

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 528 (St. Mary's County Delegation)
Environment and Transportation

Budget and Taxation

St. Mary's County – Repeal of Impact Fee – Authorization of Building Excise Tax

This bill authorizes St. Mary's County to impose a building excise tax on any building construction in the county. The county commissioners may impose different tax rates on different types of building construction. Revenues from the tax must be deposited in the county general fund and may be used for any lawful purpose in the county. The county's existing authority to impose a development impact fee is repealed. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: None.

Local Effect: No net effect on St. Mary's County revenues. County general fund revenues increase by approximately \$1.0 million annually beginning in FY 2024, while special fund revenues decrease by a commensurate amount. County expenditures are not directly affected.

Small Business Effect: Minimal.

Analysis

Current Law: St. Mary's County imposes a development impact fee on new construction in the county to finance the costs for public facilities required to accommodate the new construction or development. This authority was granted by the General Assembly in 1974 through Chapter 814. In fiscal 2021, the county development impact fees range from

\$4,989 for a dwelling up to 1,199 square feet; \$5,338 for a dwelling between 1,200 and 2,399 square feet; and \$5,686 for a dwelling over 2,400 square feet.

For a further discussion of development impact fees and building excise taxes in Maryland, see **Appendix – Development Impact Fees and Building Excise Taxes**.

Local Fiscal Effect: St. Mary’s County is projected to collect \$1.7 million in development impact fees in fiscal 2020 and \$960,000 in fiscal 2021. The development impact fees are used for capital improvement projects, including roads, parks, and schools, associated with new development. St. Mary’s County advises that transitioning from a development impact fee to a building excise tax will provide the county with more flexibility in that excise tax revenues can be spent throughout the county rather than in just the areas subject to the tax.

The county anticipates that building excise tax rates will likely be similar to the current development impact fee schedule; as a result, the overall amount of county revenues collected each year will not change. However, since the bill requires that building excise tax revenues be deposited in the county’s general fund, county general fund revenues are expected to increase by approximately \$1 million annually beginning in fiscal 2024 while special fund revenues decrease by a commensurate amount. Currently, development impact fees are deposited in a special fund that is used to finance the county’s capital budget.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): St. Mary’s County; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2021
rh/hlb Third Reader - March 19, 2021

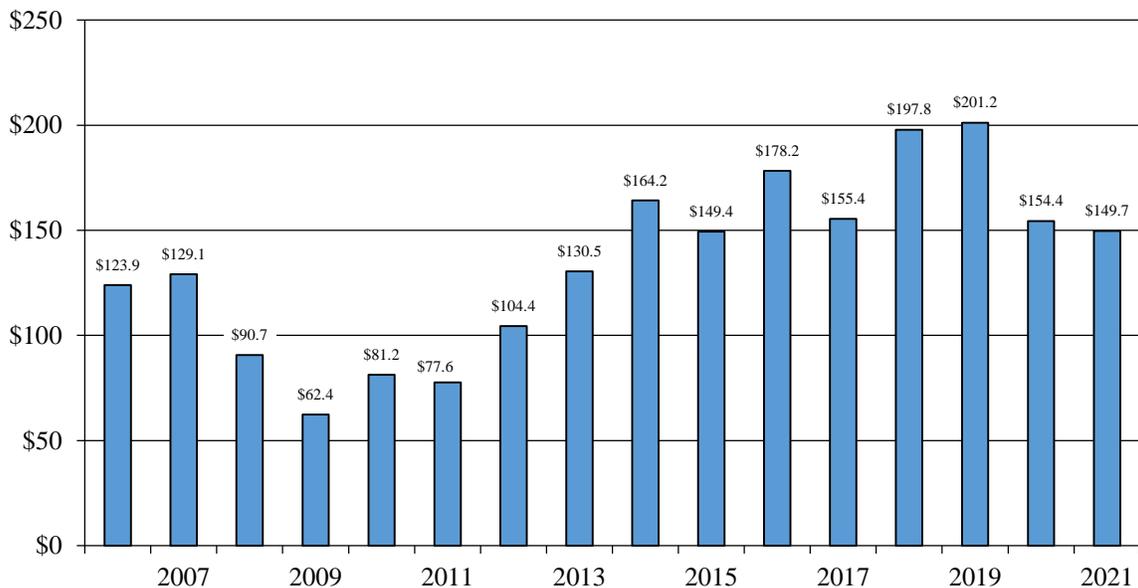
Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – Development Impact Fees and Excise Taxes

Development impact fees and building excise taxes are imposed in 15 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, with \$201.2 million collected in fiscal 2019. However, due to the current economic climate, local revenues from development impact fees and excise taxes are expected to decline to \$154.4 million in fiscal 2020 and \$149.7 million in fiscal 2021. Public services funded by these charges include public school construction, libraries, community colleges, transportation, public safety, parks and recreation, and water/sewer utilities.

Exhibit 1
Development Impact Fees and Excise Taxes
Maryland Counties
Fiscal 2006-2021
(\$ in Millions)



Source: Department of Legislative Services

In a given county, other charges imposed on new development (while not accounted for here as development impact fees or excise taxes) may also be directed partially or wholly toward new or expanded facilities (*e.g.*, water/sewer system development charges or connection charges). In addition, a number of municipalities impose impact fees or similar charges on new development.

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.

Exhibit 2 shows the development impact fees and building excise tax rates applicable to a single-family development for each county in fiscal 2019 through 2021. **Exhibit 3** shows the revenue collections for fiscal 2019 through 2021.

