

MEMORANDUM

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 30-08, Taxicabs - Licensing

Expedited Bill 30-08, Taxicabs - Licensing, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on September 16, 2008. A public hearing is tentatively scheduled for October 7 at 1:30 p.m., and a Transportation, Infrastructure, Energy, and Environment Committee worksession is tentatively scheduled for October 13.

Bill 30-08 would allow the Director of Transportation to waive for good cause the current law's restrictions on transfer of certain taxicab licenses from taxicab fleets to individual drivers. The bill would also subject the creation of a security interest in a taxicab to the Maryland Uniform Commercial Code (UCC), which in Council staff's view was implied but not expressly stated in the 2004 comprehensive revision of the County taxi law.

The County Executive's transmittal memo on ©8, and especially the Legislative Request Report drafted by Executive branch staff on ©3-7, explain the Executive's rationale for this bill and its relationship to the pending Barwood bankruptcy proceeding.

While the Legislative Request Report argues that implementing this Bill would require 2 new positions in DOT, Council staff believes that any supplemental appropriation request that follows enactment of this Bill can be evaluated on its own merits, and enactment of this Bill need not imply approval of any specific appropriation.

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Expedited Bill No. 30-08
Concerning: Taxicabs – Licensing
Revised: 9-10-08 Draft No. 2
Introduced: September 16, 2008
Expires: March 16, 2010
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. , Laws of Mont. Co. _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) allow the Director of Transportation to waive certain restrictions on transfer of certain taxicab licenses in certain circumstances;
- (2) subject the creation of a security interest in certain taxicabs to the requirements of the Maryland Uniform Commercial Code; and
- (3) generally amend the law governing issuance and transfer of taxicab licenses.

By amending

Montgomery County Code
Chapter 53, Taxicabs and Limousines
Section 53-204

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 53-204 is amended as follows:**

2 **53-204. Transferability; security interest.**

3 * * *

4 (c) [A license issued to an individual] Except in the case of a transfer
5 under subsection (f), a license issued to any licensee may be
6 transferred only if the license was not issued or transferred within the
7 previous 3 years.

8 (d) The Director must not approve the transfer to an individual of a
9 license issued to a fleet if:

- 10 (1) the same fleet has already transferred more than 2 licenses to
- 11 individuals during that calendar year; or
- 12 (2) the transfer would result in individuals holding more than 30%
- 13 of the total number of licenses then in effect.

14 The Director may waive the limits on transfer contained in this
15 subsection on written request of a licensee for good cause, and may
16 attach reasonable conditions to any waiver.

17 * * *

18 (f) A security interest may be created in a passenger vehicle license in
19 accordance with the Maryland Uniform Commercial Code, subject to
20 the Director’s approval. The Executive may by regulation attach
21 further conditions to the creation of a security interest, consistent with
22 this subsection, as necessary to avoid significant disruptions in taxi
23 service. The Director may approve the creation of a security interest
24 only if:

25 * * *

26 **Sec. 2. Expedited Effective Date.** The Council declares that this
27 legislation is necessary for the immediate protection of the public interest. This Act
28 takes effect on the date when it becomes law.

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-08 Taxicabs - Licenses

DESCRIPTION:

Gives the Director of Transportation discretion to waive the license transfer restrictions in §53-204(d) for good cause and allow a fleet to transfer more than two taxicab Passenger Vehicle Licenses (PVLs) per year to individuals. Subjects the creation of a security interest to the requirements of the Maryland Uniform Commercial Code (UCC).

PROBLEMS:

Barwood Taxi filed for Bankruptcy relief in January 2007. It may be in the County's interest to provide relief to Barwood or any other fleet that finds itself in a similar situation in the future.

The County estimates that Barwood must pay about \$4,606,600 as part of its reorganization. Barwood argues that to emerge from bankruptcy they need to make many revisions to Chapter 53, including the complete elimination of any PVL transfer restrictions. They claim they need to be able to transfer all 360 of their licenses at a price they estimate from \$50,000 to \$60,000 each. Under their plan they would realize from \$18,000,000 to \$21,600,000 and arguably achieve a significant financial windfall at the expense of taxicab customer service.

Barwood's proposed plan reduces its incentive to take responsibility for service performance of the individual drivers/license holders who drive under the Barwood name. Their plan reverses policy from a fleet based system to an individual system, thereby risking taxicab customer service by creating an individual driver/license holder taxicab structure. Montgomery County is a community of 500 square miles with a taxicab system that relies very heavily on dispatch service. Most jurisdictions that have individual driver/license holders are not suburban jurisdictions, use a preponderance of hail service, have an airport, a major center city, and use the police department to enforce the rules.

