

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

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

House Bill 516 (Delegate Barve, *et al.*)  
Ways and Means Education, Health, and Environmental Affairs & Budget & Taxation

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**Local Governments - Impact Fees and Building Excise Taxes - Workforce  
Housing Exemption**

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This bill authorizes a county or municipality that imposes a development impact fee or excise tax to grant exemptions from or credits against the fee or tax for developments that include workforce housing, as defined by the county's or municipality's governing body.

The bill takes effect July 1, 2007.

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**Fiscal Summary**

**State Effect:** The bill would not directly impact State finances.

**Local Effect:** Local government revenues could decrease to the extent a county or municipality grants exemptions or credits to developments. Expenditures would not be affected.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** County governments must obtain explicit authority from the General Assembly before imposing a development impact fee or excise tax. One exception to this restriction applies to code home rule counties, which have already received authority from the General Assembly to impose such charges.

Under the Maryland Constitution, a municipality must have the express authorization of the General Assembly before it can impose any type of new tax or fee. In an opinion from 2004, the Maryland Attorney General concluded that a municipality could impose an impact fee as a valid regulatory measure. However, to constitute a valid regulatory fee, the municipality would need to show a reasonable connection between the new development and infrastructure as well as a reasonable connection between use of the resulting revenue and benefit to the property assessed. Pursuant to this legislation, these conditions would not have to be met since the legislation authorizes the imposition of a building excise tax instead of an impact fee.

**Background:** Development impact fees and excise taxes enable local governments to collect revenue from builders for public facilities required by new residential or commercial development. As a result of these development charges, local governments are able to shift the costs of new public facilities from existing taxpayers to individuals responsible for the development. In many situations, the use of development charges may eliminate the need for countywide tax increases. Another benefit of development charges is that local officials can collect the needed revenue for the expansion or construction of new public facilities prior to the construction of any new residential development. In this manner, payment of an impact fee or excise tax may be required by local officials prior to the issuance of a building permit or approval of a subdivision plat.

Sixteen counties currently impose either a development impact fee or excise tax which generated approximately \$127.3 million in revenues in fiscal 2006. The primary services funded by these charges include public school construction, transportation, parks and recreation, and water/sewer utilities. **Appendix 1** shows the counties that impose either a development impact fee or excise tax and the revenues generated by such charges. The rate per dwelling shown in the exhibit is for single-family detached dwellings; the rates may vary for other types of housing units.

### *Workforce Housing*

Maryland statute defines workforce housing as affordable rental housing for a household with an annual income between 50% and 100% of the area median household income. It also includes homeownership housing that is affordable to a household with an annual income between 60% and 120% of the area median income. In targeted areas recognized by the Secretary of Housing and Community Development for the purposes of administering the Maryland Mortgage Program, workforce housing includes housing affordable to a household with an annual income between 60% and 150% of the area median income. The bill grants the governing body of an individual county or municipality the authority to define “workforce housing” for the purposes of the exemption.

## Additional Information

**Prior Introductions:** None.

**Cross File:** SB 558 (Senator Garagiola) – Budget and Taxation; Education, Health, and Environmental Affairs.

**Information Source(s):** Allegany County, Montgomery County, Prince George's County, Wicomico County, Department of Housing and Community Development, Department of Legislative Services

**Fiscal Note History:** First Reader - February 23, 2007  
ncs/hlb Revised - House Third Reader - March 22, 2007

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**Appendix 1**  
**Maryland Counties with Development Impact Fees and Excise Taxes**

<u>County</u>	<u>Type</u>	<u>FY 2007 Rate Per Dwelling<sup>1</sup></u>	<u>FY 2006 Revenues</u>
Anne Arundel	Impact Fee	\$4,781	\$11,127,876
Calvert	Excise Tax	12,950	5,302,300
Caroline <sup>2</sup>	Excise Tax	5,000	966,402
Carroll	Impact Fee	6,836	3,436,236
Charles <sup>3</sup>	Excise Tax	10,859	1,346,948
Dorchester <sup>4</sup>	Excise Tax	3,671	1,265,851
Frederick <sup>5</sup>	Both	11,595	15,064,080
Harford	Impact Fee	7,442	3,400,200
Howard <sup>6</sup>	Excise Tax	See note	13,605,188
Montgomery <sup>7</sup>	Excise Tax	14,283	13,212,000
Prince George's <sup>8</sup>	Excise Tax	19,361	43,102,486
Queen Anne's	Impact Fee	6,606	2,474,740
St. Mary's	Impact Fee	4,500	3,789,525
Talbot <sup>9</sup>	Impact Fee	5,347	1,378,430
Washington	Excise Tax	13,000	7,745,961
Wicomico <sup>10</sup>	Impact Fee	5,231	<u>96,000</u>
<b>Total</b>			<b>\$127,314,223</b>

<sup>1</sup> Rates listed are generally those applicable to single-family detached dwellings.

<sup>2</sup> A \$750 development excise tax for agricultural land preservation is also imposed on single-family residential lots created by subdivision in a "rural district."

<sup>3</sup> Revenue reflects any amount received through their excise tax payment system in fiscal 2006.

<sup>4</sup> A slightly higher rate applies outside of the Cambridge and Hurlock areas.

<sup>5</sup> Roads tax ranges from \$0.10/sq. ft. to \$0.25/sq. ft.

<sup>6</sup> Roads tax is \$0.80/sq. ft. School surcharge is \$1.07/sq. ft.

<sup>7</sup> Excise tax represents \$5,819 for transportation and \$8,464 for schools. The school excise tax is increased by \$1 for each square foot between 4,500 and 8,500 gross square feet. Different transportation rates apply in the Metro Station and Clarksburg areas.

<sup>8</sup> Excise tax represents \$13,151 for school facilities and \$6,210 for public safety. A lower school facilities rate (\$7,671) applies inside the beltway and a lower public safety rate (\$2,070) applies inside the "developed tier" as defined in the 2002 Prince George's County Approved General Plan.

<sup>9</sup> A lower rate (\$4,620) applies to "in-town" development.

<sup>10</sup> Approximate revenue figures. Impact fee was in effect for less than one month at the end of fiscal 2006.

Source: Department of Legislative Services

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