

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 431

(Senator Klausmeier, *et al.*)

Budget and Taxation

**Transportation - State Highway Administration - Sale or Lease of Highway
Naming Rights**

This bill authorizes the State Highway Administration (SHA) to sell or lease the naming rights for all or part of a State highway to a private entity if doing so is consistent with federal regulations governing the distribution of federal highway funds to the State. The term of a contract must be for at least one year. This authority is limited to public relations or advertising purposes and may not be construed to require that any highway sign or mailing address be altered. Private entities that purchase or lease naming rights may erect outdoor signs along the highway to advertise the designation and the private entity; however, all costs associated with a sign must be paid by the private entity. Outdoor signs authorized by the bill (1) may not be erected without prior SHA approval; (2) may not detract from the safety of the traveling public; (3) must be aesthetically appropriate; (4) may not include a name that is, among other things, profane, sexually explicit, or offensive; and (5) are subject to provisions regulating outdoor advertising in current law. All proceeds from the sale or lease of naming rights must be credited to the Transportation Trust Fund (TTF). SHA must adopt regulations to implement the bill.

Fiscal Summary

State Effect: TTF revenues increase potentially significantly in FY 2018 and subsequent years due to the sale or leasing of naming rights. Expenditures are not materially affected.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: Potential meaningful. Small businesses that buy or lease naming rights may benefit financially from the increased exposure.

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 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. Generally, SHA may not issue an outdoor sign permit for a sign along or near a scenic byway located on a federal aid primary highway.

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.

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.

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 outdoor advertising license fees range from \$50 to \$750 depending on the number of structures. Permits and licenses must be renewed annually.

State Revenues: TTF revenues increase potentially significantly in fiscal 2018 and subsequent years to the extent State highway naming rights are sold or leased. The bill's impact depends largely on the extent to which strong private entity interest exists and SHA negotiates lucrative sale and lease rates.

Additional Information

Prior Introductions: SB 617 of 2016, a similar bill, received a hearing in the Senate Finance Committee, but no further action was taken. SB 805 of 2013, a similar bill, received a hearing in the Senate Finance Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of Transportation; Department of Legislative Services

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mm/mcr

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