

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 931

(Senator Jackson)

Education, Health, and Environmental Affairs

Appropriations

**Prince George's County - School Facilities and Public Safety Surcharges and
Report - Sunset Extension and Report**

This bill extends the termination date of Chapter 351 of 2019 from June 30, 2021, to June 30, 2024. The bill also extends the submission date for a specified report from December 1, 2020, to December 1, 2022. Finally, Prince George's County must review and make recommendations on whether the level of funding the county receives from the school facilities surcharge and the public safety surcharge is sufficient to meet the needs of the county and report its findings to the Prince George's County Delegation to the General Assembly by December 31, 2021. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: None.

Local Effect: Prince George's County school facilities surcharge revenues continue to decrease in FY 2022 through 2024. County expenditures for public school construction projects are not directly affected; however, the proposed changes may reduce the amount of revenue dedicated to public school construction projects.

Small Business Effect: None.

Analysis

Current Law: Chapter 351 of 2019 provided an exemption from the school facilities surcharge for multifamily housing designated as student housing by Bowie State University (BSU) and Prince George's County that is located within one mile of BSU. In addition, under specified circumstances, Prince George's County may exempt some or all

of the school facilities surcharge for undergraduate student housing built west of U.S. Route 1, north of Knox Road, and south of Metzert Road.

The school facilities surcharge is reduced by 50% for multifamily housing projects, with a building permit issued on or after April 1, 2019, constructed (1) within an approved transit district overlay zone or (2) where there is no approved transit district overlay zone, within one-quarter mile of a Metro Station or a Maryland Area Regional Commuter (MARC) Station. This provision terminates June 30, 2021.

The school facilities surcharge does not apply to a dwelling unit that is a studio apartment or an efficiency apartment if the dwelling unit is located (1) within the regional transit districts and local centers (growth policy areas), as defined in the approved Prince George's County general plan (Plan 2035), including in the area of the approved 2010 Central US 1 Corridor Approved Sector Plan and sectional map amendment; (2) within an approved transit district overlay zone; or (3) where there is no approved transit district overlay zone, within one-quarter mile of a Metro Station or a MARC Station. This provision terminates June 30, 2021.

Prince George's County may reduce the school facilities surcharge by a percentage up to 50% for dwelling units in multifamily housing constructed where there is no approved transit district overlay zone, within one-quarter mile of a Purple Line station. This provision terminates June 30, 2021.

Reporting Requirement

Chapter 351 also required Prince George's County to (1) review and make recommendations on the impact of the school facilities surcharge and the public safety surcharge and the need for any changes to the surcharges, including whether changes to the school facilities surcharge and the public safety surcharge might have a positive impact on the ability to construct and maintain affordable housing and (2) report its findings to the Prince George's County Council, the Prince George's County School Board, and the members of the Prince George's County Delegation to the General Assembly by December 1, 2020.

School Facilities Surcharge

For fiscal 2021, the school facilities surcharge is \$16,748 for each building permit issued, except for buildings that are exempt or subject to a reduced charge. The school facilities surcharge is \$9,770 for permits issued for buildings (1) located between interstate highway 495 and the District of Columbia; and (2) included within a Basic Plan or Conceptual Site Plan that abut existing or planned mass transit rail station sites operated by the Washington Metropolitan Area Transit Authority.

For fiscal 2020, the county collected approximately \$29.5 million in school facilities surcharge revenue.

For a further discussion of development impact fees and building excise taxes in Maryland, see **Appendix – Development Impact Fees and Building Excise Taxes**.

Local Fiscal Effect: Prince George’s County revenues from the school facilities surcharge continue to decrease in fiscal 2022 through 2024 depending on the number of eligible properties impacted and the amount of the surcharge imposed on those properties. Any reduction in surcharge revenues could result in less revenues dedicated to public school construction projects in the county.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Prince George’s County; Maryland Department of Transportation; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2021
rh/hlb Third Reader - March 23, 2021
Revised - Amendment(s) - March 23, 2021

