

Department of Legislative Services

Maryland General Assembly

2015 Session

FISCAL AND POLICY NOTE

House Bill 762

(Delegate Buckel, *et al.*)

Environment and Transportation

State Highway Administration - Entrance to State Highway - Permit Process

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 industrial property to a State highway that carries an average traffic volume of more than 2,000 vehicles a day within 45 days after it receives the application. Furthermore, if a permit request is denied, SHA must send a written notice to the applicant explaining the reasons for denying the request. An applicant whose request is denied may file a petition for judicial review with the circuit court for the county in which the proposed highway entrance is located.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase as SHA's Access Management Division and Office of Counsel spend additional staff time and resources to defend SHA's access permit decisions in the circuit courts.

Local Effect: Any additional caseload for the circuit courts as a result of the bill can be handled using existing budgeted resources.

Small Business Effect: Minimal.

Analysis

Current Law: Unless issued a permit by SHA, a person may not make any entrance from a commercial or industrial property to any State highway that carries an average traffic volume of more than 2,000 vehicles a day. To promote highway safety, SHA may limit

the width of existing entrances and exits and determine the locations of access points that may be used by a commercial or industrial property owner or user into any existing section of a State highway that carries an average traffic volume of more than 2,000 vehicles a day. If expedient for traffic safety, SHA may limit the width and location of access points by any method that it considers desirable and deny an abutting property owner all new access along a primary State highway if reasonable access to another public road is available to and from the property. Denial of access is considered an exercise of police power and does not require the payment of compensation.

SHA may not deny the owner of a property that borders a State highway access to the highway if the border is within the boundaries of a municipality unless (1) the property borders another public road where reasonable access can be granted; (2) the denial is based on an access management plan that has been agreed to by SHA and the municipality; or (3) SHA pays just compensation to the property owner as part of the exercise of eminent domain powers.

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 in the State. 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.

Issuing access permits and construction of roadway and entrance improvements by developers are some of the last steps before opening businesses and selling commercial or residential properties for occupancy. The Maryland Department of Transportation's *2015 Annual Attainment Report on Transportation System Performance* indicates that in fiscal 2014, SHA issued 88% of completed access permit applications within 21 days of receiving the completed permit package.

State Expenditures: SHA advises that approximately 20 to 30 permit applicants appeal access permit decisions to the Maryland Department of Transportation each year and that the same number of applicants likely petition for judicial review in the circuit court each year under the bill. Therefore, TTF expenditures increase as SHA spends additional staff time and resources from its Access Management Division and Office of Counsel to defend its decisions in the circuit courts; however, any impact cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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md/lgc

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