

**Department of Legislative Services**  
Maryland General Assembly  
2003 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 701

(Delegates Schisler and Eckardt)

Ways and Means

Budget and Taxation

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**Talbot County - Building Excise Tax**

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This bill authorizes the Talbot County Council to impose a maximum \$2,000 building excise tax on building construction within the county to finance the capital costs of additional or expanded public works, improvements, and facilities required to accommodate new construction or development.

The bill takes effect July 1, 2003.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** Talbot County revenues could increase by \$644,000 annually if the Talbot County Council imposes the maximum building excise tax. County expenditures would not be directly affected.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** The Talbot County Council is authorized to impose a maximum \$2,000 building excise tax on new construction within the county. The purpose of the tax is to finance the capital costs of additional or expanded public works, improvements, and facilities required to accommodate new construction or development. Eligible capital projects include bridges, streets and roads, parks and recreational facilities, schools, and storm drainage facilities.

The tax rate must relate to the development or growth-related infrastructure needs in the county. The county council may impose different tax rates on different types of building construction. The building excise tax may be imposed throughout the county, including within municipalities. If the building excise tax is imposed within a municipality, the municipality must assist the county in the collection of the tax by either collecting and remitting the tax to the county, or requiring the tax to be paid directly to the county. Talbot County must establish a revenue sharing mechanism with the municipalities.

The county ordinance establishing the building excise tax must specify: (1) the types of building construction subject to the tax; (2) the criteria and formulas used to assess the tax; and (3) the tax rates.

**Current Law:** The Maryland Court of Appeals in 1990 held that counties must obtain explicit authority from the Maryland General Assembly before imposing impact fees or building excise taxes. The legislature has not passed a uniform “blanket authorization” applying to the 23 counties; therefore, there are specific statutory authorizations. These authorizations range from broad authorizations to levy fees for public works to more specific authorizations for either transportation or public schools. Currently, 14 counties have received specific authority from the Maryland General Assembly to impose impact fees or building excise taxes. **Exhibit 1** shows the counties that currently impose either an impact fee or building excise tax, the year the fee or tax was authorized, and the revenues collected from the fee or tax in fiscal 2003. Garrett, Washington, and Wicomico counties are also authorized to impose impact fees; however, the counties have not imposed any fees at this time.

**Background:** Talbot County is a charter home-rule county governed under the council-manager form of government. The five-member county council serves as the governing body and provides legislative direction while the appointed county manager is responsible for the daily administrative operation of the county based on the council’s recommendation.

**Exhibit 1**  
**Impact Fees/Building Excise Taxes on New Construction**

| <u>County</u>             | <u>Year Enacted</u>                | <u>Rate Per Dwelling</u> | <u>FY 2003 Revenues</u> |
|---------------------------|------------------------------------|--------------------------|-------------------------|
| Anne Arundel              | Ch. 350 of 1986                    | \$4,069                  | \$9,000,000             |
| Calvert <sup>1</sup>      | Ch. 232 of 2001                    | 3,950                    | 3,000,000               |
| Caroline <sup>2</sup>     | Ch. 565 of 1993                    | 850 to 1,500             | 60,000                  |
| Carroll <sup>3</sup>      | Ch. 108 of 1987                    | 4,744                    | 6,671,000               |
| Charles <sup>4</sup>      | Ch. 642 of 1973                    | 5,000                    | 5,702,673               |
| Frederick <sup>5</sup>    | Ch. 468 of 1990                    | 7,144                    | 9,631,680               |
| Howard <sup>6</sup>       | Ch. 285 of 1992                    | \$0.80/sq. ft.           | 5,294,217               |
| Montgomery <sup>7</sup>   | Ch. 808 of 1963<br>Ch. 707 of 1990 | 2,100                    | 2,500,000               |
| Prince George's           | Ch. 597 of 1990                    | 5,000                    | 11,000,000              |
| Queen Anne's <sup>8</sup> | Ch. 410 of 1988                    | 4,329                    | 2,510,000               |
| St. Mary's                | Ch. 814 of 1974                    | 4,500                    | <u>2,600,000</u>        |
| <b>Total</b>              |                                    |                          | <b>\$57,969,570</b>     |

<sup>1</sup>Calvert County imposed an impact fee prior to 2001 (Ch. 326 of 1987). Ch. 232 of 2001 established a building excise tax. The current tax is \$3,000 for schools, \$600 for recreation, and \$350 for solid waste.

