

SENATE BILL 628

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Q8

2002 Regular Session
2lr2119
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By: **Senator Middleton**

Introduced and read first time: February 1, 2002

Assigned to: Education, Health, and Environmental Affairs

Reassigned to: Budget and Taxation, February 6, 2002

A BILL ENTITLED

1 AN ACT concerning

2 **Charles County - New School Capacity Financing Mechanism**

3 FOR the purpose of establishing a new school capacity financing mechanism in
4 Charles County; repealing certain provisions of law requiring a developer of
5 certain land to reimburse the county for costs of constructing additional public
6 school facilities; authorizing the County Commissioners to issue certain bonds
7 on the full faith and credit of the county; authorizing the County Commissioners
8 to levy an excise tax on the owners of certain real property in the county;
9 providing for certain annual studies to determine the amounts of the bonds and
10 excise tax; requiring certain notice and public hearings prior to the County
11 Commissioners issuing certain bonds and enacting a certain ordinance levying a
12 certain excise tax; providing for the construction and application of this Act;
13 defining certain terms; and generally relating to establishing a new school
14 capacity financing mechanism in Charles County.

15 BY repealing
16 Article 66B - Land Use
17 Section 14.05(f)
18 Annotated Code of Maryland
19 (1998 Replacement Volume and 2001 Supplement)

20 BY adding to
21 Article 66B - Land Use
22 Section 14.05(f)
23 Annotated Code of Maryland
24 (1998 Replacement Volume and 2001 Supplement)

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

1

Article 66B - Land Use

2 14.05.

3 [(f) (1) Notwithstanding any other provision of this article, if a permit is
4 granted to an owner of land to proceed with the development of land for residential
5 dwelling units, so that the County or the State will have to provide additional school
6 sites or school facilities for the use and benefit of new residents of the developed land,
7 the owner of the land, in accordance with regulations or procedures adopted by the
8 County Commissioners, shall pay the County for the costs of the burden the
9 development will impose in terms of the additional public school facilities which will
10 have to be provided in an amount equal to the cost attributable to the proposed
11 development of the land involved.

12 (2) (i) 1. After a public hearing, the County Commissioners shall
13 annually set the costs to be compensated by the landowner or landowners.

14 2. The costs assessed under this subsection may not exceed
15 \$5,000 per residential unit.

16 (ii) 1. Proportionate division and provisions for payment of these
17 costs shall be made according to reasonable schedules approved by the County
18 Commissioners.

19 2. The payment schedules shall reflect the impact of the
20 development over time and provide for the timely acquisition of land and other
21 facilities by the County, the State, or the landowner, as needed to serve the residents
22 of the development.

23 (iii) 1. Each year, before the public hearing to set the impact fees,
24 the County Commissioners shall conduct a study to determine the reasonableness of
25 the fees to be proposed at the public hearing.

26 2. The study shall include an analysis of the effect of the
27 impact fees on the cost of housing in the County.

28 3. The analysis shall be made available to the public at the
29 time of the public hearing.

30 (iv) Any new or increased impact fees may not take effect until at
31 least 90 days after the public hearing.

32 (v) 1. The County Commissioners may require that not
33 exceeding 20% of any fee imposed for any residential dwelling unit under this
34 subsection be paid on or after the approval of a preliminary subdivision plan for lots
35 that include the residential dwelling unit.

36 2. The landowner shall pay the balance of the fee before the
37 County Commissioners may issue the occupancy permit for the residential dwelling
38 unit.

1 (3) (i) The County Commissioners shall place the impact fees received
2 by the County under this subsection in a special fund.

3 (ii) The County Commissioners shall use the moneys in the special
4 fund for public school facilities.

5 (iii) The special fund shall be administered by the County
6 Commissioners, who may, in their absolute discretion, invest or spend the money in
7 the fund solely for the purposes listed in this subsection.

8 (4) (i) On or before October 1, 1998, the County Commissioners shall
9 adopt an impact fee ordinance on impact fees for public school facilities.

10 (ii) The ordinance shall include regulations and procedures
11 necessary to establish an impact fee program and to allow applications for impact fee
12 credits for designated residential dwelling units.

13 (iii) The impact fee program shall reflect the 5-year capital
14 improvement needs of the County Board of Education.]

15 (F) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
16 MEANINGS INDICATED.

17 (II) 1. "ALL COUNTY COSTS" MEANS THE TOTAL COSTS
18 INCURRED TO CONSTRUCT NEW CAPACITY FOR PUBLIC SCHOOL FACILITIES IN THE
19 COUNTY, INCLUDING COSTS FOR:

- 20 A. LAND ACQUISITION;
- 21 B. ARCHITECTURAL AND ENGINEERING DESIGN;
- 22 C. INFRASTRUCTURE;
- 23 D. NEW CLASSROOMS;
- 24 E. EQUIPMENT;
- 25 F. INTEREST ON BOND PRINCIPAL; AND
- 26 G. BOND ISSUANCE.

