

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 661 (Senator Lee)
Judicial Proceedings

Law Enforcement - Federal Surplus Program - Equipment Acquisition

This bill prohibits a law enforcement agency from receiving specified equipment from a “surplus program.” Within 14 days after a law enforcement agency requests equipment from a surplus program, the law enforcement agency must post notice of the request on a publicly accessible website.

Fiscal Summary

State Effect: Potential minimal increase in State expenditures, as discussed below. Revenues are not affected.

Local Effect: Potential minimal increase in local expenditures, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: A law enforcement agency may not receive the following equipment from a surplus program: (1) an armored or weaponized aircraft, drone, or vehicle; (2) a “destructive device”; (3) a “firearm silencer”; or (4) a grenade launcher.

“Surplus program” means a program operated by the federal government for the transfer of surplus military equipment to a law enforcement agency. “Destructive device” means explosive material, incendiary material, or toxic material that is (1) combined with a delivery or detonating apparatus so as to be capable of inflicting injury to persons or damage to property or (2) deliberately modified, containerized, or otherwise equipped with

a special delivery, activation, or detonation component that gives the material destructive characteristics of a military ordnance. “Destructive device” includes a bomb, grenade, mine, shell, missile, flamethrower, poison gas, Molotov cocktail, pipe bomb, and petroleum-soaked ammonium nitrate. “Firearm silencer” means a device that is designed for silencing, muffling, or diminishing the report of a firearm. “Firearm silencer” includes a combination of parts designed, redesigned, or intended for use in assembling or fabricating a firearm silencer or muffler.

Current Law/Background: State and local law enforcement agencies can obtain excess federal property at little or no cost through the 1033 Program, the 1122 Program, and the Surplus Property Donation Program.

The 1033 Program: The National Defense Authorization Act (NDAA) specifies the budget and expenditures of the U.S. Department of Defense (DOD). The authorization bill determines the agencies responsible for defense, establishes funding levels, and sets the policies under which money will be spent. In the NDAA for federal fiscal 1990 and 1991, the U.S. Congress authorized the transfer, without charge, of excess DOD personal property to federal and state agencies for use in counter-drug activities. The U.S. Congress later passed the NDAA for federal fiscal 1997, in which Section 1033 granted permanent authorization for all law enforcement agencies to acquire property for bona fide law enforcement purposes, especially counter-drug and counter-terrorism activities. The program is commonly referred to as the 1033 Program. The program has allowed law enforcement agencies to acquire vehicles (land, air, and sea), weapons, computer equipment, fingerprint equipment, night-vision equipment, radios and televisions, first aid equipment, tents and sleeping bags, and photographic equipment, among other items.

The 1122 Program: The NDAA for federal fiscal 1994 contained Section 1122, which allows state and local governments to purchase new law enforcement equipment for counter-drug activities through the federal government. The law allows transfer of excess DOD property that might otherwise be destroyed to law enforcement agencies across the United States and its territories.

Surplus Property Donation Program: The Federal Surplus Property Donation Program enables certain nonfederal organizations, such as local jurisdictions (states, cities, counties, towns, and villages) and nonprofit organizations, to obtain surplus property from the federal government based on an application process. Law enforcement agencies enrolled in the 1033 Program are among the governmental agencies eligible to obtain property from the program. The Department of General Services is the designated State agency that administers the federal donation program in Maryland.

Personal property includes all types and categories of property, except land and real property, certain naval vessels, and records of the federal government. Examples of

surplus property are (1) communication and electronic equipment, including computers; (2) furniture/motor vehicles/clothing/medical equipment supplies; (3) hand and machine tools, appliances, hardware, and boats; and (4) construction equipment and airplanes/generators.

State Expenditures: State expenditures increase as a result of the bill's prohibition to the extent that State law enforcement agencies must purchase equipment that would otherwise be available to them through a federal surplus program. Any expenditure increase is likely minimal in any given year, as equipment available through a federal surplus program is not always consistent with the needs of the State law enforcement agency.

The Department of State Police (DSP) advises that it has received in excess of \$1 million in equipment and supplies, including armored vehicles and firearms, through federal surplus programs since 1995. DSP likely would not have independently purchased all of the equipment and supplies that it received if it had not been able to do so through a surplus program, however.

The University System of Maryland advises that the University of Maryland at College Park currently has a peace keeper armored vehicle that it obtained through a federal surplus program. The one-time cost to purchase an armored vehicle and radio system is approximately \$256,000.

State law enforcement agencies can handle posting notice of requests for equipment from a surplus program with existing resources.

Local Expenditures: Local government expenditures increase to the extent that local law enforcement agencies must purchase equipment that would otherwise be available to them through a federal surplus program. Local law enforcement agencies can post notice of requests for equipment from a federal surplus program with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 240 (Delegate Moon, *et al.*) - Judiciary.

Information Source(s): Baltimore City; Harford and Talbot counties; City of College Park; Comptroller's Office; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Department of General Services; Department of Natural Resources; Department of State Police; U.S. Department of Justice; Defense Logistics Agency; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2018
md/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510