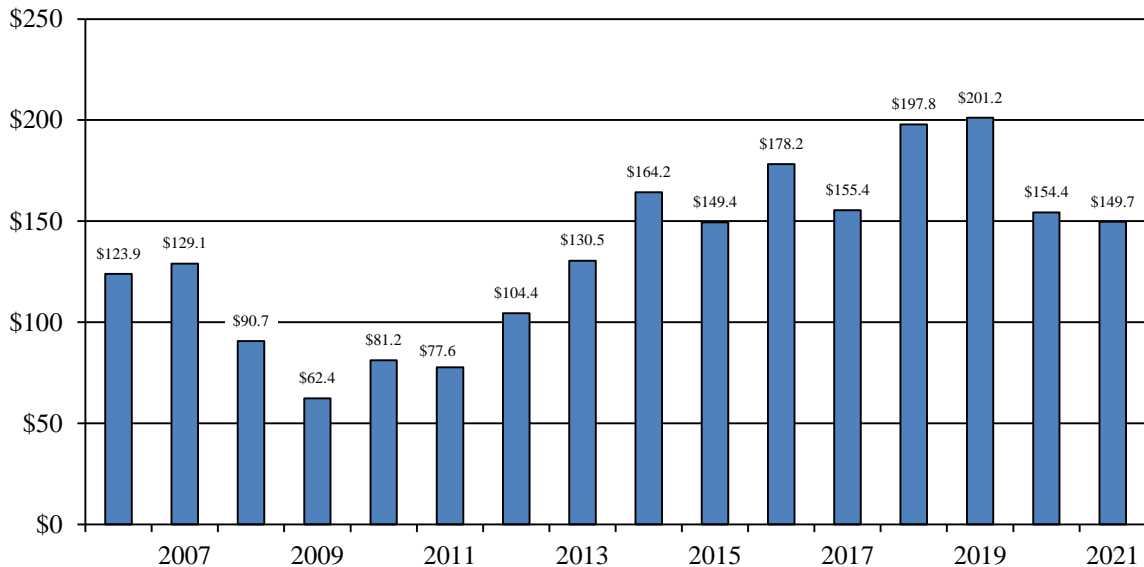
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Appendix – Development Impact Fees and Excise Taxes

Development impact fees and building excise taxes are imposed in 15 counties in Maryland. In addition, Dorchester County has enacted an excise tax but has temporarily suspended collection of the charge. As shown in **Exhibit 1**, after reaching a peak of \$129.1 million in fiscal 2007, impact fee and excise tax revenues declined to \$62.4 million in fiscal 2009. Revenues have since returned to higher levels, with \$201.2 million collected in fiscal 2019. However, due to the current economic climate, local revenues from development impact fees and excise taxes are expected to decline to \$154.4 million in fiscal 2020 and \$149.7 million in fiscal 2021. Public services funded by these charges include public school construction, libraries, community colleges, transportation, public safety, parks and recreation, and water/sewer utilities.

Exhibit 1
Development Impact Fees and Excise Taxes
Maryland Counties
Fiscal 2006-2021
(\$ in Millions)



Source: Department of Legislative Services

In a given county, other charges imposed on new development (while not accounted for here as development impact fees or excise taxes) may also be directed partially or wholly toward new or expanded facilities (*e.g.*, water/sewer system development charges or connection charges). In addition, a number of municipalities impose impact fees or similar charges on new development.

A development impact fee is a regulatory measure designed to fund facilities specifically required by new development projects in order to mitigate the impact of such development on infrastructure or public facilities. However, there must be a reasonable connection between the amount of the impact fee imposed and the actual cost of providing facilities to the properties assessed. In order to justify the imposition of an impact fee, a jurisdiction must conduct a study that measures the effects that new development will have on public facilities. The amount of an impact fee is subject to judicial review. Moreover, the revenue from the fee must be dedicated to substantially benefit the assessed properties. Thus, a county cannot collect an impact fee in one geographic area and spend the funds in another area.

A building excise tax is another means of raising revenue from new development. Unlike a regulatory impact fee, the amount of an excise tax does not have to be closely related to the actual cost of providing public facilities to serve new development. In addition, excise tax revenues do not have to be spent to specifically benefit the properties that are taxed but can generally be spent throughout the county.

Exhibit 2 shows the development impact fees and building excise tax rates applicable to a single-family development for each county in fiscal 2019 through 2021. **Exhibit 3** shows the revenue collections for fiscal 2019 through 2021.

Exhibit 2
County Development Impact Fee and Excise Tax Rates¹
Fiscal 2019-2021

County	FY 2019	FY 2020	FY 2021
Anne Arundel ²	\$13,390	\$13,793	\$14,022
Baltimore ³	0	0	1.5%/GSP
Calvert	12,950	12,950	12,950
Caroline ⁴	5,000	5,000	5,000
Carroll	533	533	533
Charles	17,385	17,244	17,837
Dorchester ⁵	0	0	0
Frederick ⁶	15,515	14,813	15,318
Harford	6,000	6,000	6,000
Howard ⁷	\$2.72/sq. ft.	\$2.85/sq. ft.	\$6.26/sq. ft.
Montgomery ⁸	45,159	50,697	50,697
Prince George's ⁹	24,101	24,583	24,657
Queen Anne's	\$5.48/sq. ft.	\$5.58/sq. ft.	\$5.67/sq. ft.
St. Mary's ¹⁰	6,280	6,756	5,338
Talbot ¹¹	7,680	7,818	7,935
Washington	\$1.00/sq. ft.	\$1.00/sq. ft.	\$1.00/sq. ft.

¹ Fees/rates listed are generally those applicable to single-family detached dwellings and are per dwelling unless otherwise indicated.

² Rates are for a 2,000-2,499 square foot residential unit. Residential rates vary by the square footage of a unit.

