T&E/MFP ITEM 1-2
May 7, 2010
Worksession 3

MEMORANDUM

TO: Transportation, Infrastructure, Energy and Environment/ Management and Fiscal Policy Committee

FROM: Michael Faden, Senior Legislative Attorney
Leslie Rubin, Legislative Analyst, Office of Legislative Oversight

SUBJECT: **Worksession 3:** Expedited Bill 15-10, Taxation – Fuel-Energy Tax – Rate
Resolution to change fuel/energy tax rates

This is the joint Committees' third worksession on Expedited Bill 15-10, Taxation – Fuel-Energy Tax – Rate and the companion Resolution to change fuel/energy tax rates, both sponsored by the Council President at the request of the County Executive and introduced on March 23, 2010.

As most recently revised, the Executive would increase the fuel/energy tax rates by 100% for both residential and non-residential taxpayers. This proposal is the Executive's second revised rate increase since the release of his FY11 recommended operating budget on March 15.

The Executive's April 22 proposal would implement the rate increase retroactively to May 1, raising an additional $21 million in FY10, and would sunset the tax rate increase at the end of FY12. The Executive's April 22 budget adjustments memo noted:

> Due to the severity and most recent income tax write down, I am recommending a higher increase in the County's fuel energy tax. This increase, combined with the increases recommended on March 25 will raise an additional $21.4 million in FY10 and $79.8 million in FY11. Recognizing the significant impact that this increase will have on County residents and businesses, I am recommending that the FY11 total increase in the Fuel Energy Tax sunset at the end of FY12.

The table below summarizes the Executive's three proposals and the projected FY11 revenue from each.

Summary of County Executive's proposed fuel/energy tax increase ($ in millions)

	County Executive Proposals			FY10 Projected
	Current (April 22)	March 25	March 15	
% rate increase	**100%**	63.7%	39.6%	0%
Projected total FY11 revenue ($ in millions)	**$265.0**	$217.0	$185.1	132.2
Non-residential revenue	**$192.8**	$157.9	$134.7	$96.2
Residential revenue	**$72.2**	$59.1	$50.4	$36.0

Source: Department of Finance

Issues

1) Impact of rate increase on taxpayers. The fuel/energy tax includes two separate rate schedules – one for residential rate payers and one for non-residential rate payers. Historically, non-residential tax rates are 2 2/3 times higher than the rates for residential rate payers, resulting in non-residential consumers paying 73% of all energy tax revenue and residential consumers paying 27%. Business representatives opposed an increase in the tax rates of the size proposed by the Executive and urged that the tax burden be spread more evenly between residential and non-residential taxpayers.

At the Committees' request, Finance Department staff developed several scenarios to redistribute the tax burden between residential and non-residential consumers. One scenario would impose one set of tax rates for all consumers, equalizing the tax burden for residential and non-residential consumers. At the Committees' April 29th worksession, Committee members did not express support for this proposal because it would raise the rates paid by residential taxpayers by 268%.

Other options would keep the base energy tax rates the same but revise how the *increased revenue* generated from the proposed rate increases would be allocated between residential and non-residential customers. Finance staff calculated three ways to reallocate the increased revenue:

- Collect 40% from non-residential consumers and 60% from residential consumers;
- Collect 50% from non-residential consumers and 50% from residential consumers;
- Collect 60% from non-residential consumers and 40% from residential consumers.

At the second Committee worksession, Committee members expressed interest in the second and third scenarios, but not the first, again because that scenario would raise the rates paid by residential rate payers by 231%.

FY11 allocation scenarios. OLO staff used Finance Department data to calculate the data in the four scenarios on ©28-30 – to illustrate options to allocate the tax burden between residential and non-residential consumers.

Scenario 1 is the County Executive's current proposal – increasing rates 100% for all taxpayers while maintaining the current distribution of the tax burden (73% from non-residential consumers, 27% from residential consumers). Scenarios 2-4 show three different ways to collect tax revenue from residential and non-residential consumers – by reallocating how the increased tax revenue generated from the proposed rate increases would be allocated between residential and non-residential consumers. **Each scenario assumes that the County would raise the same amount of energy tax revenue in FY11: $265 million.**

On ©28, the top line in each scenario shows the current distribution between residential and non-residential consumers of the tax burden for the amount of tax *currently collected* by the County Government. This amount and allocation is the same in each scenario. The middle line shows a revised allocation of the tax burden for the *additional tax revenue* that would be collected under the Executive's proposed rate increases. The bottom line in each exhibit shows the *total* dollar amount and percent of revenue that each group of taxpayers would pay under each scenario.

The tables on ©29 compare the current average annual tax bill with the projected annual tax bill based on each scenario in FY11, both for residential and non-residential taxpayers.

The tables at ©30 summarize the projected monthly tax bill for residential and non-residential consumers, based on different levels of electricity consumption.

2) Master-Metered Residential Buildings. Currently, master-metered apartment buildings are taxed at the higher rate charged to non-residential consumers of natural gas and electricity. Council staff sees three primary options to set rates for master-metered residential apartment buildings, which are summarized in the table below. The table identifies the impact on the tax rate (and correspondingly the tax bill) for each option.

Options for master metered apartment buildings

	Options		
	Proposed non-residential tax rate (Executive's proposal)	**Current non-residential tax rate (status quo)**	**Residential tax rate**
% Increase (or decrease) from current tax rate	100%	0%	– 62%

3) Effective date of tax increase. The Executive originally proposed that the new rates take effect on July 1, which has been customary when the rates are raised during the operating budget process. His April 22 revision proposed accelerating the effective date to May 1 so that significant revenue would flow to the County during FY10. If the Council does not act on this Bill or resolution until May 19, as Council President Floreen has scheduled, the new rates could apply to energy delivered on or after May 1. The County Attorney concluded that doing so would be legally permissible. In a recent letter (see ©17), PEPCO "objects to the retroactive application of the proposed fuel/energy tax, as it is unconstitutional under Article 24 of the Maryland Declaration of Rights, and Article III, §40 of the Maryland Constitution."

This packet contains:	**Found at:**
Expedited Bill 15-10	©1
Legislative Request Report	©5
Resolution	©6
Rate Schedule based on County Executive's April 22 proposed rate increase	©7
Fiscal Impact Statement	©8
PEPCO testimony	©13
PEPCO Letter re retroactivity issue	©17
Comparison of energy tax rates among regional jurisdictions	©20
Comparative examples of monthly electricity tax among regional jurisdictions	©21
Planning Department Summary of Economic Issues	©22
Demographic Data for County Residents	©26
Data on impact of proposed increase	©27
OLO Analysis of 4 scenarios for FY11:	
Allocation of revenue between residential and non-residential consumers	©28
Average annual tax bill for residential and non-residential consumers	©29
Examples of monthly tax bills based on electricity usage	©30

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Expedited Bill No. 15-10
Concerning: Taxation – Fuel-Energy Tax - Rate
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) increase the rates of the fuel-energy tax; and
(2) generally amend County laws related to the fuel-energy tax.

By amending
Montgomery County Code
Chapter 52, Taxation
Section 52-14, Fuel-energy tax

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

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

Sec. 1. Section 52-14 is amended as follows:

52-14. Fuel-energy tax.

(a) A tax is levied and imposed on every person transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in the County. Beginning on July 1, 2010, the tax rates in dollars are:

(1) For fuel-energy transmitted, distributed, manufactured, produced, or supplied for residential and agricultural purposes:

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	$0.0072924198
Natural Gas (per therm)	$0.0628010617
Steam (per therm)	$0.0822605134
Coal (per ton)	$18.6267531744
Fuel oil (per gallon):	
No. 1	$0.0899987212
No. 2	$0.0933631594
No. 3	$0.0933631594
No. 4	$0.0955500442
No. 5	$0.0974004852
No. 6	$0.0995873700
Liquefied petroleum gas (per pound)	$0.0135686262

(2) For fuel-energy transmitted, distributed, manufactured, produced, or supplied for non-residential purposes:

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	$0.0193251926

Natural Gas (per therm)	$0.1664230814
Steam (per therm)	$0.2179903605
Coal (per ton)	$49.3578373320
Fuel oil (per gallon):	
No. 1	$0.2384966112
No. 2	$0.2474123724
No. 3	$0.2474123724
No. 4	$0.2532076172
No. 5	$0.2581112858
No. 6	$0.2639065305
Liquefied petroleum gas (per pound)	$0.0359568595

The County Council [must] may set the rates for various forms of fuel and energy by resolution adopted according to the requirements of Section 52-17(c). The Council may, from time to time, revise, amend, increase, or decrease the rates, including establishing different rates for fuel or energy delivered for different categories of final consumption, such as residential or agricultural use. The rates must be based on a weight or other unit of measure regularly used by [such] persons in the conduct of their business. The rate for each form of fuel or energy should impose an equal or substantially equal tax on the equivalent energy content of each form of fuel or energy for a particular category of use. The tax does not apply to the transmission or distribution of electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in interstate commerce through the County if the tax would exceed the taxing power of the County under the United States Constitution. The tax does not apply to fuel or energy converted to another form of energy that will be subject to a tax under this Section. The tax must not be imposed at more than one point in the transmission, distribution, manufacture, production, or supply system. The rates of tax apply to the quantities measured at the point of delivery for final consumption in the County.

* * *

Sec. 2. Expedited Effective Date.

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

Approved:

Nancy Floreen, President, County Council — Date

Approved:

Isiah Leggett, County Executive — Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council — Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 15-10
Taxation – Fuel-Energy Tax – Rate

DESCRIPTION:	This Bill would increase the rates of the fuel-energy tax.
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
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:	
SOURCES OF INFORMATION:	Joseph Beach, Director of Management and Budget Kathleen Boucher, Assistant Chief Administrative Officer
APPLICATION WITHIN MUNICIPALITIES:	Tax laws apply County-wide.
PENALTIES:	N/A

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Resolution No. ________________
Introduced: March 23, 2010
Adopted: ________________

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President

SUBJECT: Fuel/energy tax – rates

Background

1. Section 52-14 of the County Code levies a tax on persons transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in the County.

2. Section 52-14 also provides that the County Council may amend the fuel/energy tax rates by resolution, after a public hearing advertised as required by Section 52-17. A public hearing was held on this resolution on (date).

3. The Council finds that it is fair and equitable to continue different rates for fuels and energy transmitted, distributed, manufactured, produced, or supplied for residential and agricultural purposes and for non-residential purposes.

Action

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

1. On and after July 1, 2010, the fuel/energy tax rates levied under Section 52-14 of the County Code are as shown on Schedule A, attached to this resolution.

2. This Resolution supersedes Resolution 16-553.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

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Attachment Resolution No:

SCHEDULE A (starting May 1, 2010)

(a) For fuel-energy transmitted, distributed, manufactured, produced, or supplied for residential and agricultural purposes:

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	$0.0104475928
Natural Gas (per therm)	$0.0899728678
Steam (per therm)	$0.1178517384
Coal (per ton)	$26.6858928000
Fuel oil (per gallon)	
No. 1	$0.1289379960
No. 2	$0.1337581080
No. 3	$0.1337581080
No. 4	$0.1368911808
No. 5	$0.1395422424
No. 6	$0.1426753152
Liquefied petroleum gas (per pound)	$0.0194392926

(b) For fuel-energy transmitted, distributed, manufactured, produced, or supplied for non-residential purposes:

FUEL-ENERGY	
Electricity (per kilowatt hr)	$0.0276865224
Natural Gas (per therm)	$0.2384284834
Steam (per therm)	$0.3123071068
Coal (per ton)	$70.7132340000
Fuel oil (per gallon)	
No. 1	$0.3416856894
No. 2	$0.3544589862
No. 3	$0.3544589862
No. 4	$0.3627616292
No. 5	$0.3697869424
No. 6	$0.3780895852
Liquefied petroleum gas (per pound)	$0.0515141254

OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

April 27, 2010

TO: Nancy Floreen, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Expedited Bill 15-10, Taxation – Fuel-Energy Tax – Rate

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The original proposed legislation introduced March 23, 2010 would increase fuel-energy tax rates 39.6% consistent with the County Executive's March 15 operating budget recommendation. Since March 15, the Executive has proposed two modifications to the rate increase, the latest of which was a 100% increase in fuel-energy tax rates effective May 1, 2010 included in his FY10 and FY11 operating budget amendments transmitted to the County Council on April 22, 2010. The latest proposed rates are attached to this fiscal impact statement. The Executive recommends that the 100% increase in the fuel-energy tax rates sunset at the end of FY12.

FISCAL AND ECONOMIC SUMMARY

The original Expedited Bill No. 15-10 increased the fuel-energy tax by 39.6% to raise $50 million more in General Fund revenue than current rates would generate in FY11. These revenues were assumed in the Executive's March 15 recommended operating budget. The 100% increase recommended by the Executive on April 22 will produce $101.3 million (combined over FY10 and FY11) more than assumed in the March 15 budget and is required to maintain balance in the operating budget and restore reserves to the policy level of 6% of total resources. The increase in fuel-energy tax rates will also have a fiscal impact on the operating budgets of County funded agencies and departments (see attachment for detail). The Executive recommended certain budget adjustments to accommodate some of these cost increases.

The energy tax is a broad-based tax paid by households, businesses, and all levels of government. Based on current usage patterns the recommended 100% increase will result in an increase of approximately $8.00 per month for the average homeowner and $289 per month for the average non-residential ratepayer. Since the energy tax is based on consumption, the amount of the tax can be reduced by decreasing energy usage, and a number of existing programs provide incentives for consumers to conserve energy.

The following contributed to this analysis: Bryan Hunt, Office of Management and Budget, David Platt, Department of Finance.

JFB:bh

Attachments

c: Kathleen Boucher, Assistant Chief Administrative Officer
Dee Gonzalez, Offices of the County Executive
David Platt, Department of Finance
Bryan Hunt, Office of Management and Budget
John Cuff, Office of Management and Budget

	FY08	FY09 Carbon Taxes Res. No. 16-553	Pct Change	FY10	FY11 Proposed Rates	Pct. Chg.	FY10-FY11 Proposed Rates	Pct. Chg.	FY10-FY11 Proposed Rates	Pct. Chg.
NON-RESIDENTIAL										
Fuel-Oil										
#1	$0.1553116770	$0.1708428447	10.0%	$0.1708428447	$0.2384966112	39.6%	$0.27966973677	63.7%	$0.34168568940	100.0%
#2 & #3	$0.1611177210	$0.1772294931	10.0%	$0.1772294931	$0.2474123724	39.6%	$0.29012468020	63.7%	$0.35445898620	100.0%
#4	$0.1648916496	$0.1813808146	10.0%	$0.1813808146	$0.2532076172	39.6%	$0.29692039350	63.7%	$0.36276162920	100.0%
#5	$0.1680849738	$0.1848934712	10.0%	$0.1848934712	$0.2581112858	39.6%	$0.30267061235	63.7%	$0.36978694240	100.0%
#6	$0.1718589024	$0.1890447926	10.0%	$0.1890447926	$0.2639065305	39.6%	$0.30946632549	63.7%	$0.37808958520	100.0%
L P Gas	$0.0245305359	$0.0257570627	5.0%	$0.0257570627	$0.0359568595	39.6%	$0.04216431164	63.7%	$0.05151412540	100.0%
Coal	$29.4638475000	$35.3566170000	20.0%	$35.3566170000	$49.3578373320	39.6%	$57.87878202900	63.7%	$70.71323400000	100.0%
Steam	$0.1419577758	$0.1561535534	10.0%	$0.1561535534	$0.2179903605	39.6%	$0.25562336692	63.7%	$0.31230710680	100.0%
Electricity	$0.0125847830	$0.0138432612	10.0%	$0.0138432612	$0.0193251926	39.6%	$0.02266141858	63.7%	$0.02768652240	100.0%
Natural Gas	$0.1135373730	$0.1192142417	5.0%	$0.1192142417	$0.1664230814	39.6%	$0.19515371366	63.7%	$0.23842848340	100.0%
RESIDENTIAL										
Fuel-Oil										
#1	$0.0586081800	$0.0644689980	10.0%	$0.0644689980	$0.0899987212	39.6%	$0.10553574973	63.7%	$0.12893799600	100.0%
#2 & #3	$0.0607991400	$0.0668790540	10.0%	$0.0668790540	$0.0933631594	39.6%	$0.10948101140	63.7%	$0.13375810800	100.0%
#4	$0.0622232640	$0.0684455904	10.0%	$0.0684455904	$0.0955500442	39.6%	$0.11204543148	63.7%	$0.13689118080	100.0%
#5	$0.0634282920	$0.0697711212	10.0%	$0.0697711212	$0.0974004852	39.6%	$0.11421532540	63.7%	$0.13954224240	100.0%
#6	$0.0648524160	$0.0713376576	10.0%	$0.0713376576	$0.0995873700	39.6%	$0.11677974549	63.7%	$0.14267531520	100.0%
L P Gas	$0.0092568060	$0.0097196463	5.0%	$0.0097196463	$0.0135686262	39.6%	$0.01591106099	63.7%	$0.01943929260	100.0%
Coal	$11.1191220000	$13.3429464000	20.0%	$13.3429464000	$18.6267531744	39.6%	$21.84240325680	63.7%	$26.68589280000	100.0%
Steam	$0.0535689720	$0.0589258692	10.0%	$0.0589258692	$0.0822605134	39.6%	$0.09646164788	63.7%	$0.11785173840	100.0%
Electricity	$0.0047489058	$0.0052237964	10.0%	$0.0052237964	$0.0072924198	39.6%	$0.00855135471	63.7%	$0.01044759280	100.0%
Natural Gas	$0.0428442228	$0.0449864339	5.0%	$0.0449864339	$0.0628010617	39.6%	$0.07364279229	63.7%	$0.08997286780	100.0%

6

Impact of Proposed Increase to Energy Tax

Average Impact to Residential and Non-Residential Taxpayers

Based on latest figures available for energy consumption (2009 Energy Tax data), housing units (2008 Census Bureau data) and business establishments (2007 Census Bureau data)

<u>Residential</u>

Fuel Type	Units	Units Consumed	Tax Rate	Current Tax	Proposed 100% Increase		For Each 1% Increase
					Total	Difference	
Electricity	kWh	12,808	0.005224	$66.91	$133.81	$66.91	$0.67
Heating Fuel	Therm	624	0.044986	$28.08	$56.16	$28.08	$0.28
Total				$94.99	$189.97	$94.99	$0.95
Monthly Change						$ 8	

<u>Non-Residential</u>

Examples of Programs Funded with Energy Tax Increase

Fuel Type	Units	Units Consumed	Tax Rate	Current Tax	Proposed 100% Increase		For Each 1% Increase
					Total	Difference	
Electricity	kWh	204,614	0.013843	$2,832.53	$5,665.06	$2,832.53	$28.33
Heating Fuel	Therm	5,325	0.119214	$634.86	$1,269.72	$634.86	$6.35
Total				$3,467.39	$6,934.78	$3,467.39	$34.67
Monthly Change						$ 289	

Some Examples

	Current Tax	Proposed 100% Increase		For Each 1% Increase	Monthly Difference
		Total	Difference		
3,000 sq. ft., 4-bedroom, 3.5 bath house (DEP employee)	$89.68	$179.35	$89.68	$0.90	$7.47
Council Office Building (142,480 sq. ft.)	$47,075.00	$94,150.00	$47,075.00	$470.75	$3,922.92
East County Government Center (13,700 sq. ft.)	$3,537.86	$7,075.72	$3,537.86	$35.38	$294.82

Impact of Proposed Increase to Energy Tax

Impact to County Government and County Agencies

Based on FY09 energy consumption for the County Government and FY08 energy consumption for County agencies.

	Current	Proposed 100% Increase	
	Tax	Total	Difference
County Government	$2,691,671	$5,383,341	$2,691,671
Montgomery County Public Schools	$3,706,816	$7,413,632	$3,706,816
Washington Suburban Sanitary Commission	$3,009,002	$6,018,004	$3,009,002
Maryland-National Capital Park & Planning Commission	$259,967	$519,935	$259,967
Montgomery College	$567,488	$1,134,975	$567,488
Total	$10,234,944	$20,469,887	$10,234,944

All Agencies	Mar 15 CE Rec	Cost Estimate of Proposed Rate Increase	Change	FY11 Amendment	FY10 Impact
MCG (Tax + Non Tax)	996,030	2,691,670	1,695,640	691,710	448,610
MCPS	0	3,706,820	3,706,820	0	617,800
WSSC	0	3,009,000	3,009,000	0	501,500
MNCPPC	96,200	259,970	163,770	163,770	43,330
MC	210,000	567,490	357,490	357,490	94,580
Total	1,302,230	10,234,950	8,932,720	1,212,970	1,705,820

MCG Allocation	FY09 Actual Exp.	% of Total	Mar 15 CE Rec	Allocation of Increase	FY11 Amendment	FY10 Impact
Utilities NDA	23,605,663	74.30%	996,030	1,999,960	0	333,330
Transit Services	82,350	0.26%	0	6,980	6,980	1,160
Recreation	3,050,374	9.60%	0	258,440	258,440	43,070
Tax Supported	26,738,387	84.16%	996,030	2,265,380	265,420	377,560
Fleet Mgmt Svcs	1,011,100	3.18%	0	85,660	85,660	14,280
PLD – Bethesda	1,167,144	3.67%	0	98,890	98,890	16,480
PLD – Silver Spring	1,734,446	5.46%	0	146,950	146,950	24,490
PLD – MH	1,924	0.01%	0	160	160	30
PLD – Wheaton	97,134	0.31%	0	8,230	8,230	1,370
Liquor Control	889,147	2.80%	0	75,330	75,330	12,560
SWS Disposal	130,616	0.41%	0	11,070	11,070	1,850
Non Tax Supported	5,031,511	15.84%	0	426,290	426,290	71,060
Total MCG	31,769,898		996,030	2,691,670	691,710	448,620

pepco

A PHI Company

Charles L. Washington, Jr.
Manager
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202 872-2132 Phone
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April 20, 2010

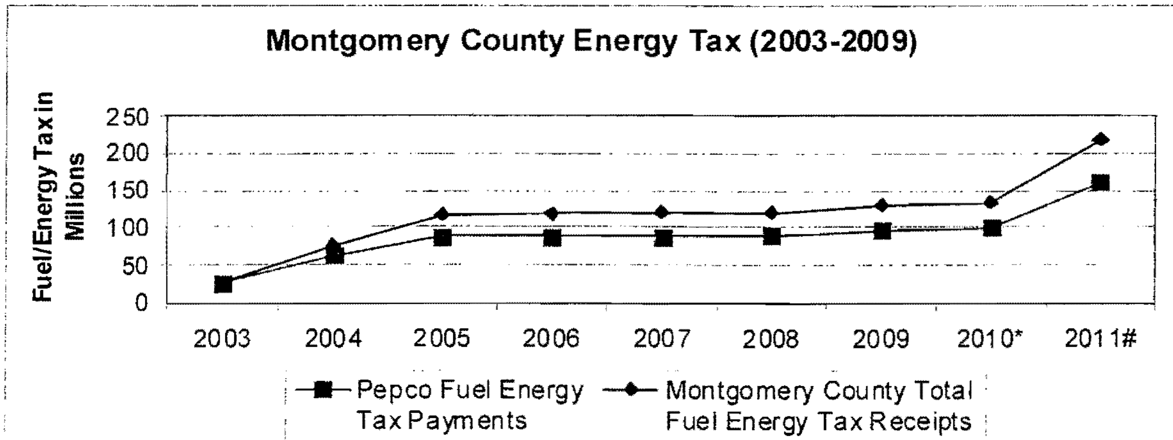
The Honorable Nancy Floreen
President, Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: Expedited Bill 15-17 – Taxation – Fuel/Energy

Dear Council President Floreen,

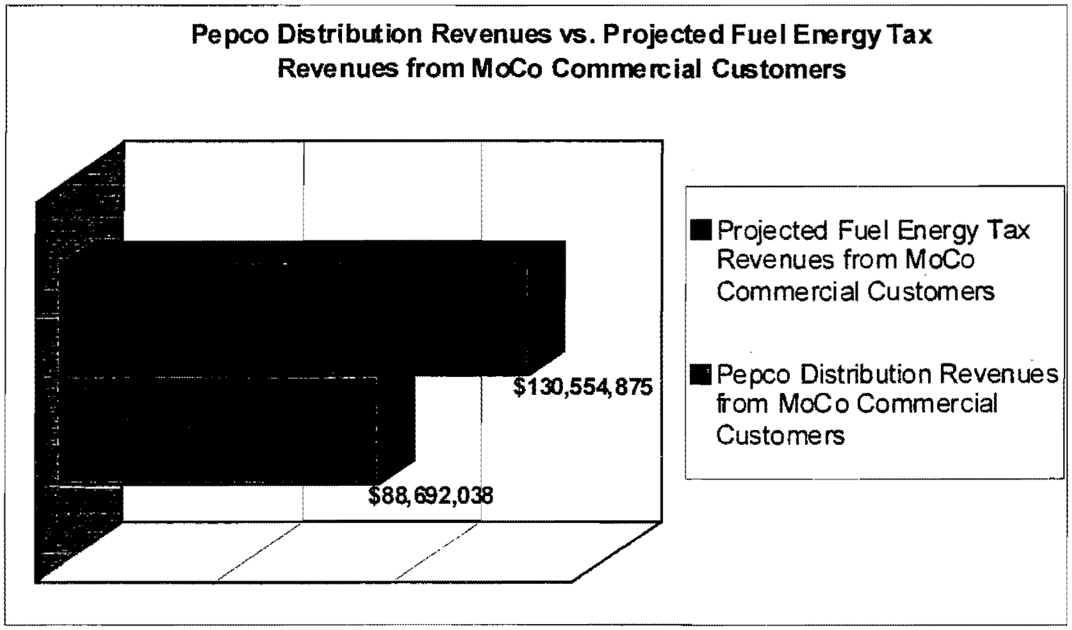
Good evening. My name is Charles Washington and I am the Public Affairs Manager for Pepco. Pepco appreciates the opportunity to comment on the proposed Fuel/Energy tax currently before you. Pepco, a subsidiary of Pepco Holdings, Inc., provides safe and reliable electric service to 767,000 residential and commercial customers in Washington, D.C., and its Maryland suburbs, including Montgomery County.

