

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2018 Legislative Session

Reference No.:	CB-6-2018
Draft No.:	2
Committee:	PUBLIC SAFETY AND FISCAL MANAGEMENT
Date:	3/8/2018
Action:	FAV (A)

REPORT: Favorable with amendments 3-2 (In Favor: Council Members Davis, Patterson and Turner; Opposed: Council Members Lehman and Taveras)

The Public Safety and Fiscal Management committee convened on Thursday, March 8, 2018, to discuss CB-6-2018, an enabling bill intended to create a local process to implement and incentivize development to realize the land use and development policies at designated policy centers set forth within General Plan for the County, *Plan Prince George's 2035*. DR-1 of the bill proposes amendments to Sections 4-352 and 10-192.01 of the County Code, to include a provision that authorizes the Council to reduce and/or waive the school facilities surcharge for multifamily housing dwelling units and multifamily dwelling units created through conversion of commercial office space to multifamily residential uses.

During the committee work session, the Council's Zoning and Legislative Counsel provided an historical background on the bill since its inception in 1995 via authority created through the enactment of Chapter 66, 1995 Session Laws of Maryland, by the State legislature and the successive enhancements later enacted to this provision of law to date. In addition, the Legislative Counsel stated that the legal authority to implement land use policies as required by the Land Use Article and current 2014 General Plan for the County supply sufficient authority to incentivize certain development in strategic designated centers throughout the County. Finally, Counsel stated that, while there is no prior local legislation to establish a precedent for local control over a waiver or reduction of the surcharge, Maryland law provides that the failure of a statute to provide a penalty when imposing a mandatory provision in its Code renders the requirement directive and not mandatory. As such, Counsel concluded, implicit in the County's authority to impose and collect a local School Facilities Surcharge is the authority to approve relief from the School Facilities Surcharge in its designated policy centers.

Council Member Patterson, the bill's sponsor, stated that the purpose of the bill was to incentivize conversion of existing office space to multifamily housing, and that the Council had approved legislation to permit such conversions by way of its enactment of CB-74-2014. Mr. Patterson also pointed out that, while there are multiple areas in the County that could potentially benefit from this enabling legislation to afford appropriate flexibility in the manner in which targeted areas are incentivized in the County's policy centers, one particular project within the Oxon Hill Town Center would benefit from a measured methodology to waive or reduce the school facilities surcharge because, unlike the single family residential unit process, the

surcharge for multifamily is assessed at the time of building permit for the entire building for all units being developed, which is very costly at that stage of the development process.

The Office of Law offered comments on DR-1 of CB-6 stating that, based on the historical evolution of school facilities surcharge in the County, the Maryland General Assembly created the authorization for local imposition of the school facilities surcharge and, to date, only the General Assembly has acted to create waivers or exemptions from payment of the local surcharge at the time of building permit for residential development. As such, the County Attorney recommended that the Council obtain advice from the Attorney General to confirm the extent of local authority to reduce/waive the school facilities surcharge.

The Council's attorney offered a Proposed DR-2 of CB-6 during committee, which removed the proposed amendments to Section 10-192.01, the provision enacted for the County by the General Assembly, leaving only the parallel language change to Section 4-352 in the bill. The Legislative Counsel explained that the amendment was designed to resolve concerns raised about the amendment of a public local by the Council, and to make the bill consistent with similar legislation that was enacted by the Council, CB-7-2016, to amend Section 4-352 to reflect updated terminology within the 2014 General Plan for the County, *Plan Prince George's 2035*.

Council Members Lehman and Taveras expressed concern over the loss of funding for the schools that could result from the approval of any waivers or reductions of the school facilities surcharge in centers throughout the County.

The Office of Audits and Investigations submitted a fiscal impact statement as to CB-006-2018 stating that enactment of the legislation should not have an adverse impact on the County since this enabling legislation only, but that a negative fiscal impact will likely occur, depending on the amount of waiver approved, that would be equal to the number of multifamily housing dwelling units, multiplied by the amount of the school facilities surcharge. No other written comments were received on the bill.

Upon concluding the discussion on the mechanics and underpinnings of the bill, Council Member Patterson moved for a favorable recommendation on CB-6-2018 with amendments (as set forth in Proposed DR-2), seconded by Council Member Turner.