO's corporate powers to conform to current practices. In addition, MEDCO's statutory authority was amended to be more consistent with the Maryland Economic Development Revenue Bond Act (MEDRBA) and economic development revenue bond enabling legislation that is in effect in other states competing for opportunities. MEDCO's legislative purpose now is to • relieve the conditions of unemployment; • encourage increased business activity and commerce and a balanced economy; • assist in the retention and attraction of new business activity; • promote economic development; and • generally promote the present and prospective health, happiness, safety, right of employment, and general welfare of State residents.

State Fiscal Effect: Depending upon the scope of the projects undertaken, the resulting economic development could increase individual and corporate income taxes and sales tax revenues for the State. For example, if a hotel and various other businesses are established in renovated areas, corporate income and sales tax revenues could potentially increase significantly.

Local Fiscal Effect: Baltimore City indicates that this charter amendment is needed in order for the city to finance large development projects. While Baltimore City already has the ability to establish both tax increment financing districts and special taxing districts, the financing arrangement with MEDCO, as proposed in this legislation, would facilitate additional redevelopment projects in the city. With each project undertaken, there would potentially be a significant increase in property tax revenues and annual debt service expenditures. Property tax revenues would increase as the districts are renovated and the assessed value of the properties in the area increase; however, the increase in these revenues would be used to offset the related debt service. That is, MEDCO or other governmental entities would issue appropriation risk bonds in order to finance development and, consequently, annual debt service payments would increase; however, the increase in property tax revenues would be used to pay the debt service.

Depending upon the amount of bonds issued for each TIF district designated by the city and the scope of the projects undertaken, the resulting economic development could also increase a variety of other revenues for the city including: individual income; hotel and admissions and amusement taxes; and parking fee revenues.

Small Business Effect: As this bill would allow Baltimore City to expand participation in tax increment financing, it would likely spawn economic development in the areas designated by the city. This economic development could have a meaningful impact on multiple types of small businesses. It could provide renovation and building projects for existing small construction businesses or could provide incentives for the establishment of new small businesses that could locate in the renovated districts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Department of Business and Economic Development, Baltimore City, Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2008
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