

MEMORANDUM

December 9, 2016

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 
Glenn Orlin, Deputy Council Administrator 

SUBJECT: **Introduction:** Expedited Bill 51-16, Taxation – Development Impact Tax – Local Area Transportation Review Mitigation Payment - Established

Expedited Bill 51-16, Taxation – Development Impact Tax – Local Area Transportation Review Mitigation Payment – Established, sponsored by Lead Sponsor Council President Berliner, is scheduled to be introduced on December 13, 2016. A public hearing is tentatively scheduled for January 17, 2017 at 1:30 p.m.

Bill 51-16 would:

- establish a local area transportation review mitigation payment;
- authorize the Council to set the rates by resolution after a public hearing; and
- amend the law concerning the development impact tax for transportation improvements.

Background. When the Council replaced Policy Area Transportation Review (TPAR) payments in the 2016-2020 Subdivision Staging Policy (SSP) with a higher transportation impact tax, it concurrently deleted the Transportation Mitigation Payment section of the transportation impact tax law in Bill 37-16, believing it was no longer needed. However, Council staff now acknowledges that this assumption was incorrect: a Transportation Mitigation Payment section is still needed in the Code to continue to give authority for Local Area Transportation Review (LATR) payments, including the White Oak LATR Improvements Program and rate proposed by the Department of Transportation (introduced as Item #3C in today's agenda), and for the rates to be set in the future for the Urban Mobility Programs (UMPs) in other areas.

Enacting this bill would provide the legal authority to impose these LATR payments. It is an expedited bill so that it could take effect on March 1, 2017, when Bill 37-16 takes effect.

This packet contains:

Expedited Bill 51-16

Legislative Request Report

Circle #

1

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Expedited Bill No. 51-16
Concerning: Taxation – Development
Impact Tax – Local Area
Transportation Review Mitigation
Payment - Established
Revised: December 8, 2016 Draft No. 3
Introduced: December 13, 2016
Expires: June 13, 2018
Enacted: _____
Executive: _____
Effective: March 1, 2017
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Berliner

AN EXPEDITED ACT to:

- (1) establish a local area transportation review mitigation payment;
- (2) authorize the Council to set the rates by resolution after a public hearing; and
- (3) amend the law concerning the development impact tax for transportation improvements.

By amending

Montgomery County Code
Chapter 52, Taxation
Section 52-51

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 52-51 is amended as follows:**

2 **52-51. [Reserved] Local Area Transportation Review Mitigation Payment.**

3 (a) In addition to the tax due under this Article, an applicant for a building
 4 permit for any building on which an impact tax is imposed under this
 5 Article must pay to the Department of Finance a Mitigation Payment if
 6 this payment is required for a building included in a preliminary plan of
 7 subdivision that was approved under the Local Area Transportation
 8 Review provisions in the County Subdivision Staging Policy.

9 (b) The Council, by resolution after a public hearing advertised at least 15
 10 days in advance, must establish the rates for the Mitigation Payment
 11 required in this Section.

12 (c) The Payment must be paid at the same time and in the same manner as
 13 the tax under this Article, and is subject to all provisions of this Article
 14 for administering and collecting the tax.

15 (d) The Department of Finance must retain funds collected under this Section
 16 in an account to be appropriated for transportation improvements that
 17 result in added transportation capacity or improved mobility in the area
 18 where the development for which the funds were paid is located.

19 **Sec. 2. Expedited Effective Date.**

20 The Council declares that this legislation is necessary for the immediate
 21 protection of the public interest. This Act takes effect on March 1, 2017.

22 *Approved:*

23 _____
 Roger Berliner, President, County Council

_____ Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 51-16

*Taxation – Development Impact Tax – Local Area Transportation Review Mitigation Payment -
Established*

DESCRIPTION:	The Bill would establish a local area transportation review mitigation payment and authorize the Council to set the rates by resolution after a public hearing.
PROBLEM:	Bill 37-16 deleted the Transportation Mitigation Payment section of the transportation impact tax law, but a version of that section is needed to provide the authority for Local Area Transportation Review (LATR) mitigation payments, including for the White Oak Local Area Transportation Improvements Program and future Urban Mobility Programs.
GOALS AND OBJECTIVES:	To establish a local area transportation review mitigation payment, and to authorize the Council to set the rates by resolution after a public hearing.
COORDINATION:	Departments of Permitting Services, Finance, County Attorney, Transportation
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Glenn Orlin, Montgomery County Council staff
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	None