As the electric distributor for the majority of Montgomery County, Pepco is concerned about the proposed increase in the county's Fuel/Energy tax. In 2003, this tax on electricity, natural gas, oil, coal and other fuels raised $26 million. In 2011, the county's annual Fuel/Energy tax revenues would increase to nearly $217 million if this proposal is approved. That is a **731%** increase in only 8 years.



*2010 totals projected with current rates. #2011 totals projected with Executive's proposed increases.

The County's Fuel/Energy increases since 2003 have always disproportionally impacted commercial customers. However, this proposed increase crosses a notable threshold. Pepco, a distribution company, collects approximately $88.6 million in distribution revenues from commercial customers in Montgomery County. As illustrated below, if the County Executive's proposal is approved, the County would collect over $130 million from those same customers. In essence, the County will be collecting more from the energy tax than Pepco collects as a power delivery company to maintain and operate our electric system.



As demonstrated below using actual randomly selected commercial accounts, this increase will have a real impact on County businesses. One restaurant in Silver Spring will see an increase of over $3,000 a year. A hotel in Bethesda will see a tax increase of approximately $41,000 a year. The County's successful Biotech companies will see increases of hundreds of thousands of dollars of year, with at least one projected to see an increase of over half a million dollars.

Business	KWH	Old Tax	New Tax	Difference
Apartment Building in Bethesda	194347	$32,284.76	$52,850.14	$20,565.39
Coffee in Rockville	8118	$1,348.56	$2,207.58	$859.03
Restaurant Silver Spring	28640	$4,757.65	$7,788.28	$3,030.62
Ice cream parlor in Germantown	9960	$1,654.55	$2,708.49	$1,053.95
Hotel in Bethesda	392488	$65,199.77	$106,732.02	$41,532.25
Grocery Store in Silver Spring	232721	$38,659.41	$63,285.46	$24,626.04
Florist in Takoma Park	1584	$263.13	$430.75	$167.62
Non profit serving children	129920	$21,582.20	$35,330.06	$13,747.86
Office Building in Rockville	365876	$60,779.00	$99,495.23	$38,716.23
Biotech Company	5112805	$849,334.74	$1,390,360.97	$541,026.23

It is important to note that the proposed increase on commercial customers will almost certainly have an impact on County residents as well. In compliance with the applicable laws and regulations, Pepco charges apartment buildings and condominiums that are master-metered the non-residential Fuel/Energy tax rate. Upon the expiration of their leases, property management companies will pass the Fuel/Energy tax increase through to renters. Renters in these master-metered facilities will be harder hit than other County residents. As indicated below using randomly selected actual Pepco accounts, where a typical, individually metered residential customer who uses 1000 KWH a month would see a tax increase of $40 a year; a similar resident in a master-metered building would be responsible for $106 a year.

Typical Homes	KWH	Old Tax	New Tax	Difference
7,150 SQF Home in Potomac, MD	1868	$117.10	$191.69	$74.59
1,428 SQF Town Home in Silver Spring	3370	$211.25	$345.82	$134.57
789 SQF Apartment in Bethesda	258	$16.17	$26.47	$10.30
6 bedroom, 5 bath Home in Germantown, MD	5420	$339.76	$556.18	$216.42
4 bedroom, 3.5 bath Home in Rockville, MD	1180	$73.97	$121.09	$47.12
3,600 SQF Home in Gaithersburg, MD	650	$40.75	$66.70	$25.95

Pepco and its customers would be responsible for approximately **74%** of the revenues from this tax, or $160.4 million. This comes at a time when Pepco's customers are experiencing unprecedented financial difficulties. More than 48,600 Pepco customers are currently in arrears for over $19 million. Many disconnected accounts are never settled and must be written-off. In the first quarter of 2010, Pepco wrote-off over 2,700 Montgomery County accounts, valued at $1.6 million. This bad debt must then be added to Pepco's Maryland rate base – resulting in higher rates for all Maryland customers, including those in Montgomery County.

This tax also puts Pepco's Maryland customers at risk because the company pays the tax on quarterly usage, even if it cannot collect the tax along with other portions of the bill. The risk to customers would be somewhat mitigated if Pepco remits the tax to the County as a pure pass-through, paying only what we actually collect.

Pepco recognizes that, if approved, our customers will be hit hard by the proposed tax increase. We are working with our customers to mitigate the challenges of the tough economic times by offering budget billing plans that allow customers to manage their energy costs. In recent weeks, Pepco announced additional programs to encourage its Maryland customers to conserve by providing energy saving opportunities in the home and installing energy efficient products which in turn save money.

Earlier this year, Pepco also announced that beginning June 1, 2010 the cost for Standard Offer Service (SOS) electricity will decrease by 2.2 percent for residential Maryland customers. The reduction in the cost of electricity translates into a savings of $3.37 on the average monthly bill. This decrease in the cost of electricity is the result of competitive bids to supply electricity.

Despite our efforts on this front, we know many of our customers remain concerned about their energy bills. In consideration of these customers, Pepco urges the County to avoid raising additional revenues through energy bills and to seek alternative funding solutions wherever possible.

Pepco recognizes this is a very challenging economic time for Montgomery County and tough decisions must be made in order to balance the budget. However, we felt that it was critical to communicate in real terms the direct and indirect impact of this proposed energy tax to our common constituency.

pepco

A PHI Company

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April 28, 2010

The Honorable Nancy Floreen
President, Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Dear Council President Floreen:

I write today to further address Pepco's position on Expedited Council Bill 15-10, Taxation -Fuel-Energy Tax -Rate, and the alternative resolution to significantly increase the fuel/energy tax rates. Previously, Charles Washington, Manager, Government Affairs, testified on behalf of Pepco that the proposed increase would negatively impact the 306,000 commercial and residential customers we serve in Montgomery County. In addition to our concern about the negative direct and indirect impact of this proposed energy tax on our customers, Pepco strongly objects to this tax being implemented retroactively.

The most recent County Executive proposal requests that the new rates take effect on May 1, 2010. However, the County Council has announced that it does not plan to take action on the Executive's proposal before May 19. This plan poses serious legal issues as well as operational and customer service challenges for Pepco.

Pepco objects to the retroactive application of the proposed fuel/energy tax, as it is unconstitutional under Article 24 of the Maryland Declaration of Rights, and Article III, §40 of the Maryland Constitution. In determining whether or not a retroactive civil tax is unconstitutional under these provisions of the Maryland Constitution, the Maryland courts analyze the legislature's intent and whether the retroactive legislation impairs a vested right. Pepco's position is that the proposed retroactive tax likely impairs a vested right and is therefore unconstitutional.

The Court of Appeals of Maryland has broadly defined "vested rights." When determining whether vested rights have been impaired, the Maryland courts consider whether the retroactive tax is a change in legislative policy. Pepco submits that the retroactive tax is tantamount to a change in legislative policy, and thus, unconstitutional, insofar as the fuel/energy tax is intended to be fully recoverable from customers. County

Executive Leggett's March 18, 2010 letter to you explicitly acknowledged this policy by stating, "[a]s 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."

However, the proposed retroactive application of the fuel/energy tax would likely prevent full recovery of this tax from Pepco's customers. Our intention, both in Mr. Washington's testimony and in this letter, has been to illustrate the difficulties, and likely near impossibility, of full recovery of the retroactive portion of the proposed fuel/energy tax. Thus, approval of the proposed retroactive tax would indicate a change in legislative policy from complete recovery of the tax from customers to only partial recovery by utilities, at best.

Additionally, the sheer magnitude of the proposed increase is sufficient to indicate a change in legislative policy, which would be unconstitutional if applied retroactively. If adopted, the proposed amendment will retroactively raise the fuel/energy tax a staggering 100%. The Court of Appeals of Maryland has previously considered the retroactive approval of a much lower percentage tax increase to be a change in legislative policy.

In addition to the fact that the proposed retroactive fuel/energy tax represents a clear departure from existing legislative policy, the courts may consider several additional factors in determining whether a vested right is impaired by a retroactive civil statute. One such factor is whether the statute works substantial injustice. Pepco submits that the negative effects of trying to recover the proposed retroactive portion of the fuel/energy tax increase (i.e., approximately $4.5 million) works a substantial injustice against the company. When combined with the customer/constituent dissatisfaction, community ill will, and increased operational demands; the potential financial exposure Pepco faces for the portion of the retroactive increase that it is unable to collect from customers is all the more burdensome.

In addition to the unconstitutionality of the retroactive tax increase, Pepco faces serious, financial, operational, and customer care concerns. If the fuel/energy tax is implemented retroactively, under our current tariff, Pepco would under-collect the revenue required to compensate the Company for the fuel energy tax by approximately $4.5 million. Our billing system must be programmed in advance of any tax increases and is unable to "back-bill" customers for a retroactive tax increase. If the Council approves a retroactive tax increase, it will be nearly impossible for the Company to accurately collect the difference in the tax increase from customers, based on their usage.

Instead, Pepco would either attempt to manually calculate the adjustment to all Montgomery County customers on our system or cancel and "rebill" all statements issued before May 20. Either of these options would be costly and labor intensive, requiring either weeks of programming or many man-hours of account work in addition to costs for postage and printing new statements. Undoubtedly, Pepco would still be unable to fully realize the required revenue because we would be unable to collect from customers who are no longer associated with the premises or have been final billed.

The customer impact of this retroactive tax would prove challenging to the company as well. If the County Executive's proposal were approved, Pepco would implement a proactive communications plan to explain to customers why they may now have a balance for a monthly charge that they had previously paid in full. Still, we would expect a flood of confused and angry customers to contact our call centers. Large businesses, in particular, stand to see significant increases and many of these businesses will express their serious concerns about such large increases to Pepco's customer service representatives. It is also highly likely that these customers, your constituents, will contact the Council and the Maryland Public Service Commission.

In aggregate, the challenges of this retroactive tax will be a costly burden for Pepco and its residential and business customers. Pepco strongly objects to the proposed retroactive application of the tax. If the County Council chooses to raise the fuel energy tax to address the current budget challenges, the company requests that the Council collect the desired revenue through a constitutionally-permissible implementation of the fuel energy tax that is not retroactive and that provides ample notice of these significant bill increases to Pepco and its customers.

Sincerely,

Kim Watson

Kim Watson

Comparison of Fuel/Energy Tax Rates, Current and FY11 Proposed

Name	Electricity Rates		Natural Gas Rates		Projected Fuel/Energy Tax Revenue, FY11 ($ in millions) (percent of total tax revenue)
	Residential	Non-Residential	Residential	Non-Residential	
Montgomery County					**$264.9 (8.6%)**
Current Rate	0.0052237964	0.0138432612	0.0449864339	0.1192142417	
FY11 Proposed Rate**	0.0104475928	0.0276865224	0.0899728678	0.2384284834	
% Change Current-Proposed	***100%***	***100%***	***100%***	***100%***	
Baltimore City					**$30.8 (2.8%)**
Current Rate	0.0020070000	0.0062700000	0.0238300000	0.0810770000	
FY11 Proposed Rate	0.0020900000	0.0065290000	0.0248170000	0.0844360000	
% Change Current-Proposed	***4%***	***4%***	***4%***	***4%***	
Prince George's County*					**$56.8 (4.3%)**
Current Rate	0.0080900000		0.0829060000		
FY11 Proposed Rate	0.0069230000		0.0700090000		
% Change Current-Proposed	***-14%***		***-16%***		
Fairfax County					**$45.6 (1.6%)**
Current Rate (no proposed increase)	0.0060500000	0.0059400000	0.0525900000	0.0479400000	
% Change Current-Proposed	***0%***	***0%***	***0%***	***0%***	
District of Columbia					**$152.3 (3.1%)**
Current Rate (no proposed increase)	0.0070000000	0.0077000000	0.0707000000	0.0777700000	
% Change Current-Proposed	***0%***	***0%***	***0%***	***0%***	
Rate Comparison with Montgomery County, FY2011 Rates					
Baltimore City					
Rate Difference	0.0083575928	0.0211575224	0.0651558678	0.1539924834	
% Higher in MC (Lower)	**400%**	**324%**	**263%**	**182%**	
Prince George's County***					
Rate Difference	0.0035245928	0.0207635224	0.0199638678	0.1684194834	
% Higher in MC (Lower)	**51%**	**300%**	**29%**	**241%**	
Fairfax County					
Rate Difference	0.0043975928	0.0217465224	0.0373828678	0.1904884834	
% Higher in MC (Lower)	**73%**	**366%**	**71%**	**397%**	
District of Columbia					
Rate Difference	0.0034475928	0.0199865224	0.0192728678	0.1606584834	
% Higher in MC (Lower)	**49%**	**260%**	**27%**	**207%**	

* The tax rates in Prince George's County's proposed FY11 operating budget do not distinguish between residential and non-residential rates.
** Montgomery County Executive's April 22nd proposed tax increase.
*** Comparison of both Montgomery County residential and non-residential rates with Prince George's County's single rate.
Sources: Montgomery County Executive's Proposed FY11 Operating Budget and April 22, 2010 FY10 and FY11 Budget Adjustments; Baltimore City Fiscal 2011 Preliminary Budget Plan; Prince George's County Proposed Operating Budget Fiscal Year 2011; Fairfax County Code; Fairfax County Website; Fairfax County FY2011 Advertised Budget Plan; District of Columbia Code; District of Columbia Website; District of Columbia FY 2011 Proposed Budget and Financial Plan; Maryland Association of Counties (MACO) FY 2010 Budget and Tax Rates Survey

Calculation of Monthly Fuel/Energy Tax for Electricity Usage by Actual Montgomery County Businesses and Homes

Business and home examples provided by Charles Washington, PEPCO's Manager of Government Affairs. Tax calculations based on the Montgomery County Executive's proposed fuel/energy tax rate on April 22, 2010 and on the proposed FY11 rates in other jurisdictions.

Examples of Monthly Electricity Tax – Non-Residential

Type of Business	Location	Actual Kilowatt Hours Used – March 2010	Hypothetical Monthly Fuel/Energy Tax Based on Proposed FY11 Rate in...				
			Montgomery County	District of Columbia	Prince George's County	Baltimore City	Fairfax County
Biotech Company	not identified	5,112,805	$144,556	$65,766	$35,396	$33,382	$30,370
Hotel	Bethesda	392,488	$10,867	$5,049	$2,717	$2,563	$2,331
Office Building	Rockville	365,876	$10,130	$4,706	$2,533	$2,389	$2,173
Grocery Store	Silver Spring	232,721	$6,443	$2,993	$1,611	$1,519	$1,382
Apartment Building	Bethesda	194,347	$5,381	$2,500	$1,345	$1,269	$1,154
Non-profit – Serving Children	not identified	129,920	$3,597	$1,671	$899	$848	$772
Restaurant	Silver Spring	28,640	$793	$368	$198	$187	$170
Ice Cream Parlor	Germantown	9,960	$276	$128	$67	$65	$59
Coffee Shop	Rockville	8,118	$225	$104	$56	$53	$48
Florist	Takoma Park	1,584	$44	$20	$11	$10	$9

Examples of Monthly Electricity Tax – Residential

Type of Home	Location	Size	Actual Kilowatt Hours Used – March 2010	Hypothetical Monthly Fuel/Energy Tax Based on Proposed FY11 Rate in...				
				Montgomery County	District of Columbia	Prince George's County	Fairfax County	Baltimore City
House	Germantown	6 BR, 5 BA	5420	$57	$38	$38	$33	$11
Townhouse	Silver Spring	1,428 square feet	3370	$35	$24	$23	$20	$7
House	Potomac	7,150 square feet	1868	$20	$13	$13	$11	$4
House	Rockville	4 BR, 3.5 BA	1180	$12	$8	$8	$7	$2
House	Gaithersburg	3,600 square feet	650	$7	$5	$4	$4	$1
Apartment	Bethesda	789 square feet	258	$3	$2	$2	$2	$1

Sources for both tables: Businesses and electricity usage taken from April 20, 2010 written testimony from Charles Washington, PEPCO Manager of Government Affairs; Montgomery County Executive's Proposed FY11 Operating Budget and April 22, 2010 FY10 and FY11 Budget Adjustments; Baltimore City Fiscal 2011 Preliminary Budget Plan; Prince George's County Proposed Operating Budget Fiscal Year 2011; Fairfax County Code; Fairfax County Website; Fairfax County FY2011 Advertised Budget Plan; District of Columbia Code; District of Columbia Website; District of Columbia FY 2011 Proposed Budget and Financial Plan; OLO analysis

April 27, 2010

MEMORANDUM

TO: The Honorable Nancy Floreen, Chair
Transportation, Infrastructure, Energy & Environment (T&E)
Montgomery County Council

The Honorable Duchy Trachtenberg, Chair
Management and Fiscal Policy (MFP)
Montgomery County Council

FROM: Jacob Sesker, Planner Coordinator (301-650-5619)

SUBJECT: Summary of Economic Issues-Fuel/Energy Tax

The proposed budget includes additional revenues of approximately $100 million attributable to an increase in the Fuel/Energy Tax. As a matter of perspective, that $100 million gap is equivalent to more than 8% of the total countywide real property tax revenues. That gap will be closed by increasing taxes or decreasing spending[1] or some combination of the two; however, actual increases in property tax are unlikely. To the extent that the gap is partially closed by tax increases, those increases will be in the form of increases to excise taxes[2].

The Executive has now proposed an increase of 100% in the Fuel/Energy tax rates, which follows the earlier proposals to increase the rates by 39.6% and then 63.7%. For each of the three successive proposals, the Executive has proposed increasing the rates by the same percentage for all fuel types and for all end users.

The following represents a brief outline of the economic issues raised by this proposed tax increase. In brief, those issues are uniformity/equity, and timing (onset and sunset). Further discussion, and possibly analysis, is almost certain to occur over the next two weeks. Answering these questions will likely require further coordination between the County Executive, Council staff, and the Planning Department.

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[1] An issue not addressed in this memo is the economic impact of reductions in government services, some of which do negatively impact businesses and the overall business climate in a jurisdiction.

[2] Excise taxes are taxes on the exercise of a privilege (e.g. distribution of energy, consumption of alcohol, etc.). In contrast to property taxes, there is no Maryland requirement that excise taxes be uniform (i.e. that commercial and residential rates be the same). In addition, there are no Charter limitations on increases in excise taxes. Excise taxes, like all taxes, are primarily tools for raising revenue. Excise taxes may often be perceived as a way to influence behavior as well—for that reason many excise taxes are referred to as "sin taxes."

Uniformity

a. Commercial versus residential

The question raised by many members of the business community in compelling written testimony submitted at the April 21st public hearing was whether the increase in the Fuel/Energy Tax unfairly burdens the business community. If the County leans more heavily on the Fuel/Energy Tax to raise revenues, the portion of tax revenues (all sources, i.e. property, income, development impact, and other excise taxes) generated by commercial uses will increase. A question for further analysis is whether that increase will be exacerbating an existing inequality between commercial and residential, or narrowing an existing gap.

In this case, the current Fuel/Energy Tax rates for commercial users are 2.65 times higher than the rates charged for energy distributed to residential users[3]. Because the Executive has proposed equal rate increases for residential and commercial, that relationship would remain the same if the proposal were adopted.

Alternative distributions of the increase could fall anywhere within a range. The examples below are intended to illustrate alternative distributions of the burden where the total amount of revenue raised by the tax remains constant:

Executive's Proposal

	FY11 Consumers	FY 11 Average Tax Paid	FY 11 Projected Revenue	% Rate Increase
Residential	367,000	$198.93	$73,005,747	100%
Commercial	37,977	$5,236.56	$198,868,900	100%
Total-All Uses			$271,874,646	

Example 1: Maintain FY10 Commercial Rate

	FY11 Consumers	FY 11 Average Tax Paid	FY 11 Projected Revenue	% Rate Increase
Residential	367,000	$469.86	$172,440,197	372%
Commercial	37,977	$2,618.28	$99,434,450	0%
Total-All Uses			$271,874,646	

Example 2: Maintain FY 10 Residential Rate

	FY11 Consumers	FY 11 Average Tax Paid	FY 11 Projected Revenue	% Rate Increase
Residential	367,000	$99.46	$36,502,873	0%
Commercial	37,977	$6,197.74	$235,371,773	137%
Total-All Uses			$271,874,646	

[3] For comparison, in Fairfax County the rate charged to commercial users is 1.25 times higher than the rate charged to residential users.

Example 3: Achieve 50/50 Split Overall

	FY11 Consumers	FY 11 Average Tax Paid	FY 11 Projected Revenue	% Rate Increase
Residential	367,000	$370.40	$135,937,323	272%
Commercial	37,977	$3,579.46	$135,937,323	37%
Total-All Uses			$271,874,646	

Example 4: Split Executive's Proposed Increase 50/50

	FY11 Consumers	FY 11 Average Tax Paid	FY 11 Projected Revenue	% Rate Increase
Residential	367,000	$288.41	$105,846,106	190%
Commercial	37,977	$4,371.81	$166,028,540	67%
Total-All Uses			$271,874,646	

b. *Multi-family versus single-family residential*

A potential question for further consideration is whether an amended Fuel/Energy Tax should mandate that energy distributors treat multi-family residential dwellings as residential dwellings for purposes of charging the Fuel/Energy Tax.

