

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1481

(Prince George's County Delegation and Montgomery
County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

Montgomery County - Maryland-National Capital Park and Planning
Commission - Lease, Contract, or Agreement - Terms
PG/MC 118-10

This emergency bill prohibits, in Montgomery County, a lease, contract, or agreement entered into by the Maryland-National Capital Park and Planning Commission (M-NCPPC) from containing a provision that (1) authorizes a person other than M-NCPPC to close a park or park facility; or (2) grants a person other than M-NCPPC the authority to close or require the closing of an existing park or park facility under the jurisdiction of M-NCPPC to prevent competition.

Fiscal Summary

State Effect: None.

Local Effect: Indeterminate, but potentially negative effect on M-NCPPC from either decreased revenues or increased expenditures. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: M-NCPPC was established in 1927 and has jurisdiction over parks and land use planning in most of Montgomery and Prince George's counties. The commission is governed by Article 28 of the Annotated Code of Maryland.

The commission prepares and administers a general plan for the physical development of the Maryland-Washington Regional District, an area that encompasses almost all of Montgomery and Prince George's counties. In addition, the commission is charged with acquiring and maintaining a system of parks within the metropolitan district in the two counties. The commission also operates a recreation system for Prince George's County. The commission is funded primarily through various property taxes authorized under Article 28 of the Annotated Code of Maryland and imposed by Montgomery and Prince George's counties.

Background: In 2006 M-NCCPC entered into a long-term lease agreement with the Montgomery County Revenue Authority to consolidate four golf courses owned by M-NCPPC with five owned by the revenue authority. In 2009, the county revenue authority determined, after an independent financial analysis, that the operation of one golf course – Sligo Creek Golf Course in Silver Spring – was “adverse” to the public golf system in Montgomery County and it would no longer operate the course, effective October 1, 2009. The golf course was subsequently returned to M-NCPPC's control. However, under the lease agreement with the revenue authority, M-NCPPC is prohibited from operating the golf course as a golf course if returned to M-NCCPC, even if M-NCCPC determines that it is the best use for the land. As a result, questions arose as to M-NCPPC's authority to enter into long-term lease agreements and whether these agreements could result in the closure of park land owned by M-NCPPC.

A recent Attorney General's letter opined that M-NCCPC has to enter into a lease agreement with the county's revenue authority with regards to the golf courses, but did not have the authority to delegate to the revenue authority M-NCPPC's discretion to decide whether or not to continue to operate a golf course once returned to its control.

Local Fiscal Effect: The bill has an indeterminate, but potentially negative fiscal effect on M-NCPPC. The bill may make it more difficult for M-NCPPC to enter into public-private partnerships to operate park facilities. It is possible that the lack of a noncompete clause will discourage private enterprises from entering into agreements with the M-NCPPC, especially if a capital investment is required. M-NCPPC typically enters into public-private partnership when it is beneficial to the organization and results in either increased revenues or decreased expenditures. To the extent the bill limits the commission's ability to enter into public-private partnerships, it may affect either M-NCPPC revenues or expenditures, depending on each specific proposal. The exact effect cannot be quantified.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland-National Capital Park and Planning Commission,
Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - March 24, 2010
mpc/hlb Revised - Enrolled Bill - May 20, 2010

Analysis by: Michael Sanelli

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