27 2. "ALL COUNTY COSTS" INCLUDES THE TOTAL SQUARE
28 FOOTAGE OF NEW PUBLIC SCHOOL FACILITIES MULTIPLIED BY THE STATE SQUARE
29 FOOT CONSTRUCTION ALLOWANCE, MINUS THE STATE FUNDING SHARE.

30 (III) "DWELLING TYPE" MEANS SINGLE FAMILY DETACHED HOME,
31 TOWN HOUSE, OR MULTIFAMILY HOUSING UNIT.

32 (IV) "NEW RESIDENTIAL DEVELOPMENT" MEANS THE
33 DEVELOPMENT OF LAND THAT RESULTS IN THE ISSUANCE OF A USE AND
34 OCCUPANCY PERMIT FOR A RESIDENTIAL DWELLING UNIT.

1 (V) "NEW SCHOOL CAPACITY CONSTRUCTION BONDS" MEANS
2 10-YEAR BONDS ISSUED BY THE COUNTY COMMISSIONERS UNDER THIS
3 SUBSECTION.

4 (VI) "PUBLIC SCHOOL FACILITIES" MEANS ELEMENTARY, MIDDLE,
5 AND HIGH SCHOOL FACILITIES.

6 (VII) "PUPIL GENERATION RATE" MEANS THE AVERAGE NUMBER OF
7 STUDENTS IN THE COUNTY BY DWELLING TYPE ATTENDING ELEMENTARY, MIDDLE,
8 AND HIGH SCHOOL.

9 (2) (I) THE COUNTY COMMISSIONERS MAY ISSUE 10-YEAR NEW
10 SCHOOL CAPACITY CONSTRUCTION BONDS AT ANY TIME AND FROM TIME TO TIME
11 ON THE FULL FAITH AND CREDIT OF THE COUNTY TO FUND ALL COUNTY COSTS IN
12 PROVIDING NEW SCHOOL CAPACITY.

13 (II) THE NEW SCHOOL CAPACITY CONSTRUCTION BONDS SHALL
14 CONSTITUTE SECURITIES:

15 1. IN WHICH ALL PUBLIC OFFICERS, PUBLIC BODIES OF THE
16 STATE AND ITS POLITICAL SUBDIVISIONS, ALL INSURANCE COMPANIES, STATE
17 BANKS AND TRUST COMPANIES, NATIONAL BANKING ASSOCIATIONS, SAVINGS
18 BANKS, SAVINGS AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES, EXECUTORS,
19 ADMINISTRATORS, TRUSTEES, AND OTHER FIDUCIARIES MAY PROPERLY AND
20 LEGALLY INVEST FUNDS INCLUDING CAPITAL IN THEIR CONTROL OR BELONGING TO
21 THEM; AND

22 2. WHICH MAY BE PROPERLY AND LEGALLY DEPOSITED
23 WITH AND RECEIVED BY ANY STATE OR COUNTY OFFICER, ANY STATE AGENCY, OR
24 POLITICAL SUBDIVISION OF THE STATE FOR ANY PURPOSE FOR WHICH THE DEPOSIT
25 OF BONDS OR OBLIGATIONS OF THE STATE MAY BE AUTHORIZED BY LAW.

26 (III) THE ISSUANCE AND SALE OF NEW SCHOOL CAPACITY
27 CONSTRUCTION BONDS UNDER THIS SUBSECTION IS EXEMPT FROM THE
28 PROVISIONS OF ARTICLE 31, §§ 9 THROUGH 11 OF THE CODE.

29 (IV) THE TRANSFER OF, INTEREST ON, AND ANY INCOME DERIVED
30 FROM NEW SCHOOL CAPACITY CONSTRUCTION BONDS SHALL BE EXEMPT FROM
31 STATE AND LOCAL TAXATION.

32 (3) (I) THE COUNTY COMMISSIONERS, BY ORDINANCE, MAY FIX AND
33 IMPOSE A FAIR SHARE SCHOOL CONSTRUCTION EXCISE TAX LEVIED AGAINST THE
34 OWNER OF REAL PROPERTY LOCATED IN THE COUNTY THAT IS IMPROVED BY NEW
35 RESIDENTIAL DEVELOPMENT.

36 (II) THE AMOUNT OF THE FAIR SHARE SCHOOL CONSTRUCTION
37 EXCISE TAX SHALL EQUAL ALL COUNTY COSTS TO CONSTRUCT ONE UNIT OF NEW
38 STUDENT CAPACITY FOR PUBLIC SCHOOL FACILITIES MULTIPLIED BY THE PUPIL
39 GENERATION RATE FOR THAT PARTICULAR NEW DWELLING TYPE IN THE COUNTY.

1 (III) THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE TAX SHALL
2 BE:

3 1. COLLECTED AND SECURED IN THE SAME MANNER AS
4 GENERAL AD VALOREM TAXES UNLESS OTHERWISE PROVIDED BY ORDINANCE; AND

5 2. SUBJECT TO THE SAME PENALTIES AND THE SAME
6 PROCEDURE, SALE, AND LIEN PRIORITY IN CASE OF DELINQUENCY AS PROVIDED IN
7 GENERAL AD VALOREM TAXES.

