HB 1240

Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1240 (Delegate Mizeur)
Ways and Means

School Infrastructure Local Option Act

This bill authorizes a county and Baltimore City to impose up to a 1% sales tax on retail sales, subject to voter approval in a local referendum to be held at the next following general election. The net proceeds from the retail sales tax may only be used for capital funding for the construction, renovation, and upgrading of public schools. The bill also provides for the administration and collection of the local sales tax. Counties are required to consult with the Comptroller's Office to determine policies and procedures that are necessary to implement the local sales tax.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: None.

Local Effect: Local sales tax revenues for public school construction may increase by $650.4 million beginning in FY 2014, to the extent all jurisdictions impose a local option sales tax approved by local referendum. County expenditures may increase for administering and collecting the local sales tax.

Small Business Effect: Meaningful.

Analysis

Current Law: Local governments in Maryland are not authorized to impose general sales taxes. Certain local governments are authorized to levy selected sales taxes on certain categories of sales, the most common of which are utility, hotel rental, and parking taxes.

Background:

Public School Construction Program

The State pays at least 50% of eligible costs of school construction and renovation projects, based on a funding formula that takes into account numerous factors including each local school system's wealth and ability to pay. The Public School Facilities Act (Chapters 306 and 307 of 2004) requires that the cost-share formulas be recalculated every three years. The first recalculation occurred in 2007, and the second recalculation occurred in 2010; for fiscal 2013 through 2015, the State share of school construction costs in Baltimore City is 93%, the second-highest level of State support in the State.

The awarding of State funds for school construction is a project-based process managed by the Interagency Committee on School Construction (IAC) and its staff, subject to the final approval of the Board of Public Works (BPW). Each year, local school systems develop and submit to IAC a facilities master plan that includes an analysis of future school facility needs based on the current condition of school buildings and projected enrollment. The master plan must be approved by the local school board. Subsequently, each local school system submits a capital improvement plan to IAC that includes projects for which it seeks planning approval, projects for which it seeks funding approval, and projects that the local school system has forward funded. In addition to approval from the local school board, the capital improvement plan must be approved by the county's governing body. Typically, the submission letter to IAC contains signatures of both the school board president and either the county council president or chair of the board of county commissioners.

Based on its assessment of the relative merit of all the project proposals it receives, and subject to the projected level of school construction funds available, IAC determines which projects to recommend to BPW for State funding. By December 31 of each year, IAC recommends to BPW projects comprising 75% of the preliminary school construction allocation projected to be available. Local school districts may then appeal the IAC recommendations directly to BPW. By March 1 of each year, IAC recommends to BPW and the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC recommends projects comprising the remaining school construction funds included in the enacted capital budget for BPW approval.

State Funding

State school construction funding is almost exclusively financed by tax-exempt general obligation bonds. Federal tax regulations authorize the use of tax-exempt bonds for ongoing costs of capital projects or to reimburse the cost of completed projects, but only within 18 months of the completion of the project. After 18 months, the State can only reimburse counties for eligible project costs with PAYGO cash. PAYGO has been provided for the Public School Construction Program (PSCP) in the past but is very limited in the State's five-year *Capital Improvement Program* (CIP). It has been the policy of the State to use State debt to pay for long-term capital improvements, not for lease payments, installment purchases, or other forms of payment that retire other outstanding debt.

The Public School Facilities Act established the State's intent to provide $2.0 billion of funding for school construction by fiscal 2013, an average of $250.0 million each year for eight years. As a result, PSCP funding increased from $125.9 million in fiscal 2005 to $253.8 million in fiscal 2006, and has remained above the $250.0 million target each year since, which resulted in significant increases in school construction assistance to the counties and Baltimore City. While the State achieved the $2.0 billion goal ahead of schedule, it is not clear whether that level of funding can or will be sustained in the future.

PSCP funding levels are established annually through the State's capital budget process. **Exhibit 1** shows the State funding levels for PSCP since fiscal 1994. It also shows the total amount proposed by the Governor for fiscal 2013 through 2017 in the five-year CIP. State funding is proposed at the $250 million level in fiscal 2014 to 2017.

