

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 1195 (Delegate Holmes)
 Environmental Matters

Land Use - Rail Station Overlay Districts

This bill authorizes a local jurisdiction to establish a rail station overlay district adjacent to a railroad station, metro station, or a light rail station in its jurisdiction. The Maryland Department of Planning (MDP), in consultation with the Maryland Department of Transportation (MDOT), must establish (1) standards and guidelines under which a local jurisdiction may establish an overlay district; and (2) a model ordinance for establishing an overlay district. A local jurisdiction that establishes an overlay district may establish, with borders that coincide with the district, a (1) tax increment financing (TIF) district; or (2) special taxing district to fund infrastructure improvements in the overlay district.

Fiscal Summary

State Effect: State general and special fund revenues increase potentially significantly beginning in FY 2013 to the extent the bill results in economic development that would not otherwise occur. MDP general fund expenditures increase by \$200,000 in FY 2013 for a contractor to develop standards, guidelines, and a model ordinance.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF/SF Rev.	-	-	-	-	-
GF Expenditure	\$200,000	\$0	\$0	\$0	\$0
Net Effect	(\$200,000)	\$0	\$0	\$0	\$0

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

Local Effect: Local revenues and expenditures increase potentially significantly in FY 2013 and future years to the extent local jurisdictions establish and implement overlay districts.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill requires MDP to develop guidelines for (1) the construction, alteration, reconstruction, and demolition of structures in the overlay district; (2) the inclusion of outdoor public areas, including streets, sidewalks, parks, and other open areas, in the overlay district; (3) maximizing the number of pedestrians and bicyclists with access to a rail station; (4) establishing a streamlined and expedited review, approval, and appeals process for development projects in an overlay district; (5) financing development projects in an overlay district; and (6) facilitating access to relevant local agencies for a prospective developer in an overlay district.

The bill requires MDP to develop standards (1) for the size of an overlay district that prioritizes the inclusion of areas within walking distance of the rail station; (2) for the establishment of less restrictive height and density limits than may exist for the underlying zoning classification; (3) for exempting areas within an overlay district from any applicable adequate public facilities law or other provisions of law; and (4) under which a local jurisdiction may create development rights above the base standard established for the underlying zoning classification, and calculate the value of, and set the price for, the additional development rights.

Current Law/Background:

Overlay Zones

According to a 1995 report by MDP, an overlay zone is a zone that is placed on a zoning map “over” traditional zoning districts. Overlay zoning was born of the necessity to add an additional dimension of land use control to the zoning map for some special public purpose that does not coincide with the boundaries of current zoning. Overlay zoning has been in use since the 1960s, although its application to a wide array of public interests, such as protection of environmentally sensitive areas and historic sites, is more recent. Generally, lands affected by an overlay zone are subject to the rules of the underlying zone, as well as the rules of the overlay zone.

For the past two decades, local jurisdictions in Maryland have been planning and developing transit overlay zones as part of their comprehensive plan processes to encourage transit-oriented development (TOD) near rail station areas. Transit overlay zones seek to encourage coordinated and integrated development schemes for certain properties within a specified distance of existing and planned transit stations. Almost all the rail station areas in Montgomery and Prince George’s counties have their own

specific plans that address TOD overlay zones and related planning issues. In addition, Baltimore City and Anne Arundel, Baltimore, Frederick, Harford, Howard, and Cecil counties as well as some municipalities are planning transit overlay zones around rail station areas that involve mixed-use land use policies and regulations.

Transit-oriented Development

It is the policy of the State that the development of improved and expanded railroad facilities, railroad services, transit facilities, and transit services operating as a unified and coordinated regional transportation system, and the realization of TOD throughout the State, represent transportation purposes that are essential for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality, and the development of the metropolitan area of Baltimore and other political subdivisions of the State.

“TOD” is a mix of private or public parking facilities; commercial and residential structures; and uses, improvements, and facilities customarily appurtenant to such facilities and uses, which is:

- part of a deliberate development plan or strategy involving (1) property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station; or (2) property, any part of which is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station;
- planned to maximize the use of transit, walking, and bicycling by residents and employees; and
- designated as TOD by (1) the Secretary of Transportation after considering a recommendation of the Smart Growth Subcabinet; and (2) the local government or multicounty agency with land use and planning responsibility for the relevant area.

