

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 451

(Senator West, *et al.*)

Budget and Taxation

Environment and Transportation

Baltimore County – Development Impact Fees – Authorization and Use of Funds

This bill authorizes the Baltimore County Council to impose, by ordinance, development impact fees to finance any of the capital costs of additional or expanded public works, improvements, and facilities required to accommodate new construction or development. Any funds collected from development impact fees must be used within the surrounding community of the construction or development for which the fees were imposed. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: None.

Local Effect: Baltimore County revenues increase beginning in FY 2020 to the extent development impact fees are imposed. County expenditures are not directly affected.

Small Business Effect: None.

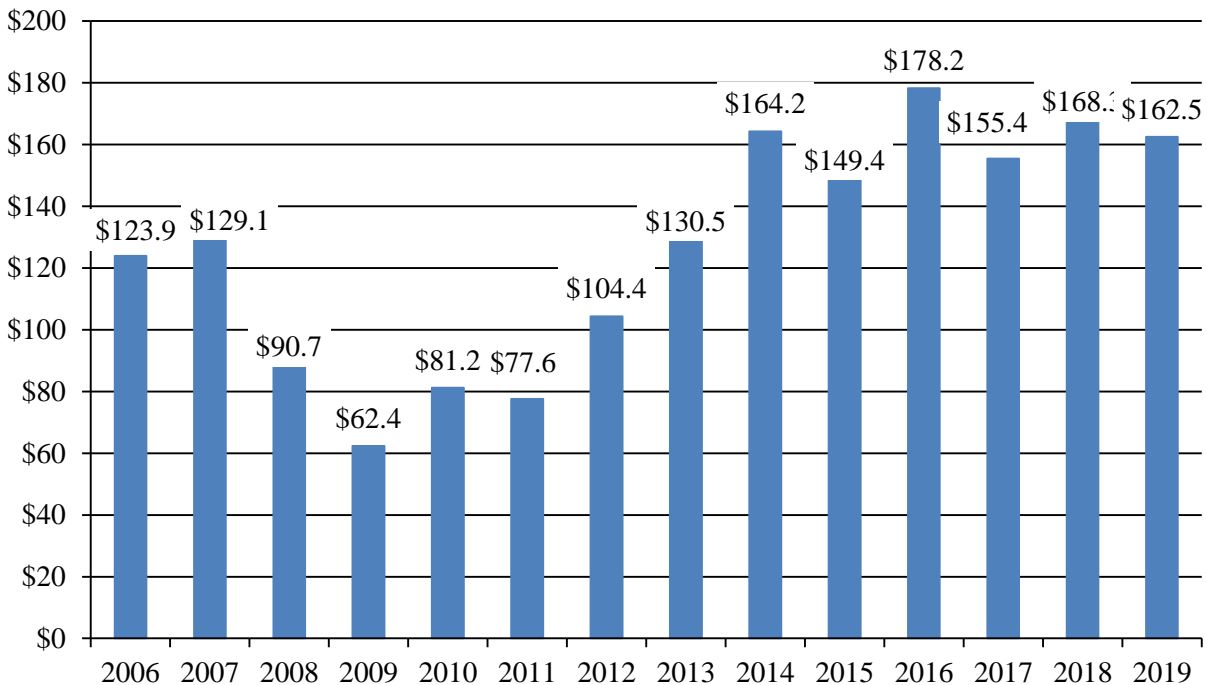
Analysis

Current Law: Local governments in Maryland 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.

Background: Development impact fees and building excise taxes are imposed in 14 counties in Maryland. In addition, Dorchester County has enacted an excise tax but has temporarily suspended collection of the charge. As shown in **Exhibit 1**, after reaching a

peak of \$129.1 million in fiscal 2007, impact fee and excise tax revenues declined to \$62.4 million in fiscal 2009. Revenues have since returned to higher levels and are projected to total \$168.3 million in fiscal 2018 and \$162.5 million in fiscal 2019. Public services funded by these charges include public school construction, libraries, community colleges, transportation, public safety, parks and recreation, and water/sewer utilities. **Appendix 1** shows the development impact fees and building excise tax rates applicable to a single-family development for each county in fiscal 2017 through 2019. **Appendix 2** shows the revenue collections for fiscal 2017 through 2019.