³ In 2020, Baltimore County imposed a development impact fee on new residential construction that is initiated on or after July 1, 2020, and a development impact surcharge on new nonresidential construction that is initiated on or after July 1, 2020. GSP means gross sales price.

⁴ Effective December 7, 2018, Caroline County's development excise taxes for school construction and agricultural land preservation were repealed and replaced with a development impact fee. The amount of the impact fee is \$5,000 per dwelling unit for single-family and multifamily dwellings. The amount of the former development excise tax for school construction was \$5,000 per lot created by subdivision.

⁵ The county development excise tax was previously suspended for a six-year period ending on June 30, 2020. In June 2020, Dorchester County adopted an extension of the excise tax suspension through June 2022, Bill No. 2020-3.

⁶ The rates shown reflect the public school and library impact fee total.

⁷ Fiscal 2019, 2020, and 2021 amounts represent the total of the roads tax amount (\$1.40/sq. ft., \$1.50/sq. ft., and 1.51/sq. ft., respectively) and the school surcharge amount (\$1.32/sq. ft., \$1.35/sq. ft., and 4.75/sq. ft., respectively, with lower rates in fiscal 2021 for grandfathered senior and affordable housing). The fiscal 2021 school surcharge amount increases to \$6.25/sq. ft. beginning January 1, 2021.

⁸ Fiscal 2019 amount represents \$23,062 for schools and \$22,097 for transportation in the “yellow” and “green” zones in the county. Fiscal 2020 and 2021 amounts represent \$26,207 for schools and \$24,490 for transportation in the “yellow” and “green” zones. (The transportation rate is \$19,591 in the “orange” zone and \$7,838 in the “red” zone in both fiscal 2020 and 2021.)

⁹ Fiscal 2021 amount represents \$16,748 for school facilities and \$7,909 for public safety. A lower school facilities rate (\$9,770 in fiscal 2021) applies inside the beltway and to certain development near mass transit and a lower public safety rate (\$2,638 in fiscal 2021) applies inside the Transportation Service Area 1 as defined in the Prince George’s County Approved General Plan and to certain development near mass transit.

¹⁰ Rates for fiscal 2019, 2020, and 2021 are for a dwelling of 1,200 to 2,399 square feet. Rates vary by the square footage of a unit.

¹¹ A lower rate (\$6,853 in fiscal 2021) applies to development inside municipalities.

Source: Department of Legislative Services

Exhibit 3
County Development Impact Fee and Excise Tax Revenues

County	FY 2019	FY 2020	FY2021	FY 2019-2020		FY 2020-2021	
				Difference	% Difference	Difference	% Difference
Anne Arundel	\$32,733,712	\$19,050,000	\$21,775,600	-\$13,683,712	-41.8%	\$2,725,600	14.3%
Baltimore ¹	0	0	0	0	0.0%	0	0.0%
Calvert	2,866,973	3,101,213	3,214,150	234,240	8.2%	112,937	3.6%
Caroline	165,805	194,818	150,000	29,013	17.5%	-44,818	-23.0%
Carroll	255,993	175,862	158,276	-80,131	-31.3%	-17,586	-10.0%
Charles	10,991,958	10,482,700	10,818,900	-509,258	-4.6%	336,200	3.2%
Dorchester ²	0	0	0	0	0.0%	0	0.0%
Frederick	30,033,584	19,559,856	18,940,714	-10,473,728	-34.9%	-619,142	-3.2%
Harford	3,438,000	3,500,000	1,750,000	62,000	1.8%	-1,750,000	-50.0%
Howard	12,979,439	11,467,128	13,108,700	-1,512,311	-11.7%	1,641,572	14.3%
Montgomery	52,595,000	37,000,000	29,970,000	-15,595,000	-29.7%	-7,030,000	-19.0%
Prince George's	47,560,230	45,581,794	45,600,000	-1,978,436	-4.2%	18,206	0.0%
Queen Anne's	2,004,178	1,640,900	2,274,880	-363,278	-18.1%	633,980	38.6%
St. Mary's	3,088,099	1,690,000	960,000	-1,398,099	-45.3%	-730,000	-43.2%
Talbot	493,881	333,700	378,700	-160,181	-32.4%	45,000	13.5%
Washington	1,954,055	600,000	600,000	-1,354,055	-69.3%	0	0.0%
Total	\$201,160,907	\$154,377,971	\$149,699,920	-\$46,782,936	-23.3%	-\$4,678,051	-3.0%

¹ Baltimore County imposes a development impact surcharge on new nonresidential construction and a development impact fee on new residential construction that has been initiated on or after July 1, 2020. Due to the timing of collections, substantial revenues are not expected in fiscal 2021.

² The county development excise tax is suspended. In June 2020, Dorchester County adopted an extension of the excise tax suspension through June 2022, Bill No. 2020-3.

Source: Department of Legislative Services