

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 1251

(Caroline County Senators)

Budget and Taxation

Ways and Means

Property Tax - Municipal Corporations - Electricity Generation Facilities -
Negotiated Payments in Lieu of Taxes

This emergency bill authorizes municipalities to enter into a payment in lieu of taxes (PILOT) agreement with the owner of an electricity generation facility that is located or locates in the municipality. The agreement must provide that (1) the owner pay to the municipality a specified amount each year in lieu of municipal property taxes and (2) all or a specified part of the real and personal property at the facility be exempt from municipal property tax for the term of the agreement.

Fiscal Summary

State Effect: None.

Local Effect: Municipal property tax revenues may decrease beginning in FY 2019 to the extent municipalities enter into PILOT agreements with electricity generation facilities. The amount of any decrease depends on the number of electricity generation facilities that are located in municipalities and the assessed value of property held by these facilities. Property tax decreases will be mitigated by negotiated PILOT agreements between municipalities and electricity generation facilities.

Small Business Effect: Minimal.

Analysis

Current Law: Counties are authorized to enter into a PILOT agreement with the owner of an electricity generation facility that is located or locates in the county. The agreement must provide that (1) the owner pay to the county a specified amount each year in lieu of

county property taxes and (2) all or a specified part of the real and personal property at the facility be exempt from county property tax for the term of the agreement.

Background: While local governments have limited ability to alter real property exemptions, they have been granted broad authority to exempt certain types of personal property from property taxation. The types of property exempt from local taxation are enumerated in Title 7 of the Tax-Property Article. Exemptions apply to State property taxation as well, although the State does not tax personal property.

The major local government real property tax exemptions include local, State, and federal government property; property of religious organizations; cemeteries and mausoleums; nonprofit hospitals; portions of continuing care facilities for the elderly; property of charitable, fraternal, and educational institutions; property used for national defense or military housing; property of national veterans' organizations; homes of disabled veterans and the blind (partial exemption), or a surviving spouse of either; property of historical societies and museums; property owned by certain taxpayers engaged in building, operating, and managing nonprofit multifamily units, subject to local government approval; and property owned by fire companies, rescue squads, community water corporations, and housing authorities.

The major personal property tax exemptions include property of finance companies and savings and loan associations; manufacturing equipment (though subject to tax in some counties at specified percentages of assessment and subject to municipal property tax, unless exempted in full or in part by the municipality); manufacturing inventory (though subject to municipal property tax, unless exempted in full or in part by the municipality); commercial inventory (though subject to tax on up to 35% of assessment in Wicomico County and subject to municipal property tax, unless exempted in full or in part by the municipality); motor vehicles, small vessels, and registered aircraft; certain agricultural products and commodities; farming implements and livestock; personal possessions in the owner's home; property belonging to a home-based business with an initial purchase price of less than \$10,000; and intangible property.

Payment in Lieu of Taxes

A PILOT is an agreement between a jurisdiction and a developer, business, or landowner that substitutes a negotiated payment for annual real estate taxes that are traditionally due on a property. PILOTs are generally applied to two categories of properties: tax-exempt properties (Class 805); and non-exempt properties (Class 806).

Class 805 properties are exempt from paying all real property taxes, but under a PILOT will voluntarily agree to pay the jurisdiction a sum of money that may be calculated as a percentage of the property tax amount or to cover a share of the services the property

consumes. This allows the jurisdiction to collect additional revenues to pay for the cost of services from entities that would otherwise be exempt from paying the taxes that fund services.

Class 806 properties are subject to real State, county, and municipal property taxes; however, under a PILOT the property owner may negotiate an agreement with a jurisdiction to pay a reduced amount over a period of time as an incentive to develop in the area. Governments may enter into these agreements to spur economic development in certain areas.

Proposed Power Plant in Denton, Maryland

Spectrum Energy, a North Carolina based company, proposes to build a 600-megawatt high efficiency natural gas power plant in Denton, Maryland. The plans include locating the power plant on a 157 acre site near Legion and Foy roads. It is estimated that construction of the plant will create up to 350 jobs. When the plant is completed, there will likely be between 25 and 30 permanent positions at the plant, with average annual salaries of approximately \$100,000. Based on preliminary estimates, the PILOT agreement between the Town of Denton and Spectrum Energy could total between \$550,000 and \$1.0 million annually.

Local Fiscal Effect: Municipal property tax revenues may decrease beginning in fiscal 2019 to the extent municipalities enter into PILOT agreements with electricity generation facilities. The amount of any revenue decrease depends on the number of facilities that are located in municipalities and the assessed value of property held by these facilities. Property tax decreases will be mitigated by negotiated PILOT agreements between municipalities and electricity generation facilities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Caroline County, Maryland Municipal League; Town of Denton; State Department of Assessments and Taxation; Department of Legislative Services

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