

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 790 (Delegate Ivey, *et al.*)
Environmental Matters

County and Municipal Corporation Authority - Business Improvement Districts

This bill authorizes a county or municipality to create a business improvement district and establishes the process under which a district may be created. The bill also authorizes a group of property owners, by petition, to compel a county or municipality to create a business improvement district. Prior to creating an improvement district a steering committee may be created and must develop a plan for the district. A business improvement district is an autonomous management association and is authorized to acquire, own, and improve property; make contracts; employ and discharge personnel; sue and be sued; borrow money; and do all things necessary to carry out its powers. A local law establishing a business improvement district must provide for a tax or charge on all real and personal property within the business improvement district.

Fiscal Summary

State Effect: None.

Local Effect: Potential significant increase in elections and administrative expenditures for counties that exercise this authority or are compelled to exercise this authority through a petition of property owners. Debt service costs may also increase to the extent that local jurisdictions pledge their faith and credit to business improvement district bonds. **This bill may impose a mandate on a unit of local government**

Small Business Effect: Meaningful benefit for property owners that petition a county or municipality for creation of a business improvement district.

Analysis

Bill Summary:

Creation of a Business Improvement District Steering Committee

A county or municipality may, by resolution, establish a business improvement district steering committee. If a database of property owners in a proposed district and a map of the proposed business district is created, a business improvement district steering committee may be created by a petition of property owners. If at least 65% of the owners of real property in the proposed district sign a petition, the county or municipality must provide for the establishment of a steering committee. If a steering committee is established, the governing body of the county or municipality must provide for the preparation of a district plan. The bill does not specify membership of the steering committee.

Business Improvement District Plan

The bill specifies the details that must be included in a business improvement district plan, including the membership and structure of the business improvement district management association as well as the election of future members to the management association. The plan must include proposed rules and regulations as well as a list of services that the district will provide. The plan must include a first-year budget, the assessment formula used to compute the amount of any business district tax and if any category of real property will be exempt from the tax.

Creation of Business Improvement District

After creation of the business improvement district plan, the steering committee must have at least one public meeting and consider the views of property owners, tenants, retail merchants, and other members of the community within the district. The county or municipality must establish a business improvement district, by law, if at least 65% of the owners of the assessed valuation and at least 65% of the owners of real property within the district approve the plan. If the county or municipality chooses not to create a business improvement district, the steering committee may establish an improvement district by referendum or special election. For voting purposes, multiple owners of a single parcel are treated as a single owner and a single owner of multiple parcels is treated as one owner.

Authority of a Business Improvement District

A local law establishing a business improvement district must provide for a tax or charge on all real and personal property within the business improvement district.

A business improvement district is governed by an autonomous management association with power to acquire and own property, make contracts, employ and discharge personnel, sue and be sued, borrow money, and do all things necessary to carry out its powers. In order to finance or refinance the acquisition, development, or redevelopment of land or property for residential, commercial, or industrial purposes, a business improvement district is authorized to issue bonds. Depending on local law, the bonds may be guaranteed by the full faith and credit of the county or municipality that establishes the district. Bonds issued by a business improvement district may also pledge management association revenues as security. Additionally, as allowed by local law, payment of bonds in an improvement district may be secured by a mortgage of all or any part of land, property, or development projects owned by any public or private entity or individual within the district.

The bill specifies that notwithstanding any public general or public local law, a lien filed against the business improvement district management association is not required to be filed with the State Department of Assessments and Taxation or any other public record but may instead be filed with the business improvement district management association. Unless the bonds are guaranteed by the full faith and credit of the county or municipality, the business improvement district must hold a public hearing in the county or municipality on the proposed bonds.

County and Municipal Services within Business Improvement Districts

County and municipal governments are prohibited from reducing the services provided by the respective government within the business improvement district.

Oversight

The bill specifies that a business improvement district must be reviewed at least every four years for effectiveness and desirability and must be reauthorized by the governing body of the county or municipality.

Current Law: State law does not allow creation of a business improvement district.

The General Assembly has granted 11 counties (Anne Arundel, Calvert, Cecil, Charles, Garrett, Harford, 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, sidewalks, lighting, parking, park and recreational facilities, libraries, schools, transit facilities, and solid waste facilities.

A business improvement district differs from a special taxing district in that its management association determines the services provided, the issuance of debt, and the uses of any debt.

Background: Business improvement districts have traditionally been established by groups of local businesses and property owners. The goal of a business improvement district is to attract customers, clients, and shoppers to the district by implementing coordinated improvements and shared marketing efforts within the district. According to a 1999 study completed by Baruch College, the City University of New York, over 400 business improvement districts operate in 42 states and the District of Columbia. Business improvement districts can be as small as a single block or as large as 300 blocks. Services provided by business improvement districts vary greatly, depending on the size and specifics of the area. Some examples of business improvement districts include:

- *The Alliance for Downtown New York, Inc.* – covers the Wall Street financial district providing an array of services, including funds for retailers to upgrade storefronts and showcasing the area as a place to work, live, shop, and dine;
- *Downtown D.C.* – provides supplemental service to an area of approximately 120 blocks containing 825 properties that are subject to self-assessment tax. The district seeks to design and implement a consistent program of signage, develop promotion materials for the area, and enforce a zero-tolerance graffiti policy;
- *The Central District* – provides an assortment of supplemental services in downtown Philadelphia, Pennsylvania. The district undertakes sidewalk cleaning, graffiti removal, landscape maintenance, crime prevention, and advertising promotion. The district has an annual budget of approximately \$9 million.

Local Fiscal Effect: If a group of property owners petitions a county or municipality to create a business improvement district, that county or municipality may see a significant increase in expenditures due to the requirement that it provide for creation of a steering committee and a development plan and hold a referendum or special election for property owners within the district. The bill specifies that if a petition is signed by at least 65% of property owners in a proposed district, the county or municipality may be compelled to

create the district and grant taxing authority to a group of property owners. Furthermore, the bill grants authority to a business improvement district to issue debt on behalf of the district, which in some instances may be considered a pledge of the faith and credit of the authorizing county or municipality.

Small Business Effect: Creation of a business improvement district may benefit certain businesses within a district. A business improvement district management association will be able to develop a coordinated plan for improving an improvement district. Likewise, the management association will be able to tax and issue debt to improve the district. All businesses within the district stand to benefit from improvements within the district; however, all businesses within the district would be subject to additional taxation associated with the business district.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery and Worcester counties, Baltimore City, Department of Business and Economic Development, Maryland Department of Planning, Maryland Association of Counties, Maryland-National Capital Park and Planning Commission, Department of Legislative Services

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