PEPCO charges commercial rates to "master metered" multi-family dwellings (condos and apartments). In essence this means that some residents of multi-family structures are paying a Fuel/Energy Tax rate that is 2.65 times higher than nearby residents of single-family structures. Residents of multi-family dwelling units have lower incomes than residents of single-family dwelling units, and therefore have less disposable income with which to absorb a tax increase.

Timing

Two possible issue for additional discussion are: (1) whether to introduce this increase gradually, and (2) the timing and wording of a sunset provision.

The Executive has proposed that the increase be effective on May 1, 2010, and that the entire proposed increase sunset at the end of FY12 (i.e. the increase would be effective for 26 months). Excise taxes are first and foremost tools for raising revenue. The revenue is needed now, and as such the Executive has proposed that the rate change be effective immediately.

Sudden increases in regulatory costs (e.g. taxes) often result in one party bearing the entire unforeseen burden. That burden might fall entirely on the landowner or entirely on the tenant, but in either case the parties might have allocated costs and risks differently in negotiating the lease if the possibility of a significant increase in a specific cost had been apparent at the time of the lease negotiation. While the economy can adjust to these changes over time, adjustments in the short-term are difficult.

Sunset provisions may provide clarity for parties who are negotiating long-term leases in FY11 and FY12 regarding their costs/risks in the short-term and in the long-term. Clarity and a commitment to sunset certainly would aid in the negotiation of long-term leases that are to occur during the next two fiscal years.

An additional issue discussed in testimony was concern that consumption would change and that therefore revenues are not likely to meet projections. While revenues often exceed or fall short of projections, energy consumption is relatively inelastic and is unlikely to change significantly during the next 26 months as a result of this tax increase.

JS:tv jns_energytax_04_2710

cc: Steve Farber
Leslie Rubin

Demographic Data for Montgomery County Residents
2008 Census Update Survey

Montgomery County, MD 2008 Census Update Survey	Single-Family Detached	Townhouse	Garden Apartment	High-Rise	*All Types*
Household Population					
	540,605	178,425	155,670	64,500	*939,200*
Households by Structure Type					
	177,365	65,465	75,085	39,085	*357,000*
% Total Households by Structure Type					
	49.7%	18.3%	21.0%	10.9%	*100.0%*
Average Household Size					
	3.05	2.73	2.07	1.65	*2.63*
Tenure					
% Rental	4.0%	11.0%	69.3%	59.4%	*25.1%*
Average Monthly Costs					
Homeowner (all)	$2,253	$1,685	$1,417	$1,586	*$2,005*
Homeowner with Mortgage or Loan	$2,472	$1,746	$1,536	$2,033	*$2,188*
Renter	$1,990	$1,535	$1,179	$1,419	*$1,327*
2007 Household Income Distribution					
% Under $15,000	0.9%	1.3%	5.4%	6.7%	*2.6%*
% $15,000 to $29,999	2.4%	3.4%	10.9%	6.9%	*4.9%*
% $30,000 to $49,999	5.8%	12.7%	23.5%	15.1%	*11.8%*
% $50,000 to $69,999	8.0%	15.8%	22.1%	20.1%	*13.7%*
% $70,000 to $99,999	15.4%	24.7%	22.9%	20.6%	*19.2%*
% $100,000 to 149,999	26.4%	28.1%	11.0%	16.9%	*22.5%*
% $150,000 to 199,999	17.1%	8.3%	2.8%	8.1%	*11.5%*
% $200,000+	24.0%	5.6%	1.4%	5.5%	*13.8%*
2007 Median Household Income					
	$130,400	$89,800	$58,570	$70,945	*$96,475*
% of Households Spending More Than 30% of Income on Housing Costs					
% Homeowners	16.8%	22.2%	29.4%	18.4%	*19.3%*
% Renters	26.9%	28.7%	34.9%	35.7%	*34.1%*

Source: 2008 Census Update Survey; Research & Technology Center, Montgomery County Planning Dept., M-NCPPC 8/09

Fuel/Energy Tax Data Tables
April 29, 2010

Annual Tax Revenue, FY03-FY11 ($ in millions)

Category	FY03	FY09	FY10*	FY11**	FY03-FY11 Projected	
					$ Increase	% Increase
Residential	$7.9	$35.2	$36.0	$72.2	$64.3	714%
Non-Residential	$18.2	$94.1	$96.2	$192.8	$174.6	859%
Total	***$26.1***	***$129.3***	***$132.2***	***$265.0***	***$238.9***	***815%***

*Projected based on current tax rate
** Projected based on the County Executive's April 22nd proposed tax increase
Source: Department of Finance, OLO Analysis

Average Annual Tax Bill, FY10-FY11

Consumer	FY10*	FY11**	$ Increase	% Increase
Residential	$99	$197	$98	99%
Non-Residential	$2,618	$5,077	$2,459	94%

*Projected
**Projected based on the County Executive's April 22nd proposed tax increase
Source: Department of Finance, OLO Analysis

Total Number of Consumers, FY10 and FY11

Category	FY10	FY11 Projected
Residential	362,000	367,000
Non-Residential	36,737	37,977

Source: Department of Finance

Percentage of Total Tax Revenue by Category, FY10 and FY11

Category	FY10*	FY11*
Residential	27.2%	27.2%
Non-Residential	72.8%	72.8%
Total	***100%***	***100%***

*Projected
Source: Department of Finance – Based on the average of the prior four fiscal years

Annual Tax Revenue, FY03-FY11 ($ millions)

Category	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10*	FY11 Projected		
									March 15 Budget	March 25 Proposal	April 22nd Proposal
Residential	$7.9	$21.5	$32.0	$32.0	$32.3	$32.2	$35.2	$36.0	$50.4	$59.1	$72.2
Non-Residential	$18.2	$52.1	$82.9	$85.6	$86.5	$86.1	$94.1	$96.2	$134.7	$157.9	$192.8
Total	***$26.1***	***$73.6***	***$114.9***	***$117.7***	***$118.8***	***$118.3***	***$129.3***	***$132.2***	***$185.1***	***$217.0***	***$265.0***

*Projected
Source: Department of Finance

SCENARIOS FOR ALLOCATING REVENUE BETWEEN RESIDENTIAL AND NON-RESIDENTIAL CONSUMERS

Scenario #1 – County Executive's Current Proposal (73/27 Allocation of Revenue)

Base Revenue ($132.2 million)	Non-Residential (73%)	Residential (27%)
Additional Revenue ($133 million)	Non-Residential (73%)	Residential (27%)
Total Revenue - $265 million	**$193 million (73%)**	**$72 million (27%)**

Scenario #2 – 66/34 (Non-Residential/Residential) Allocation of Additional Revenue

Base Revenue ($132.2 million)	Non-Residential (73%)	Residential (27%)
Additional Revenue ($133 million)	Non-Residential (66%)	Residential (34%)
Total Revenue - $265 million	**$184 million (69%)**	**$81 million (31%)**

Scenario #3 – 60/40 (Non-Residential/Residential) Allocation of Additional Revenue

Base Revenue ($132.2 million)	Non-Residential (73%)	Residential (27%)
Additional Revenue ($133 million)	Non-Residential (60%)	Residential (40%)
Total Revenue - $265 million	**$176 million (66%)**	**$89 million (34%)**

Scenario #4 – 50/50 Allocation of Additional Revenue

Base Revenue ($132.2 million)	Non-Residential (73%)	Residential (27%)
Additional Revenue ($133 million)	Non-Residential (50%)	Residential (50%)
Total Revenue - $265 million	**$163 million (61%)**	**$102 million (39%)**

Non-Residential =   Residential =

Source for all: Department of Finance data, OLO analysis

AVERAGE ANNUAL TAX BILL FOR RESIDENTIAL AND NON-RESIDENTIAL CONSUMERS

Scenario #1 – County Executive's Current Proposal (73/27 Allocation of Revenue)

Rate Payer	FY10 Average Annual Tax Bill	Average Annual Tax Bill – Scenario #1*	$ Change (%)
Non-Residential	$2,618	$5,077	$2,458 (94%)
Residential	$99	$197	$97 (98%)

Scenario #2 – 66/34 (Non-Residential/Residential) Allocation of Additional Revenue

Rate Payer	FY10 Average Annual Tax Bill	Average Annual Tax Bill – Scenario #2*	$ Change (%)
Non-Residential	$2,618	$4,845	$2,226 (85%)
Residential	$99	$221	$121 (122%)

Scenario #3 – 60/40 (Non-Residential/Residential) Allocation of Additional Revenue

Rate Payer	FY10 Average Annual Tax Bill	Average Annual Tax Bill – Scenario #3*	$ Change (%)
Non-Residential	$2,618	$4,634	$2,016 (77%)
Residential	$99	$243	$143 (144%)

Scenario #4 – 50/50 Allocation of Additional Revenue

Rate Payer	FY10 Average Annual Tax Bill	Average Annual Tax Bill – Scenario #4*	$ Change (%)
Non-Residential	$2,618	$4,292	$1,673 (64%)
Residential	$99	$278	$178 (179%)

* Projected
Source for all: Department of Finance data, OLO analysis

EXAMPLES OF MONTHLY TAX BILLS BASED ON ELECTRICITY USAGE

Scenario #1 – County Executive's Current Proposal (73/27 Allocation of Revenue)

Kilowatt Hours Used	Current Monthly Tax Bill	Projected Monthly Tax Bill	$ Increase	% Increase
Non-Residential				**100%**
50,000	$692	$1,384	$692	
250,000	$3,461	$6,922	$3,461	
500,000	$6,922	$13,843	$6,922	
1,000,000	$13,843	$27,687	$13,843	
Residential				**100%**
500	$3	$5	$3	
1,000	$5	$10	$5	
2,500	$13	$26	$13	
5,000	$26	$52	$26	

Scenario #2 – 66/34 (Non-Residential/Residential) Allocation of Additional Revenue[1]

Kilowatt Hours Used	Current Monthly Tax Bill	Projected Monthly Tax Bill	$ Increase	% Increase
Non-Residential				
50,000				
250,000				
500,000				
1,000,000				
Residential				
500				
1,000				
2,500				
5,000				

Scenario #3 – 60/40 (Non-Residential/Residential) Allocation of Additional Revenue

Kilowatt Hours Used	Current Monthly Tax Bill	Projected Monthly Tax Bill	$ Increase	% Increase
Non-Residential				**87%**
50,000	$692	$1,292	$600	
250,000	$3,461	$6,462	$3,001	
500,000	$6,922	$12,923	$6,002	
1,000,000	$13,843	$25,847	$12,003	
Residential				**154%**
500	$3	$7	$4	
1,000	$5	$13	$8	
2,500	$13	$33	$20	
5,000	$26	$66	$40	

Scenario #4 – 50/50 Allocation of Additional Revenue

Kilowatt Hours Used	Current Monthly Tax Bill	Projected Monthly Tax Bill	$ Increase	% Increase
Non-Residential				**72%**
50,000	$692	$1,193	$500	
250,000	$3,461	$5,963	$2,502	
500,000	$6,922	$11,926	$5,004	
1,000,000	$13,843	$23,852	$10,009	
Residential				**193%**
500	$3	$8	$5	
1,000	$5	$15	$10	
2,500	$13	$38	$25	
5,000	$26	$76	$50	

Source: Department of Finance data; OLO Analysis

[1] To be filled in based on forthcoming data from the Department of Finance.

M E M O R A N D U M

April 9, 2010

TO: County Council

FROM: Sarah Downie, Research Associate
Patrick Miller, Intern
Office of Legislative Oversight

SUBJECT: **Examples of State/Local Government Actions to Close Budget Gaps: FY09-FY11**

Across the country, state and local government finances began to deteriorate in FY09, with conditions worsening in FY10 and FY11. Recent forecasts indicate that revenues are unlikely to return to pre-recession levels for some time, even though some jurisdictions will see modest increases in tax revenues in 2010 and 2011.[1]

This memorandum packages examples of the ways state and local governments are balancing their current budgets. The examples are not intended to be an exhaustive survey of all strategies used by jurisdictions, but rather to provide a sampling and perspective on the various budget solutions being adopted in other places.

The first section of the memo provides a summary overview of actions taken by state and local governments to reduce expenditures, increase revenues, and/or use reserve or other special funds to close budget gaps. The second section summarizes the specific budget actions taken by nine local governments:

Section I, A Sampling of Expenditure Reductions, Revenue Increases, and Use of Reserve Funds adopted by state and local governments to balance current budgets.

Section II, Case Studies of Local Jurisdictions, summarizes actions taken by nine local governments to address their respective budget gaps:

- Atlanta, Georgia
- Clark County, Nevada
- Fairfax County, Virginia
- Mecklenburg County, North Carolina
- Mesa, Arizona
- Milwaukee County, Wisconsin
- Philadelphia, Pennsylvania
- Phoenix, Arizona
- Prince George's County, Maryland

[1] Nelson A. Rockefeller Institute of Government, "State Revenue Flash Report," February 23, 2010.

I. A SAMPLING OF EXPENDITURE REDUCTIONS, REVENUE INCREASES, AND USE OF RESERVE FUNDS

A. Actions to Reduce Expenditures

States' general fund expenditures decreased by 3.4 percent from FY08 to FY09 and by 5.4 percent from FY09 to FY10.[2] Most budget savings strategies fall under the areas of program cuts or compensation reduction.

1. Reducing Employee Compensation Costs

Employee salaries and benefits represent the largest component of state and local government budgets. As a result, state and local government officials are finding themselves unable to close large budget gaps without reducing compensation costs. The case studies summarized later in this memorandum (see page 8) provide examples of how jurisdictions across the country are reducing the amount spent on employee pay and benefits.

In addition to employing fewer people (through hiring freezes, layoffs, and retirement incentives), the most common strategies for reducing compensation costs for active employees include:

- Eliminating cost-of-living increases;
- Eliminating other types of employee salary increases (e.g., steps/increments, longevity pay, performance pay); and
- Furloughs.

A furlough is the placement of an employee in a temporary non-duty, not-pay status to achieve budget savings. In FY09, 15 states implemented furloughs to reduce or eliminate a budget gap and in FY10, 16 states did the same.[3] **For more information on different structures of furloughs and specific examples, see OLO's 2009 memorandum report and addendum on furloughs**.[4]

In addition to furloughs, several states are reducing salaries. For example, in FY11, the salaries of state employees in *Arizona* will be reduced by five percent. Part of this reduction will come from eliminating performance pay increases that employees received several years ago, and the rest from six fixed furlough days.

In *Hawaii*, State Hospital, Prison and Hawaii Youth Correctional Facility guards will experience a 5.45 percent pay cut, effective January 1, 2010 through June 30, 2011. Governor Lingle also submitted a 6-year financial plan that included 5.5 percent salary cuts for all state employees. However, because the Governor is in the final year of her term, the next administration will have to negotiate these pay cuts with state employees unions.[5]

2. Program Reductions – eliminating staff and/or lowering operating expenses

State and local governments have cut expenditures either through across-the-board cuts of a certain percentage of each department or by targeting specific programs or departments for reductions. These cuts could involve reductions of operating expenses and/or the elimination of positions (filled or unfilled).

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[2] National Governors Association and National Association of State Budget Officers, "The Fiscal Survey of the States," December 2009.
[3] NGA and NASBO, "The Fiscal Survey of the States," December 2009.
[4] Office of Legislative Oversight Memorandum Report Number 2009-9, *A Research Brief on Furloughs and Buyouts* (April 2009) and Addendum to OLO Report 2009-9, *Office of Legislative Oversight Memorandum on Public Sector Furloughs: Additional Information* (September 2009).
[5] Honolulu Advertiser, "Hawaii Workers Face More Pay Cuts Under 6-year plan," March 10, 2010.

Public Safety. Most state and local governments have tried to minimize cuts to public safety. However, states and local jurisdictions have found some strategies to reduce the cost of public safety services. *Santa Barbara, California* and *Reno, Nevada* are each considering the closure of a fire station to reduce costs in FY11. In Santa Barbara, the Fire Chief estimates that closing the fire station would save the City $1.4 million per year.[6]

California is trying to reduce the number of inmates in overcrowded state prisons. With an average cost of $47,000 per year to house a prisoner, approximately 11 percent of the state budget goes to the penal system.[7] As part of a new law, California will allow some low-level offenders to undergo less parole supervision upon release so that parole officers can focus on closely monitoring more serious offenders. The new law also allows prisoners to reduce their sentences by completing certain rehabilitation programs.[8]

Oregon, Illinois, Colorado, and *Michigan* already implemented similar early release programs, which raised concerns from prosecutors and/or the public about whether the prisoners being released would re-offend. Oregon and Illinois have temporarily suspended their programs, while Colorado has scaled back its program. In Michigan, local prosecutors are challenging at least 20 of the parole decisions.[9]

Education. Many school districts throughout the country have had to respond to reduced funding from state and local governments by cutting costs. For example, in *Illinois*, the Governor has recommended $1.3 billion in education cuts for FY11 to help close a $13 billion deficit.[10]

Many school districts have reduced the number of teacher positions, leading to increased class sizes. Many school districts are finding recent efforts to reduce class sizes unsustainable given current funding reductions. *California* increased class size targets in 2009 and class sizes increased in 74% of the state's public elementary schools this school year.[11] This year, officials in *Florida*, *Georgia*, *Oklahoma*, and *Nevada* have proposed relaxing or eliminating class size limits.[12]

Some school districts are also eliminating non-classroom positions, such as assistant principals and custodial staff. School districts in states such as *New Jersey* and *Tennessee* are considering outsourcing all custodial work to private companies.[13]

Some schools districts are moving to a four-day school week to reduce costs. Currently, 100 school districts in 17 states have a four-day school week. Typically, some of the hours of instruction lost from the fifth day are made up in longer school hours for the remaining four days. This strategy is most commonly used by rural school districts with high transportation costs. For example, *Peach County, Georgia* reported $200,000 in savings during one semester from reduced transportation expenses and utilities and reduced hours for custodial and cafeteria workers and bus drivers.[14]

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[6] Noozhawk.com, "City's Budget Woes May Lead to Closure of Fire Station No. 3," February 2, 2010.
[7] *The New York Times*, "California in Fiscal Crisis, Opens Prison Doors," March 23, 2010.
[8] California Department of Corrections and Rehabilitation, Press Release, January 21, 2010.
[9] *The New York Times*, "Safety Is Issue as Budget Cuts Free Prisoners," March 4, 2010.
[10] Associated Press (on BusinessWeek.com), "In Ill., Choice is Higher Taxes or Education Cuts," March 11, 2010.
[11] UCLA's Institute for Democracy, Education, and Access; "California Educational Opportunity Report"; January 2010.
[12] *The Wall Street Journal*, "Fiscal Woes Push Up Class Size," February 13, 2010.
[13] NPR.org, "Cash-Strapped Schools Cutting Custodial Workers," April 5, 2010.
[14] *The Wall Street Journal*, "Schools' New Math: the Four-day Week," March 8, 2010; and NPR.org, "States Weigh Four-Day School Week to Cut Costs," March 9, 2010. Data for both articles came from the Education Commission of the States.

Some school districts have chosen to eliminate or reduce non-academic programs. School District U-46 in *Elgin, Illinois* has proposed eliminating middle school football and kindergarten art, music, and physical education. *Fulton County, Georgia* plans to cut a $4 million band and orchestra program from elementary schools that serves over 8,000 students.[15]

Health and Human Services. *New Hampshire* reduced nursing home reimbursement rates and funding for mental health providers. *Arizona's* approved FY11 budget eliminates the State's Children's Health Insurance Program (which provides healthcare to 47,000 low-income children) and eliminates Medicaid coverage for 310,000 adults, saving the State $385 million.[16]

The Governor of *Minnesota* has proposed $347 million in reductions from the State's health and human services budget, which would affect 20,000 people in state health care programs and 20,000 people in human services programs. A large part of the savings would be achieved by reducing MinnesotaCare eligibility for adults without children. Another large cut was a 2.5 percent reduction in long-term care payments. The State is facing a $1.2 billion deficit in FY11.[17]

Parks and Recreation. To reduce park and recreation expenditures, some local governments have reduced the number of recreation classes they offer or reduced mowing and other maintenance on public land. For example, the Department of Parks and Recreation in *Virginia Beach* plans to reduce the average mowing frequency for divided roadways from 18 days in FY10 to 23 days in FY11, and reduce the replacement of plant materials and flowering annuals in their resort area by 72%.[18] *Kansas City* may reduce park and boulevard mowing cycles for a savings of $245,000.[19]

Following steep cuts in park funding over the last few years, *Arizona* has closed 5 out of 30 state parks, with 6 more scheduled to close by June 2010. Arizona currently is the only state that has closed parks, but other states have plans to do the same.[20]

B. Actions to Increase Revenues

Many state and local governments have increased taxes or fees to help close budget gaps. In some cases, revenue from increased taxes or fees is used for specific program expenditures; in other cases, the funds go into a localities' General Fund. This section provides examples of state and local jurisdictions that have recently raised taxes or fees to close budget gaps.

1. Tax Increases

Over the last couple of years, state and local governments have implemented a variety of tax increases, with more proposed for FY11. In 2008 and 2009, 13 states raised new revenue from personal income taxes, 17 increased sales taxes, 22 increased excise taxes on tobacco, alcohol, or motor fuel, and 17 increased business taxes. Tax changes mostly involved increasing tax rates; expanding the coverage of an existing tax to include more items; or eliminating certain tax credits, deductions, and exemptions.[21]

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[15] 11Alive.com, "Fulton County School Board Starts Massive Budget Cutting Thursday Night," March 18, 2010.
[16] American Medical News, "Health Reform Law, Arizona Medicaid Cuts at Odds," April 5, 2010.
[17] Minnesota Public Radio, "Pawlenty Proposes Cuts to Local Governments, Health and Welfare," February 15, 2010.
[18] Virginia Beach, Virginia, Fiscal Year 2010-11 Proposed Operating Budget.
[19] *The Kansas City Star*, "KC Passes Budget, Trims Millions," March 25, 2010.
[20] *Los Angeles Times*, "Arizona Towns Pitch in to Save State Parks," March 29, 2010.
[21] Center on Budget and Policy Priorities, "State Tax Changes In Response to the Recession," March 8, 2010

Sales Tax Increases. Some states are increasing their sales tax rates. For example, voters in *Arizona* will vote in a May special election on whether to temporarily increase the sales tax by 1 percentage point. The sales tax increase would expire on May 31, 2013. Revenue from the sales tax would be used to fund K-12 education, health and human services, and public safety.[22]

Other states are expanding the sales tax base to cover goods and services that currently are not taxed in those places.[23] For example, the *State of Washington* is considering extending the sales tax to cover bottled water, candy, and gum.[24] In 2009, *Maine's* legislature passed a law that would extend the sales tax to services such as car repairs and dry cleaning. The law will be subject to a voter referendum in June.[25]

Excise Tax Increases. Sixteen states increased their cigarette tax last year, including *Connecticut*, *Kentucky*, and *North Carolina*. In *New York*, the Governor's 2010-11 Executive Budget proposed an increase in the cigarette tax and a new tax on sugared beverages.

