

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1373

(Delegate Conway, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Natural Resources - Somers Cove Marina Commission

This emergency bill makes several changes to the Somers Cove Marina Commission's personnel status, vehicle use authority, and procurement authority. The bill authorizes (1) commission employees, who are not Department of Natural Resources (DNR) employees, to use DNR vehicles and equipment; (2) DNR to transfer vehicles, equipment, and other inventory to the commission; and (3) the commission's executive director to implement an emergency procurement so long as there is as much competition as possible and a written report justifying the emergency procurement is submitted. Procurement in support of enterprise activities for the purpose of direct resale or remanufacture and subsequent resale is exempted from specified procurement provisions. The bill designates employees or officials of the commission as State personnel under the Maryland Tort Claims Act (MTCA).

Fiscal Summary

State Effect: The bill is not expected to have a significant impact on State operations or finances.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law/Background: Somers Cove Marina was established in 1958 and was deeded to DNR in 1980 by the City of Crisfield. DNR has made various improvements to the marina with money from the Waterway Improvement Fund, including expanding the number of boat slips to 485 and constructing various facilities at the marina. The marina was operated by DNR from 1996 to 2007.

Chapter 240 of 2008 established a Somers Cove Marina Commission as a body politic and corporate and an instrumentality of the State. The commission was established to, among other things, (1) maintain the existing Somers Cove Marina Improvement Fund in a bank account separate from State funds; (2) adopt operating and capital budgets and assess slip and other fees and charges at the marina to implement a specified master plan; and (3) set policy and provide general oversight of marina operations. On November 1, 2011, DNR and the commission must begin to evaluate the commission's ability to (1) operate, maintain, develop, and improve the marina in an effective manner; and (2) afford or assume the costs of operating, maintaining, developing, and improving the marina, including the salaries of the executive director and employees of the State who work at the marina. Findings and recommendations must be reported to the General Assembly on November 1, 2013.

Under MTCA, State personnel are immune from liability for acts or omissions performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. Furthermore, under MTCA the State essentially waives its own common law immunity. However, MTCA limits State liability to \$200,000 to a single claimant for injuries arising from a single incident. In actions involving malice or gross negligence or actions outside of the scope of the public duties of the State employee, the State employee is liable.

The Board of Public Works pays State claims using State general funds and nonbudgeted funds from the State Insurance Trust Fund. The State Insurance Trust Fund, which is administered by the State Treasurer, funds the costs for paying for tort claims against the State. Monies for the fund come from insurance premiums paid by the individual State agencies.

State Fiscal Effect: To the extent DNR approves the transfer of resources (vehicle, equipment, and other inventory) to the commission, State resources shift between State entities. To the extent DNR permits the commission to use DNR vehicles and equipment, DNR may assume some operation and maintenance costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Board of Public Works, Department of Budget and Management, Department of Natural Resources, Department of General Services, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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