

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1518
Ways and Means

(Delegate Cane, *et al.*)

Budget and Taxation

Wicomico County - Building Excise Tax

This bill authorizes the Wicomico County Council to impose a maximum \$1.00 per square foot building excise tax on any new residential building construction within the county to finance the capital costs for public school construction projects.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: None.

Local Effect: Wicomico County revenues could increase by \$2 million annually. Expenditures would not be affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The Wicomico County Council is authorized to impose a maximum \$1.00 per square foot building excise tax on new residential construction within the county. The purpose of the tax is to finance the capital costs of additional or expanded public school facilities and improvements or renovations to existing school buildings. The county council may impose different tax rates on different types of new residential 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. A municipality that collects the tax and remits the tax to the county may deduct a charge for administrative costs. Industrial, commercial, and agricultural buildings and additions, modifications, and renovations to residential buildings are exempt from the building excise tax. The county ordinance establishing the building excise tax must specify: (1) the types of new residential building construction subject to the tax; (2) the criteria and formula used to assess the tax; and (3) the tax rates.

Current Law: The Wicomico County Council is authorized to impose an impact fee; however, this authorization has not been exercised.

Background: In 1990, the Maryland Court of Appeals held that counties must obtain explicit authority from the General Assembly before imposing impact fees. The General Assembly has granted code home rule counties the authority to impose development impact fees and development excise taxes. The General Assembly has not passed a uniform authorization applying to the other counties; therefore, these counties need specific statutory authorization before imposing an impact fee.

Fifteen counties currently impose either an impact fee or excise tax. Two other counties (Garrett and Wicomico) are also authorized to impose impact fees; however, they have not imposed any fees at this time. The primary services funded with the impact fees or excise taxes include public school construction, transportation, parks and recreation, and solid waste. **Exhibit 1** provides a list of the counties that currently impose either an impact fee or an excise tax.

Exhibit 1
Counties with Impact Fees or Excise Taxes

Anne Arundel	Carroll	Frederick	Montgomery	St. Mary's
Calvert	Charles	Harford	Prince George's	Talbot
Caroline	Dorchester	Howard	Queen Anne's	Washington

Difference Between Impact Fees and Building Excise Taxes

An impact fee involves a more complex process and requires the jurisdiction to justify the fee amount in relation to the potential impact that the new development would have on the jurisdiction. Before imposing an impact fee, a jurisdiction must conduct a fair share study that measures the impact of the new development. There must be a nexus between the impact and the amount of the fee, and there must be a geographic nexus between where the fee is collected and where the funds are spent. A jurisdiction cannot collect the impact fee in one part of the county and spend the funds elsewhere.

A building excise tax is a more straightforward approach in financing capital projects resulting from new development. There does not have to be a geographic nexus between where the fee is collected and where it is spent. The tax is imposed on activities and in amounts authorized by the General Assembly.

Development and Population Growth in Wicomico County

Wicomico County has experienced moderate population growth in recent years. The county had the sixteenth highest population growth rate from 2000 to 2003, at 3.2%. The statewide average population growth rate for this period is 4.0%. Since the 2000 Census, the county has added over 2,700 residents which represents approximately 900 new residents each year. Between 1990 and 2000, the county’s population increased by 10,300 individuals which represented approximately 1,000 new residents each year.

Public School Construction Needs in Wicomico County

Based on a report prepared for the Task Force to Study Public School Facilities in 2003, approximately \$70.0 million is needed to bring public school facilities in Wicomico County up to standard and to meet presently anticipated enrollment growth through 2008. Updated for current dollars, this amount has increased to \$78.4 million.

Local Fiscal Effect: Based on information from the Maryland Department of Planning, approximately 3,300 new housing units were authorized for construction in Wicomico County in calendar 2000 through 2003, an average of 815 units each year. This represents 2.7% of the State’s total. *For illustrative purposes*, Wicomico County accounts for 1.6% of the State’s population. Based on 815 new housing units being authorized for construction each year and the average residential dwelling consisting of 2,500 square feet, Wicomico County revenues could increase by approximately \$2.0 million annually.

Exhibit 2 shows the number of new housing units authorized for construction in the county since calendar 2000. **Exhibit 3** shows the number of new housing units and total value of new construction by municipality for calendar 2003.

Exhibit 2
New Housing Units Authorized for Construction – Wicomico County
Calendar 2000 to 2003

<u>CY 2000</u>	<u>CY 2001</u>	<u>CY 2002</u>	<u>CY 2003</u>	<u>Total</u>	<u>Average</u>
480	871	841	1,068	3,260	815

Exhibit 3
New Housing Units and Value of Construction in Calendar 2003
By Municipality

<u>Jurisdiction</u>	<u>Number of Units</u>	<u>Percent of Total</u>	<u>Value of Construction</u>	<u>Percent of Total</u>
Unincorporated Areas	417	39.0%	\$51,490,609	50.3%
Delmar	44	4.1%	2,745,945	2.7%
Fruitland	28	2.6%	1,965,868	1.9%
Hebron	57	5.3%	4,560,000	4.5%
Salisbury	517	48.4%	41,431,469	40.4%
Sharptown	0	0.0%	0	0.0%
Williards	5	0.5%	265,000	0.3%
Total – Countywide	1,068	100.0%	\$102,458,891	100.0%

Small Business Effect: The construction industry in Maryland employed approximately 170,000 individuals in calendar 2003 resulting in \$7.1 billion in wages and \$813 in average weekly wages per worker. The construction industry accounts for 8.5% of total private sector employment and 9.2% of private sector wages. In Wicomico County, the construction industry employed 2,716 individuals resulting in \$84.3 million in wages and an average weekly wage of \$597 per worker. The construction industry in Wicomico County accounts for 7.7% of total private sector employment and 8.1% of private sector wages.

Additional Information

Prior Introductions: A similar bill was introduced at the 2004 session as HB 1236. The bill authorized the Wicomico County Council to impose a maximum \$5,000 building excise tax on new construction within the county. The bill received a favorable with amendments report from the House Ways and Means Committee and was passed by the full House. The bill was referred to the Senate Budget and Taxation Committee where it received an unfavorable report.

Cross File: None.

Information Source(s): Wicomico County; Maryland Department of Planning; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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n/hlb

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