Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 759 (Delegate Niemann, *et al.*)
Environmental Matters

Political Subdivisions - Construction Projects - Demolition

This bill requires local governments to regulate specific aspects of demolition projects and related salvage disposal, and prohibits local governments from issuing a demolition permit until the provisions of the local regulation or law are met. The bill also expands the types of expenditures that are eligible for the Maryland Heritage Structure Rehabilitation Tax Credit to include demolition, subject to certain requirements.

Fiscal Summary

State Effect: Assuming the Maryland Heritage Structure Rehabilitation Tax Credit is reauthorized, special fund expenditures of the Maryland Department of Planning (MDP) increase by $52,200 in FY 2011 and more than $65,000 annually thereafter to hire an additional administrator at the Maryland Heritage Trust (MHT). It is assumed MHT increases their fees to cover those costs; thus, special fund revenues increase correspondingly.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	$52,200	$65,000	$68,200	$71,500	$75,000
SF Expenditure	$52,200	$65,000	$68,200	$71,500	$75,000
Net Effect	$0	$0	$0	$0	$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government expenditures increase minimally to adopt regulations. Potential additional increase in local expenditures for enforcement and for local government construction and demolition costs.

Small Business Effect: Potential meaningful adverse impact on small business construction and demolition contractors. Potential beneficial impact on small salvage and recycling businesses.

Analysis

Bill Summary: The bill directs local governments to enact laws or regulations that require an owner of a building or structure to arrange for a salvage period before demolishing the building or structure unless: (1) the owner has purchased salvage or deconstruction services that equal at least 5% of the total cost of demolition; or (2) the local jurisdiction determines that unsafe conditions require immediate demolition. A local jurisdiction must establish laws or regulations relating to:

- the timing and length of salvage periods;
- access to the building or structure for the salvage or deconstruction crews;
- minimum qualifications for the salvage or deconstruction crews; and
- the assumption of liability by the salvage or deconstruction crews for their work.

A demolition permit cannot be issued unless these requirements are met. "Deconstruction" means the nondestructive disassembly of a major element of a building or structure, including walls, floors, roofs, and mechanical and electrical systems, for the purpose of harvesting and reuse. "Salvage" means the nondestructive removal of a building or structure component, including doors, fixtures, furnishings, and appliances, for harvesting and reuse.

The bill also expands the definition of a "qualified rehabilitation expenditure" that can be claimed for the existing heritage structure rehabilitation tax credit to include demolition if: (1) the business or individual certifies to the director of MHT that salvage or deconstruction of the structure has been completed and describes the types and quantities of materials harvested from the structure; (2) the business or individual advertises for salvage or deconstruction services for the structure in a journal or web site approved by MHT at least two weeks before demolition and receives no responses; or (3) the MHT director has issued a written explanation stating why salvage or deconstruction of the structure is not feasible.

Current Law: Local jurisdictions that issue demolition permits have the discretion to determine what is required to issue a permit, subject to the State building code and other laws. Construction debris that is not a controlled hazardous substance is generally deposited in rubble landfills in accordance with county solid waste management plans.

The Maryland Heritage Structure Rehabilitation Tax Credit Program is administered by MHT and provides Maryland income tax credits equal to 20% of the qualified rehabilitation expenditures for the rehabilitation of a certified heritage structure. The credit is available for single-family owner-occupied residential property and income-producing commercial property. The tax credit is set to expire June 30, 2010.

MHT is required to establish reasonable fees to certify heritage structures and rehabilitations; the fee must be set to cover MHT's administrative costs, subject to certain limitations.

State Fiscal Effect:

Maryland Heritage Structure Rehabilitation Tax Credit

The Governor's proposed fiscal 2011 budget includes $5.0 million in general funds for the Maryland Heritage Structure Rehabilitation Tax Credit, and thus assumes that the tax credit is extended beyond fiscal 2010; however, this appropriation is reduced by $5.0 million contingent upon the enactment of legislation that reauthorizes the tax credit as nonbudgeted. The Administration has introduced legislation (SB 285/HB 475) to reauthorize the Maryland Heritage Structure Rehabilitation Tax Credit as a nonbudgeted tax credit; reestablish it as the Sustainable Communities Tax Credit Program; and make other, significant changes to the program.

Assuming the tax credit is reauthorized, MDP's special fund expenditures increase by $52,173 in fiscal 2011, which accounts for the bill's October 1, 2010 effective date. This estimate reflects the cost of hiring an additional administrator at MHT to handle the increase in applications for tax credits anticipated under this bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	47,495
Equipment and Operating Expenses	4,678
Total FY 2011 State Expenditures	**$52,173**

Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

Because MHT is required under current law to set reasonable fees to certify heritage structures and rehabilitations in order to offset its administrative costs, it is assumed that MHT would increase those fees in order to cover its administrative costs under the bill. Therefore, special fund revenues increase correspondingly beginning in fiscal 2011.

Even if the Maryland Heritage Structure Rehabilitation Tax Credit is reauthorized, the bill is not anticipated to affect general fund revenues. Generally, MHT awards the maximum amount of available credits each year, and it is expected that the maximum amount of credits will continue to be awarded under a reauthorized program. Accordingly, the expanded types of expenditures that are eligible for the credit under this bill will only compete with other eligible expenditures if the tax credit is reauthorized, but will not cause any additional loss in general fund revenues.

Department of Housing and Community Development (DHCD)

Although the bill does not have an overall impact on DHCD, project development costs may increase for some projects financed by the Community Development Administration. This will either result in fewer projects being financed or require the cost increase to be borne by other entities involved in project development financing.

Local Fiscal Effect: Any jurisdiction that issues demolition permits must adopt regulations to implement the bill. The cost of adopting regulations has been estimated at between $500 and $3,000, with at least one jurisdiction responding that this cost can be handled with existing resources. Several jurisdictions have advised that expenditures increase to a more significant extent to hire additional enforcement and/or administrative staff. Kent County estimates total costs at nearly $50,000 annually. Worcester County advises that it also anticipates costs associated with the adjudication of disputes under the bill. Finally, Legislative Services advises that expenditures may increase for construction or demolition projects financed by local governments.

Small Business Effect: According to the U.S. Census Bureau's 2007 Economic Census, there are about 600 site preparation contractors in Maryland with annual revenues of about $1.5 billion. However, it is unknown what share of this sub-industry is comprised of demolition contractors. Nevertheless, for these contractors, costs may increase and current business practices may be significantly disrupted as a result of the bill's changes. It is not known whether and to what extent any savings may accrue as a result of the bill's changes to demolition activities. Finally, to the extent that the Maryland Heritage Structure Rehabilitation Tax Credit is reauthorized, small businesses involved with demolitions could benefit from the bill's expanded eligibility under the program.

Additional Information

Prior Introductions: Similar provisions were included in HB 1157 of 2004, which received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Kent and Worcester counties; cities of Frederick and Havre de Grace; Maryland Department of Planning; Department of Housing and Community Development; Department of Legislative Services

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ncs/lgc

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