

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1407 (Delegates Smith and Hixson)
Environment and Transportation

Economic Development - Business Improvement Districts

This bill broadens the tax base of business improvement districts to include all real property (rather than solely nonresidential property) that is not exempt from paying real property taxes. To form a business improvement district, owners of at least 51% interest in the *assessed value* of the nonexempt property in the district is required, rather than the current requirement of at least 80% of the owners of the total number of parcels in the district. The threshold for expanding a district is likewise altered to require owners of at least 51% interest in the assessed value of the nonexempt property in the area proposed for inclusion to agree to form a business improvement district.

Fiscal Summary

State Effect: None.

Local Effect: Local revenues and expenditures increase to the extent the bill facilitates the creation or expansion of business improvement districts and from expanding the tax base of districts to include residential property, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful impact for businesses that are located in, or adjacent to, a business improvement district.

Analysis

Current Law:

District Corporation Formation

The purpose of the law authorizing the creation of business improvement districts is to promote the general welfare of residents, employers, property owners, and others within the districts. A local government may adopt a local law to create a business improvement district. Documentation necessary to form a district must be sent to the governing body of the county and municipality, if applicable, in which the proposed district is located. The documentation must contain specified information including (1) a statement expressing the intent to establish a district corporation that is signed by at least 80% of the owners of the total number of nonexempt property parcels within the proposed district and (2) a proposed three-year plan that contains information such as the proposed annual business improvement district tax and the proposed articles of incorporation and district corporation bylaws. “Nonexempt property” means *nonresidential* property that is not exempt from paying real property taxes.

The local governing body is required to hold a public hearing within 45 days of receiving documentation from property owners seeking to establish the district. At least 21 days before the hearing, the local governing body is required to publish notice of the hearing, and the property owners seeking to establish the district must send notice to nonexempt property owners and commercial tenants within the proposed district.

Within 10 days after the public hearing, if a local governing body determines that the needs of the district meet the purposes set forth in the law, the governing body *must* authorize the district.

The local governing body must impose the proposed district tax at a rate specified by the district corporation board and approved by the local governing body. District taxes are collected in the same manner as real property taxes, and the district must reimburse the local governing body for the costs of collecting the tax. The tax imposed may not count against a county or municipality tax cap.

An established district may expand the geographic area of the district if (1) a petition for inclusion is submitted from at least 80% of the owners of the total number of parcels of nonexempt property in the geographic area proposed for inclusion in the district; (2) the petition is accepted by a majority vote of the board of the district corporation; and (3) the appropriate documents, as applicable, are submitted to, and a hearing is held by, the appropriate local governing body.

District Corporation Board and Powers

District corporations are governed by a five-member board of directors, which is appointed by members of the district according to procedures specified in the local law establishing the district. The board is required to file an annual report with the applicable local governing body that includes (1) a financial statement for the prior year; (2) a proposed operating budget; (3) information showing the goals and results of operations; and (4) any proposed business plan revisions.

Except as limited by any articles of incorporation, a district corporation may (1) receive money from its incorporating local government, the State, or nonprofit organizations; (2) charge fees for its services; (3) employ individuals and hire consultants; and (4) use the services of other governmental units.

Local Government Authority and Requirements

Subject to a public hearing, local governing bodies are authorized to adopt a local law creating a district.

Local governing bodies are required every three years to review the effectiveness and desirability of continuing the district. In addition, if requested by owners of nonexempt property with the district, local governing bodies are required to develop policies and procedures for evaluating the desirability of continuing the district. If the local governing body does not approve the continued existence of the district, the district will cease to exist as directed by the local governing body but will continue its existence only as long as necessary to terminate operations in a reasonable manner.

Tax-exempt Property

Several categories of property are exempt from paying property taxes, subject to specified conditions. Generally exempt categories include government-owned, religious, charitable, fraternal, and educational property. Properties owned by individuals with certain disabilities are also either partially or completely exempt from property taxes.

Background: Chapter 461 of 2010 authorized a county or municipality to establish business improvement districts, subject to specified conditions, as discussed above.

