

MEMORANDUM

TO: County Council
FROM: MF Michael Faden, Senior Legislative Attorney
SUBJECT: **Action:** Expedited Bill 35-13, Taxation – Fuel-Energy Tax – Timing of Payments

The joint Government Operations and Fiscal Policy/Transportation, Infrastructure, Energy and Environment Committee recommendation: enact the Bill with amendments.

Expedited Bill 35-13, Taxation – Fuel-Energy Tax – Timing of Payments, sponsored by the Council President at the request of the County Executive, was introduced on December 10, 2013.

Bill 35-13 would amend the timing for payment to the County of the fuel energy tax, as recently recommended by the State Public Service Commission, to allow payment by the last day of the next month rather than the 15th day. This two-week delay in the payment would permit a public utility to avoid advancing cash from their own working capital to pay the energy tax before they received payment for it from their customers. Currently, the cost to the utility to advance the cash has been passed onto the utility's customers.

Public Hearing

The lone speaker at the January 28 public hearing, Jerry Pasternak, PEPCO, supported the Bill. ©10-11. Finance Director Joseph Beach also supported the Bill on behalf of the Executive in written testimony at ©12.

GO/T&E Worksession

A joint Government Operations and Fiscal Policy/Transportation, Infrastructure, Energy and Environment Committee worksession was held on January 23, at which the Committee tentatively recommended enactment of the Bill pending any issues raised at this hearing.

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Expedited Bill No. 35-13
Concerning: Taxation – Fuel-Energy Tax
– Timing of Payments
Revised: 1-29-14 Draft No. 4
Introduced: December 10, 2013
Expires: June 10, 2015
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) amend the timing for payment of the fuel energy tax;
- (2) update archaic language and make stylistic and corrective changes; and
- ~~[(2)]~~ (3) generally amend County law regarding the fuel energy tax

By amending

Montgomery County Code
Chapter 52, Taxation
Section 52-14

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:

28 liable for]] a penalty of [[ten (10)]] 10 percent of the amount of the tax,
 29 [[, and such]] Any interest and penalty [[shall]] due may be collected as
 30 a part of the tax.

31 (e) If any person [[shall fail or refuse to make]] does not timely file any
 32 report and [[remittance]] pay the tax required [[herein, within the time
 33 provided herein]] under this Section, the Director [[of finance shall
 34 proceed in such manner as he]] may [[deem necessary to]] [[obtain]] use
 35 any [[facts and]] available information [[on which]] to [[base his]]
 36 estimate [[of]] the tax due. As soon as the Director [[of finance shall
 37 procure such facts and]] obtains available information [[as he is able to
 38 obtain upon]] on which to base the [[assessment]] calculation of any tax
 39 payable by any person who has [[failed or refused to make such]] not
 40 timely filed any report and [[remittance]] paid the tax, [[he shall proceed
 41 to determine and]] the Director may assess against [[such]] that person
 42 [[the]] any tax, interest, and penalties [[provided for herein]] due and
 43 [[shall]] must notify such person of the total amount due by regular mail
 44 sent to [[his]] the person's last known [[place of]] address, [[of the total
 45 amount of]] [[such]] [[tax, interest, and penalties, and the]] The total
 46 amount [[thereof shall be payable]] assessed is due and payable within
 47 [[ten (10)]] 10 days [[from]] after the [[date of such]] notice is sent.

48 (f) [[It shall be the duty of every]] Every person liable for [[the payment to
 49 the county of]] any tax [[imposed herein to keep and]] under this
 50 Section must preserve, for [[a period of two (2)]] 2 years, [[such
 51 suitable]] any records [[as may be]] necessary to [[determine]] calculate
 52 the amount of [[such]] tax [[as he may have been liable for the county,
 53 which records the director of finance shall have the right to]] due, which
 54 the Director may inspect at [[all]] any reasonable [[times]] time.

- 55 (g) ~~[[Whenever]]~~ If any person required to pay ~~[[to the county]]~~ a tax
 56 ~~[[hereunder shall cease]]~~ under this Section stops doing business or
 57 otherwise ~~[[dispose of his]]~~ transfers ownership or control of the
 58 business, any tax payable ~~[[hereunder to the county shall become]]~~
 59 under this Section is immediately due ~~[[and payable]]~~, and ~~[[such]]~~ the
 60 person ~~[[shall]]~~ must immediately ~~[[make]]~~ file a report and pay any tax
 61 due.
- 62 (h) The Director ~~[[of Finance]]~~ may ~~[[issue regulations]]~~ adopt a regulation,
 63 by Method 2, to assess, collect, audit, and otherwise administer the tax
 64 imposed by this Section. If the Council by resolution establishes
 65 different rates for different categories of fuel-energy use, the regulations
 66 may specify how the Director will determine whether a taxpayer
 67 qualifies under the resolution for any rate that is less than the maximum
 68 rate.
- 69 (i) Any ~~[[person violating or failing to comply with any of the provisions]]~~
 70 violation of this Section ~~[[shall be subject to punishment for]]~~ is a class
 71 A violation ~~[[as set forth in section 1-19 of chapter 1 of the County~~
 72 Code]]. Each violation ~~[[shall constitute]]~~ is a separate offense.
 73 ~~[[Such]]~~ Any conviction ~~[[shall]]~~ does not relieve any ~~[[such]]~~ person
 74 from ~~[[the payment, or remittance of such]]~~ paying any tax due.

