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By: **Delegates Gordon, Barve, and Kagan**  
Introduced and read first time: February 2, 2000  
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Municipal Corporations - County Imposed Development Taxes and Fees -**  
3                                   **Prohibition**

4 FOR the purpose of prohibiting the governing body of a county from imposing certain  
5 development taxes or fees on new development that is located within the  
6 boundaries of a municipal corporation and that is not subject to the zoning  
7 authority of the county; and generally relating to the authority of a county to  
8 impose certain development taxes or fees on certain property within a municipal  
9 corporation.

10 BY repealing and reenacting, with amendments,  
11 Article 23A - Corporations - Municipal  
12 Section 2B  
13 Annotated Code of Maryland  
14 (1998 Replacement Volume and 1999 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17                                   **Article 23A - Corporations - Municipal**

18 2B.

19 (a) Except as provided in subsection (b), legislation enacted by a county does  
20 not apply in a municipality located in such county if the legislation:

21 (1) By its terms exempts the municipality;

22 (2) Conflicts with legislation of the municipality enacted under a grant of  
23 legislative authority provided either by public general law or its charter; or

24 (3) Relates to a subject with respect to which the municipality has a  
25 grant of legislative authority provided either by public general law or its charter and  
26 the municipality, by ordinance or charter amendment having prospective or  
27 retrospective applicability, or both:

- 1 (i) Specifically exempts itself from such county legislation; or  
2 (ii) Generally exempts itself from all county legislation covered by  
3 such grants of authority to the municipality.

4 (b) Notwithstanding the provisions of subsection (a)(2) and (3) of this section,  
5 the following categories of county legislation, if otherwise within the scope of  
6 legislative powers granted the county by the General Assembly, shall nevertheless  
7 apply within all municipalities in the county:

8 (1) County legislation where a law enacted by the General Assembly so  
9 provides;

10 (2) County revenue or tax legislation, subject to the provisions of Article  
11 24 of the Code, the Tax - General Article, and the Tax - Property Article, or legislation  
12 adopting a county budget; and

13 (3) County legislation which is enacted in accordance with requirements  
14 otherwise applicable in such county to legislation that is to become effective  
15 immediately and which also meets the following requirements:

16 (i) The legislative body of the county makes a specific finding  
17 based on evidence of record after a hearing held in accordance with the requirements  
18 of subparagraph (ii) hereof that there will be a significant adverse impact on the  
19 public health, safety, or welfare affecting residents of the county in unincorporated  
20 areas if such county legislation does not apply in all municipalities located in such  
21 county;

22 (ii) The legislative body of the county conducts a public hearing at  
23 which all municipalities in the county and interested persons shall be given an  
24 opportunity to be heard, notice of which is given by the mailing of certified mail notice  
25 to each municipality in the county not less than 30 days prior to the hearing and by  
26 publication in a newspaper of general circulation in the county for 3 successive weeks,  
27 the first publication to be not less than 30 days prior to the hearing; and

28 (iii) The county legislation is enacted by the affirmative vote of not  
29 less than two-thirds of the authorized membership of the county legislative body.

30 (4) County legislation which is enacted in accordance with the  
31 procedures set forth in paragraph (b)(3) shall be subject to judicial review of the  
32 finding made under subparagraph (3)(i) and of the resultant applicability of such  
33 legislation to municipalities in the county by the circuit court of the county in  
34 accordance with the provisions of the Maryland Rules governing appeals from  
35 administrative agencies. Any appeal shall be filed within 30 days of the effective date  
36 of such county legislation. In any judicial proceeding commenced under the provisions  
37 of this paragraph, the sole issues are whether the county legislative body (1) complied  
38 with the procedures of paragraph (b)(3), and (2) had before it sufficient evidence from  
39 which a reasonable person could conclude that there will be a significant adverse  
40 impact on the public health, safety, or welfare affecting residents of the county in  
41 unincorporated areas if such county legislation does not apply in all municipalities

1 located in the county. The issues shall be decided by the court without a jury. In the  
2 event that the court reverses such finding, the legislation shall continue to apply in  
3 unincorporated areas of the county and the applicability of such county legislation in  
4 municipalities shall be governed by the provisions of subsection (a) of this section. The  
5 decision of the circuit court in any such proceeding shall be subject to further appeal  
6 to the Court of Special Appeals by the county or any municipality in the county.

7 (c) Notwithstanding the provisions of paragraph (b)(3) of this section, county  
8 legislation enacted in accordance with the procedures and requirements thereof shall  
9 nevertheless be or become inapplicable in any municipality which has enacted or  
10 enacts municipal legislation that:

11 (1) Covers the same subject matter and furthers the same policies as the  
12 county legislation;

13 (2) Is at least as restrictive as the county legislation; and

14 (3) Includes provisions for enforcement.

15 (d) Any municipality may, by ordinance, request and authorize the county  
16 within which it is located to administer or enforce any municipal legislation. Upon the  
17 enactment of such an ordinance, such county may administer or enforce such  
18 municipal legislation on such terms and conditions as may mutually be agreed.

19 (E) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, THE GOVERNING  
20 BODY OF A COUNTY MAY NOT IMPOSE A DEVELOPMENT IMPACT FEE, A  
21 CONSTRUCTION EXCISE TAX, OR ANY SIMILAR FEE OR TAX ON NEW DEVELOPMENT  
22 THAT IS DEDICATED TO INFRASTRUCTURE COST BASED ON THE IMPACT OF NEW  
23 DEVELOPMENT ON REAL PROPERTY THAT IS:

24 (1) LOCATED WITHIN THE BOUNDARIES OF A MUNICIPAL  
25 CORPORATION; AND

26 (2) NOT SUBJECT TO THE ZONING AUTHORITY OF THE COUNTY.

27 [(e)] (F) As used in this section:

28 (1) "County" means any county, regardless of the form of county  
29 government, including charter home rule, code home rule, and county commissioners;  
30 and

31 (2) "Legislation" means any form of county or municipal legislative  
32 enactment, including a law, ordinance, resolution and any action by which a county  
33 budget is adopted.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 July 1, 2000.