

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 1059
Ways and Means

(Washington County Delegation)

Budget and Taxation

Washington County Growth Management Act of 2003

This bill authorizes Washington County, by ordinance, to impose a building excise tax on construction and a transfer tax on an instrument of writing. The county may also provide a property tax credit on renovated or rehabilitated business real property located in a priority funding area. The tax credit may not exceed the additional property tax assessed as a result of the renovation or rehabilitation and may not exceed five years.

The property tax credit is effective June 1, 2003 and applicable to tax years after June 30, 2003. The remainder of the bill is effective July 1, 2003.

Fiscal Summary

State Effect: None. The bill would affect local government operations only.

Local Effect: Washington County revenues could increase by approximately \$4.5 million each fiscal year beginning in FY 2004 from implementing both a transfer tax and a building excise tax. Property tax revenues could decrease depending on the amount, if any, of credit the county establishes for renovated business real property located in a priority funding area.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The county ordinance must specify the types of building construction subject to the excise tax and the tax rates. The county may impose different tax rates

based on certain specifications. The excise tax may not exceed \$1 per square foot between June 30, 2003 and July 1, 2008 and the county may set the rate thereafter. The excise tax revenues may only be used for: (1) school construction; (2) public safety capital expenditures; (3) public infrastructure; and (4) debt reduction. Construction actively used for farm or agricultural use is exempt from the excise tax. Municipalities in the county must assist the county in collecting the excise tax.

The county may assess a transfer tax on an instrument of writing only if it also assesses a building excise tax. The transfer tax may not exceed .5% between June 30, 2003 and July 1, 2008 and 1% thereafter. The transfer tax revenues must be used for: (1) school construction; (2) public safety, including grants and loans to volunteer fire and rescue companies for capital expenditures; (3) transportation projects; and (4) debt reduction. At least \$400,000 annually must be used for agricultural land preservation and other measures to enhance the viability of agriculture in the county. Instrument of writing does not include a mortgage.

The bill also provides that the Clerk of the Circuit Court in Washington County may not retain the normal 5% administrative fee on the collection of transfer taxes when the clerk collects both the recordation tax and the transfer tax for the filing of a single instrument.

Current Law: Washington County is not authorized to collect either a transfer tax or a building excise tax.

Background: Excise taxes, or otherwise known as impact fees, are charges on new development used to fund capital programs and services necessitated by new growth. In 1990 the Maryland Court of Appeals held that counties must obtain explicit authority from the General Assembly before imposing impact fees, though all municipalities have the broad authority to impose fees under existing laws. Currently, 11 counties have received specific authority to charge impact fees.

A local property transfer tax may be imposed on instruments transferring title to real property. A distinction is made in the local codes between instruments transferring title such as a deed and certain leaseholds and instruments securing real property such as a mortgage. Except in Prince George's County, mortgages are not subject to the tax. Currently, 15 counties and Baltimore City impose a transfer tax. Local transfer tax rates range from 0.2% in Allegany County to 1.5% in Baltimore City and Baltimore County.

At the 1997 session, the General Assembly passed the Smart Growth legislation that targets State funding for certain transportation, economic development, housing, community development, environmental, and procurement projects to designated priority funding areas. The Smart Growth legislation established certain areas as priority funding

areas and allowed counties to designate additional areas if they meet specified requirements for use, water and sewer service, and residential density.

Local Revenues: Washington County revenues could increase by approximately \$4.5 million annually from implementing both a building excise tax and a transfer tax. This estimate includes \$3 million in transfer tax revenues based on real property transfers totaling \$708.5 million and assuming that the county sets and maintains a .5% transfer tax rate. The estimate also includes \$1.5 million in building excise tax revenues based on the county setting and maintaining the building excise tax at \$1 per square foot.

Washington County property tax revenues could decrease to the extent that the county elects to provide a property tax credit on increased assessments resulting from renovating or rehabilitating business real property located in a priority funding area.

Small Business Effect: Small business could be negatively impacted by a transfer tax if they were to purchase real property in Washington County. Additionally, to the extent that small businesses engage in new construction in Washington County, the imposition of a building excise tax would increase the cost of building and purchasing real property. However, small businesses that renovate or rehabilitate business real property in a priority funding area could benefit from a property tax credit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Assessments and Taxation, Washington County, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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