

**MEMORANDUM**

TO: County Council

FROM: ~~MF~~ Michael Faden, Senior Legislative Attorney  
Minna Davidson, Legislative Analyst

SUBJECT: **Introduction:** Expedited Bill 13-10, Emergency Medical Services Transport Fee  
- Established

Expedited Bill 13-10, Emergency Medical Services Transport Fee - Established, 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 13 at 7:30 p.m.

Bill 13-10 would authorize the County to impose and collect a fee to recover costs generated by providing emergency medical service transports. This bill would also provide for a schedule of emergency medical services, transport fees, fee waiver criteria, permitted uses of fee revenues and other procedures to operate the emergency medical services fee program. Bill 15-10 would prohibit a local Fire and Rescue Department from imposing a separate emergency medical services transport fee. The Executive would be required to issue regulations to implement the fee; draft regulations are attached on ©7-9.

This packet contains:	<u>Circle #</u>
Expedited Bill 13-10	1
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Expedited Bill No. 13-10  
Concerning: Emergency Medical Services  
Transport Fee - Established  
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) authorize the County to impose and collect a fee to recover costs generated by providing emergency medical service transports;
- (2) provide for a schedule of emergency medical services transport fees, fee waiver criteria, permitted uses of fee revenues, and other procedures to operate the emergency medical services fee program;
- (3) prohibit a Local Fire and Rescue Department from imposing a separate emergency medical services transport fee;
- (4) require the Executive to issue certain regulations to implement an emergency medical services transport fee;
- (5) require a certain annual transfer be made as payment of residents' uninsured portion of the emergency medical services transport fee; and
- (6) generally amend County law regarding the provision of emergency medical services;

By adding

Montgomery County Code  
Chapter 21, Fire and Rescue Services  
Section 21-23A. Emergency Medical Services Transport Fee

<b>Boldface</b>	<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  
2       **Sec. 1. Section 21-23A is added as follows:**

3       **21-23A.     Emergency Medical Services Transport Fee.**

4       (a)   Definitions.

5       In this Section the following terms have the meanings indicated:

6       (1)   Emergency medical services transport means transportation by  
7           the Fire and Rescue Service of an individual by ambulance or  
8           other Fire and Rescue Service vehicle used for a similar  
9           purpose. Emergency medical services transport does not  
10          include transportation of an individual under an agreement  
11          between the County and a health care facility.

12       (2)   Federal poverty guidelines means the applicable health care  
13          poverty guidelines published in the Federal Register or  
14          otherwise issued by the federal Department of Health and  
15          Human Services.

16       (3)   Fire and Rescue Service includes each local fire and rescue  
17          department.

18       (b)   Imposition of fee. The County must impose a fee for any emergency  
19          medical services transport provided in the County and, unless  
20          prohibited by other law, outside the County under a mutual aid  
21          agreement.

22       (c)   Liability for fee. Subject to subsection (d), each individual who  
23          receives an emergency medical services transport is responsible for  
24          paying the emergency medical services transport fee.

25       (d)   Hardship waiver.

26       (1)   The Fire Chief must waive the emergency medical services  
27          transport fee for any individual whose household income is at or

28                   below 300 percent of the federal poverty guidelines. An  
29                   individual must request a waiver on a form approved by the Fire  
30                   Chief.

31                   (2) The Fire Chief may deny a request for a waiver if an individual  
32                   who claims financial hardship under this Section does not  
33                   furnish all information required by the Fire Chief.

34                   (e) Payment of Residents' Uninsured Portion of the Emergency Medical  
35                   Services Transport Fee.

36                   (1) Tax revenues received by the County must be treated as  
37                   payment, on behalf of County residents, of the balance of each  
38                   resident's portion of the emergency medical services transport  
39                   fee that is not covered by the resident's insurance.

40                   (2) The County Council must annually transfer from the General  
41                   Fund to the Consolidated Fire Tax District Fund an amount that  
42                   the Council estimates will not be covered by residents'  
43                   insurance as payment of all residents' uninsured portion of the  
44                   emergency medical services transport fee.

45                   (f) Obligation to transport. The Fire and Rescue Service must provide  
46                   emergency medical services transport in accordance with applicable  
47                   medical protocols to each individual without regard to the individual's  
48                   ability to pay.

49                   (g) Restriction on Local Fire and Rescue Departments. A local fire and  
50                   rescue department must not impose a separate fee for an emergency  
51                   medical transport.

52                   (h) Use of revenue. Except for the transfer received from the General  
53                   Fund under subsection (e) and in the first fiscal year this fee is  
54                   implemented, the revenues collected from the emergency medical

55 services transport fee must be used to supplement, and must not  
56 supplant, existing expenditures for emergency medical services and  
57 other related fire and rescue services provided by the Fire and Rescue  
58 Service.

59 (i) Regulations; fee schedule. The County Executive must adopt a  
60 regulation under method (2) to implement the emergency medical  
61 services transport fee program. The regulation must establish a fee  
62 schedule based on the cost of providing emergency medical services  
63 transport. The fee schedule may include an annual automatic  
64 adjustment based on inflation, as measured by an index reasonably  
65 related to the cost of providing emergency medical services transports.  
66 The regulation may require each individual who receives an  
67 emergency medical services transport to provide financial  
68 information, including the individual’s insurance coverage, and to  
69 assign insurance benefits to the County.

