HB 1429

Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1429 (Chair, Ways and Means Committee and Chair, Economic Matters Committee)(By Request - Departmental - Business and Economic Development)

Ways and Means and Economic Matters Budget and Taxation and Finance

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Business and Economic Development - BRAC Community Enhancement Act

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This departmental bill changes the effective date of a 10-year BRAC Revitalization and Incentive Zone from the date the Secretary of Business and Economic Development designates a zone, to the date the first property in a zone becomes a qualified property. The bill changes the annual date by which local jurisdictions must notify the State Department of Assessments and Taxation (SDAT) regarding qualified properties from November 1 to February 1, and the annual date that SDAT calculates payments to local jurisdictions from December 1 to March 1. Upon receipt of an application for designation or expansion of an area as a BRAC Revitalization and Incentive Zone, the Secretary of Business and Economic Development must notify the members of the county delegation to the General Assembly for each county in which a BRAC Revitalization and Incentive Zone is proposed.

The bill takes effect June 1, 2009, and applies to all BRAC Revitalization and Incentive Zones designated after October 1, 2008.

Fiscal Summary

State Effect: The bill may result in State expenditures being deferred and increasing over time. Revenues are not affected.

Local Effect: The bill may result in local jurisdiction revenues being deferred and increasing over time.

Small Business Effect: The Department of Business and Economic Development (DBED) has determined that this bill has minimal or no impact on small business (attached). Legislative Services disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: In order to address an excess capacity of military facilities, the U.S. Congress created a process in 1990 known as Base Realignment and Closure (BRAC). The most recent round of plans regarding military installations nationwide became effective in November 2005.

BRAC Revitalization and Incentive Zones

Chapter 338 of 2008 authorized the Secretary of Business and Economic Development to designate BRAC Revitalization and Incentive Zones in the State. Local governments may apply to have a BRAC Zone located within their jurisdiction. The factors the Secretary considers when designating a BRAC Zone include the area's smart growth and mixed-use characteristics, population density, designation as an enterprise zone, transportation options, and the overall State fiscal impact of the designation. Up to six BRAC Zones may be designated annually at two times during a calendar year, in June or December. Qualified property is commercial or residential property that DBED determines enhances economic development in a BRAC Zone.

BRAC Zone designation benefits are primarily tax-related financial incentives, including State support of up to 100% of the increase in the State property tax of any qualifying property and 50% of the local property tax for any increase in the local tax revenues collected on the increased value of qualifying property. These financial incentives may begin in fiscal 2010 and continue for 10 consecutive years, and are limited to the amount appropriated in the State budget, up to $5 million per year. If the total amount of incentive payments for BRAC Zones exceeds $5 million in any year, the payments are allocated on a pro rata basis. Local jurisdictions and businesses in the BRAC Zone may also receive priority consideration for financial assistance projects in the BRAC Zone from DBED, the Maryland Department of Planning, the Department of Housing and Community Development, or any other appropriate State program.

Chapter 338 of 2008 also authorized a payment in lieu of taxes (PILOT) agreement for privately developed facilities in federal military reservations, also known as "federal enclave property." The bill establishes a negotiation process for State, local, federal, and private development interests to engage in a PILOT agreement. Under federal law, in the absence of such an agreement, privately developed facilities in federal military reservations are subject to the full real property tax in effect in the local jurisdiction.

DBED may not designate a BRAC Zone until a county has entered into good faith negotiations for a PILOT agreement with private developers for federal enclave property.

The Maryland Military Installation Council

The State created the Maryland Military Installation Strategic Planning Council (Chapter 335 of 2003), consisting of representatives of State agencies and federal military installations, to serve as an advocate for military facilities located in Maryland and coordinate State agency planning in response to changes caused by BRAC. After the approval of the 2005 BRAC plans, the State renamed the council the Maryland Military Installation Council and extended the termination date of the council through December 31, 2011 (Chapter 634 of 2006).