75 **Sec. 2. Expedited Effective Date.**

76 The Council declares that this legislation is necessary for the immediate
 77 protection of the public interest. This Act takes effect on the date on which it
 78 becomes law.

LEGISLATIVE REQUEST REPORT

Expedited Bill 35-13

Taxation – Fuel-Energy Tax – Payment Timing

- DESCRIPTION:** This Bill would amend County law to allow Fuel Energy Tax payers to remit tax payments until the last day of the following month, instead of the 15th day of the following month.
- PROBLEM:** The current payment schedule does not give enough time for Utilities and other individuals and entities that pay the County's Fuel Energy Tax to collect the funds without having to increase their working capital requirements, which in turn adversely impacts rates that customers pay.
- GOALS AND OBJECTIVES:** To adjust payment timing requirements so that any financial hardship is mitigated.
- COORDINATION:** Department of Finance
- FISCAL IMPACT:** None
- ECONOMIC IMPACT:** None
- EVALUATION:** Subject to the general oversight of the County Executive and the County Council.
- EXPERIENCE ELSEWHERE:** Unknown.
- SOURCE OF INFORMATION:** Michael J. Coveyou, Chief, Division of Treasury, Department of Finance
- APPLICATION WITHIN MUNICIPALITIES:** None.
- PENALTIES:** None.



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

December 4, 2013

TO: Craig Rice, Council President

FROM: Isiah Leggett, County Executive 

SUBJECT: Expedited Bill xx-13: Taxation - Fuel-Energy Tax – Timing of Payments

I am transmitting to Council for introduction an expedited bill that moves the date for payment of the fuel energy tax from the fifteenth day of each month to the last day of each month with the LRR and Fiscal and Economic Impact statements. The current payment schedule does not give enough time for Utilities and other individuals and entities that pay the County's Fuel Energy Tax to collect the funds without having to increase their working capital requirements, which in turn adversely impacts rates that customers pay. This recommended amendment resolves that issue.

I would appreciate your consideration of this bill at your earliest convenience. If you have any questions or require additional information, please do not hesitate to contact Joseph Beach, Director, Department of Finance, at 240-777-8870.

Attachments

c: Joseph F. Beach, Director, Department of Finance

Fiscal Impact Statement
Bill XX-XX, Taxation – Fuel-Energy Tax – Timing of Payments

1. Legislative Summary.

This Bill will allow all taxpayers who pay fuel-energy tax to submit payments and any required information to the Director of Finance by the last day of the following calendar month. Current law allows taxpayers to remit payments and information by the fifteenth day of the following month.

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 Bill does not change the rate of the fuel-energy tax, only the timing of payments. There will be no effect on revenues or expenditures. Per the Department of Finance, no additional staff time or County resources are required for implementation of this Bill.

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

N/A

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

N/A

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

N/A

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

Per the Department of Finance, no additional staff time or County resources are required for implementation of this Bill.

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

Per the Department of Finance, no additional staff time or County resources are required for implementation of this Bill.

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

N/A

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

The bill does not change the rate of the fuel-energy tax, only the timing of payments. There will be no effect on revenues or expenditures.

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

N/A

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

The Bill does not change the rate of the fuel-energy tax, only the timing of payments. There will be no effect on revenues or expenditures. Per the Department of Finance, no additional staff time or County resources are required for implementation of this Bill.

12. Other fiscal impacts or comments.

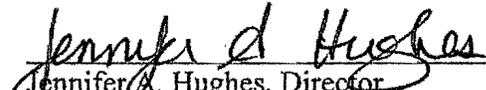
N/A

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

Jedediah Millard – Office of Management and Budget

Naeem Mia – Office of Management and Budget

Michael Coveyou – Department of Finance



Jennifer A. Hughes, Director
Office of Management and Budget

12/4/13
Date

Economic Impact Statement
Bill #-#, Taxation – Fuel-Energy Tax – Timing of Payments

Background:

This legislation would amend the timing for payment of the tax and generally amend County law regarding the fuel energy tax. The Bill amends current law by changing the date on which persons or companies; who transmit, distribute, manufacture, produce, or supply fuel of energy to the County; may now remit tax payments on the last day of the following month in which such collections are received by the persons or companies from fuel and energy customers.