Since the new County taxi law took effect in 2005, customer service, as measured by feed back the Department has received, has greatly improved due to increased competition, the placement of additional licenses in service, and the further requirements placed on the fleets to take responsibility for the drivers or risk losing their PVLs. The Department awarded 70 additional PVLs in 2006 (14 to individuals, 56 to fleets, including one entirely new fleet) and is in the process of issuing 65 more (13 to individuals and 52 to fleets) in 2008. The additional licenses and new fleet are helping to minimize the domination of Barwood. Therefore, moving from a fleet PVL held system to an individual PVL held system to accommodate Barwood's liquidation plan, which is likely to further Barwood's monopolistic control, is not a policy that promotes sound customer service.

GOALS AND OBJECTIVES:

Provide relief to Barwood or any other fleet that might find itself in a similar financial situation in the future, as long as the revisions preserve competition, maintain an effective regulatory environment, and protect customer service. The changes should provide fleets some relief, yet protect the public interest and welfare without disrupting service or interfering with regulatory enforcement.

COORDINATION:

Department of Transportation; Office of the County Attorney.

FISCAL IMPACT:

Expenditures: Two Staff \$158,590¹

Priority I: Grade 21 Program Specialist II (Licensing Specialist) - \$59,700 + \$19,700 fringe = \$79,400.

Lifting the limitation of the 20% restriction on individuals holding Passenger Vehicle Licenses could result in individual holders increasing to 35% of the licenses in the County. This will significantly increase the regulatory burden and the tasks for this position, so that one more staff person is essential in order to meet the demand. Most regulation of licensees takes place in the office where tasks are performed, information is tracked on the database, and individual counseling of licensees takes place.

The demands on this position will exponentially increase as the number of individual PVL license holders/small business owners increase. Duties include managing the issuance of Taxicab Driver Identification Cards (IDs) and taxicab Passenger Vehicle Licenses, assessing the qualifications of applicants, reviewing and recommending the approval or denial of PVL transfers, recommending the approval or denial of ID renewals or issuance, and responding to license inquiries. This position is also responsible for the research to insure the applicant is a qualified licensee, monitoring the vehicles, licenses, and licensees for regulatory compliance to insure the public health, welfare, and safety, maintenance of the license database, and recommending denial, suspension, or revocation of licenses, responding to license inquiries, processing renewals, issuance, and other licensing related matters, drafting denial and revocation documents, and testifying at hearings.

Priority II: Grade 20 Code Enforcement Inspector III (Taxicab Inspector) – \$59,541+\$19,649 = \$79,190

One additional inspector is needed for extra enforcement as more drivers become licensees. Although the number of drivers compared to the number of investors who will hold licenses is an unknown, the potential increase in driver/license holders calls for supplemental enforcement. One of the few methods the Department has for enforcing the Code when there are numerous holders is to regulate the licensee as an individual, since there is no method under the Code to regulate an association. Enforcement will become more difficult as the percentage of individual license holders increases from 20% to 35% of the licenses in the County

Revenue: \$105,000 a year for three years [total \$315,000]

Revenue will be generated by a \$2,500 transfer fee per taxicab. The number of transfers depends on the waiver granted by the Director and the number of licenses the fleet actually transfers. The annual revenue depends on the number of licenses transferred in each year. If Barwood, for example, transfers 126 licenses over a three year period, a one time transfer fee of \$2,500 each would be paid for each of the 126 licenses (126 X \$2,500 = \$315,000).

ECONOMIC IMPACT:

The economic impact will affect the drivers who want to hold a PVL and their ability to pay or borrow to pay for the license.

EVALUATION:

Subject to the general oversight of the County Executive and the County Council. The Office of the County Attorney will evaluate for form and legality.

¹Attached to this Legislative Request Report are two matrix flow charts which describe the current staffing levels in the Medicaid and Taxicab Regulation Unit ("MATR") to regulate the taxi unit and the proposed staffing levels which would be required for DOT to regulate the taxi unit under this amendment.

