

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 564 (Senator Brinkley)
Education, Health, and Environmental Affairs

**Frederick County - Forest Conservation Act - Application to Public School
Property**

This bill exempts from the requirements of the Forest Conservation Act (FCA) any activity on land owned or leased for use by the Frederick County public school system, if the Frederick County Board of Education determines in writing that the activity enhances public safety by eliminating physical barriers to the visibility to school personnel of students and other individuals.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: The bill does not directly affect State operations or finances.

Local Effect: Frederick County expenditures decrease to the extent the bill exempts public school construction projects in the county from compliance with FCA and local forest conservation programs. Local forest conservation fund revenues and expenditures in Frederick County also decrease due to the exemption.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: The Department of Natural Resources' Forest Service administers FCA, but it is implemented on the local level. FCA and local forest conservation programs developed under it apply to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of

State or local government, on areas 40,000 square feet or greater, subject to certain exemptions. Exemptions include:

- State or local government (or State-funded) highway construction activity that is subject to separate reforestation requirements;
- cutting or clearing of forest in areas governed by the Critical Area law;
- specified commercial logging and timber harvesting operations;
- agricultural activity that does not result in a change in land use category;
- specified cutting or clearing of public utility rights-of-way;
- routine maintenance of public utility rights-of-way;
- specified activity that does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest;
- specified strip or deep mining of coal and noncoal surface mining;
- a county that has and maintains 200,000 acres or more of its land area in forest cover; and
- cutting or clearing of trees to comply with federal requirements relating to objects affecting navigable airspace.

A proposed construction activity goes through a process of evaluation of existing vegetation on a site and development of a forest conservation plan for the site defining how forest area will be retained and/or afforestation or reforestation will be undertaken. If afforestation or reforestation requirements cannot be reasonably accomplished on-site or off-site, payment may be made into the applicable forest conservation fund to be spent by the local authority on reforestation and afforestation.

Frederick County has a Forest Resource Ordinance that serves as the local forest conservation program. A small number of the municipalities within Frederick County, including the City of Frederick, also have local forest conservation programs.

Local Fiscal Effect: To the extent the bill exempts public school construction projects in Frederick County from compliance with FCA and local forest conservation programs, county expenditures decrease. Frederick County Public Schools spent \$150,000 on FCA compliance over the course of the last seven construction projects. Typically, the school system makes payments to the applicable forest conservation fund rather than plant trees due to limited space on sites and for security purposes. Thus local forest conservation fund revenues and expenditures in Frederick County also decrease.

Small Business Effect: Presumably, small business contractors or retailers currently benefit from the expenditure of funds for afforestation or reforestation whether directly by the school system or through a forest conservation fund. To the extent the bill

eliminates the school system's construction projects as a source of funds for such work or sales, small businesses may be adversely affected.

Additional Information

Prior Introductions: None.

Cross File: HB 1025 (Frederick County Delegation) - Environmental Matters.

Information Source(s): Department of Natural Resources, Maryland State Department of Education, Frederick County, Department of Legislative Services

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mlm/lgc

Analysis by: Scott D. Kennedy

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