

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

Senate Bill 890 (Senator Jones)
 Finance

Maryland Community Enhancement Transit-Oriented Development Fund

This bill establishes the Maryland Community Enhancement Transit-Oriented Development Fund to assist not-for-profit community organizations that are based in and serve a qualified project area. A qualified project area is a community located in a “qualified distressed county” directly impacted by and within one-half mile of a transit-oriented development (TOD) project that is jointly funded by the State and the private sector. The fund consists of money from several sources, including community development block grants and proceeds of general obligation bonds and grant anticipation revenue vehicles made available to the fund, and 5% of the revenue from any jointly funded TOD project in a qualified project area.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: General funds, special funds, and Transportation Trust Fund (TTF) expenditures may increase by an indeterminate amount beginning in FY 2010 with a corresponding increase in special fund revenues for the newly established Community Enhancement Transit-Oriented Development Fund. General fund expenditures increase by about \$165,000 in FY 2010 at the Department of Housing and Community Development (DHCD) for personnel costs to implement the bill, as shown in the table below.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	-	-	-	-	-
GF/SF Rev.	(-)	(-)	(-)	(-)	\$0
GF Expenditure	\$165,000	\$159,400	\$167,100	\$175,100	\$183,600
Net Effect	(\$165,000)	(\$159,400)	(\$167,100)	(\$175,100)	(\$183,600)

Note: (-) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government expenditures may increase minimally to the extent that the requirement for local officials to serve in local advisory groups cannot be handled with existing resources.

Small Business Effect: Meaningful beneficial impact for not-for-profit community development organizations receiving financial assistance from the Community Enhancement Transit-Oriented Development Fund.

Analysis

Bill Summary: The fund consists of (1) money appropriated in the State budget; (2) proceeds of bonds made available for the fund, including general obligation bonds and grant anticipation revenue vehicles; (3) money made available from community development block grants and the TTF; (4) 5% of the revenue from each jointly funded TOD in a qualified project area, as determined by the Secretary of Housing and Community Development; (5) loan repayments including interest; (6) fund investment earnings; and (7) money from any other source.

The fund may be used only for (1) financial assistance, in the form of grants, and low- or no-interest loans, to qualified recipients; (2) mitigation of the impact of State and privately funded TOD projects in qualified project areas; (3) fostering partnerships between the private and public sectors to address these impacts; and (4) organizational capacity building for community organizations that are or are intended to become qualified recipients. Money expended from the fund is to supplement but not supplant other assistance appropriated for neighborhood development in qualified project areas.

The Secretary of Housing and Community Development must approve financial assistance from the fund in consultation with the Secretary of Transportation, the Secretary of Planning, the Secretary of Business and Economic Development, or the Governor's Special Secretary for Smart Growth, or any of their designees. In addition, approval decisions must be made in consultation with a local advisory group to be appointed by the Secretary for each jurisdiction in which a qualified project area is located.

This group must consist of representatives of the local government, local community groups, financial professionals, and other individuals with relevant experience and education. The local advisory group provides assistance to the Secretary of Housing and Community Development in identifying qualified recipients and assessing need in each qualified project area, evaluating requests for assistance, and making recommendations for assistance to qualified recipients.

The Secretary of Housing and Community Development must solicit input from each affected local governing body in connection with the identification of, and provision of financial assistance to, qualified recipients in qualified project areas under this subtitle. Further, the Secretary is to approve or disapprove each request for financial assistance to a qualified recipient and provide approved assistance through the local housing department or corresponding local agency.

Assistance must, to the greatest extent practicable, be equitably distributed among the counties. Revenues must be separately accounted for so that revenue derived from a development in a particular qualified project returns to a recipient in that area.

The Secretary must adopt regulations to (1) establish criteria for consideration of applications for financial assistance under this subtitle; (2) identify mechanisms to provide community input for evaluating TOD project impacts and identifying qualified project areas eligible for assistance under this subtitle; and (3) ensure oversight and evaluation of the effect of any assistance provided in mitigating the effect of TOD projects.

A county qualifies as distressed if the county's average unemployment rate exceeds 150%, or its per capita personal income does not exceed 67%, of the State's 24-month average at any time in the preceding 12 months.

Current Law: Chapter 123 of 2008 established the definition for transit-oriented development. "Transit-oriented development" means a mix of private or public parking facilities; commercial and residential structures; and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that (1) is part of a deliberate development plan or strategy involving property that is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station; (2) is planned to maximize the use of transit, walking, and bicycling by residents and employees; and (3) is designated as a TOD by the Secretary of Transportation in consultation with other specified State agencies and the local government or multicounty agency with land use and planning responsibility for the relevant area. Chapter 123 does not limit the authority of local governments to govern land use or grant the State or a department of the State with additional authority to supersede local land use and planning authority.

