

HOUSE BILL 1094  
EMERGENCY BILL

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L2

2000 Regular Session  
0lr0853

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By: **Prince George's County Delegation**

Introduced and read first time: February 11, 2000

Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Prince George's County - Public School Facilities**  
3 **PG 416-00**

4 FOR the purpose of modifying provisions governing the authority of Prince George's  
5 County to impose a school facilities surcharge to require, rather than authorize,  
6 imposition of the surcharge; prescribing the amount of the surcharge;  
7 eliminating the authority to provide a credit against the surcharge for  
8 moderately priced dwelling units; ~~prohibiting~~ authorizing Prince George's  
9 County ~~from~~ to imposing an adequate facilities test or fee in connection with the  
10 availability of public school facilities; providing that ~~certain provisions may not~~  
11 ~~be construed as authorizing a public school facility test or fee in Prince George's~~  
12 County an adequate public facility test or fee shall remain in effect for a certain  
13 period of time; making stylistic changes; requiring the County Executive to  
14 prepare a certain annual report for the County Council, the Prince George's  
15 County Senate Delegation, and the Prince George's County House Delegation;  
16 making this Act an emergency measure; providing that certain provisions of law  
17 do not apply to certain property; providing for the termination of a portion of  
18 this Act; and generally relating to development and the availability of public  
19 school facilities in Prince George's County.

20 BY repealing and reenacting, with amendments,  
21 The Public Local Laws of Prince George's County  
22 Section 10-192.01  
23 Article 17 - Public Local Laws of Maryland  
24 (1995 Edition and 1998 Supplement, as amended)  
25 (As enacted by Chapter 710 of the Acts of the General Assembly of 1998)

1 BY repealing and reenacting, with amendments,  
 2 Article 28 - Maryland-National Capital Park and Planning Commission  
 3 Section 7-120  
 4 Annotated Code of Maryland  
 5 (1997 Replacement Volume and 1999 Supplement)

6 BY repealing and reenacting, with amendments,  
 7 Article 66B - Zoning and Planning  
 8 Section 7.03  
 9 Annotated Code of Maryland  
 10 (1998 Replacement Volume and 1999 Supplement)

11 BY repealing and reenacting, without amendments,  
 12 Article 66B - Zoning and Planning  
 13 Section 10.01  
 14 Annotated Code of Maryland  
 15 (1998 Replacement Volume and 1999 Supplement)

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

18 **Article 17 - Prince George's County**

19 10-192.01.

20 (a) [Subject to Subsection (b) of this Section, the] THE County Council, by  
 21 ordinance, [may] SHALL impose a school facilities surcharge on new residential  
 22 construction for which a building permit is applied for on or after July 1, [1996] 2000.

23 ~~(b) (1) A school facilities surcharge [may not exceed \$2,500] SHALL BE~~  
 24 ~~\$7,000 per:~~

25 ~~(A) [single family] SINGLE FAMILY, detached dwelling;~~

26 ~~(B) [townhouse] TOWNHOUSE; or~~

27 ~~(C) [dwelling] DWELLING unit for any other building containing~~  
 28 ~~more than a single dwelling unit.~~

29 (b) (1) A school facilities surcharge [may not exceed \$2,500 per] IMPOSED  
 30 ON A[:

31 (A) Single-family,] SINGLE-FAMILY detached [dwelling;

32 (B) Townhouse;] DWELLING, TOWNHOUSE, or

33 [(C) Dwelling] DWELLING unit for any other building containing  
 34 more than a single dwelling unit SHALL BE IN THE FOLLOWING AMOUNTS:

- 1 (A) \$5,000 IN FISCAL YEARS 2000, 2001, 2002, 2003, AND 2004;  
2 (B) \$4,000 IN FISCAL YEARS 2005, 2006, 2007, AND 2008; AND  
3 (C) \$2,500 IN FISCAL YEAR 2009 AND EVERY FISCAL YEAR  
4 THEREAFTER.

5 (2) [The County Council, by ordinance, may provide a full or partial  
6 credit against the school facilities surcharge for moderately priced dwelling units.