TOD is a development style that leverages transit stations as the foundation for vibrant communities with a dense mix of commercial, residential, and retail development. By clustering development around transit sites, TOD seeks to maximize the State’s investment in transit by promoting increased ridership and enhanced opportunities for pedestrian and bicycle mobility. The benefits of TOD may include easing congestion on roadways, curbing greenhouse gas emissions, reducing pollution, and providing a viable alternative to sprawl. The State has officially designated 14 TOD sites.

MDOT is partnering with local agencies to identify and implement land use regulations that support transit and pedestrian-friendly development in proximity to major transit

facilities. MDOT has also been conducting analysis and planning to identify station area needs and opportunities. MDOT also undertakes mixed-use, transit-focused, and pedestrian-friendly developments with private partners and leverages available federal funds to facilitate TOD development.

MDP works as a partner agency with MDOT in support of the State's TOD effort by providing land use and census data analyses in TOD areas and assisting in TOD planning and promotional activities.

According to MDP, there are 106 rail transit stations in the State. Nearly all of the rail transit stations are located in the Washington and Baltimore metropolitan counties and municipalities, including Baltimore City and Anne Arundel, Baltimore, Frederick, Harford, Howard, Montgomery, and Prince George's counties.

Tax Increment Financing

TIF is a public financing method that uses future gains in tax revenues to finance current improvements. It is designed to channel funding toward improvements in distressed or underdeveloped areas where development might not otherwise occur. TIF creates funding for public projects that may otherwise be unaffordable to localities, by borrowing against future property tax revenues.

Chapter 182 of 2009 authorized certain counties and municipalities to finance the costs of infrastructure improvements located in or supporting a TOD. The Act authorized the Maryland Economic Development Corporation (MEDCO) to enter into agreements with certain local jurisdictions to use proceeds from a special taxing district, including TIF, to repay debt service on bonds issued by MEDCO on behalf of TOD projects.

Special Taxing Districts

All counties have authority to establish special taxing districts for limited purposes, such as drainage or street lighting improvements. In addition, the governing bodies of counties that have adopted charter home rule or code home rule also have broad authority under the Express Powers Act to create special taxing districts to carry out most "municipal-type services." The number of special taxing districts established under this authority varies significantly.

State Revenues: General fund and special revenues increase to the extent the establishment of districts results in an increase in economic development that otherwise would not occur. Any increase in tax revenues cannot be reliably estimated at this time.

State Expenditures: MDP general fund expenditures increase by an estimated \$200,000 in fiscal 2013 for contractual services associated with developing overlay district standards and guidelines as well as a model overlay district ordinance in an expeditious manner. This estimate reflects the cost of (1) MDP hiring a professional consultant familiar with rail station design and integration of mixed-use developments as well as zoning incentives and financing strategies; and (2) the consultant conducting research, developing TOD-related analyses, and coordinating with local jurisdictions and State agencies that support TODs.

This estimate assumes that (1) MDP can absorb costs associated with hiring, coordinating, and managing a consultant; and (2) MDOT provides feedback and participates in the effort to the extent existing budgeted resources allow.

While the bill does not require the State to monitor or evaluate overlay districts that are established, to the extent this occurs, MDP expenditures may increase.

Local Fiscal Effect: As previously mentioned, many local jurisdictions are already engaged in efforts to develop transit overlay zones. The number of local jurisdictions that will establish overlay districts as a result of the bill is unknown; however, a local jurisdiction that does so could benefit from an increase in local tax revenues from any increase in development that occurs as a result of the district. Local expenditures may increase, however, to establish and implement various overlay district standards and guidelines.

Local finances are further affected to the extent any local governments establish a TIF district or a special taxing district to fund infrastructure improvements within the district. Local jurisdictions may realize an increase in revenues due to the collection of special taxes and bond proceeds and an increase in expenditures due to the financing of infrastructure improvements and debt service. However, the net fiscal impact is expected to be minimal since revenues from districts will likely be used to fund these expenditures.

Small Business Effect: The bill impacts small businesses to the extent local jurisdictions use the authority provided by the bill to establish overlay districts. Real estate developers, land use lawyers, construction firms, landscaping companies, and other small businesses located in or working on development and related infrastructure projects in a district may benefit from the establishment of the district, the streamlined review process, and any increase in development that occurs as a result of the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; cities of Frederick and Havre de Grace; Kent, Montgomery, Washington, and Worcester counties; Maryland Department of Planning; Maryland Department of Transportation; Department of Legislative Services

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Analysis by: Amanda Mock

Direct Inquiries to:
(410) 946-5510
(301) 970-5510