March 25, 2025

The Honorable, Guy Guzzone, Chair
Senate Budget and Taxation Committee
Miller Senate Office Building, 3 West
Annapolis, Maryland 21401

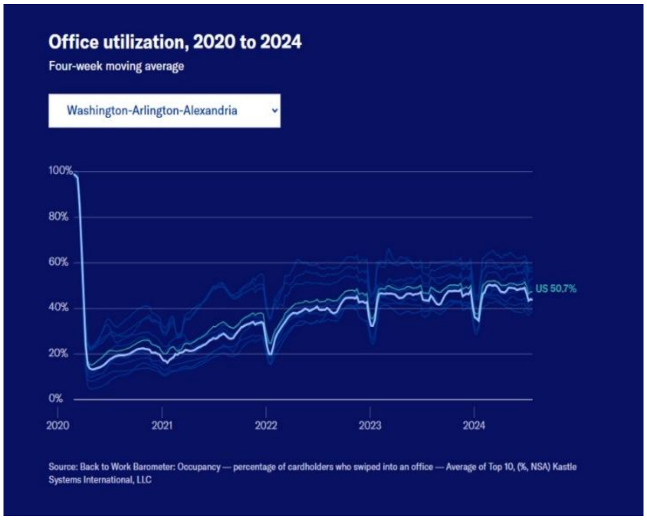
Unfavorable: HB 23 – Property Tax – Authority to Set Special Rates - Commercial and Industrial Property

Dear Chair, Guzzone, and Committee Members:

The NAIOP Maryland Chapters represent seven hundred companies involved in all aspects of commercial, industrial, and mixed-use real estate. On behalf of our member companies, I am writing to request your unfavorable report on HB 23 which authorizes an average of 12% higher property tax rates on commercial and industrial property.

The timing and amount of this tax increase will put further financial stress on commercial real estate and increase the disproportionate share of local government services funded by commercial real estate taxes and fees.

- **Slow Return to Office** - During the third reader debate in the House of Delegates the bill sponsor referenced a February 20, 2025, Washington Post Article, *"More people are working from the office"* as evidence of the strength of the office real estate market and commercial real estate's ability to abosorb higher taxes authorized by HB 23.



  The article reported that, in Washington D.C., the percentage of the work week when office space was being utilized hit a post pandemic record of 51%. This information was presented as if office utilization (return to office) had recovered to what it was before the pandemic when in fact, office utilization in Washington D.C. was only half the pre-pandemic rate. The graph on the right shows the history of the Kastle Systems data tracking of return to office referenced in the article.

- **High Maryland Vacancy and Negative Absorption Rates** - The Cushman and Wakefield office report for Washington D.C. reported 888,000 more square feet of office space was vacated and returned to building owners than was rented in 2024 – this is known as negative net absorbtion. The year end office vacancy rate was 21.2% and zero office construction projects broake ground during the year.

  The Montgomery County office vacancy rate as of the 4th quarter of 2024 was 22.6%. Montogmery, Frederick and Prince Geoprge's County office markets experienced negative net absorbtion of more than 777,000 square feet and no new projects under construction. The vacancy rate in Baltimore City Center was 28.2%.

U.S. Mail: 12 Francis Street, Annapolis, Maryland 21401 **Phone:** 410.977.2053 **Email:** tom.ballentine@naiop-md.org

According to the March 10, 2025, report from Moody's, Federal austerity measures including cuts to US government head count and office space pose a greater threat to Maryland than to any other state.

- **Increased Commercial Property Taxes Put Downward Pressure on Assessed Values and Shrink the Commercial Tax Base** - Commercial real estate values are largely determined by their ability to generate income, which is measured through Net Operating Income. Higher property taxes increase operating expenses, which directly reduces Net Operating Income and lowers property values.

- **Higher Taxes Impact Financing and Loan Underwriting** – Debt Service Coverage Ratio measures the extent to which commercial rents cover a building's operating costs. When taxes rise lower operating incomes can weaken the debt coverage ratio to below minimum levels set by banks and lending institutions. Lenders may require higher downpayments or impose stricter loan terms making financing more difficult to obtain or more expensive.

- **Commercial Development is Subject to Transportation Impact Fees, and Excise Taxes that Generate Funding and Adequate Public Facilities Regulations that Generate In-Kind Construction of State and Local Transportation Facilities** – In many jurisdictions NAIOP members pay impact fees to fund expansion of transportation facilities and provide in-kind services in the form of upgraded intersections and road improvements as a condition of development approval. These taxes and road improvements are development costs embedded in the sales prices of new buildings. HB 23 would "double tax" property owners for some of the same purposes and would do so without regard for the adequacy of transportation infrastructure serving the buildings that pay the increased taxes or whether the class of property paying the increased tax is generating demand for expanded transportation infrastructure.

- **Increased Taxes Will Pass Through to Small Businesses Under Common Lease Provisions** - The common commercial real estate lease for many small service and retail businesses is a lease where the tenant pays for regular expenses like utilities and property taxes. The increased taxes resulting from HB 23 will be passthrough expenses. If taxes sharply increase, tenants may struggle to afford rent or seek alternatives in lower-tax areas.

- **Breaks with Principle of Uniform Taxation** - The bill would break the long-standing principle that all property owners should pay uniform tax rates. The annual reevaluation of transportation capital and operating costs and resetting of rates exposes building owners and their tenants to unpredictable increases in taxes. Most commercial leases are 5 to 10 years or longer. The leases anticipate gradual increases in taxes based on property appreciation. There is no opportunity to renegotiate sharply increased tax bills and few borrowing options to respond to volatile or unpredictable tax rates.

- **Commercial Real Estate is Already Heavily Taxed, Generating Higher Net Tax Benefits Than Other Classes of Property** – There is very little doubt that the authority would result in narrowly drawn and disproportionately high commercial real estate taxes. Commercial real estate already pays state and local property taxes, transfer and recordation taxes on leases, sales, and mortgages. These existing commercial real estate taxes generate significantly more revenue than the cost of public services provided to commercial real estate.

- **Geographically Focused Higher Taxes Near Transit Will Add Higher Tax Rates to Existing Higher Assessed Values** - Financially viable transit districts should already generate higher tax revenues as a result of higher assessed valuations for property within the designated transit areas. HB 23 authorizes higher tax rates be applied to those valuations.

For these reasons, NAIOP respectfully requests your unfavorable report on HB 23.

Sincerely,

T.M. Ballentine

Tom Ballentine, Vice President for Policy
NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Budget and Taxation Committee Members
Nick Manis – Manis, Canning Assoc.