Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 967   (Washington County Delegation)

Environmental Matters

Washington County - Local Forest Conservation Fund - Fee-in-Lieu Rates

This bill requires the fee-in-lieu rate for contributions to Washington County's forest conservation fund to be (1) in an amount determined by Washington County, in consultation with the Department of Natural Resources (DNR) and the Washington County Soil Conservation District; (2) no higher than the fee-in-lieu rate paid to the State Forest Conservation Fund; and (3) reexamined and adjusted every three years.

Fiscal Summary

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

Local Effect: Washington County is affected to the extent the bill results in a decrease in its forest conservation fund revenues in FY 2011 and future years.

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, 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 pay to the appropriate fund (1) 30 cents per square foot of the area of required planting until September 30, 2014; and (2) at a rate adjusted for inflation as determined by DNR annually by regulation after September 30, 2014. 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.

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.

Local Revenues: In Washington County, when it is demonstrated that the requirements for planting on- or off-site cannot be reasonably accomplished, applicants must pay 30 cents per square foot of the area of required planting to the Washington County forest conservation fund. To the extent this bill results in the Washington County forest conservation fund fee-in-lieu rate being decreased, or not keeping pace with the future inflationary adjustments to the State fee-in-lieu rate, Washington County forest conservation fund revenues decrease.

Small Business Effect: Small businesses are affected by the bill to the extent they are required to pay a lower fee-in-lieu rate for a project in Washington County.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Washington County, Department of Natural Resources, Department of Legislative Services

Fiscal Note History: First Reader - March 23, 2010
mam/lgc

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