BRAC Subcabinet

Chapter 6 of 2007 created a BRAC Subcabinet in State government chaired by the Lieutenant Governor. The subcabinet, comprising State secretaries of cabinet departments and the Superintendent of Schools, is charged with a number of tasks, including coordinating and overseeing the implementation of all State action to support the mission of military installations affected by BRAC; coordinating and overseeing the development of BRAC-related initiatives; and working with local jurisdictions affected by BRAC to facilitate planning, coordination, and cooperation with the State. The subcabinet is required to submit an annual report and terminates December 31, 2011.

Joint Legislative Committee on BRAC

Chapter 469 of 2007 established the Joint Committee on Base Realignment and Closure to provide continuing legislative oversight of the State's response to BRAC-related opportunities and changes. In cooperation with local and State units, it must also oversee and participate in developing systems and processes that "fast track" the approval of BRAC-related transportation infrastructure; water and sewer infrastructure; State and local planning processes; affordable housing options; education facilities, including public school and community college construction; and health care facilities and infrastructure.

Background: The 2005 BRAC plans impact many of the federal military installations in the State, directly resulting in an estimated 19,536 to 20,836 new jobs and placing Maryland among the largest beneficiaries nationally. These changes are expected to be phased in over a five- to six-year period with the bulk of the gains expected at Aberdeen Proving Ground, Andrews Air Force Base, Fort Meade, and the National Naval Medical Center. Most of these jobs are projected to be medical professionals, engineers, and managers. An additional 40,000 or more indirect jobs could be created through contractors and related services. It is further estimated that Maryland may gain approximately 28,000 households by the time the BRAC process is complete.

Five BRAC Zones were approved in 2008 in the cities of Baltimore, Frederick, and Laurel and in Anne Arundel (Odenton Town Center) and Prince George's (Andrews Air Force Base) counties. No qualified properties have been designated in any BRAC Zone to date. The fiscal 2010 budget does not provide funding for BRAC Zones.

State Fiscal Effect: By deferring the date on which BRAC Zones become effective to assure designated properties receive benefits for 10 full years, the bill may result in State expenditures being deferred to future fiscal years and total State expenditures increasing over time. In the fiscal and policy note for SB 206 of 2008 (Chapter 338 of 2008), the Department of Legislative Services (DLS) estimated that general fund expenditures for incentive payments to local jurisdictions would increase to $2.5 million in fiscal 2010 and reach the $5.0 million annual limit in fiscal 2011.

Section 2-222(b) of the Property Tax Article in current law requires BRAC Zone incentive payments to be provided for a period of 10 consecutive fiscal years beginning in fiscal 2010. DBED interprets this provision of law to allow incentive payments to begin in fiscal 2010, or a subsequent fiscal year, and to require the payments to occur for 10 consecutive years. However, DLS advises that this provision may also be interpreted to require BRAC Zone incentive payments to begin in fiscal 2010 and cease after fiscal 2019. DLS assumed that the incentive payments would end in fiscal 2019 in the SB 206 of 2008 fiscal and policy note.

Local Fiscal Effect: To the extent the bill results in the deferral of State incentive payments, local revenues are deferred. To the extent the bill allows designated properties to take advantage of incentive payments beyond fiscal 2019, local revenues increase.

The bill may have an indirect beneficial impact on local jurisdictions. Under current law, to maximize the 10-year financial benefit of a BRAC Zone, local jurisdictions may defer seeking BRAC Zone designation until a potential qualified property is ready for designation. Therefore, the bill may encourage local jurisdictions to seek BRAC Zone designation earlier and use this designation to attract third-party financing for infrastructure improvements. The bill also gives the local jurisdictions three more months to have properties designated as qualified.

Small Business Effect: To the extent small businesses may take advantage of financial incentive payments for a period of time beyond fiscal 2019, the bill has a significant impact.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Department of Legislative Services

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mlm/rhh Revised - House Third Reader - April 1, 2009
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Business and Economic Development – BRAC Community Enhancement Act

BILL NUMBER: HB 1429

PREPARED BY: Department of Business and Economic Development

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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

OR

____ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.