Background: Transit-oriented development is a development style that leverages transit stations as the foundation for vibrant communities with a dense mix of commercial, residential, and retail development. By clustering development around transit sites, TOD seeks to maximize the State's investment in transit by promoting increased ridership and enhanced opportunities for pedestrian and bicycle mobility. According to the Administration, the benefits of TOD include easing congestion on our roadways, curbing

of greenhouse gas emissions, reducing pollution, and providing a viable alternative to sprawl.

The Maryland Department of Transportation (MDOT) is partnering with local agencies to identify and implement land use regulations that support transit and pedestrian-friendly development in proximity to major transit facilities. MDOT has also been conducting analysis and planning to identify station area needs and opportunities. MDOT also undertakes mixed-use, transit-focused, and pedestrian-friendly developments with private partners, and leverages available federal funds to facilitate TOD development.

To identify station areas with the greatest TOD potential, MDOT evaluates existing land uses and physical characteristics, the perspective of surrounding communities, regulations, market strength, and other issues. Maryland's TOD strategy is built around several goals:

- ensuring that adjacent station areas are economically ready for development;
- building State agencies' and local jurisdictions' understanding of TOD and their ability to carry out TOD projects;
- strengthening public support for TOD throughout the Baltimore and Washington metropolitan areas; and
- enhancing the potential for federal funding to expand transit in the Baltimore area by showing that development patterns can support transit.

MDOT has over 70 sites that are potential TOD projects. TOD opportunities exist along the Baltimore Metrorail System, the Baltimore Central Light Rail Line, and the Maryland Rail Commuter Lines throughout the Baltimore and Washington regions. Several additional opportunities would be created with the expansion of the existing transit network to include such projects as the Washington Metropolitan Area Transit Authority Purple Line and the Baltimore Region Red and Green Lines. In Maryland, several sites are being considered or are under development in accordance with TOD principles. These include the Laurel MARC station, the Odenton MARC station, the Owings Mills metro station, the Reisterstown Plaza metro station, the Savage MARC station, and the State Center in Baltimore.

State Revenues: The Community Enhancement Transit-Oriented Development Fund is to consist of any funding made available from general funds, special funds, TTF revenues, general obligation bonds, and grant anticipation revenue vehicles. It is unknown at this time whether and to what extent funding from any or all of these sources will be made available for the fund.

The bill also requires that 5% of the revenue from each TOD in a qualified project area that is jointly funded by the State and private sector be distributed to the fund, as the Secretary of Housing and Community Development determines. The Department of Legislative Services (DLS) advises that it is unclear what TOD-derived revenue is subject to this provision. If the bill is construed to affect only revenue from transit fares, then MDOT projects a TTF transfer of revenue to the Community Enhancement Transit-Oriented Development Fund of about \$66,500 in fiscal 2010. However, MDOT indicates that the bill may be construed to require a transfer of any TOD revenues, including revenue from lease repayments from private developers; this may generate revenues of up to \$10 million in the first fiscal year in which revenues are generated from the fully developed TOD project and surrounding community. MDOT advises that if the bill is construed to require a transfer of 5% of all TOD-related revenues, it may jeopardize the development of one or more TOD projects currently being planned in Baltimore City.

DLS advises that although the bill, as drafted, does not limit the transfer of 5% of TOD revenue to only transit fare revenues, it does provide the Secretary of Housing and Community Development with discretion as to how the 5% revenue transfer will be made.

State Expenditures: General fund expenditures increase by \$165,000 in fiscal 2010. This estimate reflects the cost for DHCD to hire a program manager and administrative assistant to implement the program. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

	<u>FY 2010</u>
Salaries and Fringe Benefits	\$155,711
Start-Up Costs and Operating Expenses	<u>9,257</u>
Total FY 2010 DHCD Expenditures	\$164,968

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

Local Fiscal Effect: In addition to the potential minimal increase in local expenditures for local officials to serve on local advisory groups, local expenditures may increase and local revenues may decrease, by a substantially greater extent, particularly in Baltimore City, to the extent that the bill jeopardizes the completion of a TOD project.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Department of Budget and Management, Maryland Department of Planning, Department of Housing and Community Development, Maryland Department of Transportation, Department of Legislative Services

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ncs/hlb

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