

PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY

Meeting Date: 10/28/98

Reference No.: CB-97-1998

Proposer: Planning Board

Draft No.: 3

Sponsors: Del Giudice

Item Title: To exempt all activities and facilities of the Maryland-National Capital Park and Planning Commission, except golf activities, from the admissions and amusement tax and generally reducing the tax on golf activities

Drafter: Richard A. Romine
General Counsel

Resource Personnel: Barbara Holtz, Office of Law
Gene Giddens,
Parks & Recreation

LEGISLATIVE HISTORY:

Date Presented: 6/23/98

Executive Action: __/__/__ US

Committee Referral: 6/23/98 C.O.W.

Effective Date: 1/5/99

Committee Action:(1) 6/23/98 FAV(A)

Committee Referral: 6/23/98 C.O.W.

Committee Action:(2) 10/6/98 FAV(A)

Date Introduced: 7/7/98

Pub. Hearing Date:(1) 7/28/98 10:45 A.M.

Pub. Hearing Date:(2) 10/28/98 2:00 P.M.

Council Action:(1) 7/28/98 RECOMMIT

Council Votes: RVR:A, DB:A, SD:A, JE:A, IG:A, TH:A, WM:A, AS:A, MW:A

Pass/Fail: P

Council Action:(2) 10/28/98 ENACTED

Council Votes: RVR:A, DB:A, SD:A, JE:A, IG:A, TH:A, WM:A, AS:A, MW:A

Pass/Fail: P

Remarks: _____

10/6/98: The amendments made in Committee of the Whole are considered to be substantive requiring an additional public hearing.

COMMITTEE OF THE WHOLE REPORT**Date: 10/6/98**

Committee Vote: Favorable, as amended, 7-0 (In Favor: Council Members Russell, Bailey, Del Giudice, Estepp, Hendershot, Maloney and Scott).

The Bill went to public hearing on July 28, 1998. It was subsequently sent back to committee after owners of local golf courses argued that it was inequitable to continue the tax exemption for the Commission's golf courses when private owners must pay the tax. At the meeting on October 6, CB-97-1998 was amended to require the Park and Planning Commission to pay the same percentage level of admissions and amusement taxes for greens fees and golf cart rentals as are paid by other golf courses. The tax on greens fees was also lowered from 10% to 5%.

COMMITTEE OF THE WHOLE REPORT Date: June 23, 1998

Committee Vote: Favorable, as amended, 8-0 (In Favor: Council Members Russell, Bailey, Del Giudice, Estepp, Hendershot, Maloney, Scott and Wilson).

Commission General Counsel Richard Romine presented the bill and explained the historical application of the admissions and amusement tax for Commission programs and facilities. The bill was amended at the request of the Commission to provide exemption from taxation for no-cost admissions pursuant to Section 10-208, as depicted in a proposed Draft 2.

BACKGROUND INFORMATION/FISCAL IMPACT**(Includes reason for proposal, as well as any unique statutory requirements)**

Section 4-102(a) of the Tax-General Article of the Annotated Code of Maryland grants counties the ability to charge admissions and amusement tax and states that “[a] county may impose, by resolution, a tax on: (1) the gross receipts derived from any admissions and amusement charge in that county; and (2) an admission in that county for a reduced charge or at no charge to a place if there is a charge to other admissions to the place.” An admissions and amusement charge is defined as a charge for (1) admission to a place; (2) use of a game of entertainment; (3) use of a recreational or sports facility; (4) use or rental of recreational or sports equipment; and (5) merchandise, refreshments, or service sold or served in connection with entertainment at a nightclub or room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided. Tax-General Article, Section 4-101(b).

Prince George’s County Code, Sec.10-206, (by adoption of CB-69-1994) codifies Prince George’s

County's admissions and amusement tax and states: "Pursuant to section 4-102(a)(1) of the Tax-General Article of the Annotated Code of Maryland, as amended, or recodified from time to time a tax is imposed on the gross receipts derived from any admissions and amusement charge as defined in section 4-101(b) of the Tax-General Article of the Annotated Code of Maryland, as amended or recodified from time to time at the rate of 10%" (This tax was originally codified in 1972 pursuant to Council Bill No. CB-81-1972.) "This legislation does not change, increase or decrease any of the County's admissions and amusement taxes, but simply removes certain obsolete language and conforms to the State law." Agenda Item Summary, CB-60-1994.

Since 1972, pursuant to an exemption letter from the Comptroller's office, the Commission was considered exempt from the admissions and amusement tax. However, recent rereading of the state and local codes leads to the interpretation that the language of CB-69-1994 and possibly CB-81-1972, did not exempt all the uses of the M-NCPPC from the admissions and amusement tax.

There are numerous Commission facilities in Prince George's County that in some fashion will probably have a use, which at one time or another will be subject to the tax. The principle facilities affected are: three golf courses, two ice rinks, three indoor tennis bubbles, nine aquatics centers, and one trap and skeet range. Other activities affected are use and admissions charges to parks and recreation centers, nature centers, arts facilities, excursions, College Park Airport and Museum and the Prince George's County Sports and Learning Complex. The use of ball fields by leagues and teams would also be subject to the tax.

Based on an analysis of the tax provisions and the fee schedule for use of Park and Recreation facilities, etc., and based on 1997 revenues and projected revenues for the Sports and Learning Complex and the College Park Aviation Museum, the tax is estimated to be approximately \$619,535.00. (See Memorandum from Gene Giddens dated May 12, 1998, and letter from Marye Wells-Harley, dated April 23, 1998).

Since the tax is an "included" tax, that is, it is included in the price of admission, etc., and not added on, it will cost the Department \$619,535.00 (+/-) this forthcoming fiscal year and each year thereafter, reducing fund balances and necessitating a tax increase or service reduction earlier than projected. Another alternative is to raise fees to the users. However, since most taxable events are a daily event, we would be raising fees to those least able to afford them. The reason for this anomaly is that annual dues, country club dues, dues or payments for usage not tied to a specific amount of or certain usage, are not taxed.

CODE INDEX TOPICS