70 **Sec. 2. Expedited Effective Date.**

71 The Council declares that this legislation is necessary for the immediate  
72 protection of the public interest. This Act takes effect on the date when it becomes  
73 law.

74 *Approved:*

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77 \_\_\_\_\_  
Nancy Floreen, President, County Council Date

78 *Approved:*

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81 \_\_\_\_\_  
Isiah Leggett, County Executive Date

## LEGISLATIVE REQUEST REPORT

### Expedited Bill 13-10 Emergency Medical Services Transport Fee – Established

- DESCRIPTION:** This Bill would authorize the County to impose and collect a fee to recover costs generated by providing emergency medical services transports.
- PROBLEM:** In order to meet current fiscal challenges facing the County, the County must increase the amount of revenue available to maintain core Government programs and services.
- GOALS AND OBJECTIVES:** To enhance the amount of revenue available to support core government programs and services.
- COORDINATION:** Office of Management and Budget; Department of Finance; Fire and Rescue Service
- 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:** Many jurisdictions in the regions have imposed an emergency medical services transport fee.
- SOURCES OF INFORMATION:** Joseph Beach, Director of Management and Budget  
Kathleen Boucher, Assistant Chief Administrative Officer  
Richard Bowers, Chief, Fire & Rescue Service  
Marc Hansen, Acting County Attorney
- APPLICATION WITHIN MUNICIPALITIES:** Yes.
- PENALTIES:** To be researched.



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  
NORTH MOUNTAIN COUNTY  
LEGISLATIVE

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.”<sup>1</sup> 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

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<sup>1</sup> 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



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Emergency Medical Service Transport Fees	<b>Number</b>
<b>Originating Department</b> Montgomery County Fire and Rescue Service	<b>Effective Date</b>

Montgomery County Regulation on

## EMERGENCY MEDICAL SERVICE TRANSPORT FEES

Issued by: County Executive

Regulation No. \_\_\_\_\_

COMCOR: Chapter 21

Authority: Code Section 21-23A

Supersedes: N/A

Council Review: Method (2) under Code Section 2A-15

Register Vol. \_\_\_\_ No. \_\_\_\_

Effective Date: Date Bill XX-10, "FY 2011 Budget Reconciliation and Financing Act"  
becomes effective

Comment Deadline: April 16, 2010

**Summary:** This Regulation establishes: (1) An emergency medical services transport fee schedule; and (2) a requirement that an individual who receives an emergency medical services transport provide certain information and execute an assignment of certain health insurance benefits.

**Staff contact:** Scott Graham, Assistant Chief, Montgomery County Fire and Rescue Service  
(240) 777-2493

**Address:** Montgomery County Fire and Rescue Service  
101 Monroe Street, 12<sup>th</sup> Floor  
Rockville, Maryland 20850



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Emergency Medical Service Transport Fees	<b>Number</b>
<b>Originating Department</b> Montgomery County Fire and Rescue Service	<b>Effective Date</b>

**Section 1. Fee Schedule**

- a. In imposing and collecting the emergency medical services transport fee authorized under Code Section 21-23A, the Fire Chief must comply with all applicable provisions of 42 CFR Parts 410 and 414, *Fee Schedule for payment of Ambulance Services and Revisions to the Physician Certification Requirements for Coverage of Non-emergency Ambulance Services*.
  
- b. The Fire Chief must impose the emergency medical services transport fee according to the following schedule:
  - i. \$8.50 per mile, one way, from point of pick up to the health care facility; plus
  - ii.
 

• Basic Life Support – Non-emergency*	\$300.00
• Basic Life Support – Emergency*	\$400.00
• Advanced Life Support – Level 1 – Non-Emergency*	\$350.00
• Advanced Life Support – Level 1 – Emergency*	\$500.00
• Advance Life Support – Level 2*	\$700.00
• Specialty Care Transport*	\$800.00

\* The terms in the schedule are as defined in 42 CFR Parts 410 and 414.

**Section 2. Required Information; Assignment of Benefits.**

- a. An individual who receives an emergency medical services transport must furnish to the County or the County’s designated agent: (i) information pertaining to the individual’s health insurer (or other applicable insurer); and (ii) if applicable, financial information that the Fire Chief determines is necessary for determining eligibility for a waiver of the fee.
  
- b. An insured individual who receives an emergency medical services transport must execute an assignment of benefits necessary to permit the County to submit a claim for the fee to the applicable third party payor.
  
- c. The Fire Chief must increase the amount of the fees in the schedule annually by the amount of the Ambulance Inflation Factor (AIF) as published by the Centers for Medicare and Medicaid Services (CMS), United States Department of Health and Human



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Emergency Medical Service Transport Fees	<b>Number</b>
<b>Originating Department</b> Montgomery County Fire and Rescue Service	<b>Effective Date</b>

Services.

**Section 3. Severability.**

If a court of final appeal holds that any part of this regulation is invalid, that ruling does not affect the validity of other parts of the regulation.

**Section 4. Effective Date.**

This regulation is effective on the date that Bill XX-10, "FY 2011 Budget Reconciliation and Financing Act" becomes effective.

Approved:

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Isiah Leggett, County Executive