

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 614

(Senator Robinson)

Education, Health, and Environmental Affairs Health and Government Operations and
Appropriations

State Center - Redevelopment - Requirements, Participation, and Process

This bill specifies that the State or its reporting agency may not enter into a new or modified contract or plan for the development of State Center unless it meets specified conditions. It also requires a developer who is a party to a new contract or plan for the development of State Center to use best practical efforts to begin construction within 18 months after execution of the new contract and any associated plans.

Fiscal Summary

State Effect: The bill likely has no direct or material effect on State operations or finances for the five-year period covered by this analysis, as there is no prospect for a new contract or plan to develop State Center, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Any new contract or plan for the development of State Center must include provisions that require:

- an enforceable community benefits agreement between the developer and the State Center Neighborhood Alliance, Inc., to provide for a concerted and coordinated effort by the developer and the community throughout the entire planning, development, and construction phases of the project;

- a comprehensive local hiring plan for the project that includes goals for short-term construction jobs, long-term employment opportunities, and job training; and
- an economic improvement plan for the project that includes goals for the use of minority- and women-owned and locally owned businesses.

Any new or modified contract or plan for State Center must include, to the extent possible, (1) State agencies as the major anchor tenant; (2) space for retail, housing, offices, restaurants, and other private businesses; (3) a high-quality and full-service grocery store; (4) parking facilities designed to reduce parking impacts on the surrounding communities; (5) elements designed to increase the connection of State Center to the surrounding communities; and (6) green space.

The State or its reporting agency must include the State Center Neighborhood Alliance, Inc., and any other interested community association in the selection for a new development contract and the development of any plans for State Center or the modification of existing plans.

The bill must be construed to apply only prospectively and does not apply to any contract existing before the October 1, 2018 effective date. However, to the extent possible, the bill may be construed to apply to a modification made to an existing contract.

Current Law: Chapter 5 of 2013 established a new framework for the approval and oversight of public-private partnerships (P3s). Chapter 5 defined a P3 as a method for delivering public infrastructure assets using a long-term, performance-based agreement between specified State “reporting” agencies and a private entity where appropriate risks and benefits can be allocated in a cost-effective manner between the contract partners, in which:

- a private entity performs functions normally undertaken by the government, but the reporting agency remains ultimately accountable for the public infrastructure asset and its public function; and
- the State may retain ownership of the public infrastructure asset, and the private entity may be given additional decision making rights in determining how the asset is financed, developed, constructed, operated, and maintained over its life cycle.

A “public infrastructure asset” is a capital facility or structure, including systems and equipment related to the facility or structure intended for public use.

Only reporting agencies identified by Chapter 5 may establish a P3. Reporting agencies include the Department of General Services which oversees building purchases and leases for most of State government, the Maryland Department of Transportation, the Maryland Transportation Authority, and specified State higher education institutions. However, P3s do not include agreements entered into by the University System of Maryland, St. Mary's College of Maryland, Morgan State University, and Baltimore City Community College in which State funds are not used to fund or finance any portion of the project. Specified revenue-producing transportation facilities are also not considered P3s.

Background/State Fiscal Effect: State Center generally refers to the 28-acre property in West Baltimore that is owned by the State and includes several State office buildings and the Fifth Regiment Armory. A P3 agreement between the State and State Center LLC, with an estimated total cost of \$1.5 billion, was approved by the Board of Public Works (BPW) in 2010, prior to the enactment of Chapter 5. The plan, developed with substantial input from community groups, involved a mixed-use development that included office, retail, parking, and green space with new State office buildings and a full-scale grocery store serving as the main anchors. The financial underpinning for the project involved long-term State leases for office space in the development.

A legal challenge to the agreement was initiated by local merchants and office building owners shortly after it was approved by BPW in 2010; the case lasted for four years, during which no construction occurred, until the Court of Appeals rejected the challenge. Shortly thereafter, the new administration of Governor Laurence J. Hogan, Jr., began negotiations with State Center LLC for adjustments to the terms of the agreement. Those negotiations entered mediation, but no agreement was reached. In December 2016, BPW voted unanimously to void the office leases and filed suit against State Center LLC to cancel the project. State Center LLC filed a countersuit seeking compensation for its role in the project. Pending the outcome of the competing lawsuits, State Center LLC retains exclusive rights to develop the property for the foreseeable future.

In January 2018, the Maryland Stadium Authority completed an alternative land use study for State Center that was requested by BPW. The report describes the study as “cursory in nature,” and it is not intended to serve as the basis for a new State Center Development but rather to present preliminary options for future development. The State likely cannot issue a public notice of solicitation for a new State Center P3 project, as required by Chapter 5, until the pending lawsuits are resolved. Given the complexity of the issues involved and the current posture of both parties, any resolution likely will take several years. If a resolution is reached in a shorter time period, and a new public notice of solicitation is issued by the State, the bill may require additional staff and expenditures by the Department of General Services to oversee the development of a new plan.

Additional Information

Prior Introductions: None.

Cross File: HB 1286 (Delegate Glenn, *et al.*) - Health and Government Operations and Appropriations.

Information Source(s): Department of Budget and Management; *Baltimore Sun*; Maryland Stadium Authority; Department of General Services; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2018
nb/ljm Third Reader - March 26, 2018
Revised - Amendment(s) - March 26, 2018
Enrolled - April 26, 2018
Revised - Amendment(s) - April 26, 2018

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