Alternative School Financing

State law authorizes local school boards to use alternative financing methods to fund school construction, unless they are prohibited by local law. Projects that qualify for alternative financing methods must meet the educational standards, design standards, and procedural requirements adopted by BPW and also be approved by the county governing body, the State Superintendent of Schools, IAC, and BPW. Alternative financing methods can include:

- sale-leaseback arrangements;
- lease-leaseback arrangements;
- public-private partnership agreements;
- performance-based contracting; and
- design-build arrangements.

Exhibit 1
Public School Construction Program Funding
Fiscal 1994-2017
($ in Millions)

Year	Amount	Year	Amount
1994	$87.0	2006	$253.8
1995	108.0	2007	322.7
1996	118.0	2008	401.8
1997	140.2	2009	347.0
1998	150.0	2010	266.7
1999	225.0	2011	263.7
2000	258.0	2012	311.6
2001	291.0	2013	351.4
2002	286.6	2014	250.0
2003	156.5	2015	250.0
2004	116.5	2016	250.0
2005	125.9	2017	250.0

Source: Department of Legislative Services

Local Fiscal Effect: County revenues for public school construction will increase beginning in fiscal 2014 assuming that county governments enact a local option sales tax approved by voters via local referendum.

Assuming that all counties enact a local sales tax and that each is approved by voters via referendum at the 2012 general election, county revenues for public school construction will increase by approximately $650.4 million in fiscal 2014, as shown in **Exhibit 2**. This estimate reflects currently projected sales tax growth as well as an estimated 0.95% decline in overall taxable sales resulting from the additional sales tax rate. Future year revenues are expected to increase at a similar level to the State's sales tax revenue forecast.

The 0.95% decline in taxable sales reflects sales that would no longer be subject to Maryland sales tax for three reasons: (1) the sale does not take place at all because the increased cost dissuades the purchaser; (2) the sale is diverted to a neighboring state where the sales tax rate is lower; or (3) the sale is diverted to a remote seller, such as an Internet or mail order retailer, that does not collect the tax. To the extent that the impact on sales volume varies from this projection, sales tax revenues would rise or decline correspondingly.

Exhibit 2
Local Sales Tax Revenues
Fiscal 2014
($ in Thousands)

County	Local Sales Tax Revenue
Allegany	$7,562.7
Anne Arundel	70,916.8
Baltimore City	64,049.6
Baltimore	103,950.7
Calvert	7,110.8
Caroline	1,768.0
Carroll	17,985.9
Cecil	7,559.4
Charles	19,466.4
Dorchester	2,812.9
Frederick	25,841.9
Garrett	3,402.4
Harford	23,914.3
Howard	33,064.1
Kent	2,354.6
Montgomery	101,156.0
Prince George’s	91,533.6
Queen Anne’s	4,477.0
St. Mary’s	9,914.6
Somerset	1,009.9
Talbot	6,484.7
Washington	17,978.1
Wicomico	12,913.4
Worcester	13,147.6
Total	**$650,375.5**

The revenue estimates are based on data showing sales tax revenue collections by county; however, this data has limitations with regards to accuracy, as the actual allocation of sales tax revenues may differ somewhat from what is reported. For example, when larger businesses with many locations across the State remit sales tax collections, they may attribute collections to one “primary” location or may simply allocate collections evenly across all locations. In either case, the actual collections for any one establishment may not be totally accurate. As a result, the revenue increase in a county could vary depending on the actual amount of sales and use taxes collected in the various counties.

County expenditures may increase due to administering and collecting the local sales tax authorized by the bill. However, the amount of any increase cannot be reliably estimated, and will vary by county.

Small Business Effect: Increasing the sales tax rate may result in a decline in consumer purchases of goods and services from retailers in the State. To the extent possible, residents may purchase goods and services in neighboring states or may choose not to purchase these services at all. The extent to which this may occur cannot be reliably estimated, but a majority of Maryland residents live within a short distance of a neighboring state and therefore could have access to goods and services located in other states. A 0.95% reduction in sales due to the tax rate increase will result in approximately $9,500 in lost sales for a business with $1 million in gross sales.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Cecil, Harford, Montgomery, and St. Mary's counties; Department of General Services; Comptroller's Office; Public School Construction Program; Department of Legislative Services

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