

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1138 (Delegate Frush, *et al.*)
Environmental Matters

**Critical Areas Program - Resource Conservation Areas - Blackwater National
Wildlife Refuge**

This emergency bill provides that any property designated as a Resource Conservation Area (RCA) that is located adjacent to, or within 1,000 feet of, the waters of a major tidal tributary in the Blackwater National Wildlife Refuge may not be developed, for any reason, using growth allocation. The bill applies to any development that meets those criteria, including a development proposed before January 1, 2006.

Fiscal Summary

State Effect: Although State finances would not be directly affected, to the extent the bill prevents development that otherwise would occur, State tax revenues could decrease.

Local Effect: To the extent the bill prevents development that otherwise would occur, the bill could have a significant impact on local finances in Dorchester County and the City of Cambridge.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Under the Chesapeake Bay and Atlantic Coastal Bays Critical Area Law, local jurisdictions are required to establish three land use designations: Intensely Developed Areas (IDAs), Limited Development Areas (LDAs), and RCAs. In order to accommodate future population growth, the total IDA and LDA acreage may be increased by a “growth allocation.” This allowable development increase is calculated by

a formula. In specified counties, if the county is unable to use a portion of the growth allocation within or adjacent to existing IDAs or LDAs, then that portion of the allocated expansion may be located in the RCA in addition to the expansion allocated in the criteria of the Critical Area Commission.

Background: This bill stems from the proposed development within the vicinity of the Blackwater National Wildlife Refuge in Dorchester County. One proposed development in particular, Blackwater Resort Communities, which is located approximately 3.5 miles from the northernmost point of the refuge, has raised concerns regarding the impacts of development on the Little Blackwater River Watershed and the refuge. The refuge was established in 1933 as a refuge for migratory birds and includes over 27,000 acres, composed mainly of rich tidal marsh; other habitat types include freshwater ponds, mixed evergreen and deciduous forests, and small amounts of cropland and managed impoundments that are seasonally flooded for waterfowl use.

Local Fiscal Effect: By limiting future development in the vicinity of the Blackwater National Wildlife Refuge, the bill could result in a decrease in local tax revenues; any such decrease cannot be reliably estimated at this time. Local expenditures for government services that otherwise would have been provided also would decrease.

Legislative Services notes that the bill's prohibition is linked to proximity to a "major tidal tributary" in a national wildlife refuge. However, the term "major tidal tributary" is not defined in State law, and a piece of land, such as a national wildlife refuge, cannot have a "tributary." Accordingly, it is unclear which jurisdictions could be affected by the bill. It is assumed, however, that the bill would affect Dorchester County and the City of Cambridge. In any event, the bill would prohibit the use of growth allocation on affected lands. Accordingly, future development would be permitted at a density of one dwelling unit per 20 acres.

According to the Critical Area Commission, Dorchester County has amended its comprehensive plan to accommodate the proposed Blackwater Resort Communities project. The City of Cambridge has annexed the 1,080-acre site of the proposed development and has planned to provide certain government services to this area. Under the bill, future development would be limited in these areas.

Although the original proposal included the use of growth allocation for approximately 200 of the 3,200 proposed dwelling units, according to the Critical Area Commission, the Dorchester County Council recently placed two conditions on its approval of the city's use of growth allocation. (Legislative Services notes, however, that the city still has to approve the growth allocation.) The county's conditions are (1) that no residential units be located in the Critical Area portion of the site; and (2) that a baseline environmental

study be undertaken. With these changes, the Critical Area Commission advises that the bill would still affect the proposed golf course, hotel, and conference center. However, it is possible that the developer could amend the development plan to accommodate the bill's changes. Dorchester County reports that, at this time, it is unknown whether the development plan would be amended, or whether the bill would stop the Blackwater Resort Communities development altogether. Legislative Services advises that, based on information provided by the Critical Area Commission, it is unlikely that the entire development would be prohibited as a result of this bill.

Under the *worst case scenario*, if the entire development were prohibited, Dorchester County reports that the bill could result in a decrease in county tax revenues of approximately \$85.1 million over a 10-year period; this estimate reflects \$54.3 million in lost property tax revenues, \$13.2 million in lost transfer/recordation tax revenues, \$11.6 million in lost excise tax revenues, and \$6 million in lost income tax revenues. Dorchester County also reports that county expenditures relating to the proposed development would decrease by an estimated \$85.4 million. In addition, financial commitments made by the developer (including the donation of two school sites valued at \$2 million and upgrades to county parks valued at \$0.5 million) would be lost. Legislative Services notes that the above estimates do not take into account the county's recent amendment regarding the use of growth allocation.

The City of Cambridge also estimates significant fiscal impacts if the proposed development is prohibited. The city reports that, as a result of the proposed development, it anticipates that the city's assessable base will increase by \$800 million to \$1 billion, resulting in an increase in local tax revenues of an estimated \$5.4 to \$6.7 million annually. Impact fees are estimated to generate an additional \$11.4 million; in addition, the city advises that developer fees totaling about \$2.5 million are anticipated to facilitate the completion of specified community amenities. Infrastructure costs are anticipated to total \$20 million. The city also notes that the proposed development is anticipated to result in an increase in tourism dollars spent in the area. Legislative Services notes that the above estimates do not take into account the county's recent amendment regarding the use of growth allocation.

Small Business Effect: By limiting future development in Dorchester County and the City of Cambridge, the bill could have a meaningful impact on the price of land, housing, and development in those areas. The bill, therefore, could have an impact on small businesses involved with development activity (such as construction firms, engineers, and landscapers) as well as other small businesses that provide goods and services to developed areas.

Dorchester County reports that the proposed Blackwater Resort Communities project is anticipated to result in 600 construction jobs and 300 permanent jobs. The City of Cambridge reports that, during and after construction, an estimated 150-200 jobs would be generated at the golf course and community center.

Additional Information

Prior Introductions: None.

Cross File: SB 100 was withdrawn on February 1, 2006.

Information Source(s): Department of Natural Resources (Critical Area Commission), City of Cambridge, Dorchester County, Department of Legislative Services

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