

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 594
Ways and Means

(Prince George's County Delegation)

Prince George's County - New School Construction Investment Act of 2015
PG 413-15

This bill authorizes Prince George’s County, subject to approval of a voter referendum at the 2016 general election, to impose a sales tax of up to 1% on retail sales made in the county. The net proceeds of the revenue from the county sales tax must be used for (1) new school construction projects approved by the Prince George’s County Board of Education and Prince George’s County or (2) school renovation projects approved by the Prince George’s County Board of Education and Prince George’s County in which at least 50% of the school is renovated.

The bill takes effect July 1, 2015. The retail sales tax will take effect January 1, 2017, subject to passage of the referendum, and will expire December 31, 2021.

Fiscal Summary

State Effect: Minimal. The bill may increase the number of applications for review by the Interagency Committee on School Construction (IAC).

Local Effect: Prince George’s County sales tax revenues would increase by approximately \$41.0 million in FY 2017, which reflects the January 1, 2017 effective date of the county sales tax. Revenues increase by \$84.7 million in FY 2018; \$87.5 million in FY 2019; \$90.5 million in FY 2020; \$93.7 million in FY 2021; and \$48.4 million in FY 2022, which reflects the December 31, 2021 termination date of the sales tax. School construction expenditures may increase by commensurate amounts. Prince George’s County expenditures may increase to administer the new sales tax.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: This bill authorizes Prince George's County, subject to a voter referendum at the 2016 general election, to impose a sales tax of up to 1% on retail sales made in the county. The net proceeds of the revenue from the county sales tax must be used for (1) new school construction projects approved by the Prince George's County Board of Education and Prince George's County or (2) school renovation projects approved by the Prince George's County Board of Education and Prince George's County in which at least 50% of the school is renovated.

The sales tax imposed must be (1) collected from the buyer on behalf of the county by the vendor that makes a sale that is subject to the tax and (2) held in trust by the vendor for the county. A vendor required to collect the sales tax must file a return with the county on or before the twenty-first day of each month. A return must be made on the form that the county requires and contain information required by the county, including (1) the gross proceeds of the vendor during the preceding month from sales that are subject to the tax; (2) the taxable price of sales for that month on which the tax is computed; and (3) the tax due.

A vendor that makes a sale that is subject to the sales tax must pay the tax that the vendor collects for that sale with the return that covers the period in which the vendor makes that sale. For the expense of collection and remittance of the sales tax, a vendor that timely files a return and remits the tax may deduct an amount equal to 1.5% of the gross tax collected by the vendor. Prince George's County may provide by law for (1) the imposition of interest and penalties for failure to pay the tax as required and (2) collection of unpaid tax, interest, or penalties.

The net proceeds must be used for cash payments for capital expenditures or payment of debt service on bonds issued by Prince George's County. The proceeds may not be used to supplant any State aid for education provided to Prince George's County or any county funds provided to the Prince George's County school system.

Prince George's County must submit a report detailing the expenditure of revenues generated from the sales tax to the Department of Legislative Services, the Prince George's County School System, and the Prince George's County Delegation of the General Assembly by December 31 of each year.

Current Law: The State sales and use tax is imposed on (1) the purchase of goods sold in Maryland; (2) the use, storage, or consumption in Maryland of tangible personal property purchased outside the State; and (3) certain services defined as taxable services under State law. Vendors who are engaged in business in the State are required to collect the tax from

purchasers. The tax base for the sales and use tax is the taxable price of the goods and services sold that are subject to the tax.

The general sales and use tax is imposed on a bracket basis approximating 6%. A special 11.5% tax is imposed on the rental of any passenger car or multipurpose vehicle that is rented for a period of 180 days or less, for which the lessor does not furnish a driver and which is not to be used for transporting passengers or property for hire. Certain rental trucks are taxed at 8.0%.

A special 9% tax rate is imposed on the sale of an alcoholic beverage. The general 6% tax rate applies to charges for labor, materials, or property used in connection with the sale of an alcoholic beverage and to a mandatory gratuity or service charge in the nature of a tip for serving food or any type of beverage to a group containing more than 10 individuals.

