

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 157

(Senators Colburn and Pipkin)

Budget and Taxation

Ways and Means

Eastern Shore Code Home Rule Counties - Development Excise Tax for School
Construction - Applicability

This bill alters provisions that authorize code home rule counties to impose a development excise tax when a subdivision lot is initially sold or transferred, to finance capital costs of additional or expanded public school facilities or improvements. The bill specifies that a development excise tax imposed by a code county in the Eastern Shore class may not exceed \$5,000 per *residential unit*. "Residential unit" includes an apartment, condominium, and subdivision lot. The bill also specifies that any development excise tax imposed on a multifamily residential building project under the provisions must be imposed when a building permit is issued for the residential units.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: None.

Local Effect: Caroline County revenues may increase due to additional collection of development excise taxes. The county was recently unable to collect an estimated \$100,000 in development excise tax revenue on a development project and the bill, going forward, will provide the county authority to collect the tax on similar projects. The estimated \$100,000 in uncollected revenue, however, was a unique circumstance and any increases in revenue in FY 2012 and future years may not be of the same magnitude.

Small Business Effect: Potential meaningful.

Analysis

Current Law: The county commissioners of a code county, by public local law, may impose a development excise tax when a subdivision lot is initially sold or transferred, to finance the capital costs of additional or expanded public school facilities or improvements. The development excise tax may not exceed \$2,000 per lot, though in a code county in the Eastern Shore class, the development excise tax may not exceed \$5,000 per lot. Revenue generated from the tax must be deposited in a special account and may only be used to pay for capital projects, or for debt incurred for capital projects, for additional or expanded public school facilities or improvements.

Background: Development impact fees and excise taxes are charges on new development used to fund capital programs and services necessitated by new growth. These development charges allow local governments to shift the costs of financing new public facilities from existing taxpayers to those responsible for the development. In many situations, the use of such development charges may eliminate the need for jurisdiction-wide tax increases.

Local governments must have authority from the General Assembly in order to impose a development impact fee or excise tax. Code home rule counties are authorized as a group to impose specified impact fees and excise taxes and a number of other counties have specific authorizations from the General Assembly. Caroline County (which is in the Eastern Shore class) is currently the only code county that imposes a development excise tax under the authorization being altered by the bill.

Sixteen counties in Maryland imposed development impact fees or excise taxes in fiscal 2010, resulting in the collection of \$79.4 million. Revenues generated from impact fees and excise taxes reached a high of \$129.1 million in fiscal 2007 but decreased to \$90.7 million in fiscal 2008 and \$62.4 million in fiscal 2009. In Caroline County, \$98,000 and \$116,000 was generated from the development excise tax for school construction in fiscal 2009 and 2010, respectively. The development excise tax is \$5,000 per lot.

Local Revenues: Caroline County revenues may increase as a result of the bill's changes. The county has been unable to collect development excise tax revenues in certain situations where new residential units were sold, but a new subdivision lot was not created. In fiscal 2011, for example, an estimated \$100,000 in revenue was not collected when a former school was converted into condominiums. Any increase in county revenues in fiscal 2012 and future years, however, may not be as significant as \$100,000, since the magnitude of that loss was unique and has not been a common occurrence. In early February, \$105,000 in development excise tax revenues had been collected by the county so far in fiscal 2011.

Small Business Effect: Small businesses involved in the construction of new residential units in Caroline County may be impacted to the extent the school construction development excise tax is collected from construction projects that the county is currently unable to collect the tax from, adding to the cost of construction. Whether that added cost would meaningfully impact one or more small businesses, however, is uncertain.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Public School Construction Program; Secretary of State; Caroline, Charles, and Worcester counties; Growth and Infrastructure Consortium (selected 2009 and 2010 conference presentations); Department of Legislative Services

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