EXPERIENCE ELSEWHERE: Unknown

SOURCES OF INFORMATION:

Nancy W. Kutz
Manager, Medicaid and Taxicab Regulation
Division of Transit Services
Department of Transportation
240-777-5850

Nancy Appel
Assistant County Attorney
Office of the County Attorney
240-777-6754

APPLICATION WITHIN MUNICIPALITIES:

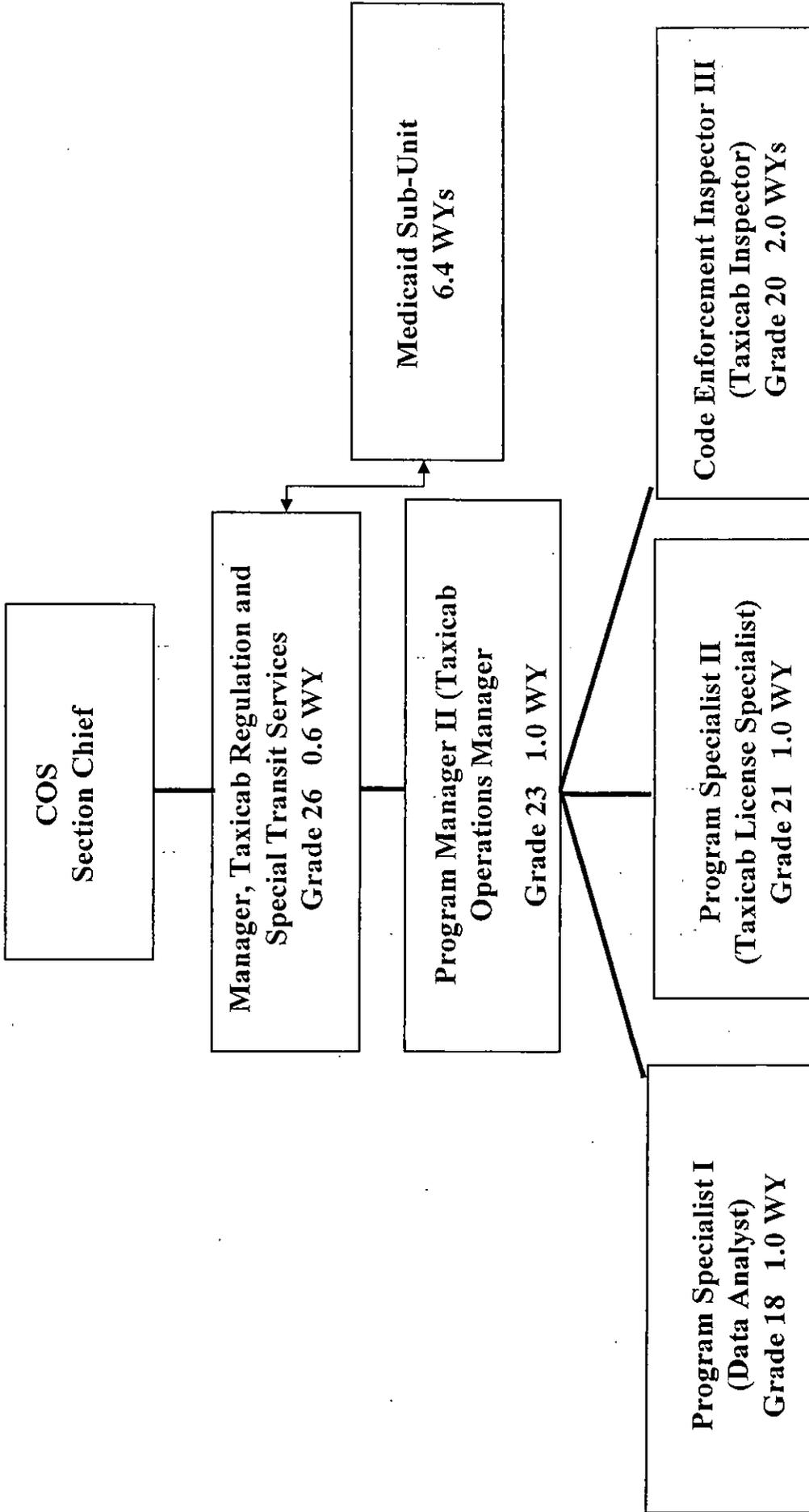
As provided in Chapter 1-203 of the County Code.

PENALTIES:

