

MEMORANDUM

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Expedited Bill 12-10, Human Rights – Equal Employment Opportunity Program

Expedited Bill 12-10, Human Rights – Equal Employment Opportunity Program, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on March 23, 2010. A public hearing is tentatively scheduled for April 20 at 1:30 p.m.

Bill 12-10 would transfer the County's equal employment opportunity program from the Office of Human Resources to the Office of Human Rights.

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Expedited Bill No. 12-10
Concerning: Human Rights - Equal
Employment Opportunity Program
Revised: 3-22-10 Draft No. 1
Introduced: March 23, 2010
Expires: September 23, 2011
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) transfer the County's equal employment opportunity program from the Office of Human Resources to the Office of Human Rights; and
- (2) generally amend County laws relating to Executive Branch administration and human rights.

By amending

Montgomery County Code

Chapter 2, Administration
Section 2-64I, Functions

Chapter 27, Human Rights and Civil Liberties
Section 27-4, Office of Human Rights

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:

27 may, with the approval of the County Executive, engage the
 28 services of volunteer workers and volunteer consultants, who,
 29 subject to [appropriations] appropriation, may be reimbursed
 30 for out-of-pocket expenses incurred in performing volunteer
 31 services. Services of an individual as a volunteer worker or
 32 consultant must not be considered as [service of] employment
 33 in any County or state merit system [of the county or state].

- 34 (2) If the Commission and the County Attorney [determine] agree
 35 that a representational conflict exists [within] in the County
 36 Attorney's office, [then] the County Attorney may employ
 37 special legal counsel to represent the Commission, after
 38 [consultation with] consulting the Commission, [and approval
 39 by] if the County Council approves.
- 40 (3) The Director may receive sworn complaints alleging
 41 discrimination that violates this chapter.
- 42 (4) Before a complaint is certified to the Commission under
 43 Sections 27-7(f)(2) or (g)(4), the Director may investigate,
 44 resolve, or conciliate the complaint.
- 45 (5) The Director may issue regulations under method (2) to [carry
 46 out] perform the responsibilities of the Director and the Office
 47 of Human Rights under this Article.
- 48 (6) The Director must [carry out] perform any other [duties
 49 described] duty specified in this Chapter.
- 50 (7) The Director must develop and administer the County's equal
 51 employment opportunity program.

52 * * *

LEGISLATIVE REQUEST REPORT

Expedited Bill 12-10

Human Rights – Equal Employment Opportunity Program

DESCRIPTION: This Bill would transfer the County's equal employment opportunity program from the Office of Human Resources to the Office of Human Rights.

PROBLEM: Current fiscal challenges require the County consolidate resources when possible.

GOALS AND OBJECTIVES: This transfer would take advantage of existing staff resources to reduce costs and leverage the efforts of County staff to produce better outcomes for the community.

COORDINATION: Office of Management and Budget; Department of Finance; Office of Human Rights

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:

SOURCES OF INFORMATION: Joseph Beach, Director of Management and Budget
Kathleen Boucher, Assistant Chief Administrative Officer
Marc Hansen, Acting County Attorney

APPLICATION WITHIN MUNICIPALITIES: Applies only to County government.

PENALTIES: N/A

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

March 18, 2010

TO: Nancy Floreen, Council President

FROM: Isiah Leggett, County Executive 

SUBJECT: FY 2011 Budget Reconciliation and Financing Act

2010 MAR 19 AM 9:26

RECEIVED
MONTGOMERY COUNTY
COUNCIL

I am attaching for Council's consideration a Budget Reconciliation and Financing Act (BRFA) which makes changes to the County Code that are necessary to reconcile my recommended FY 2011 operating budget with projected FY 2011 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 will be transmitted to Council soon.

The BRFA consists of five primary components. First, it increases the energy tax rates. 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 allows revenues generated by the Water Quality Protection Charge to be used to pay debt service on bonds that fund stormwater management infrastructure projects. Fourth, it transfers responsibility for administering equal employment opportunity programs from the Office of Human Resources to the Office of Human Rights. Fifth, it authorizes the Fire and Rescue Service to impose an Emergency Medical Services (EMS) Transport Fee.