Exhibit 2
County Development Impact Fee and Excise Tax Rates¹
Fiscal 2019-2021

County	FY 2019	FY 2020	FY 2021
Anne Arundel ²	\$13,390	\$13,793	\$14,022
Baltimore ³	0	0	1.5%/GSP
Calvert	12,950	12,950	12,950
Caroline ⁴	5,000	5,000	5,000
Carroll	533	533	533
Charles	17,385	17,244	17,837
Dorchester ⁵	0	0	0
Frederick ⁶	15,515	14,813	15,318
Harford	6,000	6,000	6,000
Howard ⁷	\$2.72/sq. ft.	\$2.85/sq. ft.	\$6.26/sq. ft.
Montgomery ⁸	45,159	50,697	50,697
Prince George's ⁹	24,101	24,583	24,657
Queen Anne's	\$5.48/sq. ft.	\$5.58/sq. ft.	\$5.67/sq. ft.
St. Mary's ¹⁰	6,280	6,756	5,338
Talbot ¹¹	7,680	7,818	7,935
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 In 2020, Baltimore County imposed a development impact fee on new residential construction that is initiated on or after July 1, 2020, and a development impact surcharge on new nonresidential construction that is initiated on or after July 1, 2020. GSP means gross sales price.

⁴ Effective December 7, 2018, Caroline County's development excise taxes for school construction and agricultural land preservation were 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.

⁵ The county development excise tax was previously suspended for a six-year period ending on June 30, 2020. In June 2020, Dorchester County adopted an extension of the excise tax suspension through June 2022, Bill No. 2020-3.

⁶ The rates shown reflect the public school and library impact fee total.

⁷ Fiscal 2019, 2020, and 2021 amounts represent the total of the roads tax amount (\$1.40/sq. ft., \$1.50/sq. ft., and 1.51/sq. ft., respectively) and the school surcharge amount (\$1.32/sq. ft., \$1.35/sq. ft., and 4.75/sq. ft., respectively, with lower rates in fiscal 2021 for grandfathered senior and affordable housing). The fiscal 2021 school surcharge amount increases to \$6.25/sq. ft. beginning January 1, 2021.

⁸ Fiscal 2019 amount represents \$23,062 for schools and \$22,097 for transportation in the “yellow” and “green” zones in the county. Fiscal 2020 and 2021 amounts represent \$26,207 for schools and \$24,490 for transportation in the “yellow” and “green” zones. (The transportation rate is \$19,591 in the “orange” zone and \$7,838 in the “red” zone in both fiscal 2020 and 2021.)

⁹ Fiscal 2021 amount represents \$16,748 for school facilities and \$7,909 for public safety. A lower school facilities rate (\$9,770 in fiscal 2021) applies inside the beltway and to certain development near mass transit and a lower public safety rate (\$2,638 in fiscal 2021) applies inside the Transportation Service Area 1 as defined in the Prince George’s County Approved General Plan and to certain development near mass transit.

¹⁰ Rates for fiscal 2019, 2020, and 2021 are for a dwelling of 1,200 to 2,399 square feet. Rates vary by the square footage of a unit.

¹¹ A lower rate (\$6,853 in fiscal 2021) applies to development inside municipalities.

Source: Department of Legislative Services

Exhibit 3
County Development Impact Fee and Excise Tax Revenues

County	FY 2019	FY 2020	FY2021	FY 2019-2020		FY 2020-2021	
				Difference	% Difference	Difference	% Difference
Anne Arundel	\$32,733,712	\$19,050,000	\$21,775,600	-\$13,683,712	-41.8%	\$2,725,600	14.3%
Baltimore ¹	0	0	0	0	0.0%	0	0.0%
Calvert	2,866,973	3,101,213	3,214,150	234,240	8.2%	112,937	3.6%
Caroline	165,805	194,818	150,000	29,013	17.5%	-44,818	-23.0%
Carroll	255,993	175,862	158,276	-80,131	-31.3%	-17,586	-10.0%
Charles	10,991,958	10,482,700	10,818,900	-509,258	-4.6%	336,200	3.2%
Dorchester ²	0	0	0	0	0.0%	0	0.0%
Frederick	30,033,584	19,559,856	18,940,714	-10,473,728	-34.9%	-619,142	-3.2%
Harford	3,438,000	3,500,000	1,750,000	62,000	1.8%	-1,750,000	-50.0%
Howard	12,979,439	11,467,128	13,108,700	-1,512,311	-11.7%	1,641,572	14.3%
Montgomery	52,595,000	37,000,000	29,970,000	-15,595,000	-29.7%	-7,030,000	-19.0%
Prince George's	47,560,230	45,581,794	45,600,000	-1,978,436	-4.2%	18,206	0.0%
Queen Anne's	2,004,178	1,640,900	2,274,880	-363,278	-18.1%	633,980	38.6%
St. Mary's	3,088,099	1,690,000	960,000	-1,398,099	-45.3%	-730,000	-43.2%
Talbot	493,881	333,700	378,700	-160,181	-32.4%	45,000	13.5%
Washington	1,954,055	600,000	600,000	-1,354,055	-69.3%	0	0.0%
Total	\$201,160,907	\$154,377,971	\$149,699,920	-\$46,782,936	-23.3%	-\$4,678,051	-3.0%

¹ Baltimore County imposes a development impact surcharge on new nonresidential construction and a development impact fee on new residential construction that has been initiated on or after July 1, 2020. Due to the timing of collections, substantial revenues are not expected in fiscal 2021.

² The county development excise tax is suspended. In June 2020, Dorchester County adopted an extension of the excise tax suspension through June 2022, Bill No. 2020-3.

Source: Department of Legislative Services