

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 859 (Senators Munson and Hafer)  
Budget and Taxation

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Washington County Growth Management Act of 2005

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This bill provides that the maximum building excise tax in Washington County is \$13,000 per unit for single-family dwellings, \$15,500 per unit for multifamily dwellings, and \$5 per square foot for nonresidential buildings.

The bill takes effect July 1, 2005.

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Fiscal Summary

**State Effect:** None.

**Local Effect:** Washington County revenues could increase by \$57.3 million over a six-year period (FY 2006 through 2011). This represents a \$9.5 million increase on an annualized basis. Washington County expenditures would not be affected.

**Small Business Effect:** Meaningful.

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Analysis

**Bill Summary:** The bill increases the maximum building excise tax that can be imposed on new construction in Washington County from \$1 per square foot to \$13,000 per unit for single-family dwellings, \$15,500 per unit for multifamily dwellings, and \$5 per square foot for nonresidential buildings.

*Municipal Provisions*

Municipalities that *have not* adopted an adequate public facilities ordinance (APFO) with school adequacy tests substantially similar to or more stringent than the county's

ordinance must assist the county in collecting the building excise tax and remit the tax to the county.

Municipalities that *have* adopted an APFO with school adequacy tests substantially similar to or more stringent than the county's ordinance (1) must assist the county in collecting the building excise tax dedicated to schools and remit such taxes to the county; and (2) may retain the remaining portion of the building excise tax to be used for capital costs associated with roads, parks and recreation facilities, public libraries, public safety, and agricultural land preservation. Any portion of the building excise tax not retained by a municipality must be remitted to the county.

#### *Uses of Building Excise Tax Revenues*

Revenues obtained from nonresidential buildings may be used for current purposes. However, revenues obtained from residential buildings may only be used as follows: 70% for schools; 23% for roads; and 7% for public libraries, parks and recreational facilities, public safety, and agricultural land preservation. Revenues for schools must be used to provide additional school capacity required to accommodate new construction or development. Revenues for roads and other purposes can only be used for capital costs of public works, improvements, and facilities.

#### *Building Excise Tax Exceptions*

County commissioners may impose different tax rates or waive the building excise tax for different types of nonresidential buildings. In addition, county commissioners may impose a higher building excise tax rate for residential dwellings if the number of residential units developed in a single subdivision exceeds an amount specified by the county. The county commissioners must grant a credit against the building excise tax on residential units developed as workforce housing.

#### *Advisory Committee*

The county commissioners must establish an advisory school construction review committee for the purpose of reviewing any capital request or school project submitted by the county board of education. The advisory committee must review the projects and make recommendations to the county commissioners by September 1 of each year.

#### *Reporting Requirements*

Municipalities that retain a portion of the building excise tax must report to the county commissioners by September 30 of each year on (1) the number of residential units charged with the building excise tax; (2) the amount of building excise tax revenues

remitted to the county and retained by the municipality; and (3) how the revenues were used by the municipality. The county commissioners must report to the Washington County legislative delegation by December 31 of each year on (1) the amount of revenues generated by the building excise tax and the number and type of units that generated the revenue, by school district; and (2) how the revenues were used by the county, including a listing of specific projects. The county commissioners must also submit to the legislative delegation the report prepared by each municipality and a report on the status of the building excise tax credit program.

### *Agricultural Land Preservation*

The county commissioners must encumber at least \$1.8 million of federal, State, or local funds for agricultural land preservation.

**Current Law:** The Washington County Commissioners are authorized to impose a building excise tax on any building construction within the county in an amount not to exceed \$1 per square foot. Beginning in fiscal 2009, the county commissioners may set the tax rate in excess of \$1 per square foot. Building construction actively used for farm or agricultural use is exempt from the building excise tax. The county commission may provide for additional exemptions to the building excise tax. Municipalities in the county must assist the county in collecting the building excise tax.