Local governments in Maryland are not authorized to impose general sales taxes. Currently, most counties and Baltimore City impose one or more local sales and service taxes. Hotel/motel rentals and utilities are typical examples of services subject to these taxes. Counties, municipalities, and special taxing districts are generally limited to imposing sales and use taxes on fuels, utilities, space rentals, controlled dangerous substances, and in code counties only and to a limited extent, on food and beverages in a resort area. For example, Worcester County, a code county, imposes a 0.5% food and beverage tax within the Town of Ocean City. These taxes are authorized under State law. The authorizations in some cases allow for exemptions to be granted by the counties, restrict the use of the revenue collected, set a limit on the tax rate, or require certain procedures such as a public hearing before imposing a tax.

Background: Appendix – State Funding for Public School Construction Projects provides detail on State funding for school construction for fiscal 2016.

State Fiscal Effect: As noted in the Appendix, IAC manages State review and approval of local school construction projects. To the extent that the revenue generated from the local sales tax in Prince George’s County leads to more applications for State matching funds, IAC staff may incur additional workload. However, the amount of any increase cannot be reliably estimated at this time.

Local Fiscal Effect: The bill authorizes Prince George’s County to enact a local sales tax of up to 1% on retail sales made in the county beginning January 1, 2017, subject to voter approval of a referendum at the 2016 general election. The net revenue from the county sales tax may only be used for specified school construction projects in the county.

For fiscal 2014, approximately \$489.3 million of the State’s \$4.2 billion in gross sales taxes were estimated as attributable to sales made in Prince George’s County. As a result, it is estimated that Prince George’s County net sales tax revenues (after accounting for a 1.5% vendor commission) would total approximately \$41.0 million in fiscal 2017, which reflects

the January 1, 2017 effective date of the tax. Revenues would total \$84.7 million in fiscal 2018, \$87.5 million in fiscal 2019, \$90.5 million in fiscal 2020, \$93.7 million in fiscal 2021, and \$48.4 million in fiscal 2022, which reflects the December 31, 2021 termination date of the county sales tax. School construction expenditures may increase by a commensurate amount. The estimate assumes that after a 10% reduction in sales as a result of the new sales tax, annual growth will be the same as estimated for the State sales and use tax.

It is important to note, however, that data from the Comptroller showing sales tax revenue collections by county has limitations with regards to accuracy; 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 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 actual revenue increase could vary depending on the actual amount of sales and use taxes collected in each county.

Prince George's County expenditures may increase to administer the new county sales tax.

Small Business Effect: Increasing the sales tax rate in Prince George's County may result in a decline in consumer purchases of goods and services from retailers in the county. To the extent possible, residents may purchase more items in other jurisdictions, or even other states where the tax rate is lower. The extent to which this occurs cannot be reliably estimated, but it would not be difficult for many residents to shop in a local jurisdiction in the State with a 6% tax rate or in Northern Virginia which has a 6% sales tax.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Board of Elections, Comptroller's Office, Prince George's County, Public School Construction Program, Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2015
md/jrb

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Appendix – State Funding for Public School Construction Projects

Subject to the final approval of the Board of Public Works (BPW), the Interagency Committee on School Construction (IAC) manages State review and approval of local school construction projects. Each year, local 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 and/or funding approval for the upcoming fiscal year, which may include projects that the local system has forward funded. In addition to approval from the local school board, the request for the upcoming fiscal year 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 executive and 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 makes recommendations for which projects to fund to BPW. By December 31 of each year, IAC must recommend to BPW projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school boards may then appeal the IAC recommendations directly to BPW. By March 1 of each year, IAC must recommend 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, no earlier than May 1.

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 formula be recalculated every three years. The first recalculation occurred in 2007, the second recalculation occurred in 2010, and the third, begun in 2013, was completed in 2014. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2015, which was determined by the 2010 recalculation, and for fiscal 2016 through 2018, as determined by the 2014 recalculation. Reductions in the State shares for Allegany, Cecil, and St. Mary's counties are phased in over two years because of the magnitude of the reductions.

