Celebrating 90 Years
1936 – 2026
MARYLAND MUNICIPAL LEAGUE

TESTIMONY

COMMITTEE:	Senate Finance	**DATE:**	February 17, 2026
POSITION:	Favorable with Amendments	**BILL:**	SB 389

The Maryland Municipal League (MML) appreciates the continued focus on transit-oriented development (TOD) and the goal of concentrating housing and mixed-use growth in areas served by rail infrastructure. Transit-oriented development can support efficient use of existing infrastructure, reduce transportation costs for residents, strengthen local tax bases, and align housing growth with long-term transportation investment. Municipalities across Maryland have long partnered with the State to advance thoughtful rail-adjacent redevelopment and mixed-use planning.

The League is not opposing the TOD land use framework reflected in the bill. However, two components raise significant structural and fiscal concerns for municipalities: (1) the automatic designation of TODs as Enterprise Zones; and (2) the required delay in collection of development impact fees and excise taxes.

Enterprise Zone Designation

MML respectfully but fundamentally disagrees with the automatic designation of qualifying TODs as Enterprise Zones. Enterprise Zones were created to target economic development incentives to areas demonstrating economic distress or prolonged commercial decline. The program is structured to make investment viable in locations where market conditions alone are insufficient to attract redevelopment. In exchange, local governments provide a property tax credit, usually for 10 years, on the increased value attributable to qualifying improvements. That credit represents a significant local tax expenditure. For most municipalities, property tax is the primary general fund revenue source used to support public safety, infrastructure maintenance, debt service, and other core services. The decision to grant a 10-year property tax credit is therefore a deliberate fiscal determination based on demonstrated economic need.

Transit-Oriented Developments, by contrast, are designated based on proximity to transit infrastructure and coordinated land use planning considerations. Rail access itself often creates strong or emerging market conditions. In many TOD areas, development demand already exists because of location, infrastructure access, and transit connectivity. Automatically designating TODs as Enterprise Zones applies a substantial local tax incentive in areas that may not require additional economic stimulus to attract investment. This shifts the Enterprise Zone program from a targeted, need-based revitalization tool into a location-based incentive tied solely to transit proximity.

The practical implications for municipalities are significant. Although Enterprise Zone participation technically requires local action, automatic designation places municipalities in a constrained position. If an area is designated as an Enterprise Zone but the municipality declines to offer the required property tax credit, the zone is largely ineffective and creates confusion for developers. In practice, automatic designation effectively obligates municipalities to provide the 10-year property tax credit if the Enterprise Zone is to function as intended.

This change also applies retroactively to TODs designated prior to the bill's effective date. Retroactive designation alters the fiscal consequences of past local planning decisions and can immediately result in foregone municipal property tax revenue in areas that already have infrastructure, already have market demand, and often would experience development without additional tax incentives.

When Enterprise Zone tax credits are automatically applied to TOD areas statewide, the State is functionally steering development intensity and location through the tax code. While zoning authority may technically remain local, mandatory tax incentives influence project feasibility, development timing, and project type. This approach embeds housing and growth policy within a tax incentive statute without recalibrating the Enterprise Zone framework to account for housing-related infrastructure demands or municipal revenue impacts.

For these reasons, MML believes Enterprise Zone designation within TODs should not occur automatically. At a minimum, designation should require affirmative approval by resolution of the governing body of the affected county or municipal corporation, or certification that it is consistent with local comprehensive plans, infrastructure capacity, and fiscal policies. TODs designated prior to the effective date of this Act should not receive Enterprise Zone status without local consent.

Development Impact Fees and Excise Taxes

The bill also requires that development impact fees and excise taxes for qualifying TOD residential projects be collected only after construction is complete and a certificate of occupancy is issued. Development impact fees and excise taxes are financing mechanisms used to fund capital infrastructure necessitated by new development, including road improvements, water and sewer capacity, stormwater systems, and other public facilities. These obligations arise early in the development process. Municipalities frequently allocate capital funds, enter into construction contracts, or issue debt in anticipation of fee revenue to support required improvements. Tying full collection to issuance of a certificate of occupancy shifts 100% of the financing risk to local governments and disconnects revenue timing from infrastructure obligations. Under this structure, municipalities must fund or finance infrastructure in advance of receiving the revenue intended to pay for it.

For many municipalities, property tax is the primary source of general fund revenue, and borrowing capacity is limited. Fronting infrastructure costs until project completion may require the use of reserves, increased debt issuance, or reallocation of funds from other priorities. If fee revenue is delayed or a project does not proceed as anticipated, the municipality remains responsible for debt service and infrastructure costs. This risk allocation does not eliminate infrastructure costs; it simply shifts them. In jurisdictions with limited revenue tools, sustained cost shifting can ultimately place upward pressure on property tax rates or constrain funding for essential services. In that respect, mandatory deferral of impact fee collection may undermine housing affordability rather than advance it.

A more balanced structure would allow local governments to collect up to 50% of applicable development impact fees or excise taxes prior to issuance of a building permit, with the remaining balance due prior to issuance of a certificate of occupancy. This approach preserves development predictability while maintaining alignment between infrastructure financing and growth.

The bill also authorizes revocation of occupancy approvals if required fees remain unpaid. Revocation after occupancy places residents at risk and increases litigation exposure, while providing limited practical leverage against developers. Local governments should instead be authorized to withhold issuance of occupancy approvals until all required development impact fees and excise taxes are paid. This preserves an effective enforcement mechanism without creating unintended consequences.

Municipalities support transit-oriented development and remain committed partners in advancing housing and mixed-use growth near rail infrastructure. However, automatic Enterprise Zone designation and mandatory deferral of impact fee collection represent structural fiscal changes that warrant modification to protect local fiscal stability, infrastructure planning, and long-term housing affordability. MML has submitted proposed amendments to the Administration addressing the Enterprise Zone and impact fee provisions and remains committed to working in good faith toward a solution that advances the State's development goals while ensuring fiscal responsibility at the local level. For these reasons, the Maryland Municipal League respectfully requests a favorable report contingent upon adoption of amendments resolving these concerns.

For more information relating to this piece of testimony, please contact:
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