8 (IV) 1. THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE TAX
9 SHALL BE COLLECTED ANNUALLY OVER A PERIOD OF 10 YEARS AT LEVEL
10 AMORTIZED PAYMENTS OF PRINCIPAL AND INTEREST.

11 2. THE RATE OF INTEREST PAYABLE BY A PROPERTY OWNER
12 SHALL BE SET AT THE RATE OF INTEREST PAID BY THE COUNTY ON THE NEW
13 SCHOOL CAPACITY CONSTRUCTION BONDS ISSUED IN THE FIRST YEAR THE EXCISE
14 TAX IS LEVIED ON THAT PROPERTY OWNER.

15 (V) THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE TAX SHALL
16 CONSTITUTE A LIEN ON ALL TAXABLE REAL OR PERSONAL PROPERTY OF THE
17 TAXPAYER FOR A PERIOD OF 10 YEARS OR UNTIL THE LIEN IS SATISFIED BY
18 REPAYMENT.

19 (VI) 1. THE REVENUES FROM THE FAIR SHARE SCHOOL
20 CONSTRUCTION EXCISE TAX SHALL BE USED TO PAY THE PRINCIPAL AND INTEREST
21 AS IT BECOMES DUE ON THE NEW SCHOOL CAPACITY CONSTRUCTION BONDS ISSUED
22 UNDER PARAGRAPH (2) OF THIS SUBSECTION.

23 2. IF REVENUES FROM THE FAIR SHARE SCHOOL
24 CONSTRUCTION EXCISE TAX ARE INSUFFICIENT TO PAY THE PRINCIPAL, INTEREST,
25 AND PREMIUM ON THE NEW SCHOOL CAPACITY CONSTRUCTION BONDS, THE
26 COUNTY COMMISSIONERS MAY IMPOSE AN AD VALOREM TAX ON ALL ASSESSABLE
27 PROPERTY WITHIN THE COUNTY AT A RATE SUFFICIENT TO PROVIDE FOR THE
28 PAYMENTS ON THE BONDS.

29 3. IF THE REVENUES FROM THE AD VALOREM TAX IMPOSED
30 UNDER SUB-PARAGRAPH 2 OF THIS PARAGRAPH ARE INSUFFICIENT TO PAY THE
31 PRINCIPAL AND INTEREST ON THE NEW SCHOOL CAPACITY CONSTRUCTION BONDS,
32 THE COUNTY COMMISSIONERS MAY IMPOSE ADDITIONAL TAXES AT A RATE
33 SUFFICIENT TO PROVIDE FOR THE PAYMENTS ON THE BONDS.

34 (VII) THE COUNTY COMMISSIONERS SHALL CONDUCT AN ANNUAL
35 STUDY TO DETERMINE THE CURRENT AMOUNT OF ALL COUNTY COSTS AND THE
36 CURRENT PUPIL GENERATION RATE BY DWELLING TYPE IN THE COUNTY BEFORE
37 SETTING THE RATE OF THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE TAX.

38 (4) THE COUNTY COMMISSIONERS SHALL HOLD A PUBLIC HEARING AND
39 PROVIDE REASONABLE NOTICE OF THE HEARING PRIOR TO:

1 (I) ISSUING NEW SCHOOL CAPACITY CONSTRUCTION BONDS; AND

2 (II) ENACTING AN ORDINANCE TO PROVIDE THE NECESSARY AND
3 APPROPRIATE PROCEDURES AND MEASURES TO IMPLEMENT THE FAIR SHARE
4 SCHOOL CONSTRUCTION EXCISE TAX.

5 SECTION 2. AND BE IT FURTHER ENACTED, That notwithstanding the
6 repeal of Charles County's authority to impose impact fees in Section 1 of this Act, any
7 impact fees stay in effect until an ordinance implementing the levy of the fair share
8 school construction excise tax becomes effective.

9 SECTION 3. AND BE IT FURTHER ENACTED, That the authority to borrow
10 money and issue bonds conferred on Charles County by this Act shall be deemed to
11 provide additional, alternative, and supplemental authority for borrowing money and
12 shall be regarded as supplemental and additional to powers conferred upon the
13 county by other laws and shall not be regarded as in derogation of any power now
14 existing. All Acts of the General Assembly passed authorizing the county to borrow
15 money are continued to the extent that the powers contained in such Acts have not
16 been exercised, and nothing contained in this Act may be construed to impair the
17 validity of any bonds that may have been issued by the county under the authority of
18 such Acts, and the validity of the bonds is ratified, confirmed, and approved.

19 SECTION 4. AND BE IT FURTHER ENACTED, That, except as otherwise
20 provided in Section 2 of this Act, this Act shall take effect June 1, 2002.