Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 274 (The President)(By Request - Administration)
Budget and Taxation Ways and Means

Tax Increment Financing and Special Taxing Districts - Transit-Oriented Development

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This Administration bill authorizes certain counties and municipalities to finance the costs of infrastructure improvements located in or supporting a transit-oriented development (TOD), including the cost for operation and maintenance of infrastructure improvements. The Maryland Economic Development Corporation (MEDCO) may enter into agreements with certain counties and municipalities to use proceeds from a special taxing district, including tax incremental financing (TIF), to repay debt service on bonds issued by MEDCO on behalf of TOD projects. TIF supported bonds may cover the expense of construction, operation, or maintenance of infrastructure improvements and local tax revenues attributed to the development may be pledged for repayment of MEDCO bonds. The bill includes guidelines for the use of a special fund and specifies that once the interest and principal on the bonds are repaid, the special taxing district is dissolved and any excess funds remaining may be used for additional TOD or may revert to the local government's general fund.

The bill takes effect June 1, 2009.

Fiscal Summary

State Effect: None.

Local Effect: Potential increase in property and other tax revenues as a result of TOD in counties and municipalities that exercise this authority. A portion of local tax revenues generated by TOD may be dedicated to repayment of bonds issued by MEDCO. Potential significant increase in annual debt service expenditures on bonds issued by MEDCO for counties and municipalities that exercise this authority.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: 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.

Maryland Economic Development Corporation

MEDCO is a body corporate and politic and a public instrumentality of the State. MEDCO was created in 1984 for the purpose of attracting new business and expanding existing businesses in Maryland through the development, expansion, and/or modernization of facilities. In fulfilling this purpose, MEDCO owns and leases certain properties and makes loans to organizations that require financing to acquire or develop properties. MEDCO also serves as a consultant or development manager on certain projects. MEDCO transactions are structured with no recourse to MEDCO or the State from either bondholders or lenders. During fiscal 2008, MEDCO was able to provide tax-exempt financing for 13 projects which included manufacturers, nonprofit entities, and one utility company. At the end of fiscal 2008, MEDCO had just over $2 billion in assets and liabilities.

MEDCO may pledge or assign any of its revenues or rights to receive revenues, monies, to secure bonds. The State law does not grant MEDCO authority to use proceeds from a special taxing district to repay bonds or debt issued on behalf of a project.

MEDCO is authorized to acquire, improve, develop, manage, market, maintain, lease as a lessor or as lessee, and operate a development project in the State. MEDCO can make loans to finance all or part of the acquisition or improvement of a project and may enter into financing agreements, mortgages, and other instruments that it determines are necessary or desirable to evidence or secure the loan. The lease for a project may require or authorize the lessee or another person to purchase or otherwise acquire the property in an amount that MEDCO establishes once the principal and interest of bonds are paid off.

Transit-oriented Development

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 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.

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 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.

Prince George's County and the Prince George's County Revenue Authority have expanded authority to use bonds supported by TIF for additional purposes. Some examples of these expanded purposes include pedestrian walkways, bridges, drainage structures, convention, conference, or visitors' centers, and the marketing of development district facilities and other improvements.

Chapter 544 of 2008 amended 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 MEDCO, the State, or any agency, department, or political subdivision as provided. The Act provided for the circumstances and uses of a special fund established with respect to a special taxing district in Baltimore City.

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.

Local Fiscal Effect: Generally, MEDCO may issue conduit debt for development projects by dedicating a portion of operating revenues for repayment of the bond principal and interest. The bill allows certain counties and municipalities to pledge future tax revenues in lieu of operating revenues for TOD projects that either do not create operating revenues or do not generate sufficient revenues to secure favorable financing. The bill also authorizes certain counties and municipalities to use TIF supported debt for purposes that may not be authorized under current law and also allows certain counties and municipalities to issue this debt through MEDCO instead of directly through the local government.

To the extent that TOD projects are able to secure more favorable financing through MEDCO, counties and municipalities may realize some savings for the cost of debt issuance.

Depending on the amount of bonds issued for each TOD project, and the scope of the projects undertaken, the resulting economic development may also increase a variety of other local tax revenues. Because TIF supported debt dedicates specific tax revenues generated by a development project to repayment of debt, counties and municipalities do not fully realize an increase in these revenues until the debt is repaid.

Conduit debt issued by MEDCO pledges tax revenues from the project to repayment of the debt. In instances where the development project does not generate enough revenues through the special taxing district, the county or municipal government may be responsible for repayment of the debt.

Examples of Existing TOD Projects

MDOT indicates that two existing local projects, that have already received significant public and private investment, will benefit from the enactment of this legislation. First, the TOD at Owings Mills requires a TIF arrangement to complete construction of a commuter garage. MDOT advises that Baltimore County cannot issue bonds for this project due to its limited debt capacity. Pursuant to this legislation, Baltimore County could use a bond issued by MEDCO through a TIF arrangement that allows the bond to be repaid with special taxing district revenues. The county could also use revenues from the special taxing district for maintenance and operation of the garage. Second, the TOD at Savage includes plans for a MTA-owned and operated commuter garage funded by a

TIF arrangement. Currently, Howard County cannot guarantee a TIF bond with special taxing district revenues for this garage since it is not a county-owned asset. This legislation, however, will enable Howard County and other jurisdictions to use special taxing district revenues for projects owned by MDOT or any other applicable public entity.

Creation of Special Taxing Districts in Baltimore County

The bill authorizes Baltimore County to create special taxing districts for developing and financing infrastructure improvements. The county may impose *ad valorem* taxes and issue bonds and other obligations to finance the improvement projects. Baltimore County may realize an increase in revenues due to the collection of special taxes and bond proceeds, and an increase in expenditures due to the financing of infrastructure improvements and debt service. The net fiscal impact would be minimal since revenues from special taxing districts would be used to fund these expenditures.

Additional Information

Prior Introductions: None.

Cross File: HB 300 (The Speaker, *et al.*) (By Request - Administration) - Ways and Means.

Information Source(s): Anne Arundel, Garrett, Howard, and Montgomery counties; Town of Berlin; City of College Park; City of Rockville; Department of Business and Economic Development; Maryland Department of the Environment; Maryland Municipal League; Maryland Stadium Authority; Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

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Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Tax Increment Financing and Special Taxing Districts - Transit-Oriented Development

BILL NUMBER: Senate Bill 274

PREPARED BY: Department of Transportation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

____ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

__X__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This bill will have meaningful economic impact on Maryland small businesses because of the increased financial resources that localities could potentially use to support TOD. Providing localities with the increased authority granted in this bill will aid in the creation of dense, mixed use areas with convenient access to public transit that are attractive to small businesses. This benefit provides a meaningful incentive for small businesses.

The bill will help localities create TODs where small businesses reap the benefits of a high density, pedestrian-friendly environment. In TODs small business employees can more conveniently walk, bike or take public transit to work. This is very beneficial, particularly for the economically disadvantaged or other employees who may not have access to a motor vehicle. Taken collectively, providing localities with the authority granted under this bill will support small businesses and increase their chances for economic success.