

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 905  
Finance

(Senator Smith)

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State Highway Administration - Construction and Maintenance - Permit  
Requirements (Nighttime Construction Noise Reduction Act)

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This bill prohibits the State Highway Administration (SHA) from issuing a permit for work to be conducted on a State highway between 10 p.m. and 6 a.m. the following day in a residential zone, a commercial residential zone, an area within 500 feet of one of those zones, or an area within 500 feet of a dwelling; however, SHA may issue such a permit if a zoning official determines that doing so is in the interest of public safety, health, or welfare.

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Fiscal Summary

**State Effect:** Transportation Trust Fund (TTF) expenditures increase, potentially significantly, beginning in FY 2021. Revenues are not materially affected.

**Local Effect:** County zoning officials can review projects and make determinations for SHA using existing budgeted resources. Local revenues are not directly affected.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:** “Commercial/residential zone” means any area that is designated on a zoning map as permitting multifamily residential uses to be located on lots as the sole use or in conjunction with commercial and office uses. “Dwelling” means a structure any part of which has been adapted for overnight accommodation for an individual, regardless of whether an individual is actually present. “Residential zone” means any area that is

designated on a zoning map as residential. “Zoning official” means a county employee with the duty of enforcing the zoning law.

**Current Law/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/noise 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.

Unless permitted to do so by SHA, a person may not (1) make an opening in any State highway; (2) place any structure on any State highway; (3) change or renew any structure placed on any State highway; (4) dig up any State highway for any purpose, including the placement of pipes, sewers, poles, wires, or rails; (5) plant or remove any tree on any State highway; or (6) place any obstruction or improvement on any State highway.

**State Expenditures:** TTF expenditures increase, potentially significantly, due to the bill’s changes. A reliable estimate of the increase in costs is difficult to quantify, as it depends on the affected projects, locations, and timeframes. Nevertheless, prohibiting work from being conducted between 10 p.m. and 6 a.m. in the affected areas increases costs for projects that would otherwise be conducted during those hours. According to SHA, shifting many of the typical nighttime activities to daytime increases project overhead costs, contractor costs, and traffic maintenance costs. Depending on how many projects are affected in any given year and how much longer the projects take to complete, the total increase in TTF expenditures could be significant.

SHA also advises that the bill may have significant effects on traffic patterns in the areas affected by the bill. SHA’s Office of Structures and Office of Construction permit a significant volume of work to be performed at night due to the type of work being performed and daytime traffic congestion. Work such as pouring concrete, erecting steel beams, line stripping and replacement, drainage work, and guardrail installation often require the closing of lanes or entire roads, and is, therefore, most frequently permitted to be done at night. Shifting this work to daytime hours could create significant traffic delays and congestion.

Under the bill, SHA may still issue a permit for work to be done at night if a zoning official makes a determination that doing so is in the interest of public safety, health, or welfare. However, the extent to which such determinations will be made is unclear, and the process of obtaining the determinations from zoning officials could delay projects.

**Small Business Impact:** Small businesses that contract with SHA for highway maintenance and construction may be affected in several ways. For example, small business contractors could be positively affected to the extent the bill lengthens projects,

resulting in increased revenue for contractors to complete the affected SHA projects. On the other hand, to the extent the bill delays the start of or lengthens SHA projects, contractors may be limited in starting other projects they plan to undertake.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 84 (Delegate Moon, *et al.*) - Environment and Transportation.

**Information Source(s):** Maryland Department of Transportation; Maryland Association of Counties; Maryland Municipal League; Baltimore City; Harford and Montgomery counties; City of Rockville; Department of Legislative Services

**Fiscal Note History:** First Reader - February 10, 2020  
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