Property Tax Increases. Most jurisdictions are seeing declines in property tax revenue due to recent declines in property values. As a result, some jurisdictions are raising property tax rates to recoup some of this revenue. In *Arlington County, Virginia*, the County Manager's proposed FY11 budget includes a 6.7 cent increase in the property tax rate; raising the rate from $0.875 per $100 of assessed value to $0.942 per $100 of assessed value.

Income Tax Increases. *Illinois'* Governor has proposed increasing the income tax rate by 1 percent. A few states are increasing enforcement of laws that allow them to collect taxes on income earned by visitors while in the state on business. In the past, the effort to enforce these laws has generally not been worth the potential revenue, but advances in technology may make these laws easier to enforce.[26]

Reconsidering Tax Exemptions. Some states and localities are considering whether to tax nonprofit entities, such as universities and nonprofit hospitals through sales, income, and/or property taxes. For example, in March 2010, the Governor of *Georgia* proposed taking away nonprofit hospitals' state sales tax exemption.[27] Lawmakers in *Connecticut* are also reconsidering a wide range of tax exemptions and credits, such as exemptions from the state sales tax and admissions tax.[28]

2. Fee Increases

Many jurisdictions have increased fees or fines as a way to generate revenue. In October 2009, *California* passed a law that increased or eliminated the maximum for various fees charged by counties, cities, or courts, such as a vital records fee and recording fees.[29] As a result, *Alameda County, California* increased its title recording fee and *Solana County, California* is considering increasing recording fees.

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[22] Arizona Education Network, February 25, 2010; Senate of Arizona, Concurrent Resolution 1001.
[23] According to the Federation of Tax Administrators, the sales tax in most states covers tangible goods and some services, but rarely covers a wide range of services such as personal and professional services. (Survey of Services Taxation – 2007 Update, July 2008).
[24] Associated Press (on Google.com), "Wash. Lawmakers Eye Higher Beer Tax to Help Budget," April 5, 2010.
[25] *The Wall Street Journal*, "States Try to Tax More Services as Coffers Deflate," February 7, 2010.
[26] *The New York Times*, "States Look Beyond Borders to Collect Owed Taxes," March 21, 2010.
[27] Governing.com, "Taxing Away an Exemption," March 17, 2010.
[28] *The Connecticut Mirror*, "Connecticut Pays a High Price for Tax Breaks," April 5, 2010.
[29] California State Senate Bill 676, chaptered on October 11, 2009.

Toledo, Ohio is going to impose a new $15 monthly trash-collection fee[30] and in *Washington, D.C.*, the mayor's proposed FY11 budget includes a variety of fee increases or new revenue sources:

- A $0.25 increase in parking fees (from $0.75 to $1) with projected revenue of $3.6 million;
- Increases in fines on 71 types of traffic violations;
- Increases in 13 Department of Health practitioner renewal fees for chiropractors, acupuncturists, and other practitioners; and
- Selling advertising on the back of parking meters and parking meter receipts.

Louisiana plans to increase the fee for entrance to historic sites from $2 to $4 and increase the cost of using a group campsite at state parks by $100 per night. The new fees are expected to generate an additional $2.6 million for the budget for operating and maintaining state parks.[31]

Lawmakers in *Arizona*, *California*, *Idaho*, and *Washington* have recently considered or implemented extra vehicle fees to fund state parks. The model for this type of fee was *Montana*, which added a $4 vehicle registration fee in 2004 that gives residents free access to parks. Residents can opt out of the fee but then cannot visit state parks for free. Between 80 to 85 percent of the state's drivers pay the fee.[32]

3. Selling Assets

Some jurisdictions are selling property, which allows them to earn money and avoid future maintenance costs or, in the case of older buildings, avoid major renovations. In September 2009, *Arizona* passed a law allowing the sale of state buildings. *California* has put several properties on the market, such as the Orange County Fairgrounds. While states will make money from such sales, in some cases, states will continue to use the properties and have to pay to lease the property. In other cases, the property would be converted for private use. *Pennsylvania* sold office buildings in Philadelphia and Pittsburgh that are slated for conversion to condominiums.[33]

Due to budgetary constraints, the *Colorado Springs* Police Department could no longer afford to fly its two helicopters. In October 2009, the Department took the helicopters out of service and sold them for a total of $350,000.[34]

C. Spending Money from Reserves or Other Types of Funds

In order to fill budget gaps, state and local jurisdictions have drawn on money from reserve funds and other types of special funds. In FY09, 26 states used money from "rainy day" reserve funds to reduce budget gaps and in FY10, 17 states used this strategy.[35] Several states are considering whether to raise or eliminate existing caps on how much money can accumulate in their rainy day funds to prepare for future fiscal challenges.[36]

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[30] The Wall Street Journal, "Toledo's Fiscal Reckoning," March 31, 2010.
[31] *The Times-Picayune*, "Fees for state's parks will take a hike," March 5, 2010.
[32] Stateline.org, "Register you car, save a state park," March 24, 2010.
[33] The Christian Science Monitor, "To Cut Deficit, Arizona May Sell its Capitol," September 8, 2009.
[34] Colorado Springs Police Department; www.KKTV.com, "Colorado Springs Sells 2nd Police Chopper, March 23, 2010.
[35] NGA and NASBO, "The Fiscal Survey of the States," December 2009.
[36] Stateline.org, "Is it 'raining' hard enough?" February 22, 2010.

In order to balance its FY10 budget, *Chicago* tapped the entirety of a $51.9 million special reserve fund established through the lease of parking meters to private companies.[37] To help balance the General Fund budget, *Seattle* used $20.1 million of the City's $30.6 million Revenue Stabilization Account in 2009 and 2010.[38]

Other states are using money from other types of special funds to balance their budgets. In addition to dipping into the State's rainy day fund, the *Washington* State House of Representatives has proposed taking money from the capital budgets of state universities, which are funded by student fees. The proposal would transfer $35 million from four year colleges' capital budgets and $3 million from community and technical colleges' capital budgets to the State's general fund. The University of Washington has threatened a lawsuit if the State proceeds with the plan.[39]

New Hampshire took $110 million from a medical malpractice insurance pool, with plans to use $65 million to balance its two-year FY08-09 budget and $45 million to balance the current FY10-11 budget. However, in July 2009, the State Supreme Court ordered the State to return the money.[40]

A related strategy for closing budget gaps is to defer scheduled payments to employee pension funds and retiree health benefit funds. As part of the two-year budget that the Virginia General Assembly passed in March 2010, *Virginia* will defer payment of $620 million to the Virginia Retirement System, which funds Virginia state employee and teacher pensions. Beginning in 2013, Virginia will have to repay the money over 10 years with 7.5 percent interest.[41]

To help close a $500 million deficit for the rest of FY10, the Governor of *Connecticut* proposed deferring a $100 million payment to the employee pension fund after reaching an agreement with state employee unions. The Governor also proposed using $219.2 million from the State's emergency reserve fund to balance the FY10 budget, even though this money was scheduled for use next year to help balance the FY11 budget.[42]

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[37] Chicago Sun Times, "Daley rules out property tax increase to close budget gap," October 14, 2009.
[38] City of Seattle, Washington, 2010 Adopted Budget.
[39] Olympia Newswire, "House Proposes Raiding College Student Fees to Fill Budget Deficit, Singles out University of Washington for Extra Cuts," March 10, 2010.
[40] *The New York Times*, "State Debt Woes Grow Too Big to Camouflage," March 29, 2010; *Insurance Journal*, "New Hampshire Judge Rejects State's Claim on Malpractice Fund," July 31, 2009.
[41] *Richmond Times-Dispatch*. "State Will Dip into Pension Fund, Repay with 7.5% Interest," March 15, 2010.
[42] Governor Jodi M. Rell, "Deficit Mitigation Plan for Fiscal Year 2010," March 1, 2010.

II. CASE STUDIES OF LOCAL JURISDICTIONS

This section describes the actions taken by nine local governments throughout the U.S. to close their budget gaps by reducing expenditures and/or increasing taxes or fees. All population estimates in this section are from the U.S. Census Bureau's Population Estimates Program; the estimates for cities are as of July 1, 2008, while the estimates for counties are as of July 1, 2009.

Atlanta, Georgia

Time Period	FY09 and FY10
FY10 Budget Gap	$56 million
Approved FY10 Operating Budget	$1.5 billion
Strategies Used to Balance Budget	Furloughs, Property tax increase of $0.3 per $100 of assessed value (average increase of 7.2% for property owners)

Atlanta has a population of approximately 538,000. In mid-FY09, Atlanta instituted furloughs, requiring nearly all of its general fund employees—including police officers, firefighters and prison guards—to work four fewer hours every week (i.e., a 36-hour week). The resulting 10 percent reduction in pay saved the City approximately $11.5 million. Many city agencies began closing on Fridays, shifting to nine-hour days, four days a week. Some fire stations, engine companies, and ladder companies were closed on a rolling basis during the furloughs, rather than all on the same day.

Furloughs ended when the City Council approved an increase in the property tax rate of $0.312 per $100 of assessed value in the FY10 budget, for an average increase of 7.2 percent in property tax bills. The City also eliminated a voluntary one percent contribution to employee pensions.[43]

On February 1, 2010, the Atlanta City Council approved a resolution that would present a "municipal option sales tax" to voters in a referendum. First, the Georgia General Assembly would have to approve the measure. Revenue from the sales tax would fund public safety and infrastructure in the City.[44]

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[43] Pew Charitable Trusts, *Layoffs, Furloughs and Union Concessions: The Prolonged and Painful Process of Balancing City Budgets*, September 22, 2009; City of Atlanta, FY10 Adopted Budget
[44] Atlanta City Council Press Release, February 1, 2010; Atlanta City Council Resolution 10-R-0218

Clark County, Nevada

Time Period	FY11 (begins July 1)
FY11 Budget Gap	$200 million (approximate)
Approved FY10 Budget	$4.9 billion
Proposed Strategies to Balance Budget	Salary and benefit reductions

Clark County, Nevada has a population of approximately 1.9 million and an approved FY10 budget of $4.9 billion. In previous budgets, the County has made cuts such as voluntary furloughs, layoffs, hiring freezes, cuts to shuttle bus service, and leaving 950 positions unfilled in the University Medical center and other county departments.[45]

In FY11, which begins July 1, 2010, the County faces a budget gap of approximately $200 million. One strategy that the County Commissioners have taken to develop the FY11 budget is to convene a Committee on Community Priorities to provide recommendations on budget priorities. The County Commission selected the 15 members of the Committee, which include representatives from the public, private, and nonprofit sectors.

The Committee's final report presented approximately 200 proposals to the County Commission.[46] According to the report, "the Committee was not tasked with reaching consensus in its decision making. Instead the final results are a collective representation of individual responses."[47] Among the committee's most significant proposals are cuts to the County's fire department budget, including cuts to overtime compensation and eliminating its paramedic service.

Clark County commissioners have proposed the elimination of the County's longevity pay, an annual bonus for employees with at least eight years of service with the County. Longevity pay bonuses in FY09 totaled $34.6 million — $9.1 million to University Medical Center employees and $25.5 million to other county employees. The longevity pay also results in increased payments to those employees' retirement funds, totaling $7.5 million in FY09.[48]

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[45] *Las Vegas Sun*, "Horrible County Budget Outlook Worsens, Tough Decisions Loom," January 20, 2010.
[46] *Las Vegas Sun*, "County Takes No Action On Priority Panel's Suggestions," January 19, 2010
[47] Committee on Community Priorities, Final Report, January 2010.
[48] *Las Vegas Sun*, "Longevity Pay Costs Millions in County," December 10, 2009.

Fairfax County, Virginia

Time Period	FY11 (begins July 1, 2010)
FY11 Budget Gap	$257.2 million
Proposed FY11 Budget	General Fund Budget of $3.2 billion
Proposed Strategies to Balance Budget	Pay freeze, County Government expenditure reductions, School funding reduction, and Property tax rate increase

Fairfax County has approximately one million residents and an FY10 General Fund budget of $3.3 billion. For FY11, Fairfax County identified a budget gap of $257.2 million (8 percent of the FY10 General Fund budget). The County Executive's proposed FY11 budget states, "the essence of the proposed actions in this budget focus on cuts and reductions, efficiencies and reorganizations rather than closures or wholesale elimination of programs."[49]

For the second consecutive year, the budget does not include increases in employee compensation; however, the Executive has proposed 1.5 additional holiday days in FY11. The Executive has proposed that the County reduce expenditures by $119.6 million. The budget would reduce County Government expenditures by $103.3 million (reducing staff by a net of 284 positions) and reduce the operating transfer to Fairfax County public schools by $16.3 million, or 1 percent less than the FY10 transfer. Examples of proposed expenditure reductions include:

- Reducing the Park Authority by $2.4 million and 41 positions, which will affect park programs, maintenance, planning and administration (e.g., decreased mowing and grounds maintenance).
- Reducing the Fairfax County Public Library by $3.4 million and 81 positions. Impacts include fewer hours of service, fewer youth and adult programs, and a shorter summer reading program.
- Reducing the Police Department budget by $11.7 million by reducing overtime, positions and associated salary costs, and operating expenses.
- Reducing the Fire and Rescue Department budget by $10.7 million through reduced overtime and operating expenses and management of position vacancies.
- Reducing the Department of Family Services budget by $4.2 million. [50]

To increase revenue by $121.4 million, Fairfax County has proposed the following:

- Increasing the property tax by $0.05 per $100 in assessed value, from $1.04 to $1.09 ($93.4 million increase in revenue).
- Increasing the sewer availability charge and the sewer service charge.
- Increasing the stormwater services district levy.
- Vehicle registration License Fee of $33 ($1.0 million).

The Executive's plan also proposes using $31.9 million from fund balances. Together, these measures would close the budget gap and result in a surplus of $21.7 million, in anticipation of additional state cuts.

[49] Fairfax County FY2011 Advertised Budget Executive Summary, page 8.
[50] FY2011 Advertised Budget Plan, Overview; Agency Reductions (General Fund Impact)

Mecklenburg County, North Carolina

Time Period	FY10 and FY11
Budget Gap	$34.6 million in FY10 and $85 million in FY11
Approved FY10 Budget	$1.4 billion
Proposed Strategies to Balance Budget	Elimination of positions, Budget reductions for most departments, School funding reduction

Mecklenburg County, North Carolina has a population of about 914,000 and an FY10 budget of $1.4 billion. Charlotte, the largest city in North Carolina, is the seat of the County.

Mecklenburg County has had declines in nearly every revenue source; sales tax receipts, in particular, were lower than expected.[51] As a result, the County has proposed $20 million in mid-year reductions for FY10, including:

- $6.3 million from Charlotte-Mecklenburg Schools;
- $13.2 million from the County Government; and
- Approximately $500,000 from the Central Piedmont Community College.

The library system's Board of Trustees decided to lay off 148 employees and close 12 branches by April 3, 2010. Under the plan, 45 code enforcement positions would be eliminated.[52]

The County has also projected an $85 million budget gap in FY11, which begins in July. The County Manager does not prepare a recommended FY11 budget until May, but identified budget targets indicate potential cuts for FY11. The budget targets include total cuts of $95 million. All county departments would be cut (by 16% on average), but the largest reductions would come from:

- Reduce Library budget by $17 million (a 50% reduction from FY10);
- Reduce Park and Recreation Department budget by $19 million (a 50% reduction from FY10);
- Reduce Sheriff's Office budget by $9 million (an 11% reduction from FY10).

The County would also cut funding for Charlotte-Mecklenburg Schools by 6.5 percent from FY10, or $20.7 million ($19.7 million from the operating budget and $1 million in the capital replacement budget). The district receives about a third of its operating funding from the County. Because Charlotte-Mecklenburg Schools are also expecting large cuts from the State, the Superintendent has developed a preliminary plan to cut $63 million and eliminate 842 positions, including approximately 600 teachers.[53]

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[51] County Manager's Office, Board Bulletin, March 19, 2010.
[52] County Manager's Office, Management and Budget, Documents accessed April 1, 2010: http://www.charmeck.org/Departments/County+Managers+Office/Business+Management/home.htm
[53] *Charlotte Observer*, "CMS Layoff Alternatives Hard to Find," March 18, 2010.

Mesa, Arizona

Time Period	FY10 and FY11
FY11 Budget Gap	$19.6 million
Approved FY10 Budget	$1.1 billion
Strategies Used to Balance Budget	Elimination of positions, Addition of a property tax of $0.3 per $100 of assessed value

The City of Mesa, Arizona is located 16 miles east of Phoenix within the County of Maricopa and has a population of about 464,000. Beginning in FY09, the City had to reduce expenditures by $29 million mid-year and reduce anticipated FY10 expenditures by $60 million. Between the FY09 and FY10 reductions, the City eliminated over 300 full-time positions.[54]

From FY09 to FY10, the budget for the Recreation Operations program was reduced by 18 percent ($3.6 million) and the Libraries budget was reduced by 30% ($3.2 million).[55] The police department was reduced by approximately 50 sworn officers. As a result, the City hired nine lower-paid civilians to do investigative work for minor nonviolent crimes. The civilian investigators go through less training than police officers and earn about $37,000 per year compared to officers' salaries of $49,000.[56]

In FY10 for the first time, the City assessed a property tax of $0.2977 per $100 of assessed value to raise an additional $14.1 million. This property tax is estimated to cost the average homeowner about $53 in FY10.[57]

Beginning on March 2, 2009 many city employees began working four 10-hour workdays per week. Fire stations, parks, and libraries remain open five days per week, but the City Hall is closed on Fridays.

The City currently has a projected budget gap of $19.6 million in FY11, which begins July 1, 2010. The City Manager has not yet submitted a proposed budget to the City Council.[58]

[54] Executive Budget Plan, Fiscal Year 2009/2010, City of Mesa, Arizona.
[55] Mesa, Arizona, Adopted Budget 2009/10.
[56] *The Wall Street Journal*, "As Slump Hits Home, Cities Downsize Their Ambitions," December 26, 2009.
[57] City of Mesa, Arizona, Resolution 9534 – Secondary Property Tax.
[58] City of Mesa, Arizona, Budget Research Office, Budget Presentation to Council, March 4, 2010.

Milwaukee County, Wisconsin

Time Period	FY10 (ends December 31, 2010)
FY10 Budget Gap	$14.9 million
Approved FY10 Budget	$1.46 billion
Strategies Used to Balance Budget	Furloughs, Pay freezes, Modifications to pension benefits, Increase in employee share of health care premiums

Milwaukee has a population of approximately 960,000. Beginning in FY10, Milwaukee County has made modifications to salaries, benefits, and retirement-related calculations for non-union employees, including:

- A doubling of monthly premiums paid by employees for health care;
- A 200 percent increase in co-pays;
- An across-the-board wage freeze;
- An increase in the retirement age to 60 for new workers; and
- A 20 percent reduction in pension credit.

The Milwaukee County Executive proposed 12 furlough days (4 fixed and 8 floating) for all employees for a projected savings of $7.2 million. The County Council added an additional 10 furlough days for 1,500 union employees, for an additional savings of $2 million. The County would eliminate the additional furlough days if the union agreed to the modifications described above for non-union employees.[59]

[59]Milwaukee Journal Sentinel, “Milwaukee County Board Approves Budget Cuts, Furloughs,” February 4, 2010.

Philadelphia, Pennsylvania

Time Period	FY10 and FY11
Budget Gap	$1.4 billion in FY10-14; $150 million in FY11
Proposed FY11 Budget	$3.87 billion
Proposed/Implemented Strategies to Balance Budget	Sales tax increase, Deferral of pension contributions, $0.02 per ounce sugary drink tax, $300 trash fee

Philadelphia has a population of approximately 1.4 million. In May 2009, the City Council adopted an FY10 budget and, as required by state law, the City prepared a five-year fiscal plan to close a projected budget gap of $1.4 billion.[60] The plan included a $0.01, five-year increase in the sales tax; a deferral of $235 million in contributions to the City's pension fund; and a lengthening of the schedule for the City to make up the unfunded liabilities of the system's pension fund by ten years. These three measures required the approval of the state legislature.

When the state legislature delayed approval, the Mayor prepared an alternative plan that included closing all branch libraries, health centers, and recreation centers; reducing trash collection from once a week to every other week; and laying off 3,000 city employees including police and firefighters. The state legislature approved the City's original proposals hours before the alternative was to take effect.[61]

To address the City's FY11 budget gap of $150 million, the Mayor proposed two major revenue generating initiatives: an annual garbage fee and a tax on soda and sugary drinks. The $300 annual garbage fee is projected to raise approximately $108 million. The proposed $0.02 per ounce tax on soda and sugary drinks is the highest tax of this kind currently proposed in the country.[62]

Members of the City Council recently proposed amending the Business Privilege Tax (BPT), which currently includes a net-income tax of 6.45 percent of reported business profits ***and*** a 0.14 percent tax on gross receipts, or total sales; regardless of whether a business makes a profit. The proposed changes would eliminate the net-income portion of the tax and significantly increase the gross receipts portion. The change is designed to target corporations based outside of Philadelphia, while minimizing the impact on local small businesses.[63]

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[60] City of Philadelphia, Five-Year Financial and Strategic Plan for Fiscal Years 2010-2014, presented to City Council March 19, 2009.
[61] Pew Charitable Trusts, *Layoffs, Furloughs and Union Concessions: The Prolonged and Painful Process of Balancing City Budgets*, September 22, 2009.
[62] Philadelphia Enquirer, "Nutter Presents 2011 Budget with Soda Tax, Trash Fee," March 4, 2010.
[63] Philadelphia Enquirer, "Phila. Tackling Taxing Options," April 4, 2010.

Phoenix, Arizona

Time Period	End of FY10 and FY11
Budget Gap	$241.4 million
Approved FY10 Budget	$3.7 billion
Strategies Used to Balance Budget	Salary and benefit reductions, Elimination of positions, 2% food tax, Program reductions

The City of Phoenix has a population of approximately 1.6 million. In FY10, Phoenix has had large declines in sales and income tax revenue and in February 2010, the Phoenix City Manager reported a general fund deficit of $241.4 million for the rest of FY10 and for FY11. To reduce the shortfall, the City undertook $90.9 million in financial transactions (mostly one-time savings), $10 million in assumed innovation and efficiency savings, and $1.3 million in reductions to management salaries. These initial strategies left the City with a gap of $139.2 million, which the City Manager estimated would be equivalent to eliminating 1,310 general fund positions.[64]

To avoid reducing so many positions, the Mayor and City Council enacted a 2 percent food tax, which they expect to raise $62.5 million in revenue from April 2010 through June 2011. Phoenix is using the additional revenue to avoid cutting positions in the police and fire departments and to avoid cuts in other areas such as community enrichment and services for seniors.

In addition, all labor groups agreed to 3.2 percent wage and benefit decreases over the next two fiscal years, for an estimated FY11 savings of $46.9 million and an equivalent savings in FY12. Management salaries will decrease by 6.9 percent, for a two-year savings of $10.6 million.

Phoenix will also reduce general fund expenditures by $64 million by eliminating 550 positions and reducing operating expenses throughout the government, including $6.5 million in cuts to parks and recreations, $9.0 million to the Fire Department, $19.6 million to the Police Department, $4.1 million to the Public Transit Department, and $2.5 million to Street Transportation Department. The City anticipates that 85-95 employees will retire earlier than planned, creating some vacancies for staff whose positions are eliminated.