<sup>2</sup>The current tax in Caroline County is \$750 for schools and \$100 to \$750 for agricultural land preservation. In addition, Article 25B, Section 13D enables the county to impose a development impact fee.

<sup>3</sup>The current fee in Carroll County is \$4,197 for schools and \$547 for parks.

<sup>4</sup>Ch. 586 of 2002 repealed the \$5,000 school construction impact fee in Charles County and established a new school construction excise tax. The tax may not exceed \$9,700 for a single-family detached home, \$9,200 for a town house, and \$7,000 for a multifamily housing unit.

<sup>5</sup>Ch. 690 of 2001 authorized the Frederick County Commissioners to impose a building excise tax in lieu of the impact fee.

<sup>6</sup>Howard County imposes a building excise tax in lieu of an impact fee. The rate is \$0.80 per sq. ft. for residential construction; nonresidential is taxed at \$0.40/sq. ft.; first 500 sq. ft. is \$400.

<sup>7</sup>Montgomery County also imposes several regional impact fees: \$2,492 in Germantown, \$2,753 in Clarksburg, and \$1,727 in eastern Montgomery County.

<sup>8</sup>Queen Anne's County received authority to impose an impact fee in 1988, prior to the county becoming a code home rule county. In addition, Article 25B, Section 13D enables the county to impose a development impact fee.

**Local Fiscal Effect:** The Talbot County Council has not determined the types of building construction that would be subject to the tax, the criteria and formulas used to assess the tax, or the tax rate. These factors will be addressed after public hearings are held in the county. Accordingly, the actual impact of imposing a building excise tax in Talbot County cannot be determined at this time.

Talbot County has experienced considerable growth over the last decade. The county's population has increased by 13.9% since 1990, slightly below the statewide average of 14.8%. As shown in **Exhibit 2**, approximately 322 new housing units are authorized for construction each year in the county, of which 90% is for single-family units and 10% is for multifamily units. For illustrative purposes only, assuming Talbot County imposes the maximum building excise tax on new residential construction, local revenues could increase by \$644,000 annually. This estimate is based on the 322 new housing units being authorized each year and a \$2,000 per dwelling building excise tax.

**Exhibit 2**  
**New Housing Units Authorized for Construction in Talbot County**

| <u>Housing Type</u> | <u>1995</u> | <u>1996</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> | <u>6-year<br/>Average</u> |
|---------------------|-------------|-------------|-------------|-------------|-------------|-------------|---------------------------|
| Single-Family       | 253         | 302         | 266         | 309         | 290         | 339         | 293                       |
| Multifamily         | <u>9</u>    | <u>42</u>   | <u>86</u>   | <u>38</u>   | <u>0</u>    | <u>0</u>    | <u>29</u>                 |
| <b>Total</b>        | <b>262</b>  | <b>344</b>  | <b>352</b>  | <b>347</b>  | <b>290</b>  | <b>339</b>  | <b>322</b>                |

Source: Department of Planning

Talbot County is required to establish a revenue sharing mechanism with its municipalities. Of the 33,800 residents in Talbot County, 44% reside within the county's five municipalities. **Exhibit 3** shows the population for Talbot County and each of its municipalities. Easton, the county seat, is the largest municipality in the county and is home to almost 35% of the county's population. The Town of Queen Anne is located in two counties, with 84 residents residing in Talbot County and 92 residents residing in Queen Anne's County.

**Exhibit 3**  
**County and Municipal Population in Talbot County**

| <u>Jurisdiction</u> | <u>2000 Census</u> | <u>Percent</u> |
|---------------------|--------------------|----------------|
| Talbot County       | 33,812             |                |
| Easton              | 11,708             | 34.6%          |
| Oxford              | 771                | 2.3%           |
| Queen Anne          | 84                 | 0.2%           |
| St. Michaels        | 1,193              | 3.5%           |
| Trappe              | 1,146              | 3.4%           |

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Talbot County, Maryland Association of Counties, Department of Legislative Services

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