Exhibit 1
Development Impact Fees and Excise Taxes
Maryland Counties
Fiscal 2006-2019
(\$ in Millions)



Source: Department of Legislative Services; Maryland Association of Counties

Development impact fees and building excise taxes enable local governments to collect revenue from builders for public facilities necessitated by new residential or commercial development. As a result of these development charges, local governments are able to shift the costs of financing new public facilities from existing taxpayers to individuals

responsible for the development. In many situations, the use of such development charges may eliminate the need for jurisdiction-wide 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 before the issuance of a building permit or approval of a subdivision plat.

Differences Between Impact Fee and Excise Tax

A development impact fee is a regulatory measure designed to fund facilities specifically required by new development projects in order to mitigate the impact of such development on infrastructure or public facilities. However, there must be a reasonable connection between the amount of the impact fee imposed and the actual cost of providing facilities to the properties assessed. In order to justify the imposition of an impact fee, a jurisdiction must conduct a study that measures the effects that new development will have on public facilities. The amount of an impact fee is subject to judicial review. Moreover, the revenue from the fee must be dedicated to substantially benefit the assessed properties. Thus, a county cannot collect an impact fee in one geographic area and spend the funds in another area.

A building excise tax is another means of raising revenue from new development. Unlike a regulatory impact fee, the amount of an excise tax does not have to be closely related to the actual cost of providing public facilities to serve new development. In addition, excise tax revenues do not have to be spent to specifically benefit the properties that are taxed but can generally be spent throughout the county.

Local Fiscal Effect: Baltimore County revenues will increase beginning in fiscal 2020 to the extent development impact fees are imposed. The amount of the revenue increase depends on the amount of the impact fees that are imposed and on the number and types of development projects that are subject to the fees. As a point of reference, if Baltimore County imposes a fee structure similar to Anne Arundel or Prince George's counties, Baltimore County revenues may increase by \$20 million to \$35 million annually.

Baltimore County expenditures are not directly affected; however, to the extent that development impact fees are imposed, the county will have additional funds available to finance improvements and facilities required to accommodate new construction or development.

Building Permit Information

Baltimore County receives residential building permit data from the Baltimore Metropolitan Council on a monthly basis. The building permit data that is

provided includes permits for new single-family attached and detached units, new multifamily units, as well as permits for alterations and additions. Over the last four years, the number of residential building permits issued in Baltimore County totaled 2,381 in fiscal 2015, 3,241 in fiscal 2016, and 2,124 in fiscal 2017. In fiscal 2018, 4,577 residential building permits were issued which included 3,308 for minor alterations and additions.

Additional Information

Prior Introductions: SB 1192 of 2018 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Cross File: HB 449 (Delegate Lafferty) - Environment and Transportation.

Information Source(s): Baltimore County; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2019
mm/hlb Third Reader - March 13, 2019
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Appendix 1 – County Development Impact Fees and Excise Tax Rates Fiscal 2017-2019

<u>County</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Anne Arundel ¹	\$12,473	\$12,963	\$13,390
Calvert	12,950	12,950	12,950
Caroline ³	5,000	5,000	5,000
Carroll	533	533	533
Charles	16,206	16,838	17,385
Dorchester ⁴	0	0	0
Frederick ⁵	14,881	15,515	15,515
Harford	6,000	6,000	6,000
Howard ⁶	\$2.43/sq. ft.	\$2.47/sq. ft.	\$2.72/sq. ft.
Montgomery ⁷	40,793	45,159	45,159
Prince George's ⁸	23,007	23,513	24,094
Queen Anne's	\$4.96/sq. ft.	\$5.29/sq. ft.	\$5.48/sq. ft.
St. Mary's ⁹	4,500	5,500	6,280
Talbot ¹⁰	7,176	7,427	7,680
Washington	\$1.00/sq. ft.	\$1.00/sq. ft.	\$1.00/sq. ft.

