

MEMORANDUM

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Action:** Expedited Bill 15-09, Recordation Tax – Use of Revenue

Management and Fiscal Policy Committee recommendation: enact with amendments.

Expedited Bill 15-09, Recordation Tax – Use of Revenue, sponsored by the Council President at the request of the County Executive, was introduced on March 31, 2009. Bill 15-09 would suspend for 3 fiscal years the requirement that a certain percentage of County recordation tax revenues be allocated to County government capital improvements and rental assistance programs.

A public hearing was held on May 5, at which the only speaker was OMB Director Joe Beach, who supported the Bill (see testimony, ©9-10). The Greater Capital Area Association of Realtors (GCAAR) urged the Council to return the reallocated recordation tax funds to rental assistance programs and capital improvements projects in FY13 as the Bill provides or sooner if possible (see letter, ©11).

Recordation tax background The County recordation tax, levied under state law and shown in County Code §52-16B, since 2008 has 3 levels or tiers:

Tier	Rate	Use of funds
1	\$4.40/\$1000	General Fund (unrestricted)
2	\$2.50/\$1000	MCPS capital, College educational technology
3	\$3.10/\$1000 (>\$500,000)	50% County government capital improvements 50% new funding for rental assistance programs

Fiscal impact As the OMB fiscal impact statement on ©8 shows, the Executive would, if this Bill is enacted as introduced, reallocate \$3.5 million in FY09 Tier 3 funds (not yet encumbered), \$6.5 million in FY10, \$5.6 million in FY11, and \$4.7 million in FY12 from rental assistance and capital projects to the General Fund. The Executive has counted on the reallocation in FYs09-10 to balance the FY10 operating budget.

Options The Management and Fiscal Policy Committee, at a worksession on May 8, considered the following options:

- 1) Reject this Bill and retain the current allocations, which would require some amendments to the FY10 operating budget but free up about \$10 million for the CIP.
- 2) Amend this Bill to retain the mandated allocation for rental assistance programs, which could allow other funds in the Housing Initiative Fund to be shifted to other operating budget uses.
- 3) Amend this Bill to allow the proposed reallocations for FY09 and 10, but revert to the current allocations in FY11. This would be the least disruptive at this point in the FY10 budget process but would retain the most flexibility for later years, and would be particularly helpful in reconciling FYs11-12 in the 6-year Capital Improvements Program.

Committee recommendation: option 3. This was done by replacing 2012 on ©2, line 4, with 2010.

This packet contains:	<u>Circle #</u>
Expedited Bill 15-09 with Committee amendment	1
Legislative Request Report	3
Memo from County Executive	4
Fiscal Impact Statement	6
Executive testimony	9
GCAAR letter	11

F:\LAW\BILLS\0915 Recordation Tax-Use Of Revenue\Action Memo.Doc

Expedited Bill No. 15-09
Concerning: Recordation Tax – Use of
Revenue
Revised: 5-8-09 Draft No. 2
Introduced: March 31, 2009
Expires: October 1, 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 amend County law requiring the allocation of certain revenue received from the recordation tax.

By amending
Laws of Montgomery County 2007
Chapter 17, Section 3

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:

LEGISLATIVE REQUEST REPORT

Expedited Bill 15-09 *Recordation Tax—Use of Revenue*

- DESCRIPTION:** This Bill would sunset for 3 years the current requirement that portions of the recordation tax be allocated to the cost of County Government capital improvements and rental assistance programs for low and moderate income households.
- PROBLEM:** In order to meet current fiscal challenges facing the County, the County must increase the amount of revenue available to maintain and enhance core government programs and services.
- GOALS AND OBJECTIVES:** To enhance the amount of revenue available to support core government programs and services.
- COORDINATION:** Department of Finance
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** Subject to the general oversight of the County Executive and the County Council.
- EXPERIENCE ELSEWHERE:**
- SOURCE OF INFORMATION:** Joseph Beach, Director, Office of Management and Budget
Marc Hansen, Deputy County Attorney
Kathleen Boucher, Assistant Chief Administrative Officer
- APPLICATION WITHIN MUNICIPALITIES:** Not applicable
- PENALTIES:** Not applicable

