

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1182

(Delegate Ivey, *et al.*)

Environmental Matters

Budget and Taxation and Finance

Business Improvement Districts

This bill authorizes a county or municipality to create a business improvement district and establishes the process under which a district may be created. Except as limited by its articles of incorporation or a local law, a district corporation may (1) receive money from its incorporating local government, the State, or nonprofit organizations; (2) charge fees for its services; (3) employ individuals and hire consultants; and (4) use the services of other governmental units. A local government establishing a business improvement district must impose a tax within the business improvement district to provide for district operations. The tax imposed may not count against a county or municipal corporation tax cap.

Fiscal Summary

State Effect: None.

Local Effect: Additional local expenditures for district improvement purposes will be financed from revenues generated from property and business owners in the district.
This bill may impose a mandate on a unit of local government.

Small Business Effect: Meaningful impact for businesses that are located in a business improvement district.

Analysis

Bill Summary:

District Corporation Formation

The purpose of the business improvement district is to promote the general welfare of residents, employers, property owners, and others within the district. A local government may adopt a local law to create a business district.

Documentation necessary to form a district must be sent to the governing body of the county and municipal corporation, if applicable, in which the proposed district is located. The documentation must contain certain information including (1) a statement expressing the intent to establish a district corporation that is signed by at least 80% of the owners of the total number of nonexempt property parcels within the proposed district; and (2) a proposed three-year plan that contains information such as the proposed annual business improvement district tax and the proposed articles of incorporation and district corporation bylaws.

The local law adopted by a local government creating the district must include specified information on the district and its board of directors, the purposes for which the district is formed, the powers of the district, and if applicable, the district corporation articles of incorporation.

The local governing body is required to hold a public hearing within 45 days of receiving certain documentation from property owners seeking to establish the district. At least 21 days before the hearing, the local governing body is required to publish notice of the hearing, and the property owners seeking to establish the district must send notice to nonexempt property owners and commercial tenants within the proposed district. Within 10 days after the public hearing, if a local governing body determines that the needs of the district meet the purposes set forth in the bill, the governing body must authorize the district. The local governing body must impose the proposed district tax at a rate specified by the district corporation board and approved by the local governing body. District taxes are collected in the same manner as real property taxes, and the district must reimburse the local governing body for the costs of collecting the tax. The tax imposed may not count against a county or municipal corporation tax cap. In addition, the bill specifies procedures for expanding the geographic area of the district.

District Corporation Board and Powers

District corporations are governed by a five-member board of directors, which is appointed by members of the district according to procedures specified in the local law establishing the district. The board is required to file an annual report with the applicable local governing body that includes (1) a financial statement for the prior year; (2) a proposed operating budget; (3) information showing the goals and results of operations; and (4) any proposed business plan revisions.

Except as limited by any articles of incorporation, a district corporation may (1) receive money from its incorporating local government, the State, or nonprofit organizations; (2) charge fees for its services; (3) employ individuals and hire consultants; and (4) use the services of other governmental units. A district corporation has to operate and exercises its powers to accomplish the bill's purposes.

Local Government Authority and Requirements

Subject to a public hearing, local governing bodies are authorized to adopt a local law creating a district.

Local governing bodies are required every three years to review the effectiveness and desirability of continuing the district. In addition, if requested by owners of nonexempt property with the district, local governing bodies are required to develop policies and procedures for evaluating the desirability of continuing the district. If the governing local body does not approve the continued existence of the district, the district will cease to exist as directed by the local governing body but will "continue its existence only as long as necessary to terminate operations in a reasonable manner."

Current Law: State law does not allow creation of a business improvement district.

The General Assembly has granted 12 counties (Anne Arundel, Baltimore, 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.

Background: Business improvement districts have traditionally been established by groups of local businesses and property owners. The goal of a business improvement district is to attract customers, clients, and shoppers to the district by implementing coordinated improvements and shared marketing efforts within the district. According to a 1999 study completed by Baruch College, the City University of New York, over

400 business improvement districts operate in 42 states and the District of Columbia. Business improvement districts can be as small as a single block or as large as 300 blocks. Services provided by business improvement districts vary greatly, depending on the size and specifics of the area. Some examples of business improvement districts include:

- *The Alliance for Downtown New York, Inc.* – covers the Wall Street financial district providing an array of services, including funds for retailers to upgrade storefronts and showcasing the area as a place to work, live, shop, and dine;
- *Downtown DC* – provides supplemental service to an area of approximately 120 blocks containing 825 properties that are subject to self-assessment tax. The district seeks to design and implement a consistent program of signage, develop promotion materials for the area, and enforce a zero-tolerance graffiti policy; and
- *The Central District* – provides an assortment of supplemental services in downtown Philadelphia, Pennsylvania. The district undertakes sidewalk cleaning, graffiti removal, landscape maintenance, crime prevention, and advertising promotion. The district has an annual budget of approximately \$9 million.

Local Effect: The bill specifies that, if a local governing body receives a statement signed by at least 80% of nonexempt property parcel owners, the local governing body is required to have a public hearing. Additionally, if the local governing body determines that the needs of the district meet the purposes of the bill, the criteria of which are broad, the local governing body is required to adopt a local law approving the district. Therefore, the bill may compel a local government to create a business improvement district upon receipt of appropriate documentation.

Small Business Effect: Creation of a business improvement district may benefit certain businesses within a district. A district corporation will develop a coordinated plan for improving an improvement district. Likewise, the district corporation will be able to impose a tax to improve the district. Businesses within the district may benefit from improvements within the district; however, all businesses within the district would be subject to additional taxation associated with the business district. To the extent property owners within a business development district are subject to additional taxes without receiving a proportionate share of the benefits from district improvements, they are negatively affected.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Allegany, Frederick, Harford, and Montgomery counties; Baltimore City; Department of Business and Economic Development; Department of Legislative Services

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