

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1221 (Delegate Rosenberg)
Environment and Transportation

Baltimore East-West Corridor - Property Acquisition - Prohibiting Involuntary Residential Displacement

This bill prohibits the Maryland Transit Administration (MTA) from acquiring any real property for planning, construction, operation, or maintenance of the “Red Line” project if the acquisition would result in involuntary residential displacement. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: No immediate effect, as there is no funding in the *Consolidated Transportation Program* (CTP) for FY 2023 through 2028 for the Red Line project; however, the bill could have an effect on State expenditures if the Red Line project is implemented in the future, as discussed below. Revenues are not directly affected.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: “Red Line” means a rail transit facility using one or more vehicles operating in tandem on a fixed rail in a combination of at-grade elevated, and underground configurations through Baltimore City and Baltimore County along a generally east to west alignment between the terminus of Security Boulevard on the west and the Johns Hopkins Bayview Medical Center on the east, connecting as appropriate to other fixed-route transit services.

Current Law:

Maryland Transit Administration

MTA is a modal unit within the Maryland Department of Transportation (MDOT), and it operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services, such as the light rail, Baltimore Metro subway, commuter buses, MARC trains, and mobility/paratransit vehicles. With the exception of the District of Columbia transit system, MDOT and MTA are generally the agencies responsible for the construction and operation of transit lines in the State.

Condemnation – Generally

The power to take, or condemn, private property for public use is one of the inherent powers of state government and, through the State, its political subdivisions. Courts have long held that this power, known as “eminent domain,” is derived from the sovereignty of the state. Both the federal and State constitutions limit the condemnation authority. Both constitutions establish two requirements for taking property through the power of eminent domain: (1) the property taken must be for a “public use”; and (2) the party whose property is taken must receive “just compensation.” In either event, the party whose property is being taken is generally entitled to a judicial proceeding prior to the taking of the property. However, the Maryland Constitution does authorize “quick-take” condemnations in limited circumstances prior to a court proceeding.

Other entities have been given express statutory authority by the State to exercise condemnation powers under specified circumstances, including the major subdivisions of the State, municipalities, and specified utilities, such as gas, oil pipeline, railroad, telephone and telegraph, and water companies.

State Expenditures: The [CTP for Fiscal 2023 through 2028](#) does not include any funding to plan or implement the Red Line project, which was canceled in 2015. However, to the extent the State chooses to move forward with the Red Line project, the bill may make the implementation of the project more difficult or costly by prohibiting MTA from using its condemnation powers to acquire property for the project if doing so would result in involuntary resident displacement. For example, if the most cost-effective path for the line requires residential displacement and affected residential property owners are not willing to move, MTA may have to use a more expensive, alternate path. However, as there is no current funding for the Red Line project, any such impact is speculative.

Additional Comments: As noted above, the CTP does not include any funding for the Red Line project. However, the CTP does include funding for an [East-West Priority](#)

[Corridor transit project](#) that includes dedicated bus lanes, transit signal priority, bus stop enhancements and transit hubs, and upgrades to pedestrian and bicycle safety. The project extends from a western terminus in Baltimore County at the Centers for Medicare and Medicaid Services, travels east through Baltimore City, and ends in the Fox Ridge community in eastern Baltimore County. The project is informed by a [recent study](#) that used information gathered and analyses performed for the original Red Line project. MTA advises that discussions with stakeholders about advancing a major transit project along the corridor are ongoing and will require additional analysis.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Transportation; Judiciary (Administrative Office of the Courts); Baltimore County; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2023
km/lgc

Analysis by: Richard L. Duncan

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