

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 230

(Chair, Finance Committee)(By Request - Departmental -
Transportation)

Finance

Maryland Port Administration - Land Acquisition and Payment to Counties

This departmental bill decreases the number of days (from 90 days to 30 days) a local government has to deny a request made by the Maryland Port Authority (MPA) for approval to purchase or condemn property in the local jurisdiction. The bill also establishes a maximum term of three years for any payment in lieu of tax agreements that MPA and a county may enter into for tax-exempt property. Finally, the bill repeals a requirement that Anne Arundel County *must* hold a public hearing in order to approve a request by MPA to acquire an interest in land or improvements on land in the county; instead, the county is *authorized* to do so.

Fiscal Summary

State Effect: Transportation Trust Fund expenditures may decrease to the extent that fewer or smaller payments in lieu of taxes are made to counties as a result of the bill; however, any such impact cannot be reliably estimated. Revenues are not directly affected.

Local Effect: County revenues may decrease to the extent that fewer or smaller payments in lieu of taxes are made by MPA as a result of the bill; however, any such impact cannot be reliably estimated. Local government expenditures are likely not materially affected, but the bill could create an administrative burden for affected local governments.

Small Business Effect: The Maryland Department of Transportation has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law:

Maryland Port Authority – Acquisition of Property

In order to purchase or condemn any property located in any political subdivision (*i.e.*, a county, Baltimore City, or a municipality) MPA must make a written request to the appropriate local government. The request is deemed to have been approved unless MPA is notified in writing within 90 days that the request has not been approved.

If the property is located in a county other than Baltimore City and not in any municipality, approval must be given by the county. If the property is located in a municipality within any county, both the county and municipality must approve the acquisition, as specified. If the property is located in Baltimore City, the Board of Estimates of Baltimore City must approve the acquisition.

In addition, in Anne Arundel County, MPA may not acquire any interest in land or improvements on land in the county without the prior approval of Anne Arundel County, given after a public hearing.

Maryland Port Authority – Property Tax Exemptions and Payments in Lieu of Taxes

Generally, government-owned property is exempt from property taxes if the property is devoted to a governmental use or purpose and is owned by (1) the federal government; (2) the State; (3) a county or municipality; or (4) an agency or instrumentality of one of these entities. Moreover, port facilities and cargo handling facilities owned by the State are exempt from being subject to property taxes. However, MPA is authorized to make an agreement with a county to make payments in lieu of taxes or otherwise make voluntarily contributions with respect to the tax-exempt property.

Background: MPA advises that the bill is intended to address two difficulties it has experienced in recent years. First, MPA advises that the 90-day approval period has made it difficult for MPA to quickly respond to land acquisition opportunities. While MPA waits for approval from the appropriate local government entities, private sector companies are able to quickly bid on property and/or participate in private auctions. Decreasing the approval period to 30 days gives MPA more flexibility and options to move quickly when opportunities arise.

Second, MPA advises that some counties have used the authorization for “voluntary contributions” to require higher payments in lieu of taxes. In one case, MPA reports that the county would not approve an acquisition unless MPA agreed to pay 100% of the

property taxes that the county otherwise would have received. MPA advises that establishing a three-year time limit on any such agreement allows it to renegotiate more appropriate tax agreements with a county after the initial agreement and property acquisition takes place.

State Expenditures: Transportation Trust Fund expenditures may decrease to the extent that fewer or smaller payments in lieu of taxes are made to affected counties as a result of the bill. However, any such impact depends primarily on the future negotiations that take place between MPA and affected counties and, therefore, cannot be reliably estimated.

Local Revenues: County revenues decrease to the extent that fewer or smaller payments in lieu of taxes are made by MPA as a result of the bill. However, any such impact depends primarily on the future negotiations that take place between MPA and affected counties and, therefore, cannot be reliably estimated.

The 30-day timeframe established by the bill for local approval of an acquisition may create an administrative burden for affected local governments; however, it is not anticipated to materially affect local finances. For example, Anne Arundel County advises that its County Council meets only twice monthly, giving the council limited time to discuss and negotiate any proposed acquisition by MPA.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Transportation; Anne Arundel County; Baltimore City; Department of Legislative Services

Fiscal Note History: First Reader - January 15, 2021
rh/lgc

Analysis by: Richard L. Duncan

Direct Inquiries to:

(410) 946-5510

(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Port Administration – Land Acquisition and Payment to Counties

BILL NUMBER: SB 230

PREPARED BY: Maryland Port Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

OR

WILL HAVE A MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The Maryland Port Administration (MPA) and the marine terminal operators generate revenue and jobs for the State and jurisdiction in which the terminal is situated. MPA’s latest acquisition of land for port expansion will generate approximately 4,120 jobs for the State and an increase of \$36.1 million in State, county, and municipal tax revenues. Port expansion brings positive economic growth not only for the State but at the local level as well.

Carrying a tax liability impedes MPA in its competition with rival ports to provide economic benefit for the State and local jurisdictions. Local jurisdictions obtain revenue from payment in lieu of tax exemption that they may be reluctant to surrender. However, broader economic benefits from port business amply offset such revenue loss and keep the Port of Baltimore in sound competitive posture with neighboring U.S. East Coast ports.