

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 679

(Senator Gladden)

Budget and Taxation

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**Maryland Health and Higher Educational Facilities Authority - Payment in Lieu  
of Tax Agreement**

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This bill prohibits the Maryland Health and Higher Educational Facilities Authority (MHHEFA) from issuing certain bonds or providing financial assistance for a project on undeveloped property, unless the institution for which the assistance or bond is issued has entered into good faith negotiations for a payment in lieu of tax (PILOT) agreement with the local jurisdiction where the proposed project is to be located. The payment must be made at least once a year and be equivalent to the amount that would be paid in taxes at the time of the institution's application for assistance to the authority, or before a change in the permissible uses of the property. The agreement must be approved by the authority and must be deposited by the local government in its general fund.

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**Fiscal Summary**

**State Effect:** None. Revenues are not affected, as the bill does not require payments to the State or change the number of tax-exempt projects being developed. Expenditures are not affected since MHHEFA finances projects for private, nonprofit entities.

**Local Effect:** Local government general fund revenues increase in jurisdictions in which a previously tax-exempt project is developed and makes a payment in lieu of taxes.

**Small Business Effect:** Potential meaningful impact on small business nonprofit medical or educational institutions.

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## Analysis

**Current Law/Background:** MHHEFA is a public instrumentality of the State with the purpose of assisting nonprofit hospitals and related health care organizations as well as private noncollegiate and higher educational institutions in the construction, financing and refinancing of certain projects approved by the authority. In fiscal 2008, MHHEFA made 26 issues worth \$2.2 billion, and had over \$17 billion in assets by year end. The authority is not required to pay taxes on a project or property that it acquires or on any income from a project or property.

Generally, a property is not subject to taxation if owned by a nonprofit hospital, or a nonprofit charitable, fraternal, educational, or literary organization and is necessary for and actually used exclusively for a charitable or educational purpose to promote the general welfare of the State. In addition, the federal government is exempt from State and local taxes, but often enters into PILOT agreements to partially compensate or fully reimburse jurisdictions for use of property that would otherwise be taxable.

There are several instances where the State and local governments are expressly authorized to enter into PILOT agreements. For example, where the federal government has waived immunity from taxation on federally owned lands, the State and a local government are authorized to enter into a PILOT agreement with a private developer. The agreement must be approved by the Maryland Department of Transportation, presented to the Legislative Policy Committee, and approved by the federal government.

**State Fiscal Effect:** Although the State currently derives an indeterminate amount of property tax revenues from undeveloped properties, this bill does not require a payment in lieu of tax agreement with the State. Therefore, the State will continue to lose property tax revenues from the development of tax-exempt properties, as it would in the absence of the bill.

**Local Fiscal Effect:** Local government general fund revenues may increase significantly in jurisdictions in which a previously tax-exempt project is developed and required to negotiate a PILOT agreement. Although the bill requires that the PILOT only be set at an amount equal to what was currently being paid on the undeveloped property at the time of the project application (thereby maintaining property-related revenues at existing levels) this amount would not otherwise be paid without the bill.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 848 (Delegate Rosenberg, *et al.*) - Appropriations.

**Information Source(s):** Charles County, Baltimore City, Baltimore City Community College, Higher Education Commission, Department of Business and Economic Development, Maryland Health and Higher Educational Facilities Authority, Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 2009  
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