¹ Fees/rates listed are generally those applicable to single-family detached dwellings and are per dwelling unless otherwise indicated.

² Rates are for a 2,000-2,499 square foot residential unit. Residential rates vary by the square footage of a unit.

³ Effective December 7, 2018, Caroline County's development excise taxes for school construction and agricultural land preservation are repealed and replaced with a development impact fee. The amount of the impact fee is \$5,000 per dwelling unit for single-family and multifamily dwellings. The amount of the former development excise tax for school construction was \$5,000 per lot created by subdivision.

⁴ The county development excise tax is suspended for a six-year period ending on June 30, 2020.

⁵ The rates shown reflect the public school and library impact fee total.

⁶ Fiscal 2017, 2018, and 2019 amounts represent the total of the roads tax amount (\$1.17/sq. ft., \$1.18/sq. ft., and \$1.40/sq. ft., respectively) and the school surcharge amount (\$1.26/sq. ft., \$1.29/sq. ft., and \$1.32/sq. ft., respectively.)

⁷ Fiscal 2017 amount represents \$13,966 for transportation and \$26,827 for schools. Fiscal 2018 and 2019 amounts represent \$23,062 for schools and \$22,097 for transportation in the "yellow" and "green" zones in the county. (The transportation rate is \$17,677 in the "orange" zone and \$7,072 in the "red" zone.)

⁸ Fiscal 2019 amount represents \$16,371 for school facilities and \$7,723 for public safety. A lower school facilities rate (\$9,550 in fiscal 2019) applies inside the beltway and to certain development near mass transit and a lower public safety rate (\$2,575 in fiscal 2019) applies inside the "developed tier" as defined in the 2002 Prince George's County Approved General Plan and to certain development near mass transit.

⁹ Rate for fiscal 2019 is for a dwelling of 1,200 to 2,399 square feet. Beginning in fiscal 2019, rates vary by the square footage of a unit.

¹⁰ A lower rate (\$6,633 in fiscal 2019) applies to development inside municipalities.

Source: Department of Legislative Services

Appendix 2 – County Development Impact Fees and Excise Tax Revenues

County	FY 2017	FY 2018	FY 2019	FY 2017-2018		FY 2018-2019	
				Difference	% Difference	Difference	% Difference
Anne Arundel	\$24,587,197	\$16,300,000	\$21,350,000	-\$8,287,197	-33.7%	\$5,050,000	31.0%
Calvert	3,131,565	3,745,714	3,840,380	614,149	19.6%	94,666	2.5%
Caroline	140,458	152,416	150,000	11,958	8.5%	-2,416	-1.6%
Carroll	166,848	162,512	146,261	-4,336	-2.6%	-16,251	-10.0%
Charles	9,268,006	10,562,185	9,842,404	1,294,179	14.0%	-719,781	-6.8%
Dorchester ¹	0	0	0	0	0.0%	0	0.0%
Frederick	21,454,554	14,272,120	15,900,834	-7,182,434	-33.5%	1,628,714	11.4%
Harford	2,707,200	2,500,000	3,000,000	-207,200	-7.7%	500,000	20.0%
Howard	14,988,001	15,251,380	15,070,817	263,379	1.8%	-180,563	-1.2%
Montgomery	41,569,000	65,800,000	52,595,000	24,231,000	58.3%	-13,205,000	-20.1%
Prince George's	32,264,200	35,760,700	36,619,000	3,496,500	10.8%	858,300	2.4%
Queen Anne's	1,700,495	1,400,000	1,400,000	-300,495	-17.7%	0	0.0%
St. Mary's	1,914,075	1,470,000	1,620,000	-444,075	-23.2%	150,000	10.2%
Talbot	850,559	318,000	344,000	-532,559	-62.6%	26,000	8.2%
Washington	704,912	600,000	600,000	-104,912	-14.9%	0	0.0%
Total	\$155,447,070	\$168,295,027	\$162,478,696	\$12,847,957	8.3%	-\$5,816,331	-3.5%

¹Dorchester County's development excise tax is suspended for a six-year period ending on June 30, 2020.

Source: Department of Legislative Services