[64] City of Phoenix budget documents: http://phoenix.gov/BUDGET/index.html

Prince George's County, Maryland

Time Period	FY11 (begins July 1, 2010)
FY11 Budget Gap	$85 million
Proposed FY11 Budget	$3.11 billion
Proposed Strategies to Balance Budget	Furloughs, Hiring freeze, Elimination of funding for vacant positions, Program reductions

Prince George's County has a population of about 835,000 and an FY10 budget of $3.14 billion ($2.60 billion general fund). In January 2010, the County projected a budget gap of $85 million for FY11.

The County Executive's proposed FY11 budget is $3.11 billion, (general fund expenditures of $2.59 billion), which is 1 percent lower than the FY10 approved budget. The budget includes reductions to most departments from FY10 levels, including:

- A $3.7 million reduction in Health Department staffing due to state funding cuts.
- An 8% reduction in the County's General Fund contribution to the Community College and a 20% increase in total tuition and fees (for an overall increase in the Community College budget of 2%).
- A total reduction in the schools' budget of $20 million, including a $21 million reduction in the County contribution to the Board of Education, $15 million below the Maintenance of Effort level. State aid will decrease by $80 million while federal aid will increase by $86 million.

In addition to program cuts, the Executive's budget proposes continuing a hiring freeze instituted in January 2008, eliminating funding for vacant positions (expected saving of $7.4 million), and a furlough program for the third consecutive year (expected savings of $12 million). The proposed FY11 furlough plan includes 8 days, compared to 10 furlough days in each of FY09 and FY10.

The Executive's proposed budget maintains a Charter-mandated "contingency reserve" of 5 percent of the General Fund, maintains a 2 percent operating reserve, and includes $12.7 million in pay-go capital projects.[65]

[65] Prince George's County, Maryland, Proposed Operating Budget Fiscal Year 2011.

MFP Committee #3 & #4
April 19, 2010

M E M O R A N D U M

April 15, 2010

TO: Management and Fiscal Policy Committee

FROM: Karen Orlansky, Director
Aron Trombka, Senior Legislative Analyst
Craig Howard, Legislative Analyst
Office of Legislative Oversight

SUBJECT: **Review and Fiscal Analysis of the Executive's Proposed FY11 Furlough, FY11 Reduction-in-Force, and 2010 Retirement Incentive Program**

Salaries and benefits for active employees represent the largest component of the County Government's operating budget. As a result, any significant reduction in the County Government's expenditures must somehow reduce spending on employee pay and benefits. This is accomplished by either: funding a smaller workforce; and/or reducing the compensation of employees on the payroll.

The Executive's FY11 Operating Budget proposes to reduce the County Government's compensation costs by using both of these approaches. Specifically, the Executive proposes to:

- Abolish 452 County Government positions, 220 vacant and 232 filled; and
- Reduce compensation costs by requiring all County Government employees except for merit uniformed public safety employees to take 80 hours of furlough; the furlough would be prorated for part-time employees.

The Executive's FY11 budget proposes no pay increases for County Government employees -- no general wage adjustments (COLAs); no service increments (step increases), and no increases for longevity or performance. These decisions serve to contain the growth of compensation costs, but do not actually reduce them.

This memo contains OLO's review and fiscal analysis of the Executive's proposed furlough, reduction-in-force (RIF), and 2010 Retirement Incentive Program (RIP). Part I (© 1-10) addresses the Executive's furlough proposal; Part II (©11-35) addresses the RIF and the RIP.

OLO's review and fiscal analysis of the Executive's proposed FY11 furlough begins on © 1. In sum:

- The Executive proposes that all full-time County Government employees, except for merit, uniformed public safety employees, be furloughed for 80 hours. The furlough for affected part-time employees would be prorated. The Executive proposes that all 80 hours be rolling furlough hours, which means they are selected by each employee but subject to supervisor approval.

- The Executive estimates FY11 savings of $15 million from his proposed furlough. The savings comes from effectively reducing the salaries of affected employees by 3.8%. The cohort of County Government employees that the Executive proposes to furlough constitutes 70% of the County Government workforce, and approximately 20% of all employees across the tax supported agencies (County Government, MCPS, M-NCPPC, Montgomery College).

- Based on the reported experiences of other jurisdictions, the use of overtime and the loss of revenue (e.g., from closure of revenue-generating facilities) are the two factors that have the greatest potential of reducing savings from a furlough. The Executive has taken steps to reduce a loss of such savings as part of his Furlough Implementation Plan. Specifically, he prohibits the use of overtime to make up for furlough days; and the proposal to make all furlough hours rolling will not result in the closure of County facilities.

- **OLO's estimates of FY11 savings from a number of alternative furlough structures are summarized in a table at © 10. OLO prices four different ways to achieve the Executive's estimated savings of $15 million in FY11; and three additional ways to achieve a greater amount of savings.**

OLO's review and fiscal analysis of the Executive's proposed FY11 reduction-in-force and 2010 Retirement Incentive Program begin on © 11. In sum:

- The Executive's FY11 Recommended Operating Budget proposes to abolish 452 positions, 220 vacant and 232 filled. The abolishments affect 30 departments/offices and more than 100 different job classes.

- **Of the 232 filled positions proposed by the Executive for abolishment, 72% are MCGEO-represented positions and 28% are non-represented positions. The Executive does not propose abolishing any filled positions represented by the FOP or IAFF.**

- Three departments (Public Libraries, Recreation, Correction and Rehabilitation) account for 49% of the proposed 232 filled position abolishments. For a complete list of the proposed position abolishments (filled and vacant) by department, see © 15.

- **Employees in Grades 26 and below account for 88% of the (non-public safety) workforce and comprise 86% of the proposed filled position abolishments.** Employees in Grades 27 and above account for 12% of the (non-public safety) workforce and comprise 14% of the proposed filled position abolishments. For a summary table of the proposed filled position abolishments by grade range, see © 26.

- The Executive proposes using two primary strategies to minimize the number of involuntary employee layoffs: Discontinued Service Retirements and a Retirement Incentive Program; both strategies are ways to encourage more senior employees to voluntarily retire, which in turn reduces the number of less senior employees who are vulnerable to layoff.

- The 2010 Retirement Incentive Program (RIP) proposed by the Executive is targeted to employees who belong to the defined benefit pension plan (the Employee Retirement System) and who are in positions affected by the reduction-in-force. A full description of the proposed RIP begins on © 32.

- **OLO's fiscal analysis of the Retirement Incentive Program finds that this design will result in net savings to the County over the next ten years if positions vacated by the RIP remain unfilled for at least three years. The net savings to the County will be eroded if the positions are refilled earlier.**

PART I:
THE EXECUTIVE'S RECOMMENDED FY11 FURLOUGH FOR COUNTY EMPLOYEES

OLO's review and analysis of the County Executive's proposed FY11 furlough for County Government employees is organized into four sections:

A. **Introduction to Furloughs** defines a furlough and describes commonly-cited advantages and downsides to using furloughs as a budget savings strategy.

B. **Executive's Recommended FY11 Furlough** describes the regulations and procedures that govern the implementation of a furlough, and details the Executive's proposed Furlough Implementation Plan.

C. **Analysis of Executive's Estimated Furlough Savings and Methodology** describes the total estimated savings for FY11, reviews potential factors that could reduce furlough saving in FY11, and discusses potential future fiscal affects of the FY11 furlough. This section includes information about furlough savings in other jurisdictions.

D. **Estimated FY11 Savings from Alternative Furlough Structures** reviews a number of alternative furlough structures and their estimated savings.

A. Introduction

A furlough is the placement of an employee in a temporary non-duty, non-pay status to achieve budget savings. The Montgomery County Personnel Regulations (§30-1) define a furlough day as "a day when an employee is normally scheduled to work but does not work for the County or receive pay from the County for the day because of a furlough." An employee cannot use paid leave for the time period that s/he is on furlough.

The most commonly cited advantages to using furloughs as a budget savings strategy are:

- A furlough provides immediate and predictable savings;
- A furlough provides savings that can mitigate the need to layoff employees;
- A furlough is a temporary adjustment that does not require changes to the current size or structure of the workforce;
- Employees tend to prefer furloughs vs. compensation reductions that pay employees less for the same amount of work; and
- A furlough can be structured to provide some additional savings in general operating costs by closing facilities on certain days.

The commonly cited downsides to using furloughs as a budget savings strategy are:

- Furloughs do not deliver long-term savings from a structural change in the workforce;
- Furloughs can result in grievances and/or lawsuits from employee organizations;
- Furloughs can result in increased overtime expenses to maintain services or to "make up" the work missed during a furlough;
- Furloughs can result in higher leave balances accrued by employees who choose not to take additional days off during the year; and
- Furloughs typically result in some amount of less work being performed or reduced service delivery.

B. Executive's Recommended FY11 Furlough

The Executive's Recommended FY11 Operating Budget includes a proposed furlough of 80 hours for certain County Government employees. A March 31, 2010 memorandum from the Chief Administrative Officer (attached at © 36) contains details of the proposed Furlough Implementation Plan. The table below summarizes the structure of the Executive's proposal.

County Executive's Recommended FY11 Furlough Plan For County Government	
Voluntary or Mandatory	Mandatory
Amount of Furlough Time	10 days (80 hours), pro-rated for part-time employees
Fixed or Rolling Furlough Days	Rolling furlough days
Employee Exemptions	Merit system, uniformed public safety employees in the Department of Police, Montgomery County Fire and Rescue Service, Department of Correction and Rehabilitation, and the Office of the Sheriff
Scheduling Salary Loss	Salary loss divided evenly over paychecks of affected employees during FY11
Employee Benefits	No impact on retirement benefits, health insurance, or leave accrual
Projected FY11 Savings	$15 million

Other Agencies. The Executive's FY11 Recommended March 15th Budget did not recommend furloughs for employees in Montgomery County Public Schools (MCPS), Montgomery College, or the Maryland-National Capital Park and Planning Commission (M-NCPPC). However, in order to meet the agency budget recommendations contained in the Executive's budget, both M-NCPPC and Montgomery College are considering up to 10 days of employee furloughs as one of the ways to reduce their FY11 costs.

- M-NCPPC estimates that a single day of furlough savings is $215K, which means that 10 days of furloughs saves about $2.15 million;
- Montgomery College estimates a single day of furlough savings is $400K, which means that 10 days of furloughs saves about $4 million.

If these agencies do implement furloughs, it will be important to ensure that savings are not double counted when analyzing alternative furlough structures that impact all agencies.

The following pages provide an overview of the current regulatory structure for furloughs, and then describe the Executive's recommended furlough plan in greater detail.

1. Furlough Regulations and Procedures

Montgomery County Personnel Regulations (Section 30, *Reduction-In-Force and Furlough*) include procedures and polices for implementing a furlough. The Executive has indicated plans to submit amended regulations to the Council for approval in conjunction with his proposed FY11 furlough, to include a provision that allows a furlough to be taken in increments of less than a full 8-hour work day. <u>As of this writing, the amended regulations have not been received by the Council.</u>

The current regulations state that, to implement a furlough, the Chief Administrative Officer (CAO) must develop a furlough plan that identifies the employees who will be furloughed, the number of furlough days, and the timeframe within which the furlough days must occur. The Personnel Regulations (§30-2b) establish the following furlough guidelines:

- Employees are not allowed to work on their fixed or alternate furlough days, except in an emergency as determined by the CAO, and are not allowed to make up the hours lost from a furlough day by working additional hours at another time.
- The County must ensure that furlough days do not adversely impact an employee's accrual of annual and sick leave; life insurance; retirement benefits; and seniority.
- An employee's base salary must not be reduced by the salary loss resulting from a furlough day for the purpose of calculating service increments, salary upon promotion or demotion, or other salary amounts based on base salary.

Labor agreements and furloughs. The current agreement with MCGEO, Local 1994, which expires June 30, 2010, contains no mention of furloughs. However, the CAO reports in his Furlough Implementation Plan memorandum that the Executive plans to negotiate with MCGEO on the procedures for implementing the FY11 furlough.

The current agreement with FOP, Lodge 35, which also expires June 30, 2010, contains the following provisions on furloughs (Article 50, Section C):

- Lost furlough pay must not be made up by the same or other employees in overtime hours or compensatory hours;
- The salary reduction from furloughs must be spread evenly over the pay periods remaining in the fiscal year during which the furlough day(s) occur(s);
- The County must grant eight hours of compensatory time to each bargaining unit member for each eight hour furlough day required;
- Any salary reduction resulting from a furlough shall not reduce the amount of the pension payable upon retirement of any unit member or on other payments or benefits (such as service increments, awards, salary upon promotion or demotion, etc.);
- The salary reduction shall be restored and all compensatory leave balances shall be appropriately adjusted if an appropriate third party determines that the County did not relieve the members of the bargaining unit from duty due to lack of funds or work; and
- All furlough provisions shall be administered equitably within the unit.

The current agreement with IAFF, Local 1664, which expires June 30, 2011, references furloughs in two sections. Section 48.6, Effects of Certain Actions, subsection B, states that “Any furlough of a Job Sharing employee shall be prorated according to the employee's position equivalency.” Section 49.1, Limitation on Accrual of Compensatory Time, states that “Unused compensatory time granted to implement a furlough shall be added to the member’s compensatory leave balance at the end of the furlough period and treated as above.”

2. Details of the Executive’s Recommended Furlough Plan

Amount of furlough time. The Executive has proposed that full-time employees be furloughed for 80 hours (10 days) in FY11. The furlough extends to all partially or fully grant funded positions, as well as non-tax supported positions. The amount of furlough time for part-time employees is prorated based on budgeted annual working hours. For example, a part-time employee scheduled to work 1,040 hours per year (0.5 workyears) would have 40 hours (5 days) of furlough.

Fixed or rolling furlough days. The Executive does not plan to close County Government facilities to implement the furlough. All furloughs days will be “rolling,” meaning that they are selected by the employee, but subject to supervisor approval. The CAO’s Furlough Implementation Plan memorandum states that employees will be responsible for taking the appropriate number of furlough hours in FY11, and supervisors will be responsible for monitoring furlough use and scheduling employees so that they will be able to take their required number of furlough hours. The Executive plans to submit amended Personnel Regulations that will allow a furlough to be taken in increments of less than one full work day.

Employee Exemptions. The Executive’s proposed furlough exempts merit, uniformed public safety employees within the Department of Police, Montgomery County Fire and Rescue Services, Department of Correction and Rehabilitation, and Office of the Sheriff. **Under the County Executive’s proposal, 70% of the County Government workforce is subject to the furloughs and 30% of the workforce is exempt.**

The specific occupational classifications and number of positions exempted are shown on the next page.

Department	Exempt Classifications
Department of Police	• Police Captain (21 positions) • Police Lieutenant (33 positions) • Police Sergeant (136 positions) • Master Police Officer (65 positions) • Police Officer I-III (895 positions) • Police Office Candidate (30.1 workyears)
Fire and Rescue Services	• Fire/Rescue Battalion Chief (24 positions) • Fire/Rescue Captain (141 positions) • Fire/Rescue Lieutenant (108 positions) • Master Firefighter/Rescuer (222 positions) • Firefighter/Rescuer II-III (642 positions)
Department of Correction and Rehabilitation	• Correctional Unit Commander Captain (3 positions) • Correctional Shift Commander Lieutenant (20 positions) • Correctional Supervisor Sergeant (44 positions) • Correctional Officer I-III (236 positions)
Office of the Sheriff	• Sheriff (1 position)* • Deputy Sheriff Captain (4 positions) • Deputy Sheriff Lieutenant (11 positions) • Deputy Sheriff Sergeant (31 positions) • Deputy Sheriff I-III (96 positions)

*Since the Sheriff's salary is constitutionally guaranteed, he is technically exempt from the furlough. However, the Executive expects the Sheriff will voluntarily return pay in the amount equivalent to 10 furlough days.

OLO asked Executive staff to explain the rationale for exempting the specified uniformed public safety employees. Executive staff responded that:

> *Employees that are in the categories listed above are exempt from the furlough requirement because the County Executive wanted to do what was possible to prevent any compromise of public safety. The avoidance of additional overtime charges to backfill for furlough employees was also a factor.*

Scheduling salary loss. The Executive's proposed furlough plan spreads the salary loss for employees over the entire fiscal year, regardless of when furlough days are actually taken. As a result, employees' gross wages in their biweekly paychecks will be reduced by 3.8% for each of the 26 pay periods.

Employee benefits. Consistent with the Personnel Regulations, the Executive's proposed furlough will not adversely impact any employee's retirement benefits, health insurance, life insurance, or leave accrual. For a furloughed employee, this means that the gross wages in their biweekly paycheck will decrease by 3.8%, but their biweekly deductions for retirement, health insurance, and life insurance will not change.

On April 13th, at the Executive's request, the Council introduced Expedited Bill 18-10 to amend the definition of regular earnings in the retirement laws to include imputed income not received due to a furlough. The Bill would ensure that a furlough does not reduce the employer and the employee contributions to the retirement plan or any pension benefit.

Overtime. In accordance with the Personnel Regulations, the CAO's Furlough Implementation Plan memorandum states that employees will not be able to count furlough hours toward their overtime compensation threshold. Additionally, the Plan states that employees are not allowed to incur overtime to backfill staff who are out on furlough.

Anticipated service impact. In the Executive's FY11 Recommended Operating Budget, the furlough savings for each department was categorized as a "no service impact" reduction. Executive Branch staff has since noted that the "no service impact" classification was an oversight; the CAO's Furlough Implementation Plan memorandum states that the furloughs may result in a reduction in services in some areas of operation. Departments are responsible for identifying and informing the CAO of any operational or service level issues that may occur and how the department plans to deal with those issues.

C. Analysis of Executive's Estimated Furlough Savings and Methodology

The County Executive's FY11 Recommended Budget included a total of $15,013,200 in FY11 personnel savings from his recommended furlough plan. The projected furloughs savings from each County Government department/office are attached at © 39. The $15 million total includes $12.2 million in tax supported savings and $2.8 million in non-tax supported savings.

The County Executive's furlough savings methodology conforms to the Personnel Regulations by excluding retirement and group insurance from the savings calculation. Additionally, the County Executive's assumed furlough savings are calculated on FY11 recommended personnel costs for each department.

The CAO's Furlough Implementation Plan memorandum (issued on March 31, 2010 and attached at © 38) clarified that non-merit, uniformed public safety staff are included in the furlough. These positions were excluded from the initial furlough savings calculation. As a result, OLO estimates that the Executive's proposed furlough plan will achieve approximately $147,000 more in cost savings than initially anticipated.

Employee exemptions and impact on savings. As noted on page © 4, the Executive's proposal exempts 30% of the County Government workforce from the 10 days of furlough. **According to data provided by the Office of Management and Budget, if the exempt employees were required to take the same amount of furlough time the County would achieve an additional $8,587,404 in furlough savings.**

1. Factors that Could Reduce Furlough Savings in FY11

Last year, OLO reviewed the furlough structures and anticipated savings in different state and local governments, as well as public school systems. As part of this analysis, OLO sought information on the actual furlough savings achieved in some of those jurisdictions.[1]

A brief update on the savings experiences Prince George's County, the State of Maryland, Anne Arundel Public Schools, and the State of California is provided on the next page. In general, OLO found that:

- Many jurisdictions captured all or most of their estimated furlough savings, although most jurisdictions' savings analysis only accounts for personnel costs.
- Increased use of overtime was a factor that affected savings in some jurisdictions, while others report being able to avoid this issue due to their particular furlough structure.
- A study of the State of California furloughs found that, apart from direct personnel cost savings, the furloughs are impacting sales and income tax revenue.

Based on the reported experiences of other jurisdictions, the use of overtime and the loss of revenue are the two factors that have the greatest potential of reducing the County's savings from furlough. However, as noted below, the Executive has already taken steps as part of his Furlough Implementation Plan to prevent (or at least reduce the likelihood) of their occurrence.

Overtime Costs. Overtime experiences in other jurisdictions show different outcomes; some report implementing furloughs without documented losses to additional overtime while others report a decrease in savings from additional use of overtime. The Executive's furlough savings methodology does not include any adjustment for overtime losses since the furlough plan prohibits the use of furlough time to reach the overtime threshold, and prohibits employees from incurring overtime to backfill staff who are out on furlough.

Loss of Revenue. The furlough experience in California indicates that a reduction in service delivery, particularly from furloughs of employees in revenue-generating departments, can result in the loss of revenues. The Executive's proposed furlough plan does anticipate that some service reduction will occur, but states that each department director will be responsible for implementing the furloughs in a way that is cost neutral and has minimal service impact. Additionally, the Executive's decision to use rolling instead of fixed furlough days will help mitigate potential lost revenue from facility closures.

Banked Leave Time. In addition, OLO notes that the Executive's furlough plan does not include any adjustments for banked leave time. Particularly with rolling furlough days, employees may use the furlough days in lieu of annual leave. As employees make this trade, they are essentially "banking" annual leave to use in future years. While this is not likely to impact savings in FY11, the cash value of that leave increases over time as employees earn more, resulting in a larger future financial liability for the County.

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[1] OLO Memorandum Report 2009-9, *A Research Brief on Furloughs and Buyouts* and Addendum to Report 2009-9, *Public Sector Furloughs: Additional Information* are available online at www.montgomerycountymd.gov/olo

If the Executive's furlough plan was amended to include furloughs of FOP members, the amount of banked leave time would increase substantially. As noted on page © 3, the current labor agreement with the FOP states that members receive an additional eight hours of compensatory time for each furlough day taken. As a result, any FOP member given 80 hours of furlough time would receive an additional 80 hours of compensatory time, most of which would likely be taken in future fiscal years.

FURLOUGH SAVINGS EXPERIENCES IN OTHER JURISDICTIONS

Prince George's County. Prince George's County implemented 80 hours of furlough for County Government employees in both FY09 and FY10, with estimated personnel costs savings of $20 million in FY09 and $18 million in FY10. County staff report actual savings of $16 million in both years, and cite two factors that led to the lower than estimated savings. First, estimated furlough savings were based on average salaries instead of actual salaries. Second, turnover, reduction-in-force terminations in FY10, and certain exemptions based on funding source led to smaller savings. Public Safety employees <u>were not</u> exempt from the Prince George's furloughs. In order to accommodate public safety and other 24/7 employees without having to utilize overtime hours, the County designated vacation and some sick days as furlough days for those employees.

State of Maryland. The State implemented a progressive furlough in FY10 that required a minimum of three and a maximum of ten furlough days based on an employee's salary level. State of Maryland staff report that the State achieved its estimated savings target of $34 million for FY10. Staff also report that use of overtime was not a factor because the furlough plan exempted employees in 24/7 service positions. However, the exempted 24/7 employees were given a "temporary salary reduction" of either three or five days pay based on salary level.

Anne Arundel Public Schools (AAPS). AAPS implemented a furlough in FY10 that required between two to five furlough days depending on position, with teachers required to take three days and bus drivers and bus aides exempt. The school system originally estimated $7.7 million in savings from the furlough days. The School Board reduced the savings by $2.5 million in November 2009 when it decided to pay employees for one furlough they had already taken. AAPS reports that it was able to give back the furlough day due to greater than anticipated savings from lapse and a hiring freeze on non-teaching positions. As a result, overall savings were approximately $5 million.

State of California. In FY10, the State of California requires state employees to take three rolling furlough days per month. The State anticipated saving approximately $2.2 billion in compensation costs. In October 2009, researchers at the University of California at Berkeley Center for Labor Policy and Education released a study examining the cumulative costs and savings from the furloughs. While the study found that the furloughs led to $2.01 billion in personnel costs savings, it also found that much of the savings will be offset by reduced revenue and increased costs to the State general fund in future years. Specifically, savings would be reduced by: (1) an estimated $60 million decrease in income tax collected from the furloughed employees; and (2) an estimated $363 million decrease in general tax collection due to the furloughs of employees responsible for collecting and auditing tax returns. The report further finds that the loss of income to state employees will have negative ripple effect on the state's economy as a whole.

