

MEMORANDUM

February 19, 2015

TO: Transportation, Infrastructure, Energy and Environment Committee

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Worksession:** Bill 1-15, Streets and Roads – Permit Exemption – Purple Line

Bill 1-15, Streets and Roads – Permit Exemption – Purple Line, sponsored by the Council President at the request of the County Executive, was introduced on January 20. A public hearing was held on February 10. There were two people testifying at the hearing, Tom Street on behalf of the County Executive (see ©8) and Jamie Kendrick of the MTA Office of Transit Development and Delivery. Both speakers were in support of the Bill.

Bill 1-15 would exempt the State from the permitting requirements in Chapters 8 (Buildings), 17 (Electricity), 22 (Fire Safety Code), and 49 (Streets and Roads) for the construction of the Purple Line, any related structure owned by the State, and any hiker/biker trail owned or maintained by the County. Bill 1-15 would not exempt the State from the permitting requirements for County-owned structures.

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Bill No. 1-15
Concerning: Streets and Roads – Permit Exemption – Purple Line
Revised: 1/15/2015 Draft No. 1
Introduced: January 20, 2015
Expires: July 20, 2016
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 ACT to:

- (1) exempt a certain State transportation project from certain County permitting requirements; and
- (2) general amend County law on streets and roads

By adding

Montgomery County Code
Chapter 49, Streets and Roads
Section 49-19B

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 49-19B is added as follows:**

2 **49-19B. Permit exemption for the Purple Line.**

3 (a) The State of Maryland, including its agencies and divisions, is exempt
4 from any permitting requirement in Chapters 8 (“Buildings”), 17
5 (“Electricity”), 22 (“Fire Safety Code”), and 49 (“Streets and Roads”)
6 for the construction of:

7 (1) any portion of the Purple Line that is located within the public
8 right-of-way under a valid franchise agreement approved by the
9 County Council under Section 49-21; and

10 (2) any structure related to the Purple Line owned by the State of
11 Maryland or its agencies or divisions, including any hiker/biker
12 trail that will be owned or maintained by the County.

13 (b) However, the State of Maryland, and its agencies, divisions, and
14 contractors, must obtain any permit required under Chapter 8, 17, 22,
15 and 49 for the construction or alteration of any structure owned by the
16 County, except the hiker/biker trail, or by a private person or entity.

LEGISLATIVE REQUEST REPORT

Bill 1-15

Streets and Roads – Permit Exemption – Purple Line

DESCRIPTION: This bill proposes an uncodified amendment to the Montgomery County Code that, if enacted, will exempt Purple Line structures from Chapters 8, 17, 22, and 49 of the County code.

PROBLEM: There is a dispute between the County and the State of Maryland's Maryland Transit Administration ("MTA") regarding the applicability of the County code to the construction of the Purple Line. The bill clarifies what provision of the County code will apply to structures that MTA constructs.

GOALS AND OBJECTIVES: To facilitate the construction of the Purple Line.

COORDINATION: Department of Transportation

FISCAL IMPACT: Attached.

ECONOMIC IMPACT: Attached.

SOURCE OF INFORMATION: Diane Jones, Department of Permitting Services, (240) 777-6363
Thomas Street, Assistant Chief Administrative Officer, (240) 777-2559

APPLICATION WITHIN MUNICIPALITIES: Yes.

PENALTIES: None.

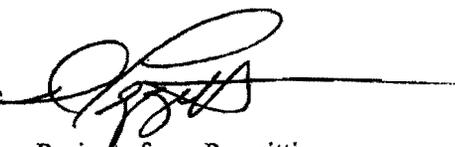


OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

November 10, 2014

TO: Craig Rice, Council President
FROM: Isiah Leggett, County Executive 
SUBJECT: Exemption of State Transportation Projects from Permitting

I am writing to request introduction of the attached legislation. The Purple Line is a critically important mass transit facility that will be built by the State of Maryland. The preferred alignment will require work within County rights-of-way pursuant to one or more franchise agreements that will be approved by the County Council. This bill clarifies that the State of Maryland is exempt from permitting requirements under Montgomery County Code Chapters 8 and 49 in connection with work performed to construct the Purple Line within County rights-of-way. This is consistent with other state transportation improvements that are constructed in the County.

Executive staff is available to assist the Council as it considers this bill. Your assistance is appreciated.

IL/dj

Fiscal Impact Statement
County Executive Bill xx-14, Permitting – State Projects – Purple Line

1. Legislative Summary:

This Bill exempts the State of Maryland from the permitting requirements of Montgomery County Code Chapters 8, 17, 22 and 49 for facilities it will construct in connection with the Purple Line.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The proposed Bill does not have a fiscal impact because the State would be exempt from the County permitting requirements for the Purple Line.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

See #2 above.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

The legislation does not authorize future spending.