7 (3)] The school facilities surcharge does not apply to a mixed retirement  
8 development or elderly housing.

9 (3) THE SCHOOL FACILITIES SURCHARGE DOES NOT APPLY TO A  
10 SINGLE-FAMILY DETACHED DWELLING THAT IS TO BE BUILT OR SUBCONTRACTED  
11 BY AN INDIVIDUAL OWNER IN A MINOR SUBDIVISION AND THAT IS INTENDED TO BE  
12 USED AS THE OWNER'S PERSONAL RESIDENCE.

13 (c) The school facilities surcharge shall be paid by the seller at the time a  
14 building permit is issued for the dwelling unit. The school facilities surcharge may not  
15 be construed to be a settlement cost.

16 (d) [Payment of the school facilities surcharge does not eliminate any  
17 authority to apply any test concerning the adequacy of school facilities under the  
18 County's adequate public facility ordinance.

19 (e)] Revenue collected under the school facilities surcharge shall be deposited  
20 in a separate account and may only be used to pay for:

21 (1) Additional or expanded public school facilities; or

22 (2) Debt service on bonds issued for additional or expanded public school  
23 facilities.

24 [(f)] (E) Revenue collected under the school facilities surcharge is intended to  
25 supplement funding for public school facilities and may not supplant other County or  
26 State funding for school construction.

27 (F) THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY SHALL PREPARE  
28 AN ANNUAL REPORT ON THE SCHOOL FACILITIES SURCHARGE ON OR BEFORE  
29 AUGUST 31 OF EACH YEAR FOR THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY,  
30 THE PRINCE GEORGE'S COUNTY SENATE DELEGATION, AND THE PRINCE GEORGE'S  
31 COUNTY HOUSE DELEGATION, TO INCLUDE:

32 (1) ACCOUNTABILITY;

33 (2) FEES COLLECTED; AND

34 (3) ITEMIZATION OF EXPENDITURES UNDER ARTICLE 28, § 7-120 (B)(2) OF  
35 THE ANNOTATED CODE OF MARYLAND.

1 (G) THIS SECTION DOES NOT APPLY TO ANY PROPERTY LOCATED IN AN  
 2 INFRASTRUCTURE FINANCE DISTRICT APPROVED BEFORE JANUARY 1, 2000.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 4 read as follows:

5 **Article 28 - Maryland-National Capital Park and Planning Commission**

6 7-120.

7 (A) In addition to any other authority granted by this article, the County  
 8 Council of Montgomery County [and the County Council of Prince George's County],  
 9 by legislation, may impose in [their respective county] MONTGOMERY COUNTY  
 10 standards and requirements for the purpose of avoiding the scattered or premature  
 11 subdivision or development of land because of the inadequacy of transportation,  
 12 water, sewerage, drainage, school, or other public facilities.

13 (B) (1) IN ADDITION TO ANY OTHER AUTHORITY GRANTED BY THIS  
 14 ARTICLE, BUT SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY  
 15 COUNCIL OF PRINCE GEORGE'S COUNTY, BY LEGISLATION, MAY IMPOSE IN PRINCE  
 16 GEORGE'S COUNTY STANDARDS AND REQUIREMENTS FOR THE PURPOSE OF  
 17 AVOIDING THE SCATTERED OR PREMATURE SUBDIVISION OR DEVELOPMENT OF  
 18 LAND BECAUSE OF THE INADEQUACY OF TRANSPORTATION, WATER, SEWERAGE,  
 19 DRAINAGE, OR OTHER PUBLIC FACILITIES.

20 (2) THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY MAY ~~NOT~~  
 21 IMPOSE AN ADEQUATE FACILITY TEST OR FEE IN CONNECTION WITH THE  
 22 AVAILABILITY OF PUBLIC SCHOOL FACILITIES.

23 (3) THIS SECTION DOES NOT APPLY TO ANY PROPERTY LOCATED IN AN  
 24 INFRASTRUCTURE FINANCE DISTRICT APPROVED BEFORE JANUARY 1, 2000.