D. Estimated FY11 Savings from Alternative Furlough Structures

The Executive's proposed furlough for FY11 includes 70% of the County Government workforce, and 19% of the total workforce for all County-funded agencies.[2] In this section, OLO review the estimated FY11 savings from alternative furlough structures, including those that:

- Expand the number of employees subject to the furlough within County Government;
- Expand the number of employees subject to the furlough across all County-funded agencies; and
- Create a progressive structure where higher earning employees take a greater amount of furlough days than lower earning employees.

The table on the next page details the alternative furlough structure and the estimated savings associated with each. Furlough structures #1-4 show different alternatives that would achieve approximately $15 million in savings, the amount of furlough savings included in the Executive's Recommended Budget. Furlough structures #5 and 6 show alternatives that would achieve savings greater than $15 million.

[2] As noted on page © 2, M-NCPPC and Montgomery College are also considering implementation of furloughs to meet the Executive's recommended reduction to their respective budgets.

Estimated FY11 Savings from Alternative Furlough Structures

	Employee Exemptions	Numbers of Days	% Wage Reduction*	Projected FY11 Savings
Executive's Recommended Furlough Structure				
County Government Employees with Executive's Public Safety Exemptions	Merit, uniformed public safety employees	10 days (80 hours)	3.8%	$15,013,200
Alternative Furlough Structures to Achieve ~$15 Million in Savings				
#1: All County Government Employees	None	6.5 days (52 hours)	2.5%	$15,435,784
#2: All County Government Employees - Progressive Structure	None	Salary <$50K : 3 days (24 hours)	1.2%	$15,087,281
		Salary $50-100K: 6 days (48 hours)	2.3%	
		Salary >$100K: 10 days (80 hours)	3.8%	
# 3: County Government Employees - Progressive Structure (with Executive's Public Safety Exemptions)	Merit, uniformed public safety employees	Salary <$50K: 6 days (48 hours)	2.3%	$15,140,196
		Salary $50-100K: 9 days (72 hours)	3.5%	
		Salary >$100K: 16 days (128 hours)	6.2%	
#4: All County Government, MCPS, M-NCPPC, and Montgomery College Employees	None	1.5 days (12 hours)	0.6%	$14,869,376
Alternative Furlough Structures to Achieve >$15 Million in Savings				
#5: All County Government Employees	None	10 days (80 hours)	3.8%	$23,747,360
#6: All County Government, MCPS, M-NCPPC, and Montgomery College Employees	None	5 days (40 hours)	1.9%	$49,564,585
		10 days (80 hours)	3.8%	$99,129,170

PART II:
THE EXECUTIVE'S RECOMMENDED FY11
REDUCTION-IN-FORCE AND RETIREMENT INCENTIVE PROGRAM

OLO's review and analysis of the County Executive's proposed FY11 reduction-in-force and retirement incentive program for County Government employees is organized into four sections:

A. **Introduction to Reductions-in-Force and Retirement Incentives** defines the term "reduction-in-force" and describes the advantages and disadvantages of retirement incentives.

B. **Executive's Recommended FY11 Reduction-in-Force** provides data about the number of total and filled positions recommended for abolishment. This section also describes the distribution of position abolishments by bargaining unit and grade.

C. **The RIF Process** describes the regulations and procedures that will govern the implementation of the reduction-in-force.

D. **Executive's Recommended Actions to Minimize Layoffs** describes the Executive's plans to use Discontinued Service Retirements and a Retirement Incentive Program to minimize the number of layoffs. This section includes OLO's fiscal analysis of the proposed Retirement Incentive Program.

A. Introduction to Reductions-in-Force and Retirement Incentives

Both reductions-in-force and retirement incentives are tools employed by organizations to reduce workforce size.

1. Reduction-in-Force

A reduction-in-force (RIFs) is the downsizing of the workforce. The County's Personnel Regulations defines a reduction-in-force as:

> *The elimination of a position because of:*
>
> *(a) lack of funds;*
>
> *(b) change in an approved work program or plan;*
>
> *(c) administrative reorganization; or*
>
> *(d) technological change that affects staffing needs.*[1]

While the above definition could apply to either filled or vacant positions, typically, the term "RIF" refers to a personnel action that results in the abolishment of filled positions. A detailed description of the FY11 RIF recommended by the Executive begins on page © 13.

[1] Montgomery County Personnel Regulations § 1-62.

2. Retirement Incentives

A retirement incentive (also known as a "buyout") is any type of incentive offered by employers to encourage employees to voluntarily leave their job either through retirement or resignation. Incentives most often take the form of cash payments or adjustment of pension or other post-employment benefits.

Retirement incentives achieve savings by reducing compensation costs through attrition; retirements, in turn, can serve to minimize or even avoid layoffs.

- **Savings from position abolishments.** A buyout results in the greatest compensation cost savings when an employer abolishes vacated positions. Position abolishments reduce an employer's ongoing payroll obligations, while simultaneously creating an opportunity to reorganize the workforce to better meet current needs and resource levels.

- **Mitigating adverse effects of layoffs.** Retirement programs can help alleviate some of the negative consequences of layoffs. The voluntary nature of buyouts helps to mitigate the morale problems surrounding layoffs.

While buyouts can offer an immediate reduction in compensation costs, these programs also have the potential to create long-term liabilities that offset or exceed short-term savings.

- **Increases to long-term liabilities.** A retirement incentive that enhances a defined benefit pension or other post-retirement benefit (e.g., health insurance) exposes an employer to additional actuarial liabilities. For example, under a defined benefit retirement plan, an employee who retires early under a buyout that offered additional years of credited service draws a higher pension benefit for more years than s/he would have received otherwise.

- **Filling vacated positions.** Abolishing vacated positions provides the greatest cost savings from a retirement incentive program. Filling a vacated position negates much of a buyout's fiscal benefit. Replacement employees' salaries and benefits offset much of the cost savings derived from the departure of the previous employee. In addition, refilling positions requires the use of resources to recruit, hire, and train new employees.

- **Affect on normal attrition.** A retirement incentive may result in an employer offering payment to employees who already planned to leave in the near future. In such cases, the incentive created an added cost with little (or no) fiscal benefit to the employer. In addition, an organization that offers buyouts too frequently creates an expectation among employees of future incentives, thereby discouraging "normal" retirement or resignation.

The proposed 2010 County Government retirement incentive program (RIP) would provide cash, pension, and other post-retirement benefits (such as enhanced life and health insurance) to employees in the Employees Retirement System (ERS)[2] who elect to retire by June 1, 2010. A detailed description of the 2010 RIP recommended by the Executive begins on page © 32.

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[2] The ERS is the defined benefit retirement system for employees hired before October 1994.

B. Executive's Recommended FY11 Reduction-in-Force

On March 15, the Executive transmitted to the Council his recommended FY11 operating budget. The Executive recommends abolishing a total of 452 County Government positions. This section reviews the distribution of position abolishments:

1. By department and job class;
2. By bargaining unit; and
3. By grade.

1. Filled and Vacant Positions

Of the 452 positions identified for abolishment, 232 currently are filled. The remaining 220 positions are vacant. The employees in filled positions targeted for elimination are at risk of losing their jobs through the RIF. The actual number of employees that will lose their jobs will not be known until completion of the Discontinued Service Retirement and Retirement Incentive Program processes (see Section D, beginning on page © 31).

Table 1 (beginning on page © 15) shows the number of filled and vacant positions by department recommended for abolishment. As seen in Table 1, ten departments are recommended to lose 20 or more total (filled and vacant) positions:

Departments Recommended to Lose 20+ FILLED & VACANT Positions

- Public Libraries (78 positions)
- Permitting Services (41 positions)
- Health and Human Services (35 positions)
- Correction and Rehabilitation (34 positions)
- Police (38 positions)[3]
- Recreation (37 positions)
- Transportation (36 positions)
- Technology Services (26 positions)
- Fire and Rescue Services (24 positions)[3]
- General Services (20 positions)

[3] Note that this memorandum only addresses positions targeted for elimination by the Executive as part of the FY11 RIF. While the RIF will result in the elimination of positions in Police and Fire and Rescue Services, the Executive also recommends creation of new positions in both of these departments that will offset the affect of the RIF.

If approved by the Council, eight departments would lose 10 or more employees from filled positions:

Departments Recommended to Lose 10+ FILLED Positions

- Public Libraries (60 employees)
- Recreation (28 employees)
- Correction and Rehabilitation (25 employees)
- General Services (19 employees)
- Technology Services (17 employees)
- Permitting Services (16 employees)
- Regional Services Centers (10 employees)
- Transportation (10 employees)

The Council will evaluate the merits of specific position abolishments during its review of County Government department operating budgets.

Table1: Filled and Vacant Positions Recommended for Abolishment By Department

Department	Filled Positions	Vacant Positions	Total Positions
Board of Appeals	1	0	1
Commission for Women	3	0	3
Community Use of Public Facilities	1	0	1
Consumer Protection	3	0	3
Correction and Rehabilitation	25	9	34
County Attorney	1	0	1
County Council	0	6	6
County Executive	5	2	7
Economic Development	5	2	7
Environmental Protection	1	1	2
Ethics Commission	2	0	2
Finance	1	7	8
Fire and Rescue Services	0	24	24
General Services	19	1	20
Health and Human Services	8	27	35
Human Resources	3	2	5
Human Rights	2	1	3
Liquor Control	8	5	13
Management and Budget	0	1	1
NDA - Climate Change Implementation	0	1	1
Permitting Services	16	25	41
Police	3	36	38
Public Information	0	1	1
Public Libraries	60	18	78
Recreation	28	9	37
Regional Services Centers	10	4	14
Solid Waste Disposal	0	1	1
Technology Services	17	9	26
Transportation	10	26	36
Urban District - Silver Spring	0	1	1
Urban District - Wheaton	0	1	1
TOTALS	**232**	**220**	**452**

Source: OHR and OMB 4/2/10 response to OLO questions on proposed FY11 furlough and RIP plan.

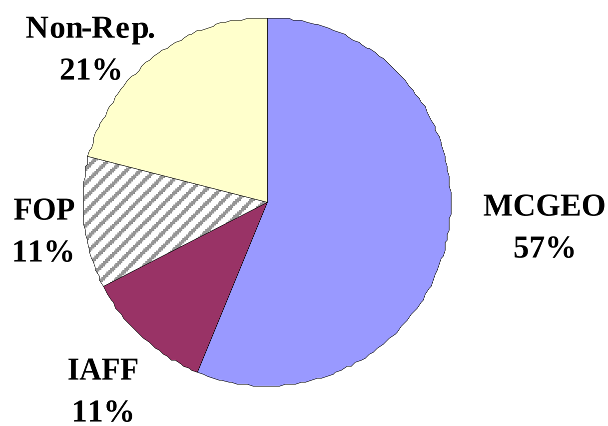
2. Distribution of Position Abolishments by Bargaining Unit

County Government employees are represented by three bargaining units. The Municipal & County Government Employees Organization (MCGEO) Local 1994 represents most general County Government worker. The Fraternal Order of Police (FOP) Montgomery County Lodge 35 represents uniformed police officers. The International Association of Fire Fighters (IAFF) Local 1664 represents uniformed firefighters. Elected and appointed officials, employees at or above Grade 27, Legislative Branch employees, employees of the Offices of the County Attorney, Management and Budget, and Human Resources and certain other employees are not represented by a bargaining unit.

Composition of Workforce: As shown in Exhibit 1, MCGEO represents about 57% of current County Government positions. The two uniform public safety bargaining units include another 22% of County Government positions. The remaining 21% of the workforce are non-represented positions.

Exhibit 1:
Composition of County Government Workforce Positions by Bargaining Unit
(as of 4/7/10)

Number of Positions	
MCGEO	5,580
IAFF	1,115
FOP	1,138
Non-Rep.	2,095
Total	9,928

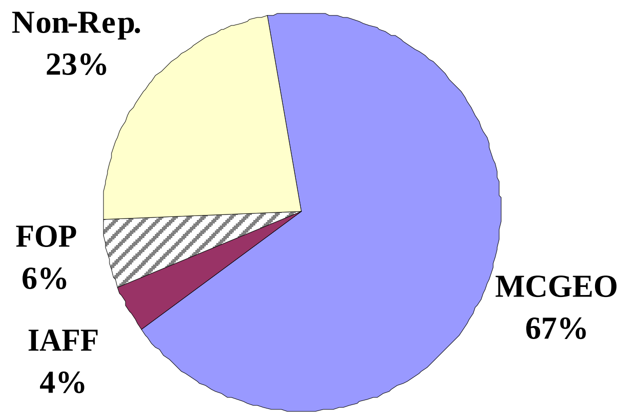


Source: OHR and OLO

Distribution of Position Abolishments: As mentioned above, the Executive recommends the abolishment of 452 positions for FY11. This total includes both filled and vacant positions. Exhibit 2 shows this distribution of position abolishments by bargaining unit.

Exhibit 2: Executive Recommended Position Abolishments
FILLED & VACANT Positions by Bargaining Unit

Number of Positions	
MCGEO	306
IAFF	18
FOP	25
Non-Rep.	103
Total	452



Source: OHR, OMB and OLO

OLO compared the distribution of recommended position abolishments with the overall composition of the County Government workforce. This comparison shows that Executive's budget eliminates MCGEO and non-represented positions in greater proportion to their distribution with the overall workforce. The two uniformed public safety bargaining units face position eliminations in lesser proportion to their distribution in the workforce. Table 2 compares the composition of the workforce by bargaining unit with the distribution of position abolishments by bargaining unit.

Table 2: Comparison of the County Government Workforce Composition and the Distribution of Position Abolishments (FILLED & VACANT) by Bargaining Unit

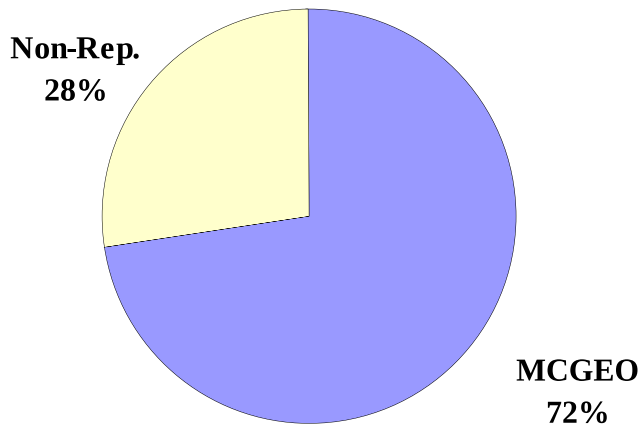
Bargaining Unit	Percent of Workforce (a)	Percent of Positions Recommended for Abolishment (b)	Ratio* (b) to (a)
MCGEO	57%	67%	1.18 to 1
FOP	11%	6%	0.55 to 1
IAFF	11%	4%	0.36 to 1
Non-Represented	21%	23%	1.10 to 1

*This ratio shows the degree of proportionality between each bargaining unit's share of position abolishments and that unit's representation in the workforce. A ratio greater than 1 to 1 indicates a higher than proportional share of abolishments; a ratio lower than 1 to 1 shows a lower than proportional share.
Source: OHR and OMB 4/2/10 response to OLO questions on proposed FY11 furlough and RIP plan.

Distribution of Filled Position Abolishments: The Executive recommends the abolishment of 232 filled positions for FY11. The employees filling these positions are in jeopardy of losing their jobs during the upcoming RIF. All filled positions recommended by the Executive for abolishment are occupied by MCGEO or non-represented employees. The Executive does not recommend abolishing any filled FOP or IAFF positions. Exhibit 3 shows this distribution of filled position abolishments by bargaining unit.

Exhibit 3: Executive Recommended Position Abolishments
FILLED Positions by Bargaining Unit

Number of Positions	
MCGEO	168
IAFF	0
FOP	0
Non-Rep.	64
Total	232



Source: OHR, OMB and OLO

Table 3 compares the composition of the workforce with the distribution of filled position abolishments by bargaining unit.

Table 3: Comparison of the County Government Workforce Composition and the Distribution of FILLED Position Abolishments by Bargaining Unit

Bargaining Unit	Percent of Workforce (a)	Percent of Filled Positions Recommended for Abolishment (b)	Ratio* (b) to (a)
MCGEO	57%	72%	1.26 to 1
FOP	11%	0%	--
IAFF	11%	0%	--
Non-Rep	21%	28%	1.33 to 1

* This ratio shows the degree of proportionality between each bargaining unit's share of position abolishments and that unit's representation in the workforce. A ratio greater than 1 to 1 indicates a higher than proportional share of abolishments; a ratio lower than 1 to 1 shows a lower than proportional share.
Source: OHR, OMB, and OLO

3. Position Abolishments by Job Class

As mentioned above, the Executive's recommended FY11 budget would eliminate a total of 232 filled and 220 vacant positions. This RIF will affect employees in more than 100 different job classes. Table 4 (on the next three pages) shows the number of filled and vacant positions in each job class affected by the recommended RIF. As seen in Table 4, eight job classes are recommended to lose 15 or more total (filled and vacant) positions:

Job Classes Recommended to Lose 15+ FILLED & VACANT Positions

- Bus Operator (30 employees)
- Principal Administrative Aide (28 employees)
- Office Services Coordinator (23 employees)
- Police Officer III (23 employees) [4]
- Manager III (19 employees)
- Senior Permitting Services Specialist (19 employees)
- Library Assistant I (16 employees)
- Permit Services Inspector III (15 employees)

Six job classes are recommended to lose ten or more employees in filled positions.

Job Classes Recommended to Lose 10+ FILLED Positions

- Principal Administrative Aide (19 employees)
- Manager III (16 employees)
- Library Assistant I (13 employees)
- Librarian II (12 employees)
- Office Services Coordinator (12 employees)
- Library Assistant II (10 employees)

[4] Note that this memorandum only addresses positions targeted for elimination by the Executive as part of the FY11 RIF. While the RIF will result in the elimination of 23 vacant Police Officer III positions, the Executive also recommends creation of new Police Officer positions (including two recruit classes) that will offset the affect of the RIF on this job class.

Table 4: Filled and Vacant Positions Recommended for Abolishment
By Job Class and Grade Range

Job Class	Grade	Filled Positions	Vacant Positions	Total Positions
Abandoned Vehicle Code Enforcement Specialist	16	0	1	1
Accountant/Auditor I	18	0	1	1
Accountant/Auditor II	23	2	0	2
Administrative Aide	12	0	1	1
Administrative Specialist I	18	0	1	1
Administrative Specialist II	21	2	3	5
Administrative Specialist III	23	1	1	2
Arborist	23	1	0	1
Assistant County Attorney III	32	1	0	1
Behavioral Health Associate Counselor	20	0	2	2
Building Services Inspector	12	7	0	7
Bus Operator	15	5	25	30
Carpenter I	17	5	0	5
Carpenter II	18	2	0	2
Client Assistance Specialist	20	1	0	1
Community Health Nurse II	23	2	2	4
Communications Equipment Technician II	20	1	1	2
Community Outreach Manager	28	0	1	1
Conservation Corps Assistant Crew Leader	S3	0	1	1
Conservation/Services Corps Crew Trainer	18	0	1	1
Correctional Officer I	C3	0	2	2
Correctional Officer III	C5	9	2	11
Correctional Supervisor	C6	1	0	1
Correctional Unit Commander	C2	1	0	1
Correction Records Tech	17	0	1	1
Correctional Specialist II	22	1	2	3
Correctional Specialist IV	25	1	0	1
Correctional Specialist V	26	1	0	1
Data Entry Operator	10	1	0	1
Environmental Health Specialist III	24	1	1	2
Executive Administrative Aide	17	1	2	3
Fire/Rescue Battalion Chief	B3	0	3	3
Fire/Rescue Lieutenant	B1	0	1	1
Firefighter/Rescuer III	F3	0	14	14
Fiscal Assistant	16	3	0	3

Table 4: Filled and Vacant Positions Recommended for Abolishment
By Job Class and Grade Range (continued)

Job Class	Grade	[redacted]	Filled Positions	Vacant Positions	Total Positions
Highway Inspector II	22		1	0	1
Human Resource Specialist III	25		2	1	3
Income Assistance Program Specialist II	20		0	1	1
Information Technology Project Manager	40		0	1	1
Information Technology Specialist I	20		1	1	2
Information Technology Specialist III	26		3	0	3
Information Technology Technician I	14		2	1	3
Investigator III	25		2	1	3
Laboratory Assistant	14		0	1	1
Legislative Analyst II	26		0	1	1
Legislative Senior Aide I	18		0	2	2
Librarian I	21		6	4	10
Librarian II	24		12	0	12
Library Aide	8		4	1	5
Library Assistant I	13		13	3	16
Library Assistant II	16		10	1	11
Library Associate II	21		4	1	5
Library Assistant Supervisor	20		1	1	2
Library Desk Assistant	12		0	2	2
Library Technician	13		0	1	1
Liquor Store Assistant Manager	18		0	2	2
Liquor Store Clerk I	12		0	3	3
Liquor Store Manager	21		1	0	1
Mail Clerk	11		1	0	1
Manager II	M2		2	1	3
Manager III	M3		16	3	19
Master Firefighter/Rescuer	F4		0	3	3
Master Police Officer	P5		0	1	1
Medical Doctor III - Physician	H3		1	0	1
Management and Budget Specialist III	25		1	0	1
Occupational Therapist	23		0	1	1
Office Clerk	5		1	0	1
Office Services Coordinator	16		12	11	23
Permit Services Inspector III	23		7	8	15
Permit Technician III	19		2	2	4
Planning Specialist II	21		0	1	1

Table 4: Filled and Vacant Positions Recommended for Abolishment
By Job Class and Grade Range (continued)

Job Class	Grade	Filled Positions	Vacant Positions	Total Positions
Planning Specialist III	23	1	0	1
Police Officer III	P4	0	23	23
Police Sergeant	A1	0	1	1
Police Services Assistant	16	0	1	1
Principal Administrative Aide	13	19	9	28
Printing Technician III	16	1	0	1
Program Manager I	23	4	0	4
Program Specialist I	18	4	2	6
Program Specialist II	21	2	6	8
Psychological Nurse Clinical Specialist	25	0	1	1
Public Administration Intern	16	1	7	8
Public Services Worker II	9	0	1	1
Recreation Coordinator	18	9	2	11
Recreation Specialist	21	6	5	11
Resource Conservationist	23	1	0	1
Senior Engineer	27	3	0	3
Senior Executive Administrative Aide	18	1	1	2
Social Worker III	24	0	2	2
Social Worker IV	25	0	1	1
Senior Business Development Specialist	27	1	2	3
Senior Financial Specialist	25	1	0	1
Senior Information Technology Specialist	28	5	5	10
Senior Librarian	25	2	1	3
Senior Management and Budget Specialist	27	0	1	1
Senior Permitting Services Specialist	26	5	14	19
Senior Supply Technician	17	2	0	2
Supervisory Therapist	25	1	0	1
Supply Technician I	10	1	0	1
Supply Technician III	13	1	0	1
Telecommunications Technician	18	1	0	1
Therapist II	24	0	6	6
Transportation Emergency Response Patrol Tech II	15	2	0	2
Warehouse Assistant Supervisor	20	1	0	1
Work Force Leader II	18	1	0	1
Work Force Leader III	19	1	0	1
TOTALS		**232**	**220**	**432**

Source: OHR and OMB 4/2/10 response to OLO questions on proposed FY11 furlough and RIP plan.

