

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 888

(Delegate Benson, *et al.*)

Environmental Matters

Land Use - Community Benefit Agreements

This bill allows local jurisdictions, as part of the review of a site plan or development permit required by law, to recommend that a developer negotiate and enter into a community benefit agreement. The governing body of a jurisdiction covered by a community benefit agreement is a party to the agreement, unless the governing body affirmatively declines to participate in the agreement, and may seek to enforce the terms of the agreement, including those relating to matters otherwise outside the jurisdiction of the governing body.

Fiscal Summary

State Effect: None.

Local Effect: None. The bill does not directly affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary: “Community benefit agreement” is defined as a voluntary agreement by a developer to provide specified benefits or concessions to the community in which development is taking place coincident with the development of a property.

Current Law/Background: Local jurisdictions are currently authorized to enter into “development rights and responsibilities agreements” that generally specify the development rights of the property owner (permissible uses, density or intensity of use, *etc.*) and any responsibilities of the property owner such as dedication of a portion of the

property for public use, protection of sensitive areas, preservation and restoration of historic structures, or construction or financing of public facilities. The Court of Appeals characterized Chapter 562 of 1995, which first authorized local jurisdictions to utilize development rights and responsibilities agreements under Article 66B, as seeming to balance developers' and property owners' desires for more certainty and less monetary risk as they proceed with development, against local governments' desire to "receive greater public benefits on a more predictable schedule than might otherwise be attainable[.]"

A 2008 article in the UCLA Journal of Environmental Law and Policy describes community benefit agreements as a contract between a prospective developer and community representatives that "specifies the public benefits and amenities that a particular developer will provide to the impacted community in exchange for the community's support of its proposed project." The article indicates that the processes by which the agreements are negotiated can vary in terms of whether they are initiated by the developer or community representatives, and, in some cases may be encouraged by local officials.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Salkin, Patricia E. and Levine, Amy, *Understanding Community Benefits Agreements: Equitable Development, Social Justice and other Considerations for Developers, Municipalities, and Community Organizations*, 26 UCLA J. Env'tl. L. & Pol'y 291 (2008); Maryland Department of Planning; Garrett, Howard, and Montgomery counties; Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2010
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