25 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 26 read as follows:

27 **Article 66B - Zoning and Planning**

28 7.03.

29 (a) Except as provided in §§ 3.05(a)(1)(iii), (v), (vi), and (viii), (4), and (b),  
 30 3.06(b) and (c), 4.01(a)(2), 4.09, 5.03(d), 7.01(c), 10.01, 11.01, 12.01, and 13.01 of this  
 31 article, and subject to subsection (b) of this section, this article does not apply to the  
 32 chartered counties of Maryland. This section supersedes § 7.02 of this article and any  
 33 inconsistent provision of Article 28 of the Code.

34 (b) (1) Section 13.01 of this article does not apply to Montgomery County or  
 35 Prince George's County.

36 (2) ~~SECTION 10.01 OF THIS ARTICLE MAY NOT BE CONSTRUED TO~~  
 37 ~~AUTHORIZE PRINCE GEORGE'S COUNTY TO IMPOSE AN ADEQUATE FACILITIES TEST~~

1 ~~OR FEE IN CONNECTION WITH THE AVAILABILITY OF PUBLIC SCHOOL FACILITIES~~  
2 ~~DOES NOT APPLY TO ANY PROPERTY LOCATED IN AN INFRASTRUCTURE FINANCE~~  
3 ~~DISTRICT IN PRINCE GEORGE'S COUNTY APPROVED BEFORE JANUARY 1, 2000.~~

4 10.01.

5 (a) In order to encourage the preservation of natural resources or the  
6 provision of affordable housing and to facilitate orderly development and growth, any  
7 county or municipal corporation, including Baltimore City, that exercises authority  
8 granted by this article may enact and is encouraged to enact ordinances or other laws  
9 providing for or requiring:

10 (1) The planning, staging or provision of adequate public facilities and  
11 affordable housing;

12 (2) Off-site improvements or dedication of land for public facilities  
13 essential for a development;

14 (3) Moderately priced dwelling unit programs;

15 (4) Mixed use developments;

16 (5) Cluster developments;

17 (6) Planned unit developments;

18 (7) Alternative subdivision requirements that meet minimum  
19 performance standards set by the county or municipal corporation and that reduce  
20 infrastructure costs;

21 (8) Floating zones;

22 (9) Incentive zoning; and

23 (10) Performance zoning.

24 (b) Notwithstanding any other provision of law, the legislative body of a  
25 county or municipal corporation, including Baltimore City, that exercises authority  
26 granted by this article may enact ordinances or other laws providing for the transfer  
27 of real property belonging to the county or municipal corporation, with or without  
28 consideration, to a public or private entity for use in the development or preservation  
29 of affordable housing.

30 (c) The authority provided for in this section is not intended to limit a county's  
31 or municipal corporation's authority to:

32 (1) Exercise any existing planning and zoning powers not expressly  
33 authorized in this section; or

1           (2)     Adopt other methods for facilitating orderly development and growth  
2 and encouraging the preservation of natural resources or the provision of affordable  
3 housing.

4     SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
5 remain effective until the end of December 31, 2000, and, at the end of December 31,  
6 2000, with no further action required by the General Assembly, Section 2 of this Act  
7 shall be abrogated and of no further force and effect.

8     SECTION 5. AND BE IT FURTHER ENACTED, That notwithstanding the  
9 provisions of Section 4 of this Act, on or before December 31, 2000, the County Council  
10 of Prince George's County:

11           (1)     shall credit any payment made under Section 1 of this Act; and

12           (2)     may apply any test concerning the adequacy of school facilities under  
13 the Prince George's County Adequate Public Facilities Ordinance after considering  
14 the recommendations of the Commission 2000 of Prince George's County.

15     ~~SECTION 6.~~ AND BE IT FURTHER ENACTED, That this Act is an  
16 emergency measure, is necessary for the immediate preservation of the public health  
17 and safety, has been passed by a ye and nay vote supported by three-fifths of all the  
18 members elected to each of the two Houses of the General Assembly, and shall take  
19 effect from the date it is enacted.