

Department of Legislative Services  
 Maryland General Assembly  
 2013 Session

FISCAL AND POLICY NOTE

House Bill 762 (Delegate Fisher, *et al.*)  
 Ways and Means

State Highway Administration - Sale of Naming Rights to State Highways

This bill requires the State Highway Administration (SHA) to initiate the process to issue a request for proposals (RFP) to sell the naming rights to State highways by December 31, 2013. The RFP must give the successful bidder the right to erect signs, issue advertisements, and collect associated advertising revenue 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. Funding to pay the costs of issuing the RFP must be as provided in the State budget.

The bill takes effect June 1, 2013.

Fiscal Summary

**State Effect:** Transportation Trust Fund (TTF) expenditures increase by \$400,000 in FY 2013 for contractual costs associated with developing the RFP. TTF revenues and expenditures are affected in FY 2014 and future years to the extent naming rights are sold; however, any impact cannot be reliably estimated at this time.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	\$0	-	-	-	-
SF Expenditure	\$400,000	-	-	-	-
Net Effect	(\$400,000)	\$0	\$0	\$0	\$0

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

**Local Effect:** The bill is not expected to materially affect local governments.

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** SHA may name or rename any State highway.

Subject to specified exceptions, a person may not erect or maintain any outdoor sign outside the limits of any municipal corporation and within 500 feet of a State highway unless the person has a permit issued by SHA for that sign. Chapters 466 and 467 of 2011 (SB 410/HB 289) prohibit the placement or maintenance of signs on State highway rights-of-way without SHA authorization and establish a civil penalty of \$25 per commercial sign for violations.

A person may not erect or maintain any outdoor sign along or near any federal aid primary highway, unless the person has been issued a permit. Federal law and regulations require states to control advertising on the sides of federally funded highways. Failure to control the outdoor advertising could result in the loss of federal highway aid.

A State highway's right-of-way is at least 40 feet wide. Any person who removes, damages, or defaces any SHA sign, signal, or marker is guilty of a misdemeanor and subject to a fine of up to \$100.

Chapter 318 of 2011 (HB 109) prohibits SHA from issuing outdoor sign permits for signs along or near a scenic byway located on a federal aid primary highway.

In accordance with federal regulations, a highway right-of-way must be devoted exclusively to public highway purposes and state highway departments must keep the right-of-way free of all public and private installations, facilities, or encroachments, except (1) if a state highway administrator finds it is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic; (2) a state highway administrator approves it as constituting a part of a highway or as necessary for its operation, use, or maintenance; or (3) if it is an informational site established and maintained in accordance with specified federal regulations.

**Background:** SHA is responsible for more than 5,200 miles or approximately 16,800 lane miles of road, 2,500 bridges, 3,500 small stream crossing structures, and 80 miles of sound barriers. It also has responsibility for planning, designing, constructing, and maintaining these roads and bridges to safety and performance standards while considering sociological, ecological, and economic concerns.

Due to the economic downturn and growing state budget shortfalls, many states are seeking to identify new revenue sources for transportation projects. A bill was introduced in Florida (Florida HB 313 of 2011) that would have authorized the sale of

naming rights and lease space for commercial advertising to be displayed on state transportation property. In addition, the Massachusetts Bay Transportation Authority coordinates advertising on a variety of transportation facilities, including outdoor billboards it owns throughout eastern Massachusetts. In 2012, the Virginia General Assembly passed bills (SB 639/HB 1248 of 2012) expanding and clarifying its highway naming rights program. A bill (HB 1051 of 2013) was recently introduced in the Washington State Legislature authorizing the sale of rights to name or rename a state transportation facility.

### *Highway Signs*

Federal and State laws require SHA to regulate signs within State highway rights-of-way and outdoor advertising signs on private property adjacent to State roads. SHA is responsible for official traffic safety signs and informational signs that are either required by State law or authorized by SHA permit. SHA prohibits private signs along State highway medians and rights-of-way and reserves State property for official traffic control signs or devices.

Numerous federal and State requirements impact how and where outdoor advertising occurs along highways. In addition, many local zoning and sign ordinances dictate the size, illumination, and location of signs. Some local jurisdictions prohibit new off-premise outdoor advertising signs altogether. When SHA does issue permits, the requirements vary depending on whether the sign is for a business located on the property on which the sign will be placed (on-premise) or for businesses located elsewhere (off-premise). SHA sign permit fees range from \$10 to \$35 per advertising face, and the permits must be renewed annually.

**State Fiscal Effect:** TTF expenditures increase by \$400,000 in fiscal 2013 to hire a contractor to initiate and develop an RFP to sell the naming rights to State highways. This analysis assumes that a contractor is hired in June 2013 and that the RFP provisions would not conflict with federal laws as to placement or proliferation of signs. To the extent the RFP process results in naming rights being granted, TTF revenues and expenditures (related to ongoing administration of the contract) are affected in fiscal 2014 and future years. However, any impact cannot be reliably estimated and would depend on the terms of any final agreements.

**Small Business Effect:** Small businesses benefit to the extent the bill results in opportunities to advertise along State highways.

**Additional Comments:** SHA advises that the U.S. Department of Transportation's Federal Highway Administration has expressed concern about the proliferation of

advertising signs and that failing to control advertising could lead to the loss of 10% of most federal highway aid.

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### **Additional Information**

**Prior Introductions:** HB 1299 of 2012 received a hearing in the House Ways and Means Committee, but no further action was taken. HB 1186 of 2011, a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Board of Public Works, Department of Budget and Management, Department of General Services, Maryland Department of Transportation, Florida Legislature, Massachusetts Bay Transportation Authority, Virginia Department of Transportation, Washington State Legislature, Department of Legislative Services

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