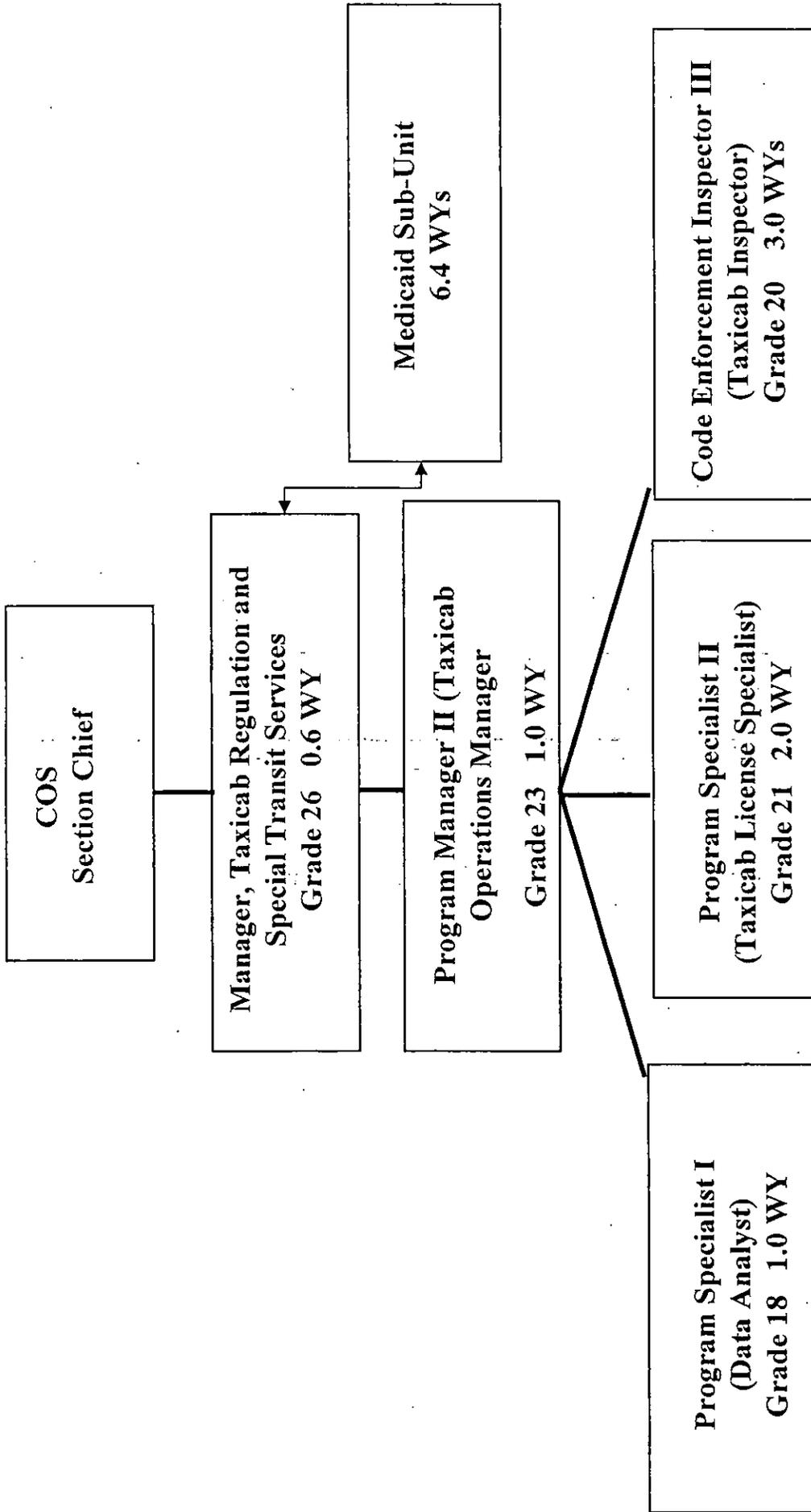
As provided in Chapter 53 of the County Code.

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**Current Medicaid and Taxicab Regulation Unit (MATR) 12.0 WY
(Taxicab Only) 5.6 WYs**



**Proposed Medicaid and Taxicab Regulation Unit (MATR) 14.0 WY
(Taxicab Only) 7.6 WYs**





OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

September 4, 2008

TO: Michael J. Knapp, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Legislation to Revise Section 53-204(d) of the County Code (Taxicabs and Limousines)

I am transmitting proposed legislation to revise Section 53-204(d) of the County Code relating to taxicabs and limousines and a Legislative Request Report for the legislation. The legislation gives the Director of the Department of Transportation discretion to waive the license transfer restrictions for good cause shown and allow a fleet to transfer more than two taxicab Passenger Vehicle Licenses (PVLs) per year to individuals. Language is also added that subjects the creation of a security interest to the requirements of the Uniform Commercial Code (UCC).

The legislation is needed because Barwood filed for Bankruptcy relief in January 2007. It is in the County's interest to provide relief to Barwood or any other fleet that might find itself in a similar situation, as long as the revisions preserve competition, maintain an effective regulatory environment, and protect customer service. The changes provide fleets some relief, yet protect the public interest and welfare without disrupting service or interfering with regulatory enforcement.

I recommend that the Council approve this legislation. It is necessary to provide relief to Barwood or any other fleet that might find itself in a similar financial situation in the future.

Attachment