

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1205 (Delegate McMillan, *et al.*)
Environmental Matters

**Local Government - The Commonsense in Development Act - Application of
County Adequate Public Facilities Legislation to Municipalities**

This bill requires a municipality to be governed by the county adequate public facilities ordinance (APFO) until the municipality adopts an ordinance that meets minimum specified standards and requirements. Specified standards and requirements include provisions for the impact of any development or growth within the municipality that affects public schools and roadways located in the county. The bill applies retroactively and affects any county APFO enacted before October 1, 2005.

Fiscal Summary

State Effect: None.

Local Effect: Potential increase in local government administrative expenditures to review APFO studies. Potential decrease in local capital expenses for public facilities.

Small Business Effect: Meaningful.

Analysis

Current Law: County and municipal governments with planning and zoning authority may impose APFOs.

Background: APFOs set capacity standards for public schools, roadways, water/sewer utilities, police, fire and rescue services, storm drainage, and utilities. If new development is projected to exceed capacity standards in an area, the developer may be

required to make contributions for capital improvements, such as building additional classrooms for a public school or constructing new roadways, as a condition of moving the development forward. Another option would be for the county or municipality to delay the development until the respective government provides the capital improvements.

APFOs have been adopted in 13 counties, with several municipalities adopting their own ordinances. **Exhibit 1** lists the counties that have adopted APFOs. It also provides an incomplete list of municipalities that have adopted APFOs. The Department of Planning is still in the process of determining the municipalities that have adopted a separate ordinance.

Queen Anne’s County is the only county on the Eastern Shore that has adopted an APFO. Based on a March 2, 2005 survey by the Maryland Association of Counties, four counties on the Eastern Shore are considering adopting such ordinances, including Caroline, Somerset, Wicomico, and Worcester. Allegany and Garrett counties are the only other counties in Maryland without an APFO. Most of the municipalities with APFOs are located in Carroll, Frederick, and Washington counties. No municipality on the Eastern Shore currently has an APFO.

Exhibit 1
Counties with Adequate Public Facilities Ordinances

Anne Arundel	Carroll	Harford	Prince George’s	Washington
Baltimore	Charles	Howard	Queen Anne’s	
Calvert	Frederick	Montgomery	St. Mary’s	

Municipalities with Adequate Public Facilities Ordinances

Boonsboro ¹	Emmitsburg ²	Laurel ⁵	New Windsor ⁴	Walkersville ²
Brunswick ²	Hagerstown ¹	Manchester ⁴	Sykesville ⁴	
Cumberland ³	Hampstead ⁴	Mount Airy ^{2,4}	Taneytown ⁴	

¹Located in Washington County.

²Located in Frederick County.

³Located in Allegany County.

⁴Located in Carroll County.

⁵Located in Prince George’s County.

Local Fiscal Effect: Requiring new development within a municipality to comply with county APFO requirements could (1) result in additional personnel costs for the county government to review APFO studies submitted by developers and businesses; and (2) decrease capital expenses for public facilities. The additional personnel costs could be offset by charging developers and businesses fees. In addition, the decrease in county capital expenses for public facilities resulting from development in municipalities is most likely greater than any additional personnel cost.

Additional Personnel Costs

Local personnel expenditures could increase to hire additional planning staff to review APFO studies. Currently, in Queen Anne's County, the government dedicates half of a senior level planning position to manage the APFO process and approximately eight senior level planning positions to assist in the review and approval process of the studies. The county advises that the review costs to jurisdictions could be offset by charging developers additional review fees. However, Queen Anne's County does not currently charge a review fee for an APFO study.

Decreased Capital Expenses for Public Facilities

A concern for county governments that have adopted APFO requirements to adequately address growth is that developers could circumvent county APFO requirements by locating proposed development in municipalities without or with less stringent APFO requirements. Consequently, the county government would have to pay for infrastructure improvements without receiving funds from the developers to offset the cost of the improvements. In addition, development within a municipality could lead to further over crowding in public schools or other county services which the municipal government does not have to fund. In the absence of an APFO, a municipal government could approve new development and receive the additional tax revenues from the development without paying for needed infrastructure improvements in the county such as additional public school capacity.

For example, Carroll County advises that requiring municipalities to adopt and enforce APFOs could prevent new residential development until schools and emergency services are available. A similar situation is occurring in the Forest Drive corridor of Annapolis in Anne Arundel County. Anne Arundel County advises that the City of Annapolis has been annexing land in the Forest Drive corridor and approving development that impacts both public schools and roadways located in the county. Anne Arundel County has an APFO that applies to public school capacity while the City of Annapolis does not. Due to student capacity concerns in the Annapolis Feeder System, county land in the Forest Drive corridor is not approved for new residential development.

Public school construction is one local government function that could be affected by an APFO. Most or all APFOs include provisions for adequate public school capacity. Public school construction is mostly funded by the State and county governing body. Generally, municipalities do not provide funding for public school construction. Based on a report prepared for the Task Force to Study Public School Facilities in 2003, approximately \$3.8 billion is needed to bring public school facilities up to standard and to meet presently anticipated enrollment. Updated for current dollars, this amount has increased to \$4.3 billion.

The impact on capital expenses is affected by several unknown factors including: (1) if local ordinances enable developer contributions to provide funding for public facilities in order to move the development project forward; (2) the number of proposed projects in a jurisdiction making development contributions; (3) market values and the demand for new development; and (4) the existing deficiencies in capacity and levels of services.

Small Business Effect: APFOs require applicants such as land developers and business owners to prepare a study to determine the impact that the proposed development will have on public facilities and infrastructure. The scope of the study varies by jurisdiction. Based on information provided by Queen Anne's County government, the cost for developers or businesses to prepare an APFO study may range from \$3,000 to \$5,000 for a less complex study to over \$15,000 for larger developments.

The construction industry in Maryland employed approximately 170,000 individuals in calendar 2003 resulting in \$7.1 billion in wages and \$813 in average weekly wages per worker. The construction industry accounts for 8.5% of total private sector employment and 9.2% of private sector wages.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Planning, Maryland Municipal League, Maryland Association of Counties, Queen Anne's County, Carroll County, City of Laurel, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2005
mam/hlb

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