

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 303 (Senators Brochin and Klausmeier)
Education, Health, and Environmental Affairs
and Finance

**Counties - Transportation Adequate Public Facility Law - State Highway
Intersection**

This bill requires the State Highway Administration (SHA) to make a determination of the level of traffic congestion at a “State highway intersection” for purposes of determining whether development is allowed under a “transportation adequate public facility law.”

The bill also prohibits a county transportation adequate public facility law that was in effect on January 1, 2016, from being amended or repealed by the county.

Fiscal Summary

State Effect: The bill’s requirements can be handled using existing budgeted resources.

Local Effect: Any fiscal impact on local governments depends on the congestion limits set by SHA under the bill and cannot be reliably estimated at this time, as discussed below.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Transportation adequate public facility law” means an adequate public facility law or regulations that limit development in an area if traffic congestion in the area exceeds a specified level or would exceed a specified level if development were to proceed. A “State highway intersection” means the intersection of State highways or a State highway and a county road.

Current Law/Background: “County road” means any public highway that is owned by a public body or government agency and is not a State highway or located in Baltimore City. “State highway” means any public highway owned by the State. “Highway” includes rights-of-way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, railroad grade separations, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, including bicycle and walking paths, and any other property acquired for the construction, operation, or use of the highway.

Local governments enact Adequate Public Facility Ordinances (APFOs) to ensure that the infrastructure necessary to support any proposed new development is built concurrently with, or prior to, that new development. APFOs are an effort to time the provision of public facilities (water, sewer, schools, roads, and emergency services) to be consistent with development demand and local comprehensive plans. While APFOs can be a strong tool to influence and guide growth, they are more frequently used when certain public facilities have already reached capacity. For example, if an intersection near a proposed shopping center is already too congested, an APFO may require the local government or developer to alleviate the congestion before the development may proceed.

According to the Maryland Department of Planning’s *2014 Annual Report*, 14 counties and 26 municipalities in Maryland had APFOs in calendar 2014.

Local Fiscal Effect: Any fiscal impact on local governments depends on the congestion limits set by SHA under the bill and cannot be reliably estimated at this time. Local governments with traffic APFOs may be positively or negatively affected.

Using Montgomery County as an example, the county advises that when a developer does not meet its adequacy standards for traffic congestion, it requires the developer to either cease development, pay the county to improve the roadway, or improve the roadway to meet the adequacy standards itself. If the congestion limits set by SHA under the bill are the same as Montgomery County’s standards, the bill has no material effect on the county.

If the limits set by SHA are lower than Montgomery County’s standards (allowing for *more* congestion than under current law), developers may not be required to pay as much to improve the roadway; Montgomery County expenditures could increase if the county still wants the roadway to meet the local standards. On the other hand, if the limits set by SHA are more stringent than Montgomery County’s standards (allowing for *less* congestion than under current law), developers would need to spend more money to make improvements, pay the county to do so, or, potentially, cease development.

Small Business Effect: In counties with traffic APFOs, developers may be positively or negatively affected depending on the traffic congestion limits set by SHA. If the SHA limits are different than the applicable local standards, the bill may result in a change in roadway improvements required. In some cases, it could even affect whether or not a development may proceed. In addition, other small businesses in the area could be affected to the extent the bill alters the course of development that would otherwise occur.

Additional Information

Prior Introductions: None.

Cross File: HB 442 (Delegate Bromwell, *et al.*) – Environment and Transportation.

Information Source(s): Baltimore City, Montgomery County, Maryland Department of Transportation, Maryland Department of Planning, Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2016
kb/lgc

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