4. Distribution of Job Abolishments by Salary Grade

The County Government classifies all merit system positions by a salary grade. Most non-public safety employees are classified by a numeric grade (ranging from Grade 5 to Grade 40).[5] Employees in higher grades earn higher salaries than employees in lower grades.

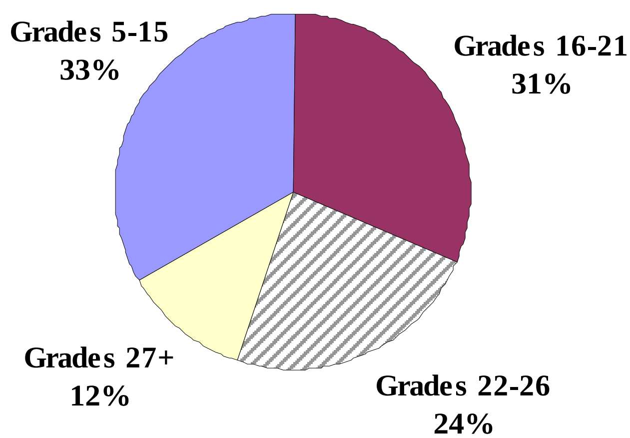
Composition of Workforce: OHR provided OLO with a distribution of the County Government workforce by salary grade. OLO sorted the workforce into four grade ranges: Grades 5–15; Grades 16-21; Grades 22–26; and Grades 27 and above.[6]

Represented public safety employees are classified in separate salary grade schedules. Since the Executive recommended no filled FOP and IAFF for abolishment, OLO excluded employees of these two bargaining units from this analysis. The Executive recommended abolishment of some filled MCGEO-represented correctional officer positions. OLO performed a separate review of correctional officer job abolishments (see page © 27).

Exhibit 4 shows the distribution of County Government positions (excluding represented public safety) by grade range. One-third of this workforce is classified in Grades 5 through 15. Positions in Grades 16 through 21 comprise almost another one-third of the workforce. Almost one-quarter of positions are in Grades 22 through 26. Finally, positions in Grades 27 and higher make up about 12 percent of the workforce.

Exhibit 4: Composition of County Government Workforce By Grade (excluding represented public safety positions) (as of 4/7/10)

Number of Positions	
Grades 5-15	2,411
Grades 16-21	2,234
Grades 22-26	1,699
Grades 27+	843
Total	7,187



Source: OHR and OLO

[5] Some employees (appointed officials, Management Leadership Service employees, medical doctors) are classified by an alphabetic/numeric grade. For example, Management Leadership Service employees are classified into grades M3, M2, and M1.

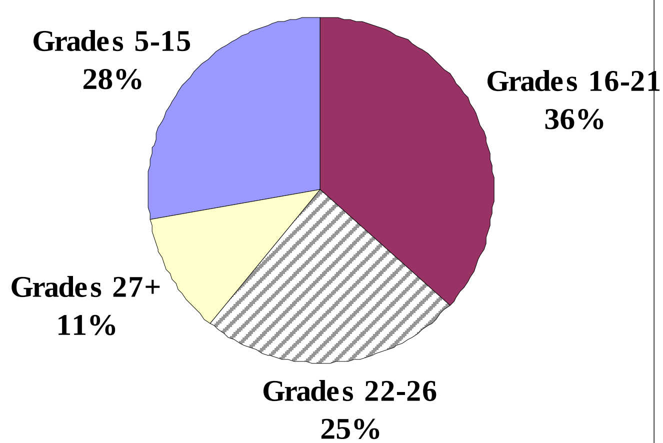
[6] Appointed officials, members of the Management Leadership Service, medical doctors, and some other management positions are not classified by numeric grade. For this exercise, OLO included these positions in the "Grade 27 and above" category.

Distribution of Position Abolishments: Excluding represented public safety positions, the Executive recommended the abolishment of 390 (both filled and vacant) positions. A comparison of the distribution of recommended position abolishments with the composition of the County Government workforce (excluding represented public safety employees) shows that Executive's budget eliminates Grades 16 to 21 positions in greater proportion to their distribution with the overall workforce. Grades 22 to 26 positions as well as Grade 27 and above positions are recommended for abolishment in near proportion to their distribution in the workforce. The Executive recommends abolishment of Grades 5 to 15 positions in lesser proportion to their workforce distribution.

Exhibit 5 shows this distribution of position abolishments (filled and vacant) by grade.

Exhibit 5: Executive Recommended Position Abolishments
FILLED & VACANT Positions by Grade

Number of Positions	
Grades 5-15	108
Grades 16-21	143
Grades 22-26	96
Grades 27+	43
Total	390



Source: OHR and OLO

Table 5 compares the composition of the workforce with the distribution of filled position abolishments by grade range.

Table 5: County Government Workforce Composition (excluding represented public safety employees) and the Distribution of Position Abolishments (FILLED & VACANT) by Grade

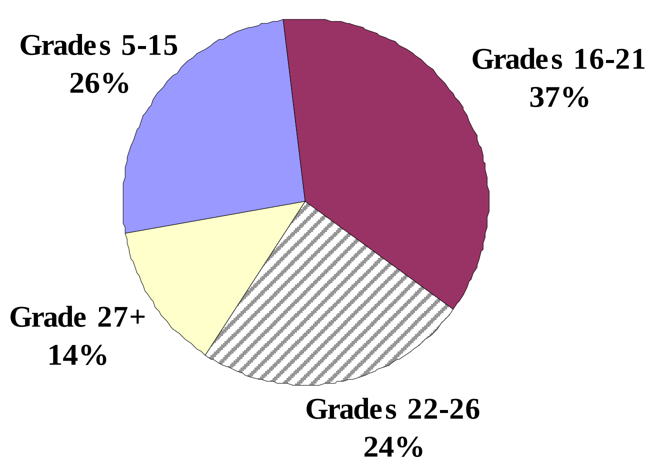
Grade Range	Percent of Workforce (a)	Percent of Position Abolishments (b)	Ratio* (b) to (a)
Grades 5 - 15	33%	28%	0.85 to 1
Grades 16 - 21	31%	36%	1.16 to 1
Grades 22 - 26	24%	25%	1.04 to 1
Grades 27 and above	12%	11%	0.92 to 1

*This ratio shows the degree of proportionality between each grade range's share of position abolishments and that grade range's representation in the workforce. A ratio greater than 1 to 1 indicates a higher than proportional share of abolishments; a ratio lower than 1 to 1 shows a lower than proportional share.
Source: OHR and OMB 4/2/10 response to OLO questions on proposed FY11 furlough and RIP plan and OLO.

<u>Distribution of Filled Position Abolishments</u>: The Executive recommends the abolishment of 221 filled positions for FY11 (excluding represented public safety positions). Exhibit 6 shows this distribution of filled position abolishments by grade range.

Exhibit 6 Executive Recommended Position Abolishments FILLED Positions by Grade

Number of Positions	
Grades 5-15	57
Grades 16-21	82
Grades 22-26	53
Grades 27+	29
Total	221



Source: OHR and OLO

A comparison of the distribution of filled position abolishments with the composition of the County Government workforce (excluding represented public safety employees) shows that Executive's budget eliminates Grades 16 to 21 as well as Grade 27 and above filled positions in greater proportion to their distribution with the overall workforce. Grades 22 to 26 filled positions are recommend for abolishment in near proportion to their distribution in the workforce. The Executive recommends abolishment of Grades 5 to 15 filled positions in lesser proportion to their workforce distribution.

Table 6 compares County Government workforce composition with the distribution of filled position abolishments by grade range.

Table 6: County Government Workforce Composition (excluding represented public safety employees) and the Distribution of FILLED Position Abolishments by Grade

Grade Range	Percent of Workforce (a)	Percent of Filled Position Abolishments (b)	Ratio* (b) to (a)
Grades 5 - 15	33%	26%	0.79 to 1
Grades 16 - 21	31%	37%	1.19 to 1
Grades 22 - 26	24%	24%	1.00 to 1
Grades 27 and above	12%	14%	1.17 to 1

*This ratio shows the degree of proportionality between each grade range's share of position abolishments and that grade range's representation in the workforce. A ratio greater than 1 to 1 indicates a higher than proportional share of abolishments; a ratio lower than 1 to 1 shows a lower than proportional share.

Source: OHR and OMB 4/2/10 response to OLO questions on proposed FY11 furlough and RIP plan and OLO.

Correctional Officers: Correctional Officers in the County's Department of Correction and Rehabilitation are classified into six job classes. Correctional Officers I, II, and III as well as Correctional Supervisors are represented by MCGEO. Correctional Shift and Unit Commanders are not represented by a bargaining unit. Table 7 shows the distribution of Correctional Officers by grade.

Table 7: Composition of the Correctional Officer Workforce by Grade (as of 4/7/10)

Job Class	Bargaining Unit	Positions	% of Total
Correctional Officer I	MCGEO	9	3%
Correctional Officer II	MCGEO	71	23%
Correctional Officer III	MCGEO	160	52%
Correctional Supervisor	MCGEO	45	15%
Correctional Shift Commander	Non-Rep.	20	6%
Correctional Unit Commander	Non-Rep.	4	1%
TOTALS		**309**	**100%**

Source: OHR and OMB 4/2/10 response to OLO questions on proposed FY11 furlough and RIP plan and OLO.

For FY11, the Executive recommends the abolishment of 15 correctional office positions. Eleven of the 15 recommended abolishments currently are filled positions. Table 8 shows the distribution of recommended Correctional Officer position abolishments by grade.

Table 8: Executive Recommended Correctional Officer Position Abolishments by Grade

Job Class	Total Position Abolishments	% of Total	Filled Position Abolishments	% of Total
Correctional Officer I	2	13%	0	0%
Correctional Officer II	0	0%	0	0%
Correctional Officer III	11	73%	9	82%
Correctional Supervisor	1	7%	1	9%
Correctional Shift Commander	0	0%	0	0%
Correctional Unit Commander	1	7%	1	9%
TOTAL	**15**	**100%**	**11**	**100%**

Source: OHR and OMB 4/2/10 response to OLO questions on proposed FY11 furlough and RIP plan and OLO.

The data show that MCGEO represents 93% of Correctional Officers. Represented positions comprise 93% of all recommended position abolishments and 91% of recommended filled position abolishments.

C. The RIF Process

The County Government Personnel Regulations (Section 30) and Administrative Procedure 4-19 establish a process for implementing a reduction-in-force (RIF).

1. Employee Notification

Section 30 of the Personnel Regulations requires that the Director of the Office of Human Resources (OHR) send a notice of intent informing employees in job classes affected by the RIF that their employment may be terminated. The notice of intent must also notify affected employees that they are entitled to priority consideration for vacant positions (see below). OHR plans to send notices of intent to affected employees by April 15.

Final implementation of the RIF will take effect after the Council approves the FY11 County Government operating budget in late May. Following final Council action on the budget, OHR will send notification of termination to employees. The Personnel Regulations require OHR to give at least 30 calendar days written notice to an employee whose employment will be terminated.

2. Managing the RIF

If the number of vacant positions in the affected job class is fewer than the number of position abolishments, then all employees in affected job classes in the same department as the abolished position(s) will receive a notice of intent for the impending RIF. OHR will employ several strategies to minimize the number of current merit system employees subject to layoffs.

<u>DSR and RIP</u>: The Executive plans to offer Discontinued Service Retirements and Retirement Incentive Program benefits to encourage eligible employees in RIF affected job classes[7] to voluntarily leave their positions. A description of the Discontinued Service Retirements (DSR) and Retirement Incentive Program (RIP) begins on page © 31. If abolishment of filled positions remains necessary after completion of the DSR and RIP process, OHR will begin the alternative placement and termination process.

<u>Alternative Placement</u>: OHR has begun work to place employees subject to the RIF into vacant positions that are funded for FY11. OHR maintains a list of currently vacant positions and will attempt to identify qualified RIF affected employees for transfer into funded vacant positions. The transfer of employees into vacant positions reduces the need to resort to layoffs. Last year, OHR was extremely successful in this effort finding alternative placement for nearly all of the 234 filled positions affected by the FY10 RIF.

<u>Termination</u>: The County Government first will terminate probationary employees in affected job classes across all departments. Probationary employees are not part of the County's merit system. This action will vacate positions for merit system employees who are subject to the RIF.

If additional position abolishments remain necessary, then OHR will begin the job termination process. Seniority will be the primary basis for selecting which employees will be terminated.

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[7] Affected job classes include all job classes in the occupational series at or below the budget level.

For the purpose of the RIF, seniority means years of credited service with the County Government. Employees with the fewest years of credited service will be subject to termination. As detailed in Chapter 30 of the Personnel Regulations, a department director may also take into consideration employee performance and service needs in determining which employees will be terminated.

OHR plans to send final RIF notices to employees by the end of May. Termination of employment for these employees will take effect on July 2.

Priority Consideration: OHR has begun efforts to place affected employees in vacant positions. OHR will create a priority eligibility list consisting of RIF affected employees for vacant positions. Employees in a RIF affected class receive priority consideration for vacant positions at or below their current grade for which they meet the minimum qualifications. If more than one RIF affected employee applies for a vacant position, the hiring department may select the RIF affected employee deemed best qualified for the position. An employee has a right to priority placement for two years after termination or demotion.

Leave Without Pay Option: An employee who is subject to termination as a result of a RIF must be given an option to be placed on leave without pay for up to one year in lieu of termination.

3. Severance Payments

Chapter 33 of the County Code requires the County to provide a severance payment to certain County Government employees who lose their jobs through administrative action. As detailed in Executive Regulation 16-09, employees who are members of either the Retirement Savings Plan or the Guaranteed Retirement Income Plan[8] and have worked for the County for at least one year are eligible for a severance payment upon non-voluntary termination of employment.

Through the severance benefit, the County will pay the employee's salary for a specified amount of time after termination. The duration of post-employment salary payments is a function of the number of years the terminated employee had worked for the County Government.

Table 9: Weeks of Severance Pay by Years of Service

Years of Service	Weeks of Severance Pay
over 1 to 5	6
over 5 to 7	8
over 7 to 9	10
over 9	12

Source: OHR and OMB

[8] Merit system employees hired since October 1, 1994 participate in the Retirement Savings Plan or the Guaranteed Retirement Income Plan.

The County Code requires that the County pay severance benefits "from general assets of the County." The Code further stipulates that "assets of the Retirement Savings Plan or Guaranteed Retirement Income Plan may not be used to pay benefits under this plan." The Executive has not dedicated funds for severance payments. Departments will have to absorb the cost of severance payments for terminated employees.

The Executive has not yet calculated a cost estimate for FY11 severance payments. To provide the Council with an approximate cost of severance payments, OLO calculated the cost to the County for severance pay to employees with two years of credited service and with annual salaries of between $40,000 and $80,000. As indicated above, an employee with two years of service would be eligible for six weeks of severance pay. Table 10 shows the severance costs incurred by the County for terminating an employee with two years of service who earned a salary in this range.

Table 10: Per Employee Severance Cost to County
(Employee with Two Years of Service)

Annual Salary	**$40,000**	**$60,000**	**$80,000**
Six Weeks Salary	$4,600	$6,900	$9,200
Six Weeks FICA	$400	$500	$700
Severance Cost to County	**$5,000**	**$7,400**	**$9,900**

Source: OHR and OLO

Assuming that the County terminates 50 employees with between one and five years of service and with an average salary of $60,000, the total severance cost would be approximately $370,000. Termination of 75 employees with the same average salary and years of service would produce about $555,000 in severance costs.

D. Executive's Recommended Actions to Minimize Layoffs

The Executive plans to implement two strategies – use of Discontinued Service Retirements and a Retirement Incentive Program – to minimize the number of layoffs, that is, involuntary termination of employees. These strategies provide incentives to encourage more senior (as measured in years of service) employees to voluntarily retire so as to reduce the number of less senior employees who are vulnerable to layoff.

1. Discontinued Service Retirement

Section 33-45 of the County Code authorizes the County to offer Discontinued Service Retirement (DSR) to certain employees who are terminated as a result of an administrative action.

DSR Eligibility: A DSR is a benefit granted to members of the Employee Retirement System (ERS), the defined benefit pension for employees hired before October 1994. Specifically, a DSR eliminates the early retirement penalty for employees who have insufficient years of service to qualify for normal retirement.[9] As specified in the Code, only employees with at least ten years of continuous service are eligible for a DSR.[10]

To be eligible for a DSR, an employee must be an ERS member in a RIF affected job class. Members of the Retirement Savings Plan or the Guaranteed Retirement Income Plan as well as ERS members not affected by the RIF are not eligible for a DSR. A DSR is not an absolute right for eligible employees but rather is subject to the approval of the OHR Director.

DSR Program Savings/Costs: A DSR produces FY11 savings through the departure of senior employees who have higher personnel costs than more junior employees who would have been terminated in the absence of the DSR. The Executive has not estimated the salary savings that would be produced through the DSR process.

In the long-term, a DSR increases the County's future year obligation to fund the ERS Trust Fund and to pay for retiree health benefits. By encouraging employees to retire before their normal retirement date, DSRs increases the number of years that employees draw a pension and receive County-supported health benefits.

OLO requested that OHR provide information about the affect of DSRs on future year pension and retiree health insurance obligations. OHR responded that it will ask the County's actuary to calculate future year DSR cost data. This information was not available as of the writing of this memorandum.

[9] Employees hired before July 1978 receive more generous DSR benefits including a 5% increase in the calculation of final earnings used to determine pension payments.

[10] For non-public safety positions, members of the ERS must have started County employment before October 1994. As such, all current non-public safety employees currently have more than ten years of service with the County.

2. Proposed Retirement Incentive Program

In March, the Executive transmitted to the Council proposed legislation to authorize a Retirement Incentive Program (RIP) for 2010. The Executive bargained the RIP with MCGEO Local 1994, the union for most represented non-public safety County Government employees.

Eligibility: As proposed by the Executive, County Government employees would be eligible for the RIP if they are:

a. Members of the Employees Retirement System (ERS, the defined benefit retirement system for employees hired before October 1994);
b. Within two years of normal retirement (as of June 1); and
c. In an occupational series affected by the reduction-in-force.

In contrast to the proposed 2009 RIP (that was not approved by the Council), the Executive's proposed 2010 RIP limits participation to employees in positions that are recommended for abolishment as part of the reduction-in-force.

Proposed RIP Benefits: As described in the proposed legislation to implement the RIP, employees who accept the retirement incentive would select one of the following four benefit options:

a. A $35,000 cash payment;[11]

b. A $30,000 cash payment with an enhanced post-employment life insurance benefit. (The retiree life insurance benefit reduces coverage from 100% to 25% during years six through ten after retirement. This option would hold life insurance coverage at 100% for tens years after retirement.);

c. A $28,000 cash payment with an enhanced post-employment health insurance benefit. (The County offers retiree continued health insurance coverage with the County paying either 70% or 80% of premium costs.[12] Under this option, the County would pay 90% of individual health insurance premium cost of ten years after retirement.); or

d. A one-time $35,000 contribution to the Guaranteed Retirement Income Plan (GRIP). (Under the GRIP, the County guarantees a 7.25% annual return on investments. RIP participants who select this option would be able to access this income at social security retirement age.)

In addition, the RIP would eliminate the early retirement penalty for program participants who were not yet eligible for normal retirement. The early retirement penalty is two percent for employees with credited service one year short of normal retirement and five percent for employees two years short of normal retirement.

[11] Under all options that include a cash payment, the participating employee may elect to receive the cash benefit as a single lump sum payment or in 12 monthly payments.
[12] A retiring employee may choose to pay 30% of health insurance premium costs for lifetime or 20% of premium costs for a number of years after retirement that equals the retiree's years of credited service with the County Government.

<u>Estimated RIP Participation Rate and Costs:</u> The Executive assumes that between 100 and 150 employees will voluntarily retire through the RIP. If between 100 and 150 employees accept a RIP payment of $35,000, the County will disburse between $3.5 million and $5.3 million in RIP cash payments. To fund RIP cash payments, the Executive plans to borrow from the ERS Trust Fund. Thus, while the General Fund will not be affected by RIP in FY11, the County will have to pay back the cost of the borrowed money from the General Fund beginning in FY12 and continuing through FY21.

The RIP increases long term liabilities for the County. By encouraging employees to retire earlier than planned and by forgiving early retirement penalties, the RIP increases future year General Fund pension and retiree health insurance obligations.

Assuming a participation rate of 150 employees, the County's actuary estimates that the RIP would cost the County a total of $8.9 million (or about $890,000 per year for ten years). In addition, the RIP would raise the County's future year retiree health insurance obligations.

OLO requested that OHR provide information about the affect of the RIP on future year retiree health insurance obligations. This information was not available as of the writing of this memorandum.

OLO asked the Executive Branch whether it has calculated the cost to the County of the enhanced post-employment life insurance and enhanced post-employment health insurance options. The Executive responded:

> *It is anticipated that only a handful of employees will elect an optional incentive of subsidized life or health insurance. The cost will be handled on a pay as you go basis from the self insurance fund and there is no actuarial analysis of the obligation. The life insurance vendor has agreed to keep the same premium structure in place though multiplied by a different in-force amount. It is estimated that the additional premium is less than the amount of incentive given up. The present value of the additional health premium is estimated to be less than the amount of incentive given up.*

OLO also asked the Executive about the future year County obligations to meet the guaranteed rate of return under the GRIP option. The Executive responded:

> *The GRIP accounting will be the same as is in place for current GRIP participants. There is no County cost if the plan meets its actuarial rate of return assumption. If the plan exceeds the assumed rate of return the County cost will be lower, and if the plan fails to meet the assumed rate of return the County cost will be higher.*

3. Process for Awarding DSRs and RIP

The Executive plans to award DSRs to employees before implementing the RIP. As specified in Chapter 30 of the Personnel Regulations, the County must offer DSRs in order of seniority (measured by years of service with the County Government). The number of DSRs granted within a job class and within a department may not exceed the number of filled positions abolished in the same job class within that department.

If the number of filled position abolishments within a job class exceeds the number of DSRs accepted, then the OHR will offer the RIP to eligible employees. OHR will limit the number of RIP awards in a job class to the number of filled positions in that job class targeted for abolishment. OHR plans to give priority to employees who had applied for the 2009 RIP (that was not approved by the Council). OHR will consider RIP applications for employees who had not applied last year based on seniority. To be eligible for the RIP, employees must submit an application to OHR by May 14.

Employees awarded either a DSR or a retirement incentive must agree to retire by June 1.

4. OLO Analysis of Proposed 2010 RIP Costs/Savings

Last year, OLO developed a cost model to evaluate in salary and benefit savings and future year retiree pension and health insurance obligations for the proposed 2009 RIP.[13] OLO found that the proposed 2009 RIP would have had a net ten-year cost to the County of between $17 million and $20 million.

The primary cause for the high estimated cost for the proposed 2009 RIP was that the program would have allowed employees in positions not slated for abolishment to accept the incentive. In other words, the County Government had planned to refill nearly all the positions vacated by the RIP. As a result, the County would have assumed the cash payment and post-employment costs of the RIP without garnering offsetting compensation savings from the elimination of positions.

The design of the Executive's proposed 2010 RIP avoids the major drawback of the proposed 2009 RIP. As noted above, participation in the 2010 RIP would be limited to employees in positions recommended for abolishment. In other words, all positions vacated by the 2010 RIP would not be refilled.