As the Council knows, the County's energy tax is actually a tax on fuel oil, natural gas, and electric utility providers which is passed on to all utility customers. Because the energy tax is a broad-based tax, its impact on families is reduced by the fact that it is paid by businesses and households, and all levels of government, including federal agencies located in the County (that currently do not pay any other major County tax). Additionally, the energy tax is a consumption tax based on energy usage. It is not based on the overall size of the utility bill or the cost per unit of energy used as billed to the consumer. Therefore, the amount of the tax can be lessened by reduced energy usage. Based on existing usage patterns for the average homeowner, my recommended FY 2011 budget assumes an average increase in the energy tax of approximately \$2.90 per month. I have also recommended additional funding in the Health and

Human Services budget for the County's Energy Assistance Program to minimize the impact to low-income households.

My recommended FY11 budget contains several efforts to restructure County Government to improve responsiveness and efficiency. One of these changes is the transfer of the Equal Employment Opportunity program from the Office of Human Resources to the Office of Human Rights. This shift takes advantage of existing staff resources to reduce costs and leverage the efforts of County staff to produce better outcomes for the community. This bill modifies the County code provisions relating to the responsibilities of the Office of Human Resources and Office of Human Rights to reflect this change.

The EMS Transport Fee is needed to fund fire and rescue services in the County. Without this fee, emergency response to residents will be impaired. EMS Transport Fees are widely employed throughout the nation and by local governments throughout the Washington region. These jurisdictions have not experienced any indication that people decline to use emergency transports as a result of the imposition of an ambulance fee. By creating a prepaid fund for uninsured County residents, the legislation that I am transmitting imposes a fee only on County residents with health insurance which covers EMS Transports. This arrangement more equitably distributes the economic burden of providing EMS transport services in the County between residents and nonresidents. The legislation provides for a hardship waiver for nonresidents who fall below 300 percent of federal poverty guidelines.

To provide the Council with a complete picture of the EMS Transport Fee program created by this bill, I am attaching a copy of the proposed Executive Regulation to implement the fee. This proposed regulation will be published in the April 2010 County Register and submitted to Council after the 30-day public comment period ends on April 30.

Finally, I note that the BRFA is consistent with Bill 31-09, Consideration of Bills – One Subject (enacted on September 29, 2009), which requires that a bill “contain only one subject matter”. As noted in the Council staff packet for Bill 31-09, that bill was intended to adopt the “one subject rule” of the Maryland Constitution, which requires all laws enacted by the General Assembly to contain only one subject. The Maryland Attorney General has repeatedly concluded that budget reconciliation and financing bills do not conflict with the one subject rule. For example, in 2005, the Attorney General noted that “[f]or the past fourteen years, 15 budget reconciliation, budget reconciliation and financing acts or variations thereof, have been used to balance budgets, raise revenue, make fund transfers, redistribute funds, cut mandated appropriations and authorize or mandate appropriations.”¹ The Attorney General concluded that all of those bills were consistent with the one subject rule because the provisions of the bills were “clearly germane to the single subject of financing State and local government”. See *Panitz v. Comptroller of the Treasury*, 247 Md. 501 (1967) (Omnibus supplemental appropriation bill comprised a single subject for purposes of § 29 of Art III of the State Constitution even though

¹ See May 19, 2005 memorandum from Attorney General J. Joseph Curran, Jr. to Governor Robert Ehrlich regarding House Bill 147 (2005).

Nancy Floreen, Council President
March 18, 2010
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the bill combined such diverse elements as police aid to local government; teacher salaries and pensions; and general unrestricted grants to local government).

Attachments (3)

cc: Joseph Adler, Director, Office of Human Resources
Jennifer Barrett, Director, Finance Department
Joseph Beach, Director, OMB
Kathleen Boucher, ACAO
Richard Bowers, Fire Chief, MCFRS
Marc Hansen, Acting County Attorney
Robert Hoyt, Director, DEP
Richard Y. Nelson, Jr., Director, DHCA
James Stowe, Director, Office of Human Rights