6. An estimate of the staff time needed to implement the bill.

There will be no additional staff time needed to implement the proposed bill.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

8. An estimate of costs when an additional appropriation is needed.

No additional appropriation will be needed.

9. A description of any variable that could affect revenue and cost estimates.

Not applicable.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

11. If a bill is likely to have no fiscal impact, why that is the case.

The proposed Bill does not have a fiscal impact because the State would be exempt from the County permitting requirements for the Purple Line.

12. Other fiscal impacts or comments.

None.

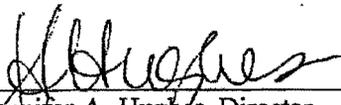
13. The following contributed to and concurred with this analysis:

Richard Brush, Department of Permitting Services

Diane Schwartz Jones, Department of Permitting Services

Gary Erenrich, Department of Transportation

Dennis Hetman, Office of Management & Budget



Jennifer A. Hughes, Director
Office of Management and Budget

11/14/14
Date.

Economic Impact Statement
Bill #-#, Concerning State Projects – Purple Line

Background:

This legislation would exempt the State of Maryland including its agencies and divisions from the permitting requirements of Chapters 8, 17, 22, and 49 of the Montgomery County Code for the construction of that portion of the Purple Line located within the public right-of-way under a valid franchise agreement approved by the County Council. The purpose of the proposed legislation is to provide clarification regarding the State's oversight of properties and activities covered under Chapters 8, 17, 22, and 49 of the Code. Because the proposed legislation provides clarification, it will have no economic impact on employment, spending, saving, investment, incomes, and property value in the County.

1. The sources of information, assumptions, and methodologies used.

Sources of information include the Department of Permitting Services and the Office of Management and Budget.

2. A description of any variable that could affect the economic impact estimates.

None

3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

Because the proposed legislation clarifies the oversight of the construction activities related to the Purple Line thereby exempting the State of Maryland from the permitting requirements, it will have no economic impact on employment, spending, saving, investment, incomes, and property values in the County.

4. If a Bill is likely to have no economic impact, why is that the case?

See paragraph #3.

5. The following contributed to or concurred with this analysis: David Platt and Rob Hagedoorn, Finance; Diane Jones and Hadi Mansour, Permitting Services.



Joseph F. Beach, Director
Department of Finance

9-22-14

Date

**TESTIMONY ON BEHALF OF COUNTY EXECUTIVE ISIAH LEGGETT
BILL 1-15; Street and Roads – Permit Exemption- Purple Line**

February 10, 2015

Good afternoon Council President Leventhal and members of the County Council. My name is Tom Street and I am pleased to present testimony on behalf of County Executive Isiah Leggett in support of Bill 1-15 which would clarify and streamline the regulatory process for the Purple Line -- a mass transit project that is critically important for the future transportation needs of Montgomery County residents and businesses, as well as the economic development and environmental well-being of the County.

The County Executive expresses his deep appreciation to Council President Leventhal for introducing Bill 1-15. This bill is requested to facilitate implementation of the Purple Line project and to ensure that regulatory processes are not duplicated which would unnecessarily drive up project costs.

The Purple Line is a project of the Maryland Transit Administration – or MTA. It will be designed, constructed, operated, and maintained by MTA’s Concessionaire under a Public Private Partnership (P3). The project will be reviewed and approved by the Maryland Department of the Environment for adherence to stormwater and sediment control requirements. MTA will issue permits for construction of the project and will retain expert engineers and plans reviewers to review and certify the plans for the project on its own behalf and on behalf of the County. The State will have responsibility for issuance of permits necessary for the project and inspections to ensure adherence to approved plans, construction codes and community impact plans.

Bill 1-15 is intended to defer to State reviews on the State project, eliminate duplication of reviews and permit requirements, avoid conflicting comments from multiple reviewing authorities, avoid additional permitting costs, and eliminate the additional time required to obtain approvals from duplicate approving authorities.

County agencies will be involved with reviewing and commenting on plans throughout design and project approval and will coordinate plans involving County rights-of-way with activities within the rights-of-way in accordance with a protocol that will be developed by the County and MTA. MTA will make use of County rights-of-way pursuant to a franchise agreement that will set out the terms of use and be approved by the County Council.

During construction, MTA will maintain responsibility for communication and coordination with property owners, residents, business owners/operators, and other stakeholders. MTA community liaisons will be located in project offices along the corridor, and will serve as direct points of contact to the community. MTA is also forming Community Advisory Teams, which will be composed of representatives of the community/civic associations, businesses, and other stakeholder groups. These groups will offer a forum for stakeholders to engage in open dialogue with decision-makers from MTA and the Concessionaire on community impacts including matters such as temporary closures of right-of-way due to construction, temporary detours for pedestrians, bicycles and vehicles, business accessibility, alternative parking, community communications and notices.

The County Executive urges the Council to adopt Bill 1-15 to minimize duplication, expense and time and streamline the regulatory process for the Purple Line.