

MEMORANDUM

TO: County Council

FROM: Michael Faden, Senior Legislative Attorney
Amanda Mihill, Legislative Analyst *amihill*

SUBJECT: **Action:** Ballot language for referendum on County law

On May 19, 2010, the Council enacted, and the Executive later signed, Bill 13-10, Emergency Medical Services Transport Fee – Established. A petition circulating would refer this law to a referendum vote (see ©3-4).

County Code §16-9 provides: “the question on the voting machine or ballots shall appear as follows: ‘Shall the [insert brief informative description of Act] Act become law?’ . . . The vote shall be by "yes" or "no" on the question.” Based on this requirement, Council staff drafted the ballot language in the resolution shown on ©1-2.

The Board of Elections has not determined whether the petition received sufficient signatures to place this referendum on the ballot. However, **Council staff recommends that the Council approve the attached ballot language, conditioned on the petition qualifying for inclusion on the ballot.** The draft resolution makes clear that it takes effect only if the petition ultimately qualifies for the ballot. At your worksession on July 13, Councilmembers did not have any questions about this resolution.

An amendment to the state Election Law Article, quietly enacted in 2006, appears to remove the Council’s authority, contained in County law, to approve ballot language for referendum petitions and transfer that authority to the County Attorney. While this authority could be transferred back to the Council’s own attorney by a County law, this has not been done. Council staff will draft an appropriate amendment to do so as part of a larger revision of the County law covering Charter amendments and referenda. In the meantime, the Acting County Attorney has indicated that he will endorse and certify the ballot language the Council adopts.

<u>This packet contains</u>	<u>Circle</u>
Draft resolution	1
Referendum petition for Bill 13-10	3

Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Ballot title for referendum on County Law

Background

(1) Section 114 of the County Charter provides that any legislation enacted by the County Council, with certain exceptions, must be submitted to a referendum of the voters on petition of 5% of the registered voters of the County.

(2) The County Board of Elections received a petition for a referendum on Chapter 15 of the Laws of Montgomery County, 2010, entitled "An 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."

The Board of Elections has not determined whether the petition was accompanied by sufficient signatures to place the referred law on the ballot.

(3) Under Section 7-103(c)(3)(i) of the Elections Article of the Maryland Code, each proposed ballot question must be certified to the Board of Elections on or before the third Monday in August in the year in which there will be a general or Congressional election at which the ballot question is to be submitted to the voters.

(4) County Code §16-16 provides that a ballot title or summary, prepared by the Council, of each proposed ballot question must appear in print on the voting machine or ballot. County Code §16-9 specifies the form of referendum questions.

Action

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

The following question must be placed on the 2010 general election ballot:

Question A

Referendum on Law Enacted by County Council

Emergency Medical Services Transport Fee

Shall the Act to impose an emergency medical services transport fee become law?

FOR AGAINST

This resolution is effective only if the petition for a referendum on Chapter 15 of the Laws of Montgomery County, 2010, qualifies for inclusion on the 2010 ballot. If one or more other questions are placed on the 2010 ballot and one is designated as Question A, the Board of Elections must reletter this question accordingly.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

REFERENDUM PETITION

We, the undersigned registered voters of Montgomery County, Maryland, do hereby petition for a referendum vote on the Bill 13-10, entitled "An 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" enacted by the County Council for Montgomery County, Maryland, at its May 2010 legislative session. (Mont. Co. Code 1965, § 9-14; 1969 L.M.C., ch. 32, § 2.)

If the full text of the bill/ordinance or part of the bill/ordinance referred (the "proposal") does not appear on the back of this signature page or as an attachment, a fair and accurate summary of the substantive provisions of the proposal must appear on the back or be attached, and the full text of the proposal must be immediately available from the petition circulator.

NOTICE TO SIGNERS: Sign and print your name (1) as it appears on the voter registration list, OR (2) your surname of registration and at least one full given name AND the initial of any other names. Please print or type all information other than your signature. Post Office Box addresses are not generally accepted as valid. By signing this petition, you agree that the above-mentioned proposal should be placed on the ballot as a referendum question at the next general election and that, to the best of your knowledge, you are registered to vote in Maryland and are eligible to have your signature counted for this petition.

Please Note: The information you provide on this petition may be used to change your voter registration address.

DATE (mm/dd/yy)	PRINT FULL NAME	VOTER REGISTRATION ADDRESS	CITY	ZIP CODE	DATE OF BIRTH	SIGNATURE, SAME AS PRINTED
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

CIRCULATOR'S AFFIDAVIT

FOR ELECTION BOARD USE ONLY	
_____	Total Number of Signatures
_____	Number of Invalidated Signatures
_____	Number of Valid Signatures
Endorsed by: _____	

Individual circulator's printed or typed name

Residence Address

City _____ State _____ Zip _____

Telephone Number

Under penalties of perjury, I swear (or affirm) that: (a) I was at least 18 years old when each signature was obtained; (b) the information given to the left identifying me is true and correct; (c) I personally observed each signer as he or she signed this page; and (d) to the best of my knowledge and belief: (i) all signatures on this page are genuine; and (ii) all signers are registered voters of Maryland.

Circulator's Signature

Date (mm/dd/yy)

3

Text of Bill 13-10, Emergency Medical Services Transport Fee

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

Sec. 1. Section 21-23A is added as follows:

21-23A. Emergency Medical Services Transport Fee.

(a) Definitions. In this Section the following terms have the meanings indicated:

1. Emergency medical services transport means transportation by the Fire and Rescue Service of an individual by ambulance or other Fire and Rescue Service vehicle used for a similar purpose. Emergency medical services transport does not include transportation of an individual under an agreement between the County and a health care facility.
2. Federal poverty guidelines means the applicable health care poverty guidelines published in the Federal Register or otherwise issued by the federal Department of Health and Human Services.
3. Fire and Rescue Service includes each local fire and rescue department.

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

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

(d) Hardship waiver.

1. The Fire Chief must waive the emergency medical services transport fee for any individual whose household income is at or below 300 percent of the federal poverty guidelines. An individual must request a waiver on a form approved by the Fire Chief.
2. The Fire Chief may deny a request for a waiver if an individual who claims financial hardship under this Section does not furnish all information required by the Fire Chief.

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

1. Tax revenues received by the County must be treated as payment, on behalf of County residents, of the balance of each resident's portion of the emergency medical services transport fee that is not covered by the resident's insurance.
2. The County Council must annually transfer from the General Fund to the Consolidated Fire Tax District Fund an amount that the Council estimates will not be covered by residents' insurance as payment of all residents' uninsured portion of the emergency medical services transport fee.

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

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

(h) Use of revenue. Except for the transfer received from the General Fund under subsection (e) and in the first fiscal year this fee is implemented, the revenues collected from the emergency medical services transport fee must be used to supplement, and must not supplant, existing expenditures for emergency medical services and other related fire and rescue services provided by the Fire and Rescue Service.

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

Sec. 2. Implementation. The emergency medical services transport fee authorized by County Code §21-23A, enacted by Section 1 of this Act, may be collected for any emergency medical services transport that occurs on or after July 1, 2010. Collection may occur retroactively to that date if necessary during the first fiscal year the emergency medical services transport fee is implemented.