

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

Senate Bill 1024 (Senator Astle)  
Education, Health, and Environmental Affairs

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**Local Government - Adequate Public Facilities Legislation - Requirements for Ordinance Adopted by a Municipal Corporation**

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This bill requires a municipality to be governed by the county adequate public facilities ordinance (APFO) until the municipality adopts an ordinance that makes provisions for the impact of any development or growth within the municipality on public schools or libraries and roadways located in the county. The bill applies retroactively and affects any county APFO enacted before October 1, 2006.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** Potential decrease in local capital expenses for public facilities. Potential increase in local government administrative expenditures to review APFO studies.

**Small Business Effect:** Meaningful.

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**Analysis**

**Current Law:** County and municipal governments with planning and zoning authority may impose APFOs.

**Background:** APFOs set capacity standards for public schools, roadways, water/sewer utilities, police, fire and rescue services, storm drainage, and utilities. If new development is projected to exceed capacity standards in an area, the developer may be required to make contributions for capital improvements, such as building additional classrooms for a public school or constructing new roadways, as a condition of moving

the development forward. Another option would be for the county or municipality to delay the development until the respective government provides the capital improvements.

According to the Maryland Association of Counties (MACo) and the Maryland Municipal League, APFOs have been adopted in 13 counties and 15 municipalities, as shown in **Exhibit 1**. Queen Anne’s County is the only county on the Eastern Shore that has adopted an APFO. According to MACo, four counties on the Eastern Shore are considering adopting such ordinances, including Caroline, Somerset, Wicomico, and Worcester. In addition, Allegany County is also considering adopting an APFO.

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**Exhibit 1**  
**Counties with Adequate Public Facilities Ordinances**

Anne Arundel	Carroll	Harford	Prince George’s	Washington
Baltimore	Charles	Howard	Queen Anne’s	
Calvert	Frederick	Montgomery	St. Mary’s	

**Municipalities with Adequate Public Facilities Ordinances**

Brunswick	Hagerstown	La Plata	Ridgely	Walkersville
Cumberland	Hampstead	Manchester	Rockville	Westminster
Frederick	Indian Head	Mount Airy	Taneytown	Union Bridge

Source: Maryland Association of Counties and Maryland Municipal League

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**Local Fiscal Effect:** Requiring new development within a municipality to comply with county APFO requirements could (1) result in additional personnel costs for the county government to review APFO studies submitted by developers and businesses; and (2) decrease capital expenses for public facilities. The additional personnel costs could be offset by charging developers and businesses fees. In addition, the decrease in county capital expenses for public facilities resulting from development in municipalities is most likely greater than any additional personnel cost.

*Additional Personnel Costs*

Local personnel expenditures could increase to hire additional planning staff to review APFO studies. Review costs could be offset by charging developers additional review fees.

### *Decreased Capital Expenses for Public Facilities*

A concern for county governments that have adopted APFO requirements to adequately address growth is that developers can circumvent county APFO requirements by locating proposed development in municipalities without or with less stringent APFO requirements. Consequently, the county government would have to pay for infrastructure improvements without receiving funds from the developers to offset the cost of the improvements. In addition, development within a municipality could lead to further overcrowding in public schools or other county services which the municipal government does not have to fund. In the absence of an APFO, a municipal government could approve new development and receive the additional tax revenues from the development without paying for needed infrastructure improvements in the county such as additional public school capacity.

For example, in 2005, Carroll County advised that requiring municipalities to adopt and enforce APFOs could prevent new residential development until schools and emergency services are available. A similar situation is occurring in the Forest Drive corridor of Annapolis in Anne Arundel County. Anne Arundel County advises that the City of Annapolis has been annexing land in the Forest Drive corridor and approving development that impacts both public schools and roadways located in the county. Anne Arundel County has an APFO that applies to public school capacity while the City of Annapolis does not. Due to student capacity concerns in the Annapolis Feeder System, county land in the Forest Drive corridor is not approved for new residential development.

Public school construction is one local government function that could be affected by an APFO. Most or all APFOs include provisions for adequate public school capacity. Public school construction is mostly funded by the State and county governing body. Generally, municipalities do not provide funding for public school construction. Based on a report prepared for the Task Force to Study Public School Facilities in 2003, approximately \$3.8 billion is needed to bring public school facilities up to standard and to meet presently anticipated enrollment.

The impact on capital expenses is affected by several unknown factors including: (1) if local ordinances enable developer contributions to provide funding for public facilities in order to move the development project forward; (2) the number of proposed projects in a jurisdiction making development contributions; (3) market values and the demand for new development; and (4) the existing deficiencies in capacity and levels of services.

**Small Business Effect:** APFOs require applicants such as land developers and business owners to prepare a study to determine the impact that the proposed development will have on public facilities and infrastructure. The scope of the study varies by jurisdiction. Based on information provided in 2005 by Queen Anne's County government, the cost

for developers or businesses to prepare an APFO study may range from \$3,000 to \$5,000 for a less complex study to over \$15,000 for larger developments.

The construction industry in Maryland employed approximately 176,000 individuals in calendar 2004 resulting in \$7.7 billion in wages and \$847 in average weekly wages per worker. The construction industry accounts for 8.7% of total private sector employment and 9.4% of private sector wages.

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### **Additional Information**

**Prior Introductions:** Similar legislation was introduced as HB 1205 of 2005. The House Environmental Matters Committee held a hearing on the bill but no further action was taken.

**Cross File:** HB 1683 (Delegate Mayer) – Environmental Matters.

**Information Source(s):** Maryland Department of Planning, Maryland Association of Counties, Maryland Municipal League, Carroll County, Garrett County, Queen Anne's County, Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2006  
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Analysis by: Lesley G. Cook

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510