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

Not applicable

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

Not applicable

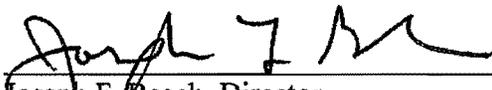
3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

This bill amends the timing of when fuel-energy tax payments are remitted to the County. Therefore, the Bill has no economic impact.

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

This bill only amends the timing of payments of the fuel and energy tax collected by persons or companies and sent to the County.

5. The following contributed to and concurred with this analysis: David Platt and Michael Coveyou, Finance.



Joseph F. Beach, Director
Department of Finance

12/4/13
Date



A PHI Company

Maryland Affairs
701 Ninth Street, NW
Washington, DC 20068
202-872-2524 Phone

Jerry Pasternak
Vice President Pepero Region - Maryland

January 28, 2014

Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Re: Expedited Bill 35-13

Dear Council President Rice and Councilmembers:

The Potomac Electric Power Company ("Pepero") submits these comments in support of Expedited Bill 35-13, Taxation - Fuel-Energy Tax - Timing of Payments.

Current law provides for remittance of the fuel-energy tax either on a quarterly payment schedule, if authorized by the County, or on or before the fifteenth day of the following month.

Prior to January 2103, Pepero was authorized to pay on a quarterly basis. Effective with the January 2013 reporting period, however, the County notified Pepero that payments of the monthly tax would be required on or before the fifteenth day of the following month.

Expedited Bill 35-13 would amend the timing for payment to the County of the fuel-energy tax to allow payment for a month by the last day of the following month, rather than by the fifteenth day of the following month. The bill changes not the *rate* of the fuel-energy tax but rather the *timing* of payments.

The proposed change is the result of discussions between Pepero and Montgomery County that took place at the urging of the Maryland Public Service Commission (the "PSC"). In Order No. 85724, issued on July 12, 2013, the PSC noted that the change from quarterly to monthly payments increased costs to consumers because it increased Pepero's cash working capital (CWC) requirement. CWC is the cash a utility needs to cover its operating expenses to provide service until the revenues from that service are collected. In the case of the fuel-energy tax, Pepero is currently collecting the revenue for the tax in approximately 48 days through the utility bill, but it must pay the tax to the County every 30 days. This lag creates a need for additional CWC for 18 days and has an impact of approximately \$14.5 million on our rate base, which in turn has a direct impact on raising the utility bills of all customers.

Expedited Bill 35-13 allows an additional two weeks to remit the tax to the County and substantially alleviates the negative impact caused by the current monthly payment schedule.

Montgomery County Council
January 28, 2014
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Pepco thanks the County Executive and the Department of Finance for working collaboratively with us to address this issue, and we urge prompt enactment of the bill by the County Council.

Sincerely,



Jerry Pasternak

cc: Honorable Isiah Leggett
Mr. Joseph F. Beach
Ms. Bonnie Kirkland

Testimony: Council Bill 35-13
Taxation -Fuel-Energy Tax -Timing of Payments

Good afternoon, my name is Joseph Beach, Director of the County Department of Finance and I am here on behalf of County Executive Isiah Leggett to testify in support of Council Bill 35-13, Fuel Energy Tax – Timing of Payments.

This legislation delays by two weeks (from the middle to the end of the month) the time in which any payer of the County's fuel energy tax must submit its tax payment to the Director of Finance. As you can tell from the legislation there is an option, with the permission of the Finance Director, to pay the fuel energy tax on a monthly or quarterly basis. For several years, the Finance Department permitted any entity that was responsible for paying the energy tax to pay on a quarterly basis. In order to improve liquidity and promote consistency in collection and forecasting of the energy tax revenues, in early 2013, the Finance Department required all payers to submit payment on a monthly basis.

Certain payers, especially utilities, indicated that this was a hardship for them financially because they argued that it required them to advance cash from their own working capital to pay the energy tax before they received it from their customers. In fact, PEPCO had raised this as an issue to the Public Service Commission during its last request for a rate increase. The PSC recommended earlier this year that PEPCO and the County work to resolve this issue. To avoid passing these additional costs on to ratepayers on this basis and yet maintain a favorable collection schedule for the County Government it is recommended in this legislation to advance the monthly payment due date by two weeks to relieve any hardship on payers.

I urge you to support this legislation. Thank you for permitting the time to address the County Council on this important matter.