BILL 16-09



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

041303

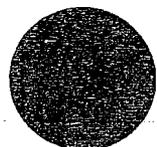
have

MF
CC
SBF
LF
GO
CHS
MD
BD
AM
LAM

Isiah Leggett
County Executive

MEMORANDUM

March 26, 2009



REC'D MAR 26 PM 3:44

TO: Phil Andrews, Council President
FROM: Isiah Leggett, County Executive
SUBJECT: Budget Reconciliation Bill

I am attaching for the Council's consideration a budget reconciliation bill which makes changes to the County Code that are necessary to reconcile my recommended FY10 operating budget with projected FY10 revenues. This bill will help the County address its current fiscal challenges by increasing the amount of revenue available to maintain and enhance core government programs and services. I am also attaching a Legislative Request Report for the bill. A Fiscal Impact Statement for the bill has been transmitted to Council in a separate memorandum.

This bill consists of three primary components. First, it requires certain brokers of sleeping accommodations to collect and remit to the County the room rental tax. Second, it temporarily redirects the portion of recordation tax revenues that are currently reserved for County Government capital projects and rental assistance programs to the general fund for general purposes. Third, it authorizes the Fire and Rescue Service to impose an Emergency Medical Services (EMS) Transport Fee.

With several exceptions, the part of the bill that relates to the EMS Transport Fee is identical to the bill that I forwarded to Council on April 11, 2008 and was eventually introduced by Council as Bill 25-08, Emergency Medical Services Transport Fee – Imposition. The bill includes language that I recommended as an amendment to Bill 25-08 on September 16, 2008 to clarify the underlying reason for providing that a County resident is responsible for the EMS Transport Fee only to the extent of the resident's available insurance coverage. The underlying reason for this part of the bill is to credit residents for the taxes they pay to the County, thereby more equitably distributing the economic burden of providing EMS transport services in the County between residents and nonresidents. The bill includes a non-supplantation provision which, taken together with my recommended FY10 Budget, makes it clear that EMS Transport Fee revenues will be used to fund the ongoing cost of: (1) new programs or services included in the FY09 Budget and subsequent budgets; or (2) additions to existing programs and

Phil Andrews, Council President
March 26, 2009
Page 2

provision which, taken together with my recommended FY10 Budget, makes it clear that EMS Transport Fee revenues will be used to fund the ongoing cost of: (1) new programs or services included in the FY09 Budget and subsequent budgets; or (2) additions to existing programs and services included in the FY09 Budget and subsequent budgets. Finally, the bill increases the hardship waiver threshold for non-residents from 100% to 300% of federal poverty guidelines.

Thank you for your prompt consideration of this legislation. I look forward to working with the Council as it considers this proposal.

Attachments (2)

cc: Jennifer Barrett, Director, Finance Department
Joseph Beach, Director, OMB
Tina Benjamin, Acting Director, DED
Kathleen Boucher, ACAO
Richard Bowers, Interim Director, MCFRS
Marc Hansen, Deputy County Attorney
Richard Y. Nelson, Jr., Director, DHCA

Bill 16-09



OFFICE OF MANAGEMENT AND BUDGET

041304

Isiah Leggett
County Executive

Joseph F. Beach
Director

MF
CC
SFB
LL
GO
CHS
MD
BD
AM
LAP

MEMORANDUM

March 26, 2009

TO: Phil Andrews, President, County Council
FROM: Joseph F. Beach, Director
SUBJECT: Expedited Bill, Budget Reconciliation – Revenues – Room Rental and Transient Tax – Recordation Tax - Emergency Medical Service Transportation Fee

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The expedited bill has three separate components with the following elements:

Room Rental Tax (i.e. Hotel/Motel Tax): This section will require certain brokers of sleeping accommodations to collect and remit to the County a room rental tax on certain transients; make certain technical and clarifying amendments to the County’s room rental tax; and generally amend the law governing room rental and transient tax. The purpose of this amendment is to ensure that the differential charged by internet brokers to the consumer is subject to the room rental tax. Currently, only the amount paid to the hotel by the broker is subject to the tax. In addition, the legislation changes the basis for the deduction of 3.5 percent of the Hotel/Motel tax from actual revenues collected to the amount estimated in the annual budget.

Recordation Tax Premium: This section will amend the County law requiring the allocation of certain revenue received from the recordation tax. The purpose of this amendment is to allow a temporary redirection of the recordation tax premium to the general fund for general purposes. Currently, County law requires that 50 percent of these revenues be used for County Government capital projects and the balance for rental assistance programs.

Emergency Medical Services Transport Fee: This section of the expedited bill proposes the following: authorize the County to impose and collect a fee to recover costs generated by providing emergency medical service transports; provide for a schedule of emergency medical services transport fees, fee waiver criteria, permitted uses of fee revenues, and other procedures

Office of the Director

6

to operate the emergency medical services fee program; prohibit a Local Fire and Rescue Department from imposing a separate emergency medical services transport fee; require the Executive to issue certain regulations to implement an emergency medical services transport fee; require a certain annual transfer be made as payment of residents' uninsured portion of the emergency medical services transport fee; and generally amend County law regarding the provision of emergency medical services.

FISCAL SUMMARY

Hotel/Motel Tax: The projected revenue from the subject legislation is estimated to be \$223,820. This estimate is based on the following assumptions (according to Smith Travel Research data):

- Total hotel room inventory in Montgomery County: 8,445.
- Friday occupancy countywide in 2008 annual average was 57.8% with an average daily room rate of \$105.
- Saturday occupancy countywide in 2008 annual average at 58.9% with an average daily room rate of \$103.
- Friday: $8,445 \text{ rooms} \times 57.8\% \text{ yields } 4,881 \text{ room nights} \times \$105 = \$512,505 \text{ total hotel sales revenue.}$
- Saturday: $8,445 \text{ rooms} \times 58.9\% \text{ yields } 4,974 \text{ room nights} \times \$103 = \$512,322 \text{ total hotel sales revenue.}$
- Total Revenue Weekend = $\$1,024,827 \times 52 \text{ weekends.}$
- Total Weekend Hotel Revenues Annually = $\$53,291,000.$
- With the assumption that 30% of weekend business is sold to third party (Orbitz, Hotels.com, etc).
- Sales to Third Party: $\$53,291,000 \times 30\% = \$15,987,300 \text{ (paid by third parties for hotel rooms to resale).}$
- Third Party Charge to Consumer: $\$15,987,300 \text{ resold} \times 1.2 = \$19,184,760 \text{ (assumed 20\% markup by third party or } \$3,197,300).$
- Additional Revenue: Difference of $\$3,197,460 \times 7\% \text{ hotel occupancy tax} = \$223,822.20.$

Recordation Tax Premium: The proposed amendment will not change the rate or estimated collections for this tax, but will only allow the funds to be used without restriction. The Executive's FY10 Recommended budget, however, did not propose that all recordation tax premium revenues be redirected to the general fund, but only those revenues in FY09 and FY10 that exceeded the previous estimates as indicated in the table below.

Allocation of Recordation Tax Premium Revenues Approved by County Council on 5/22/09				
	FY09	FY10	FY11	FY12
Total Recordation Tax Premium	5.231	6.094	7.361	8.762
MCG CIP Projects*	2.616	3.047	3.681	4.381
Rental Assistance - MHI**	2.616	3.047	3.681	4.381
Revised Recordation Tax Premium as of March 16, 2009				
Total Recordation Tax Premium	8.736	12.603	12.997	13.499
Difference Recommended for General Purposes	3.505	6.509	5.636	4.737
* CIP Projects include: Traffic Signal System Modernization, Rural and Residential Road Rehabilitation, and Facility Planning Transportation				
** Allocated between County Government HHS and the Housing Opportunities Commission				

The Department of Finance estimates that the revenues collected for the recordation tax premium are \$8.736 million in FY09 and \$12.603 million in FY10. The Executive's recommended budget preserved the use of the recordation tax premium revenues approved by the County Council in both the Operating and Capital Budgets for FY09 and the revenues assumed for FY10-12. However, the difference, as shown in the chart above, was redirected to the general fund.

Emergency Medical Services Transport Fee:

Revenues

~~The projected revenues are based on a mix of four payer types: Medicare, Medicaid, Commercial/Auto Insurance and Self Pay and an average revenue per transport rate of \$255 in FY09 up to \$259 in FY12 and a Montgomery County Fire and Rescue Service estimated transport volume of 56,980 for FY10 which is expected to increase to 64,090 in FY12. The~~

Public Hearing Testimony for May 5, 2009

Good evening, I am Joseph Beach, Director of the Office of Management and Budget, and I am here to testify on behalf of County Executive Isiah Leggett in support of several measures before the Council tonight including the Resolution to set the amount of the Property Tax Credit for Income tax Offset, Expedited Bill 15-09 Recordation Tax – Use of Revenue, and Expedited Bill 16-09 Room Rental and Transient Tax.

Testimony: Property Tax Credit for Income Tax Offset

The County Executive recommends a Property Tax Credit for Income Tax Offset in the amount of \$690 for each owner-occupied dwelling in the County as part of his Recommended FY10 Operating budget.

The County Council has approved a property tax credit several times in the past including \$50 in FY98, \$116 in FY06, \$223 in FY07, \$613 in FY08, and \$579 in FY09.

The Executive believes that continuing the property tax credit and increasing the amount in FY10 is the best way to ensure fairness and greater progressivity in the property tax rate. We strongly encourage the County Council to approve this resolution when they approve the FY10 operating budget.

Testimony: Expedited Bill 15-09 Recordation Tax – Use of Revenue

Expedited Bill 15-09 Recordation Tax – Use of Revenue will amend the County law requiring the allocation of certain revenue received from the recordation tax to be applied to County Government capital projects and rental assistance programs. The purpose of this amendment is to allow a temporary redirection of the recordation tax premium to the general fund for general purposes. Currently, County law requires that 50 percent of

these revenues be used for County Government capital projects and the balance for rental assistance programs.

The proposed amendment will not change the rate or estimated collections for this tax, but will only allow the funds to be used without restriction. The Executive's FY10 Recommended budget, however, did not propose that all recordation tax premium revenues be redirected to the general fund, but only those revenues in FY09 and FY10 that exceeded the previous estimates as indicated in the table on circle page 8 of the Council Staff's packet.

Under the County Executive's budget, \$5.2 million would be distributed evenly between County CIP projects and rental assistance programs in FY09 and \$6.1 million would also be distributed in equal parts to these programs in FY10. The proposed legislation is recommended with a sunset date for the end of FY12 and is intended to create additional capacity for funding other government services during this period of severe economic downturn.

We urge the Council to approve this legislation.

Testimony: Expedited Bill 16-09 Room Rental and Transient Tax

Expedited Bill 16-09 Room Rental and Transient Tax will require certain brokers of sleeping accommodations to collect and remit to the County a room rental tax on certain transients; make certain technical and clarifying amendments to the County's room rental tax; and generally amend the law governing room rental and transient tax. The purpose of this amendment is to ensure that the differential charged by internet brokers to the consumer is subject to the room rental tax. Currently, only the amount paid to the hotel by the broker is subject to the tax.



Via Electronic Mail

April 27, 2009

Council President Phil Andrews
100 Maryland Avenue
Rockville, MD 20850

RE: "Expedited Bill 15-09, Recordation Tax – Use of Revenue"

Dear Council President Andrews and members of the Council:

I am writing to you on behalf of the Greater Capital Area Association of REALTORS® (GCAAR) – the voice of Montgomery County and the District of Columbia's nearly 8,000 REALTORS®, property managers, title attorneys and other real estate professionals. GCAAR understands the dismal economic conditions that all levels of government as well as the private sector are facing today. REALTORS® strongly believe that the dedication of recordation tax funds towards capital improvements and rental assistance programs is extremely important. However, we understand that since revenues are down, particularly from the real estate industry, it is necessary for the next several years to divert some of those funds towards the general fund in order to meet the current fiscal challenges.

GCAAR also would like to make certain that this is only a temporary measure and appreciates the fact that this legislation has a sunset provision of 3 years. So it is our understating that starting July 1, 2012, these recordation tax funds will begin to be allocated back to rental assistance programs and capital improvement projects. However, we would also like to urge both the County Executive's office and the County Council to see if it's possible to divert these funds back prior to the sunset date.

Please feel free to contact me at 301-590-8790 or mweisel@gcaar.com with any questions or concerns. Thank you for your consideration of GCAAR's perspective on this issue.

Sincerely,

Meredith R. Weisel, Esq.
Vice President of Public Policy & Legal Counsel