HB 1233

Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1233 (Delegate Fisher, *et al.*)
Ways and Means

State Highway Administration - Privatization of Rest Areas and Welcome Centers on State Highways

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This bill requires the State Highway Administration (SHA) to initiate the process to issue a request for proposals (RFP) to privatize the operation and maintenance of rest areas and welcome centers within State highway rights-of-ways by December 31, 2012. The RFP must give the successful bidder the right to collect revenue generated from the use of the facilities in exchange for a lump sum or annual fixed-period payment to the State. The RFP must be issued in accordance with requirements of the State Finance and Procurement Article. All money paid to the State by a bidder must be credited to the Transportation Trust Fund (TTF). Funding to pay the costs of issuing the RFP must be as provided in the State budget.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: TTF expenditures increase by $300,000 in FY 2013 for contractual costs associated with developing an RFP. TTF revenues and expenditures are affected in FY 2014 and future years to the extent rest areas and welcome centers are privatized; however, any impact cannot be reliably estimated at this time. Department of Business and Economic Development (DBED) general fund expenditures decrease in FY 2014 and future years to the extent operation of welcome centers is privatized. Even though the bill takes effect June 1, 2012, it is assumed that State finances are not affected in FY 2012.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	$0	-	-	-	-
GF Expenditure	$0	-	-	-	-
SF Expenditure	$300,000	-	-	-	-
Net Effect	($300,000)	$0	$0	$0	$0

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

Local Effect: Local governments are affected to the extent the bill limits them from operating welcome centers within State highway rights-of-ways.

Small Business Effect: Potential meaningful.

Analysis

Current Law: In accordance with current SHA regulations, the following commercial activities are prohibited at all welcome centers, rest areas, scenic overlooks, roadside picnic areas, and other public use areas within interstate and State highway rights-of-way: (1) selling or advertising; (2) posting notices or signs; (3) hiring, leasing, or letting out merchandise; and (4) displaying or exhibiting merchandise.

The federal Randolph-Sheppard Act of 1936, as amended, mandates that priority be given to individuals who are blind to operate concession and/or vending facilities on federal and federally funded property. The Act generally prohibits cash/credit card transactions, other than vending, at rest areas and welcome centers on the interstate highway system.

In accordance with the State Finance and Procurement Article, a "public-private partnership" (P3) means a sale or lease agreement between a unit of State government or the Maryland Transportation Authority (MDTA) and a private entity under which (1) the private entity assumes control of the operation and maintenance of an existing State facility; or (2) the private entity constructs, reconstructs, finances, or operates a State facility or a facility for State use and will collect fees, charges, rents, or tolls for the use of the facility. A "public-private partnership" does not include (1) a short-term operating space lease entered into in the ordinary course of business by a unit of State government or MDTA and a private entity and approved in accordance with provisions concerning the transfer of State real or personal property in the State Finance and Procurement Article; (2) a procurement governed by specified general procurement provisions in the State Finance and Procurement Article; or (3) P3 agreements entered into by the University System of Maryland, where no State funds are used to fund or finance any portion of a capital project.

Background: Welcome centers and rest areas are located at major gateways and strategic locations throughout the State. Due to limited State funding, the State has ceased operating nine welcome centers over the past five years. Currently, the State operates four welcome centers, and two are operated by county governments. The Maryland Department of Transportation is responsible for maintaining land and facilities associated with welcome centers and rest areas, but DBED and two county governments currently provide operating funds and staff for six welcome centers. The four welcome centers operated by DBED are the (1) Interstate 70 (I-70) East and I-70 West welcome centers located in Frederick County; and (2) Interstate 95 (I-95) South and I-95 North welcome centers located in Howard County. The Crain Memorial Welcome Center located north of the Potomac River on northbound U.S. 301 is currently operated by Charles County. The U.S. 13 North Welcome Center located on U.S. 13 north of the Virginia state line is currently operated by Worcester County. According to DBED, these two local government-operated welcome centers, which are not located on federally funded interstates, both generate revenue.

SHA's fiscal 2011 budget included $3.4 million for contractual costs associated with maintaining welcome centers and rest areas. DBED's fiscal 2012 budget for operating the four welcome centers is $256,210, which reflects funding for 2 full-time positions and 4.5 contractual positions. No revenue is generated by the four State-operated welcome centers or at SHA-maintained rest areas.

MDTA operates the Maryland House and the Chesapeake House Welcome Center, which are two full-service facilities on the toll portion of I-95. In February 2012, MDTA provided notice to the legislature that it had reached agreement with Areas USA to finance, redevelop, operate, and maintain the two travel plazas. In return for the demolition and reconstruction of the travel plazas, at an estimated cost of $56 million, Areas USA will lease, operate, and maintain the facilities for the next 35 years. A revenue-sharing contract provides annual payments to MDTA over the life of the agreement. The revenue-sharing agreement provides MDTA a greater percentage of gross sales as sales increase as well as a $3 million upfront payment. The total investment and revenue to the State may exceed $600 million over the life of the agreement.

Currently, SHA is not considering privatization of rest areas or welcome centers, as the Randolph Sheppard Act generally prohibits cash/credit card transactions, other than vending, at rest areas and welcome centers on the interstate highway system.

Public-private Partnership Agreements

Across the nation, there is growing interest in utilizing private-sector financing as a means to maintain and expand capital infrastructure investment. In Maryland, P3 agreements have primarily been utilized to finance transportation infrastructure such as the Seagirt Marine Terminal. More recently, however, P3s have also facilitated the proposed multi-year phased redevelopment of the State center complex in Baltimore City.

P3s offer opportunities to share resources and project risks with the private sector and access private-sector financial markets. However, P3s also involve significant fiscal considerations, including but not limited to (1) the disposition of State assets; (2) assignment of future revenues to private-sector entities that would otherwise accrue to the State; and (3) the execution of capital and operating leases that obligate the State to long-term general and special fund budget commitments.

State Fiscal Effect: TTF expenditures increase by $300,000 in fiscal 2013 to hire a contractor to initiate and develop an RFP to privatize the operation and maintenance of rest areas and welcome centers. It is assumed that preparing an RFP will require at least one year and any decision on privatization occurs no sooner than fiscal 2014. Therefore, to the extent the RFP process results in privatization of some or all welcome centers and/or rest areas, TTF revenues and expenditures are affected in fiscal 2014 and future years due to a private operator assuming control. However, any impact cannot be reliably estimated and would depend on the terms of the final privatization agreement.

To the extent the RFP process results in privatizing the operation of all four current welcome centers, DBED general fund expenditures decrease by approximately $270,000 in fiscal 2014 and in future years and 2 full-time and 4.5 contractual positions are eliminated.

Small Business Effect: Small businesses benefit to the extent the bill results in opportunities to sell goods and or services at welcome centers and rest areas.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Business and Economic Development, Department of General Services, Maryland Department of Transportation, Department of Legislative Services

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