



## Impact Fees and Adequate Facilities Tax

### BACKGROUND

In 2006, the General Assembly prohibited counties from adopting impact fees and precluded cities and counties from adopting an adequate facilities tax. Any local government that had an impact fee, adequate facilities tax, or both in place at the time was permitted to retain the fee or tax but was subject to a cap. While the legislation expressly prohibited counties, but not cities, from levying an impact fee, most cities do not possess the independent authority to impose impact fees. As such, any municipality seeking to enact an impact was required to obtain a private act. However, no such private act has been successful as legislators have soured on approving acts for this purpose.

Last year brought the first meaningful effort to revisit local impact fees and adequate facilities taxes since 2006. Counties experiencing financial stress associated with a sustained period of significant growth were the impetus for this push. Led by officials in Rutherford County and Maury County, supporters contend the growth is the direct result of an increase in population and that these new residents need to share in the costs incurred by other taxpayers because of development. They further contend restoring a local government's authority to levy such fees and taxes is the most logical and immediate avenue to relief.

TML worked with its county partners to develop legislation [SB820 (Hensley) / HB1206 (Cepicky)] which sought to simplify the process and promote local autonomy by reversing the 2006 legislation. Last year's legislation was met with fierce opposition from homebuilders and realtors. The bill and subsequent amendments were hotly debated and subjected to numerous revisions. Despite several efforts to negotiate a compromise, the parties could not reach an agreement and the sponsors were unable to secure the necessary votes to ensure passage.

### PROBLEM

Local governments do not possess the authority to levy an impact fee or adequate facilities tax. Over the last decade, the State has realized significant growth in its population. This growth necessitates a corresponding expansion of capacity and services. This expansion has a fiscal cost – a cost that is borne, almost exclusively by existing municipal residents. These demands and increased costs have led many existing residents and business owners to question why those moving into the community are not shouldering a bigger share of the financial burden. This has renewed calls to remove the prohibition on impact fees and an adequate facilities tax.

### REMEDY

Last year, TML worked with its county partners to develop legislation [SB820 (Hensley) / HB1206 (Cepicky)] which sought to simplify the process and promote local autonomy by reversing the 2006 legislation. TML will continue to pursue general authorization that gives local governments the option of adopting an impact fee and adequate facilities tax and to enter into discussion with the General Assembly.



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