Using the 2010 cost data prepared by OHR and the County's actuary, OLO found that the Executive's proposed RIP would produce savings that exceed costs if the County keeps all vacated positions vacant for three years. However, the County would forfeit the potential savings generated by the RIP if it refills RIP-vacated positions during the next three years.

[13] A detailed description of the methodology and assumptions in the OLO model appear in OLO Report 2009-9, *A Research Brief on Furloughs and Buyouts.* The County's pension actuary reviewed the methodology and formulas in the OLO model and found them an accurate portrayal of the lifetime cost of the RIP.

If, for example, 150 RIP-vacated positions were refilled after two years, OLO estimates that the program would have a net <u>cost</u> to the County of about $5.6 million over the next ten years. However, keeping the same positions vacant for a third year shifts the net ten year cost to an $8.7 million <u>savings</u> for the County.

The Executive submitted a fiscal impact statement for Bill 9-10, the legislation to implement the proposed 2010 RIP. The Executive's fiscal impact statement estimates that the RIP would produce $26 million of savings over the next ten years. The major reason for the variance between OLO's and the Executive's estimates is the difference in the assumed duration of savings derived from lower compensation costs. The Executive's estimate counts these saving for a longer period than assumed by OLO.[14]

Executive staff have projected that few RIP participants will select the enhanced life insurance, enhanced health insurance, and GRIP options. Nonetheless, OLO notes that while these options may be cost neutral based on future year assumptions, each option appears to shift risk (of either higher or lower actualized costs) from the retiree to the County ratepayer.

In the absence of actuarial information regarding DSRs, OLO is unable to evaluate the long-term cost of this workforce reduction strategy.

[14] The Executive's fiscal impact statement assumes compensation savings from RIP vacated positions for four years for normal retirement and 5.5 years for early retirement. The OLO estimate assumes these savings for three years for all employees.

MEMORANDUM

April 15, 2010

TO: Planning, Housing, and Economic Development Committee

FROM: Jennifer Renkema, Research Associate
Office of Legislative Oversight

SUBJECT: **Examples of Proposed FY11 Reductions to Local Park and Recreation Budgets**

The County Executive recommends funding the Montgomery County Department of Parks at $68.2 million in FY11.[1] This is $14.5 million (17.5%) less than the M-NCPPC request of $82.7 million and $10.8 million (13.7%) less than the approved FY10 budget of $79.0 million. To provide some perspective for the Council when considering the FY11 budget, this memorandum describes reductions to selected park and recreation budgets in other local government jurisdictions. Specifically, this memo provides:

- Examples of proposed budgets and cuts for park and recreation departments in three jurisdictions; and
- Detailed description of proposed cuts to the Fairfax County Park Authority.

The examples provided in this memo are not intended to be a representative survey of cuts to park and recreation budgets, but rather to provide some examples of reductions being considered in other places. The information in this memo represents information that was easily accessible via the internet.

Among the jurisdictions that expect budget cuts, a few jurisdictions propose raising fees to generate additional revenue. Several jurisdictions propose reductions in:

- Mowing cycles and other park maintenance;
- Capital maintenance;
- Program staff;
- Administrative staff; and
- Training and travel budgets.

Despite significant service reductions proposed by jurisdictions reviewed in this memo, the reductions proposed are smaller than those proposed in Montgomery County. Further, none have the same structure or provide the same complement of services as Montgomery County Department of Parks.

In general, the Montgomery County Department of Parks has proposed most of the types of cuts proposed by jurisdictions reviewed in this memo.[2]

Budgets for some jurisdictions in the Washington, DC metropolitan area are still being prepared (e.g., Howard and Anne Arundel Counties), and other park and recreation budgets in the country will face reductions. For example, the City of San Francisco instructed all departments to reduce General Fund support for FY11 by 20% compared to the FY10 approved budget and submit a 10% contingency reduction.[3]

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[1] Excluding debt service, grants, and reserves.
[2] Memorandum from Marlene Michaelson, Senior Legislative Analyst, to the Planning, Housing and Economic Development Committee (April 15, 2010).
[3] City & County of San Francisco Mayor's Office Instructions and Controller Technical Instructions Budget Year 2010-2011. (December 11, 2009).

The FY11 proposed budget for the Prince George's County Department of Parks and Recreation includes a 1.9% *increase* of $4.93 million. However, the Prince George's County M-NCPPC is in a unique situation as its budget is not subject to the local tax limitations present in Montgomery County.

A. Case Examples of Combined Parks and Recreation Budget Cuts

This section describes proposed FY11 budget reductions for park and recreation departments in Kansas City, MO; Virginia Beach, VA; and Washington, DC.

Kansas City, MO. Kansas City's proposed FY11 budget includes a 12.7% ($6.74 million) reduction in spending for the Department of Parks and Recreation. This includes a 19.5% reduction of workyears (75.5 vacant and filled positions).[4] Specific service changes and other reductions include:

- Reducing mowing for parks by 29% from 14 to 10 times per year and for boulevards by 22% from 18 to 14 times per year;
- Reducing ballfield renovation by 64% ($225,000);
- Reducing capital maintenance funding for lake restoration and park roads; and
- Eliminating 40.1 positions due to outsourcing swimming pool maintenance and golf course management and privatizing tennis center management;
- Eliminating numerous vacant positions in administration, planning, park property maintenance, community centers, tree trimming, and other areas.

Virginia Beach, VA. Virginia Beach's proposed FY11 budget includes a 3.4% ($1.77 million) reduction in spending for the Department of Parks and Recreation that includes a 1.9% cut in staff (16.8 workyears).[5] Despite the relatively small percentage cut, the FY11 budget proposes substantive reductions in maintenance and services, including:

- Lengthening mowing cycles for highways, parks, and municipal buildings by 28% from 18 to 23 days; for the resort area by 17% from 12 to 14 days; and for the municipal center by 43% from 7 to 10 days;
- Reducing plant replacement and flower planting in the resort area by 72%;
- Eliminating sports camps that serve about 210 children (about 7.4% of summer camp registrations);
- Reducing golf course maintenance, including reduced fertilizer application and irrigation repair;
- Reducing staffing for some programs; and
- Eliminating advertising for free community events that do not generate revenue.

The proposed FY11 budget also includes fee increases for recreation center memberships, out-of-school time programs, athletics, and aquatics.

Washington, DC. Washington, DC's proposed FY11 budget includes an 11.1% ($5.34 million) reduction in spending for the Department of Parks and Recreation. This reduction includes a shift of $1.7 million in administrative activities (finance, procurement, and human resources) to other departments and elimination of a $300,000 FY10 one-time expense.[6] In addition, the budget:

- Reduces discretionary purchases in equipment, supplies, and other services;
- Eliminates 17 vacant positions;
- Reduces travel and training funds;

[4] City of Kansas City, Missouri Submitted Activity Budget FY 2010-2011
[5] City of Virginia Beach FY 2010-11 Proposed Resource Management Plan, Operating Budget
[6] Government of the District of Columbia FY 2011 Proposed Budget and Financial Plan

- Reduces printing costs by focusing on doing more outreach via website resources;
- Eliminates 13 FTE administrative positions; and
- Reduces funds for contractual tennis program partners.

Despite these reductions, the DC budget includes additional staff and expenses for summer activities and camps, facilities improvement, park landscaping, recreation equipment upgrades, and operating costs for a new pool and recreation center.

B. Fairfax County Park Authority Proposed FY11 Budget Reductions

1. Comparison of Montgomery County and Fairfax County Park Systems

Table 1 provides some comparative information about the two park systems. However, the two systems differ in considerable ways.[7] For example:

- The Fairfax County Park Authority manages recreation facilities and programming that is part of the Department of Recreation in Montgomery County (e.g., aquatics).
- The Fairfax County Park Authority manages eight golf courses, while Montgomery County's four courses are managed by the Revenue Authority.
- The Montgomery County Department of Parks budget includes costs for athletic field maintenance, while these costs are allocated to a separate fund in Fairfax County (although the Parks Authority maintains the fields).[8]

Table 1: Comparison of Select Characteristics of the Montgomery County and Fairfax County Park Systems

	Montgomery	Fairfax
FY10 Adopted Budget	$83.7 million	$67.1 million
FY10 Budgeted WYs	688.5	598.5
Acres of Parkland	34,600	22,600
Athletic Fields	299	289
Campgrounds	3	2
Equestrian Centers	5	1
Formal Gardens	2	1
Ice Rinks	2	1
Miles of Trails	201	300
Nature Centers	4	5
Parks	410	417
Playgrounds	291	220
Reservable Picnic Areas	76	49
Tennis Courts	305	200

Source: M-NCPPC Proposed Annual Budget FY2011; Fairfax County FY 2011 Advertised Budget Plan (Vol. 1 and 2); Fairfax County Park Authority website

[7] The Maryland-National Capital Park and Planning Commission (M-NCPPC) Proposed Annual Budget FY2011 for Montgomery County; Fairfax County FY 2011 Advertised Budget Plan (Vol. 1 and 2); Fairfax County Park Authority website (www.fairfaxcounty.gov/parks)

[8] The Montgomery County FY11 Recommended Budget includes a transfer from the General Fund to the Department of Parks to reimburse the cost of athletic field maintenance, however this does not affect the Department of Parks' MARC.

2. Summary of Fairfax County Park Authority FY11 Proposed Budget Reductions

Overview. The Fairfax County Park Authority receives operating funds from two sources: the County General Fund and the Park Revenue Fund. The County General Fund is primarily tax supported, although it includes some revenue from user fees that accounted for 8.6% ($2.3 million) of the FY10 General Fund expenditures. The Park Revenue fund is entirely self-supported from user fees and charges at revenue-supported facilities such as recreation centers, golf courses, and nature centers. The Park Revenue Fund supports 60% of the Park Authority budget compared to the General Fund that supports 40% of the Park Authority budget.[9] The Park Authority also receives supplemental revenue from the Fairfax County Park Foundation which contributed $345,000 to the Park Authority in 2009.[10]

Table 2 shows proposed changes to the budgeted expenditures and staffing for the Fairfax Park Authority between the FY10 adopted budget and the FY11 proposed budget.

Table 2: Changes to Fairfax County Park Authority Budget and Staffing ($ in millions)

	FY10 Adopted	FY11 Proposed	Change in	
			$/#	%
Budgeted Expenditures				
General Fund	$26.93	$24.60	-$2.34	-8.7%
Park Revenue Fund	$40.03	$41.81	$1.78	4.5%
Total Funding	**$66.97**	**$66.41**	**-$0.55**	**-0.8%**
Budgeted Workyears				
General Fund	361.5	321	-40.5	-11.2%
Park Revenue Fund	236	237	1	0.4%
Total Workyears	**597.5**	**558**	**-39.5**	**-6.6%**

Source: Fairfax County FY 2011 Advertised Budget Plan (Vol. 1 and 2)

Overall, the agency expects only a small decrease in operating costs ($550,000). However, the $2.34 million decrease in General Fund support is expected to result in elimination of 40.5 positions and service reductions (summarized below in Table 3). The proposed increase in expenditures from the Park Revenue Fund reflects increased personnel costs for additional instruction hours for recreation programs; post-employment benefits; operating expenses due to repairs, maintenance, and utility costs for Park Authority facilities; and capital equipment replacement. In addition to these changes, the proposed budget shifts some staff costs from the General Fund to the Park Revenue Fund.

Notably, neither the General Fund nor the Park Revenue Fund FY11 proposed budgets include employee salary increases (i.e., performance pay or COLAs).

[9] Fairfax County FY 2011 Advertised Budget Plan (Vol. 1 and 2)
[10] Fairfax County Park Foundation, www.fxparks.org

Budget Reduction Strategies. The following table summarizes proposed FY11 cuts to the Fairfax County Park Authority staffing, programming, and services.

Table 3: Fairfax County Park Authority Proposed FY11 Program and Service Reductions

Program/Service Area	Specific Reductions
Park Maintenance	• Reduce trash collection from three times per week to once or twice a week • Reduce park land mowing from once a month to every three months • Reduce athletic fields mowing from more than once per week to once per week or less • Reduce trail inspections from 1-2 times per month to 3-4 times per year • Close restroom facilities at 15 parks • Reduce logistical and preparation support for special events • Reduce grounds maintenance management staff • Reduce tree trimming and eliminate ability to trim trees that require more than two climbers or are 75 feet or taller • Reduce pest control for athletic fields
Facility and Equipment Maintenance	• Increase facility maintenance and repair backlog by 10-15% • Increase backlog from 45 days to 75 days for certain facility maintenance needs • Increase equipment maintenance backlog from 15 days to 30 days • Increase backlog for maintenance to roads, bridges, parking lots, stream banks, and storm water ponds from 135 days to 180 days
Recreation Programs and Service Reductions	• Eliminate two park staff positions • Eliminate lighting at 123 tennis, basketball, and volleyball courts. All courts will close at dusk. • Eliminate 5 of 52 affordable six-week summer recreation program sites and eliminate summer program field trip • Close one outdoor swimming pool facility
Administration	• Eliminate position that provides oversight to strategic plan, accreditation program, and other coordination and long-range strategic planning functions • Eliminate training and travel support • Reduce management and coordination for staff training • Reduce technology support for staff computers and printers • Eliminate seven other administrative positions that provide a variety of support functions
Capital Projects	• Reduce limited term funding that supports CIP projects (could result in delays and additional CIP costs)

Source: Fairfax County FY 2011 Advertised Budget Plan (Vol. 1 and 2)

3. Other Fairfax County Budget Reductions Impacting Parks: Athletic Field Maintenance

Fairfax County provides General Fund support for athletic field maintenance for school and Park Authority fields through the County Construction Fund in the CIP. Field maintenance also receives revenue from an Athletic Services fee ($1.1 million in FY10).[11] The proposed FY11 budget proposes significant reductions in field maintenance due to a decrease in General Fund support, as shown in Tables 4 and 5 below.

Table 4: Fairfax County Proposed FY11 Reduction in General Fund Support for Athletic Field Maintenance ($ in millions)

	FY10 Adopted	FY11 Proposed	Change in	
			$	%
General Fund Support*	$4.31	$3.77	-$0.54	-12.6%

*Athletic Field Maintenance also receives funding from an Athletic Services fee ($1.1 million FY10)
Source: Fairfax County FY 2011 Advertised Budget Plan (Overview)

Table 5: Fairfax County Proposed FY11 Athletic Field Maintenance Reductions

Type of Field	Maintenance Reductions
Elementary and Middle School Fields	• Eliminate aeration and seeding for all 626 fields • Eliminate routine maintenance and repairs due to vandalism and damage to player benches and bleachers • Reduce mowing from 30 to 29 times per year • Eliminate diamond field warning track maintenance • Eliminate vegetation control in infield skin areas
High School Fields	• Eliminate aeration and seeding for all 55 diamond fields
Park Authority Fields	• Eliminate aeration and seeding for all 289 parks • Reduce mowing from more than one time per week to once per week or less* • Reduce pest control*

*Previously describe under Park Authority Proposed FY11 Service Reductions
Source: Fairfax County FY 2011 Advertised Budget Plan (Overview)

[11] Fairfax County FY 2011 Advertised Budget Plan (Overview)

M E M O R A N D U M

April 26, 2010

TO: Management and Fiscal Policy Committee

FROM: Karen Orlansky, Director
Aron Trombka, Senior Legislative Analyst
Office of Legislative Oversight

SUBJECT: Update on Executive's Recommended FY11 Reduction-in-Force for the County Government

Based on the Executive's April 22 budget adjustments, we have prepared updated data tables on the recommended FY11 County Government reduction-in-force. The Executive's budget adjustments include 14 additional position abolishments. A list of the additional recommended position abolishments appears on the last page of this memorandum.

I. Overview

When combined with the reduction-in-force included in the March 15 operating budget submission, the Executive now recommends a total of 466 position abolishments in FY11, including 244 filled positions.

County Executive Recommended FY11 Position Abolishments for County Government

	Filled Positions	Vacant Positions	Total Positions
March 15 Submission	232	220	452
April 22 Adjustments	12	2	14
Totals	**244**	**222**	**466**

OLO's April 15 memorandum to the MFP Committee analyzed the Executive's recommended position abolishments by bargaining unit and by grade range. Page 2 of this memorandum updates the data on filled position abolishments by bargaining unit to incorporate the Executive's April 22 recommendations. Page 3 updates the filled position abolishment data by grade range.

II. Filled Position Abolishments by Bargaining Unit

Of the 12 additional filled position abolishments recommended by the Executive on April 22, ten are MCGEO-represented positions and two are non-represented positions. The Executive did not recommend abolishing any filled FOP or IAFF positions.

The table below compares the overall compensation of the County Government workforce by bargaining with the distribution of filled position abolishments by bargaining unit. The data in the table combines the Executive's March 15 and April 22 recommendations. (This table updates Table 3 on © 18 of OLO's memorandum for the April 19 MFP session.)

<u>Finding</u>: As the Executive does not propose elimination of any filled FOP or IAFF positions, the recommended FY11 budget eliminates MCGEO and non-represented filled positions in greater proportion to their distribution in the County Government workforce.

Workforce Composition and Distribution of Position FILLED Abolishments
Executive's March 15 and April 22 Recommendations Combined
By Bargaining Unit

Bargaining Unit	Percent of Workforce (a)	Percent of Position Abolishments (b)	Ratio (b) to (a)
MCGEO	57%	73%	1.28 to 1
FOP	11%	0%	--
IAFF	11%	0%	--
Non-Represented	21%	27%	1.29 to 1

* This ratio shows the proportionality between each bargaining unit's share of position abolishments and that unit's representation in the workforce. A ratio greater than 1 to 1 indicates a higher than proportional share of abolishments; a ratio lower than 1 to 1 shows a lower than proportional share.

III. Filled Position Abolishments by Grade Range

In our memorandum for the April 19 MFP session, OLO showed the distribution of the County Government workforce sorted into four grade ranges: Grades 5 – 15; Grades 16 – 21; Grades 22 – 26; and Grades 27 and above.[1] Of the 12 additional filled position abolishments recommended by the Executive on April 22, nine are in Grades 5-15, and one each in the other three grade ranges.

The table below compares the overall compensation of the County Government workforce by bargaining with the distribution of filled position abolishments by bargaining unit. The data in the table combines the Executive's March 15 and April 22 recommendations. (This table updates Table 6 on © 26 of OLO's memorandum for the April 19 MFP session.)

<u>Finding</u>: Employees in Grades 26 and below account for 88% of the (non-public safety) workforce and comprise 87% of the proposed filled position abolishments. Employees in Grades 27 and above account for 12% of the (non-public safety) workforce and comprise 13% of the proposed filled position abolishments.

Workforce Composition and Distribution of Position FILLED Abolishments
Executive's March 15 and April 22 Recommendations Combined
By Grade Range

Bargaining Unit	Percent of Workforce[2] (a)	Percent of Position Abolishments (b)	Ratio (b) to (a)
Grade 5-15	33%	28%	.85 to 1
Grade 16-21	31%	36%	1.16 to 1
Grade 22-26	24%	23%	.96 to 1
Grade 27+	12%	13%	1.08 to 1

* This ratio shows the proportionality between each grade range's share of position abolishments and that grade range's representation in the workforce. A ratio greater than 1 to 1 indicates a higher than proportional share of abolishments; a ratio lower than 1 to 1 shows a lower than proportional share.

[1] Appointed officials, members of the Management Leadership Service, medical doctors, and some other management positions are not classified by numeric grade. For this exercise, OLO included these positions in the "Grade 27 and above" category.

[2] The data excludes represented public safety employees that are classified in different salary grade schedule than general County Government employees.

M E M O R A N D U M

April 27, 2010

TO: Management and Fiscal Policy Committee

FROM: Craig Howard, Legislative Analyst
Sarah Downie, Research Associate
Office of Legislative Oversight

SUBJECT: **School System Furloughs**

The consideration and use of furloughs by public school districts has expanded in recent months as a response to the economic downturn, and in many cases, to substantial state budget cuts to education.[1] This memorandum summarizes the common characteristics of furlough structures specific to local public school systems, and provides examples of the furlough structures and experiences of selected public school districts.[2]

OLO limited its research to local public school districts (K-12) that have implemented furloughs during FY09 or FY10, or have adopted furloughs for FY11; this memorandum does not include information on university systems subject to furloughs. Furlough information is provided for:

- Anne Arundel County Public Schools (Maryland);
- Gwinnett County Public Schools (Georgia);
- Fulton County School System (Georgia);
- Fayette County School System (Georgia);
- Lynwood Unified School District (California);
- Charleston County School District (South Carolina).
- Washoe County School District (Nevada);
- Brea Olinda Unified School District (California); and
- Elk Grove Unified School District (California).

[1] Turner, Dorie, "School Districts Across the County Furlough Teachers to Reduce Spending Amid Budget Cuts", Associated Press, September 1, 2009. http://www.baltimoresun.com.
[2] Some school district information in this memorandum was also included in the Addendum to OLO Report 2009-9, available on OLO's website at www.montgomerycountymd.gov/olo.

Characteristics of school system furloughs. OLO's research identified three common characteristics of furloughs specific to school systems that are summarized below.

- **Nearly all school districts reviewed included teachers as part of their furlough plan.** Exempting teachers substantially limits the savings achieved from a school system furlough, and most school systems are structuring furloughs to include instructional and non-instructional staff.

- **School districts have been able to implement furloughs without decreasing the number of student instructional days.** A common strategy among school furlough plans is to identify fixed furloughs on days originally scheduled as staff workdays when school is not in session, e.g., teacher planning days, staff development days. Some districts scheduled their furlough days to occur during the week(s) before the start of the new school year.

- **Approval and authority for the school district furloughs reviewed rests with the local school boards.** In all of the school districts reviewed, while furloughs may have been enacted due to funding cuts at the state or county level, the authority to adopt a final furlough plan for school employees rests with the school board. However, in some cases, state approval was required to reduce the number of teacher work days.

In addition, OLO found examples of some school districts that negotiated furloughs with employee unions, and others that imposed furloughs without any negotiated agreement. In some cases, unions agreed to furloughs under the condition that the school district avoid and/or rescind planned layoffs of union members.

Reduction in instruction days. A significant recent change in school furloughs is the authorization by some states for local school districts to enact furloughs that reduce student instruction days. The most prominent examples of this are in California and Hawaii.

School districts in California have been given authority by the State Legislature to reduce up to five student instruction days per school year through 2012-13.[3] As a result, many districts in California are considering or already have negotiated upcoming furloughs that will decrease student instruction days.[4] Examples of two California districts that have done so are summarized on page 7.

The State of Hawaii has a statewide school system, and reached agreements with employee unions, including teachers, to implement 17 furlough days in the 2009-10 and 2010-11 school years. As a result, Hawaii's school year is reduced from 180 to 163 instructional days, the shortest school year in the U.S. In response to pressure from parents and the Hawaii State Teachers Association, the Hawaii legislature is currently debating funding to decrease the number of furlough days that reduce student instruction.[5]

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[3] CA Education Code, § 46201.2
[4] "School Furloughs Leave Parents in a Lurch," *San Jose Mercury News*, April 26, 2010. http://www.mercurynews.com/bay-area-news/ci_14940293?source=rss
[5] "Hawaii's Fight Over Furloughs Heats Up," *Time*, April 15, 2010. http://www.time.com/time/nation/article/0,8599,1982331,00.html

Examples of furlough structures and experiences. This section provides examples of the structure and experiences of nine public school districts that are implementing furloughs.

1. Anne Arundel County Public Schools (Maryland)

Anne Arundel County Public Schools FY10 Furlough Plan	
Amount of Furlough Time	1 to 4 days (depending on job class); 2 days for teachers
Scheduling of Furlough Days	• