

SENATE BILL 628

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Q8

2002 Regular Session
2lr2119
CF 2lr2118

By: **Senator Middleton**

Introduced and read first time: February 1, 2002
Assigned to: Education, Health, and Environmental Affairs
Reassigned: Budget and Taxation, February 6, 2002

Committee Report: Favorable
Senate action: Adopted with floor amendments
Read second time: March 26, 2002

CHAPTER _____

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 borrow not
7 more than \$100,000,000 by issuing certain bonds on the full faith and credit of
8 the county; authorizing the County Commissioners to levy an excise tax, not to
9 exceed certain rates for certain types of dwellings, on the owners of certain real
10 property in the county; requiring certain notice by the seller or transferor of
11 certain property to the buyer or transferee of the property; providing for certain
12 annual studies to determine the amounts of the bonds and excise tax; requiring
13 certain notice and public hearings prior to the County Commissioners issuing
14 certain bonds and enacting a certain ordinance levying a certain excise tax;
15 requiring the Charles County Commissioners to report to the General Assembly
16 on or before a certain date; authorizing the Commissioners to impose certain
17 taxes under certain circumstances; providing for the construction and
18 application of this Act; defining certain terms; and generally relating to
19 establishing a new school capacity financing mechanism in Charles County.

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

25 BY adding to

1 Article 66B - Land Use
2 Section 14.05(f)
3 Annotated Code of Maryland
4 (1998 Replacement Volume and 2001 Supplement)

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

7 **Article 66B - Land Use**

8 14.05.

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

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

20 2. The costs assessed under this subsection may not exceed
21 \$5,000 per residential unit.

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

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

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

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

34 3. The analysis shall be made available to the public at the
35 time of the public hearing.

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

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

5 2. The landowner shall pay the balance of the fee before the
6 County Commissioners may issue the occupancy permit for the residential dwelling
7 unit.

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

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

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

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

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

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

22 (F) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
23 MEANINGS INDICATED.

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

- 27 A. LAND ACQUISITION;
28 B. ARCHITECTURAL AND ENGINEERING DESIGN;
29 C. INFRASTRUCTURE;
30 D. NEW CLASSROOMS;
31 E. EQUIPMENT;
32 F. INTEREST ON BOND PRINCIPAL; AND
33 G. BOND ISSUANCE.

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

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

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

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

12 (VI) "PUBLIC SCHOOL FACILITIES" MEANS ELEMENTARY, MIDDLE,
13 AND HIGH SCHOOL FACILITIES.

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

17 (2) (I) THE COUNTY COMMISSIONERS MAY ~~ISSUE~~ BORROW NOT MORE
18 THAN \$100,000,000 BY ISSUING 10-YEAR NEW SCHOOL CAPACITY CONSTRUCTION
19 BONDS AT ANY TIME AND FROM TIME TO TIME ON THE FULL FAITH AND CREDIT OF
20 THE COUNTY TO FUND ALL COUNTY COSTS IN PROVIDING NEW SCHOOL CAPACITY.

21 (II) THE NEW SCHOOL CAPACITY CONSTRUCTION BONDS SHALL
22 CONSTITUTE SECURITIES:

23 1. IN WHICH ALL PUBLIC OFFICERS, PUBLIC BODIES OF THE
24 STATE AND ITS POLITICAL SUBDIVISIONS, ALL INSURANCE COMPANIES, STATE
25 BANKS AND TRUST COMPANIES, NATIONAL BANKING ASSOCIATIONS, SAVINGS
26 BANKS, SAVINGS AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES, EXECUTORS,
27 ADMINISTRATORS, TRUSTEES, AND OTHER FIDUCIARIES MAY PROPERLY AND
28 LEGALLY INVEST FUNDS INCLUDING CAPITAL IN THEIR CONTROL OR BELONGING TO
29 THEM; AND

30 2. WHICH MAY BE PROPERLY AND LEGALLY DEPOSITED
31 WITH AND RECEIVED BY ANY STATE OR COUNTY OFFICER, ANY STATE AGENCY, OR
32 POLITICAL SUBDIVISION OF THE STATE FOR ANY PURPOSE FOR WHICH THE DEPOSIT
33 OF BONDS OR OBLIGATIONS OF THE STATE MAY BE AUTHORIZED BY LAW.

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

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

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

5 (II) 1. FOR FISCAL YEAR 2003, THE AMOUNT OF THE FAIR SHARE
 6 SCHOOL CONSTRUCTION EXCISE TAX SHALL EQUAL ALL COUNTY COSTS TO
 7 CONSTRUCT ONE UNIT OF NEW STUDENT CAPACITY FOR PUBLIC SCHOOL FACILITIES
 8 MULTIPLIED BY THE PUPIL GENERATION RATE FOR THAT PARTICULAR NEW
 9 DWELLING TYPE IN THE COUNTY MAY NOT EXCEED THE FOLLOWING AMOUNTS:

10 A. FOR A SINGLE-FAMILY DETACHED HOME, \$9,700;

11 B. FOR A TOWN HOUSE, \$9,200; AND

12 C. FOR A MULTIFAMILY HOUSING UNIT, \$7,000.

13 2. FOR FISCAL YEAR 2004 AND SUCCEEDING FISCAL YEARS,
 14 THE LIMITS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE
 15 ALTERED BY THE SAME PERCENTAGE AS THE CHANGE IN THE PRODUCER PRICE
 16 INDEX FOR THE MATERIALS AND COMPONENTS FOR CONSTRUCTION, AS REPORTED
 17 BY THE UNITED STATES DEPARTMENT OF LABOR, FOR THE FISCAL YEAR PRECEDING
 18 THE YEAR FOR WHICH THE AMOUNT IS BEING CALCULATED.