Business improvement districts have traditionally been established by groups of local businesses and property owners. The goal of a business improvement district is to attract customers, clients, and shoppers to the district by implementing coordinated improvements and shared marketing efforts within the district.

The Downtown Partnership oversees the Downtown Management Authority (DMA), which is Baltimore’s oldest and largest business improvement district. Programs include uniformed operations teams of guides, clean sweep ambassadors (pick up litter), and park stewards. The district encompasses 106 blocks. Commercial property owners in DMA fund the services through an annual surcharge of approximately \$0.21 per \$100 of assessed property value. For comparison, Baltimore City’s real property tax rate is \$2.25 per \$100 of assessed value.

A 2015 [report](#) by the Montgomery County Office of Legislative Oversight surveyed several large jurisdictions and compiled a variety of data related to business improvement districts. The percent and type of support necessary to create a business improvement district is shown below in **Exhibit 1**. Some cities, including Philadelphia and Pittsburgh, do not require a petition of support to establish a business improvement district – instead, there is an objection period when opposition must collect signatures opposing the formation of the district.

Exhibit 1
Percent and Type of Support Necessary to Establish Business Improvement District
Selected Jurisdictions

Jurisdiction	Petition Percentages
New York	51% of assessed value; and 51% of property owners
Arlington	50% of property owners; and 50% of assessed square footage
Washington, DC <i>Central Business District</i>	51% of assessed value; and 25% of property owners
Washington, DC <i>(Outside Central Business District)</i>	51% of commercial tenants; and 51% of individual property owners; and 51% of assessed value
Denver	50% of assessed value; and 50% of acreage
Chicago	20% of tax payers responsible for paying the assessment
Boston	60% of property owners representing 51% of the assessed value
San Francisco	30% of property owners who pay the assessment
Los Angeles	15% of business owners; or 50% of property owners

Source: Montgomery County Office of Legislative Oversight; Department of Legislative Services

Local Fiscal Effect: Under the bill, if a local governing body receives a statement signed by owners of at least 51% interest in the assessed value of the nonexempt property in the geographic area of the proposed district, the local governing body is required to have a public hearing. Additionally, if the local governing body determines that the needs of the district meet the purposes of the business improvement district law, the local governing body is required to adopt a local law approving the district. Therefore, the bill may compel a local government to create additional business improvement districts.

To that end, local government revenues and expenditures increase to the extent that the bill facilitates the creation of additional business improvement districts or the expansion of existing business improvement districts. The amount cannot be reliably estimated at this time. Any additional costs for business improvement district administration is recoverable through taxes on the assessable base of all nonexempt real property in the district, as authorized under current law.

The Department of Legislative Services notes that it is unclear whether, under the bill, existing business improvement districts must apply for approval from the local governing body to begin taxing *residential* property located in the districts. Regardless, if existing business improvement districts do not adjust their rates to reflect the expanded assessable base – either because the districts do not need to apply for approval or are granted approval to maintain existing rates for nonresidential property while taxing new residential property – total local government revenues and expenditures further increase. If existing business improvement districts are required to apply for approval to tax residential property *and* are required to establish a tax rate that is revenue neutral in consideration of the expanded assessable base, then local government revenues and expenditures are not affected.

Small Business Effect: Small businesses currently paying taxes for business improvement districts may benefit from the broadened tax base under the bill. If the overall revenue required in each district remains unchanged, the tax on commercial and industrial property decreases, offset by the new tax on residential property in the district. However, if existing business improvement districts are not required to adjust their tax rates to reflect the expanded assessable base, small businesses located in business improvement districts are not affected.

Additional Comments: The bill alters the threshold of support necessary to establish or expand a business improvement district by making it solely based on the assessed value of the nonexempt property in the district. Theoretically, one large business can meet the minimum requirement of 51% and establish a district that encompasses the other 49%. As commercial property generally has a substantially greater value than individual residential property, a single business could establish a district encompassing many residential properties without needing the support of the residential property owners. The residential

property owners would then be required to pay the tax on real property for the operation of the business improvement district. The same conditions apply to small businesses with low property values.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Department of Commerce, Baltimore City, Montgomery County, Downtown Baltimore Partnership, Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2016
min/rhh

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