**Background:** The authority to impose a building excise tax was granted under Chapter 468 of 2003. Prior to the 2003 legislation, Washington County had the authority to impose an impact fee; however, this authority had never been exercised. Revenues generated from the building excise tax have not been adequate to accommodate the required school construction. To supplement building excise tax revenues, the county imposed fees pursuant to the county's APFO. In fiscal 2004, Washington County collected \$1.3 million in building excise taxes and \$159,200 in APFO fees for public school construction. In fiscal 2005, the county projects to collect \$2.4 million in building excise taxes and \$3.6 million in APFO fees. According to Washington County, as of March 7, 2005, the county has collected \$2.6 million in APFO fees for roadways.

### *Development and Population Growth in Washington County*

Washington County is the thirteenth fastest growing jurisdiction in Maryland, with a 3.7% population growth rate from 2000 to 2003. The statewide average population growth rate for this period is 4.0%. Since the 2000 Census, the county has added over 4,800 residents which represent approximately 1,600 new residents each year. Between 1990 and 2000, the county's population increased by 10,500 individuals which represented approximately 1,000 new residents each year. Neighboring Frederick County

has the State's third highest population growth rate for 2000 to 2003, at 9.4%; whereas Allegany County had the second lowest growth rate at -1.7%.

Based on information from the Maryland Department of Planning, approximately 4,000 new housing units were authorized for construction in Washington County in calendar 2000 through 2003. This represented 3.4% of the State's total. *For illustrative purposes*, Washington County accounts for 2.5% of the State's population. **Exhibit 1** shows the number of new housing units authorized for construction in the county since calendar 2000. **Exhibit 2** shows the number of new housing units and total value of new construction by municipality for calendar 2003.

**Exhibit 1**  
**New Housing Units Authorized for Construction – Washington 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>
721	986	1,235	1,105	4,047	1,012

Source: Maryland Department of Planning

**Exhibit 2**  
**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	731	66.2%	\$111,589,516	78.2%
Boonsboro	61	5.5%	8,345,000	5.8%
Clear Spring	2	0.2%	75,000	0.1%
Funkstown	0	0.0%	0	0.0%
Hagerstown	175	15.8%	11,585,011	8.1%
Hancock	2	0.2%	188,000	0.1%
Keedysville	39	3.5%	5,076,028	3.6%
Sharpsburg	0	0.0%	0	0.0%
Smithsburg	45	4.1%	4,402,267	3.1%
Williamsport	50	4.5%	1,500,000	1.1%
<b>Total - Countywide</b>	<b>1,105</b>	<b>100.0%</b>	<b>\$142,760,822</b>	<b>100.0%</b>

Source: Maryland Department of Planning

**Local Fiscal Effect:** The Washington County Capital Improvement Program (CIP) for fiscal 2006 through 2011 includes \$47.1 million in building excise taxes and APFO fees. Pursuant to this legislation, Washington County would be able to collect approximately \$104.4 million in building excise taxes over the same period. This represents a \$57.3 million increase over a six-year period, or a \$9.5 million increase on an annualized basis. **Exhibit 3** compares the amount of revenue collected from the building excise tax and APFO in the current six-year CIP and the amount expected to be collected pursuant to this legislation. This estimate is based on the following facts and assumptions:

- 670,000 square feet of nonresidential development each year;
- 1,000 permits issued annually; of which 650 issued in unincorporated areas and 350 issued in municipalities; and
- 85% of new residential units will be single-family detached dwellings and 15% will be multi-unit dwellings.

**Exhibit 3**  
**Washington County Building Excise Tax Revenues and APFO Fees**  
**Six-Year CIP (Fiscal 2006 – 2011)**

	<u>Current Law</u>	<u>SB 859</u>	<u>Difference</u>
6-Year CIP	\$47,101,000	\$104,360,000	\$57,259,000
Annualized Basis	\$7,850,167	\$17,393,333	\$9,543,166

**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 Washington County, the construction industry employed 3,740 individuals, resulting in \$121.6 million in wages and an average weekly wage of \$625 per worker. The construction industry in Washington County accounts for 6.7% of total private sector employment and 7.2% of private sector wages.

**Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1272 (Washington County Delegation) – Ways and Means.

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

**Fiscal Note History:** First Reader - March 14, 2005  
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