19 (III) PRIOR TO THE SALE OR TRANSFER OF REAL PROPERTY IN
 20 CHARLES COUNTY THAT IS IMPROVED BY NEW RESIDENTIAL DEVELOPMENT, THE
 21 SELLER OR TRANSFEROR SHALL PROVIDE NOTICE TO THE BUYER OR TRANSFEREE
 22 THAT INCLUDES:

23 1. A STATEMENT THAT THE FAIR SHARE SCHOOL
 24 CONSTRUCTION EXCISE TAX MAY BE LEVIED ON THE PROPERTY; AND

25 2. THE AMOUNT OF THE TAX FOR THE DWELLING TYPE ON
 26 THE PROPERTY.

27 (III) (IV) THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE TAX
 28 SHALL BE:

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

31 2. SUBJECT TO THE SAME PENALTIES AND THE SAME
 32 PROCEDURE, SALE, AND LIEN PRIORITY IN CASE OF DELINQUENCY AS PROVIDED IN
 33 GENERAL AD VALOREM TAXES.

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

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

5 ~~(V)~~ (VI) THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE TAX
 6 SHALL CONSTITUTE A LIEN ON ALL TAXABLE REAL OR PERSONAL PROPERTY OF THE
 7 TAXPAYER FOR A PERIOD OF 10 YEARS OR UNTIL THE LIEN IS SATISFIED BY
 8 REPAYMENT.

9 ~~(VI)~~ (VII) 4. THE REVENUES FROM THE FAIR SHARE SCHOOL
 10 CONSTRUCTION EXCISE TAX SHALL BE USED TO PAY THE PRINCIPAL AND INTEREST
 11 AS IT BECOMES DUE ON THE NEW SCHOOL CAPACITY CONSTRUCTION BONDS ISSUED
 12 UNDER PARAGRAPH (2) OF THIS SUBSECTION.

13 2. ~~IF REVENUES FROM THE FAIR SHARE SCHOOL
 14 CONSTRUCTION EXCISE TAX ARE INSUFFICIENT TO PAY THE PRINCIPAL, INTEREST,
 15 AND PREMIUM ON THE NEW SCHOOL CAPACITY CONSTRUCTION BONDS, THE
 16 COUNTY COMMISSIONERS MAY IMPOSE AN AD VALOREM TAX ON ALL ASSESSABLE
 17 PROPERTY WITHIN THE COUNTY AT A RATE SUFFICIENT TO PROVIDE FOR THE
 18 PAYMENTS ON THE BONDS.~~

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

24 ~~(VII)~~ (VIII) THE COUNTY COMMISSIONERS SHALL CONDUCT AN
 25 ANNUAL STUDY TO DETERMINE THE CURRENT AMOUNT OF ALL COUNTY COSTS AND
 26 THE CURRENT PUPIL GENERATION RATE BY DWELLING TYPE IN THE COUNTY
 27 BEFORE SETTING THE RATE OF THE FAIR SHARE SCHOOL CONSTRUCTION EXCISE
 28 TAX.

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

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

32 (II) ENACTING AN ORDINANCE TO PROVIDE THE NECESSARY AND
 33 APPROPRIATE PROCEDURES AND MEASURES TO IMPLEMENT THE FAIR SHARE
 34 SCHOOL CONSTRUCTION EXCISE TAX.

35 (5) THE CHARLES COUNTY COMMISSIONERS SHALL REPORT TO THE
 36 GENERAL ASSEMBLY ON OR BEFORE AUGUST 1 EACH YEAR, SUBJECT TO § 2-1246 OF
 37 THE STATE GOVERNMENT ARTICLE, ON THE FOLLOWING ITEMS, FOR THE
 38 PRECEDING FISCAL YEAR:

39 (I) THE AMOUNT OF THE TAX SET BY THE CHARLES COUNTY
 40 COMMISSIONERS FOR EACH DWELLING TYPE;

1 (II) THE AMOUNT OF PROCEEDS DERIVED FROM THE ISSUANCE
2 AND SALE OF THE COUNTY'S NEW SCHOOL CAPACITY CONSTRUCTION BONDS;

3 (III) THE NUMBER OF PARCELS OF REAL PROPERTY IMPROVED BY
4 NEW RESIDENTIAL DEVELOPMENT IN CHARLES COUNTY; AND

5 (IV) THE NUMBER OF SQUARE FEET OF NEW PUBLIC SCHOOL
6 CAPACITY APPROVED FOR CONSTRUCTION IN CHARLES COUNTY BY THE
7 INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION.

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

12 SECTION 3. AND BE IT FURTHER ENACTED, That if revenues from the fair
13 share school construction excise tax authorized for Charles County under this Act are
14 insufficient to pay the principal, interest, and premium on the new school capacity
15 construction bonds as authorized under this Act, the County Commissioners of
16 Charles County may impose an ad valorem tax on all assessable property within the
17 county and impose any other tax the County is authorized to levy at a rate sufficient
18 to provide for the payments on the bonds.

19 SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That the authority to borrow
20 money and issue bonds conferred on Charles County by this Act shall be deemed to
21 provide additional, alternative, and supplemental authority for borrowing money and
22 shall be regarded as supplemental and additional to powers conferred upon the
23 county by other laws and shall not be regarded as in derogation of any power now
24 existing. All Acts of the General Assembly passed authorizing the county to borrow
25 money are continued to the extent that the powers contained in such Acts have not
26 been exercised, and nothing contained in this Act may be construed to impair the
27 validity of any bonds that may have been issued by the county under the authority of
28 such Acts, and the validity of the bonds is ratified, confirmed, and approved.

29 SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That, except as otherwise
30 provided in Section 2 of this Act, this Act shall take effect June 1, 2002.