

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 414 (Delegate Serafini, *et al.*)
Environmental Matters

State Highway Administration - Permits - Business Access to State Highways

This bill requires the State Highway Administration (SHA) to make a final determination about whether to issue a permit granting access from a commercial or an industrial property to a State highway within 90 days of the permit application being submitted. If SHA fails to act on the permit request within 90 days, the permit is deemed to be issued. SHA is authorized to extend the 90-day permit consideration deadline by up to 60 days.

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances, assuming that SHA disapproves or uses its authority to extend the deadline for permits for applicants that fail to (1) submit studies, plans, and fees for review and approval prior to the final permit issuance phase; (2) revise studies and plans in accordance with SHA feedback prior to submitting the final permit application; and/or (3) submit a complete final permit application. Currently, once an application is considered complete, most final determinations are made in less than 90 days.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: An individual must have an SHA permit in order to make an entrance from any commercial or industrial property to any State highway that carries an average traffic volume of more than 2,000 vehicles a day. If a person violates this provision, or if a violation is threatened, SHA may seek injunctive relief from a specified circuit court.

Background: SHA controls access along State highways in order to provide and maintain a safe and properly functioning highway system. SHA controls access by, among other things, acquiring certain real property and issuing access permits. SHA may grant an access permit when engineering plans are approved and upon receipt of an acceptable surety (*e.g.*, a performance bond, letter of credit, or certified funds). Such permits authorize construction in the right-of-way, subject to SHA oversight and inspection.

Obtaining an access permit is a multi-step process that seeks to ensure that development-related traffic impacts are mitigated and roadway improvements are consistent with SHA regulations, design standards, policies, and practices. The process includes the submission, review, and approval of traffic impact studies and detailed engineering plans that identify the limits of construction, methods, materials, standards, and other related details. Permit applicants are responsible for preparing all of these documents. Generally, these project documents undergo substantial SHA review prior to the final SHA permit issuance phase, to ensure that they are acceptable and complete. SHA advises that it may take a year or longer for applicants to address SHA comments about traffic impact studies and/or plan reviews.

SHA tracks the average response times for pre-permit project review submissions and final access permit processing. SHA's current average response time for pre-permit review of a traffic impact study submission is 27 days and each pre-permit engineering review takes an average of 22.9 days. During 2011, 98% (123 permits) of SHA's construction-related permits were issued within 45 days. SHA advises that the time required to complete permit application review depends on the quality, accuracy, and completeness of the application. SHA's percentages do not account for projects placed on hold to, for example, allow revisions to be made to certain permit documents.

In April 2010, Governor Martin O'Malley established a Highway Access Permit Stakeholder Review Group to identify ways to streamline the process for granting access permits to connect new developments to State highways. The group released a final report that included recommendations for improving the timeliness, predictability, consistency, and transparency of the access permit process. SHA advises it is implementing the group's recommendations.

SHA has implemented several administrative efforts aimed at reducing the wait times associated with permit approvals. For example, SHA recently developed and implemented a database to track project reviews and provide web-based reporting so customers can track project submissions.

SHA makes a final determination on the vast majority of its construction permits in far less than 90 days. SHA advises that establishing a formal 90-day permit review deadline is problematic (1) if applicants submit incomplete or incorrect permit application materials, effectively delaying the approval process and providing SHA with inadequate review time; and (2) because SHA may lose the leverage it requires to ensure that applications are complete and consistent with State and federal requirements.

Small Business Effect: The bill benefits small businesses to the extent they are granted permits in a more expeditious manner. However, since SHA already makes a final determination on the vast majority of permit applications within 90 days (once an application is considered complete), the extent to which the bill will expedite any permit decisions is unclear.

Additional Information

Prior Introductions: None.

Cross File: SB 522 (Senator Shank, *et al.*) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

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