

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 606

(Delegate Love, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Natural Resources - Local Forest Conservation Funds - Use of Money

This bill repeals a requirement that, after two years or three growing seasons, unused money deposited into local forest conservation funds be returned to the original contributor for specified tree planting.

Fiscal Summary

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

Local Effect: Local revenues increase in a limited number of counties to the extent they retain forest conservation funds that otherwise would have been returned.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: Enacted in 1991, the Forest Conservation Act provides a set of minimum standards that developers must follow when designing a new project that affects forest land. Local governments are responsible for making sure these standards are met, but they may choose to implement even more stringent criteria. If there is no local agency in place to review development plans, the Department of Natural Resources (DNR) does so. In general, the Act calls for a minimum amount of forest cover on development sites based upon the site's zoning.

DNR administers the State Forest Conservation Fund to facilitate the afforestation or reforestation requirements when an applicant cannot reasonably accomplish these requirements on- or off-site. In addition, a local approval authority may establish and

administer a local forest conservation fund to apply in that local jurisdiction instead of the State fund. A State or local forest conservation fund consists of payments made by an applicant in lieu of performance of afforestation or reforestation requirements and penalties collected for noncompliance with specified forestry requirements. If an applicant demonstrates to the satisfaction of the appropriate State or local approval authority that the requirements for planting on- or off-site cannot be reasonably accomplished, the applicant must currently pay to the appropriate fund 30 cents per square foot of the area of required planting. Violators at the State and local level are assessed a penalty of 30 cents per square foot of the area found to be in noncompliance and are liable for a civil penalty of up to \$1,000 per day the violation continues.

Since counties with local forest conservation funds may implement even more stringent criteria, DNR advises that most counties do not return funds after two years or three growing seasons. Some local programs have deleted this funding return requirement, including those in Calvert, Carroll, Cecil, Dorchester, Frederick, Harford, Howard, Kent, Prince George's, Somerset, Talbot, Washington, Wicomico, and Worcester counties. Other local programs have altered this requirement; Charles County, for example, extended the funding return timeframe to 10 years. Other counties, such as Baltimore County, have retained the requirement but only return funds when a development project does not ultimately occur. Without the funding return requirement, local programs have the flexibility to implement tree planting efforts at the most strategic times.

Local Revenues: Local forest conservation fund fee-in-lieu collections totaled approximately \$2.7 million in fiscal 2008, \$2.3 million in fiscal 2007, \$2.6 million in fiscal 2006, and \$2.8 million in fiscal 2005. In fiscal 2001, when the economy was performing poorly, local forest conservation fund collections totaled \$533,340.

The bill is not expected to have a significant impact on local operations or finances, as most jurisdictions with local forest conservation funds have deleted the funding return requirement. However, to the extent a limited number of local jurisdictions retain fee-in-lieu collections that otherwise would have been returned, local revenues increase.

Small Business Effect: Small businesses are affected by the bill to the extent their contributions to a local forest conservation fund are not used after two years or three growing seasons and are no longer returned to them.

Additional Information

Prior Introductions: None.

Cross File: SB 361 (Senator Astle) - Education, Health, and Environmental Affairs.

Information Source(s): Carroll, Harford, and St. Mary's counties; Department of Natural Resources; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2010
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