Exhibit 1
State Share of Eligible School Construction Costs
Fiscal 2015-2018

<u>County</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Allegany	93%	88%	83%	83%
Anne Arundel	50%	50%	50%	50%
Baltimore City	93%	93%	93%	93%
Baltimore	50%	52%	52%	52%
Calvert	56%	53%	53%	53%
Caroline	78%	80%	80%	80%
Carroll	58%	59%	59%	59%
Cecil	69%	64%	63%	63%
Charles	63%	61%	61%	61%
Dorchester	69%	76%	76%	76%
Frederick	60%	64%	64%	64%
Garrett	50%	50%	50%	50%
Harford	63%	63%	63%	63%
Howard	60%	55%	55%	55%
Kent	50%	50%	50%	50%
Montgomery	50%	50%	50%	50%
Prince George's	62%	63%	63%	63%
Queen Anne's	50%	50%	50%	50%
St. Mary's	64%	59%	58%	58%
Somerset	82%	100%	100%	100%
Talbot	50%	50%	50%	50%
Washington	71%	71%	71%	71%
Wicomico	96%	97%	97%	97%
Worcester	50%	50%	50%	50%
Maryland School for the Blind	93%	93%	93%	93%

Source: Public School Construction Program

Chapters 306 and 307 also 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, Public School Construction Program (PSCP) funding increased from \$125.9 million in fiscal 2005 to \$253.8 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 local school boards. As a result, the State achieved the \$2.0 billion goal ahead of schedule. **Exhibit 2** shows annual State public school construction funding from fiscal 2007 through 2015, by county.

The Governor's proposed fiscal 2016 budget includes \$250.0 million in general obligation bonds and \$30.0 million in pay-as-you-go general funds for PSCP. The fiscal 2016 *Capital Improvement Program* includes \$250.0 million annually for the program in fiscal 2017 through 2020.

Exhibit 2
State Public School Construction Funding
Fiscal 2007-2015
(\$ in Thousands)

<u>County</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY2015</u>
Allegany	\$18,650	\$412	\$0	\$0	842	\$727	\$1,999	\$2,496	\$6,597
Anne Arundel	22,675	27,827	27,420	25,020	26,200	32,400	33,349	34,870	36,200
Baltimore City	39,436	52,665	41,000	27,733	28,559	41,000	46,102	39,478	35,329
Baltimore	35,053	52,250	40,985	28,000	29,000	39,000	47,394	52,068	34,561
Calvert	2,723	12,644	7,824	8,181	8,450	7,317	7,129	5,577	2,653
Caroline	2,935	2,426	8,100	6,000	3,767	235	756	7,788	0
Carroll	8,282	8,219	11,741	10,520	8,444	9,079	15,211	4,874	3,915
Cecil	8,271	9,533	2,674	1,538	1,744	2,830	1,915	1,268	8,194
Charles	10,200	13,170	11,704	8,898	8,335	9,180	12,480	9,426	8,200
Dorchester	872	6,137	10,400	6,469	5,436	3,639	979	1,590	768
Frederick	17,942	18,728	14,759	16,226	14,000	16,532	19,254	20,163	15,901
Garrett	1,235	6,243	3,020	666	0	382	319	134	0
Harford	11,096	16,238	14,751	16,253	13,835	17,040	16,573	13,214	12,791
Howard	17,808	23,206	18,265	18,262	18,290	26,936	32,811	25,931	20,772
Kent	3,479	1,335	0	388	0	104	123	95	817
Montgomery	40,040	52,297	53,312	28,350	30,183	42,000	43,794	38,592	39,950
Prince George's	37,425	52,250	41,000	28,200	29,500	40,348	42,192	39,371	38,539
Queen Anne's	3,000	3,925	4,951	3,947	5,750	5,374	649	4,371	5,112
St. Mary's	5,495	9,806	7,266	4,028	6,600	3,354	3,172	7,472	11,876
Somerset	12,022	5,153	0	6,000	6,000	3,371	289	3,811	2,752
Talbot	2,405	2,038	0	436	344	135	35	634	0
Washington	4,478	8,970	9,368	7,965	7,970	8,571	9,117	8,494	7,467
Wicomico	4,178	8,143	12,960	13,170	9,975	1,864	11,290	13,327	10,991
Worcester	6,872	8,213	5,483	403	0	165	166	4,882	0
MD School for the Blind							2,800	6,063	14,733
Bond Premium	6,100								
Statewide					500		100	500	660
Total	\$322,672	\$401,828	\$346,983	\$266,653	\$263,724	\$311,583	\$349,997	\$347,277	\$318,778
Amount Over \$250M	\$72,672	\$151,828	\$96,983	\$16,653	\$13,724	\$61,583	\$99,997	\$97,277	\$68,778

Note: Includes new general obligation bonds, pay-as-you-go funds, and reallocated funds that were previously authorized. Counties receiving \$0 did not request any eligible projects to be funded in that year.

Source: Department of Legislative Services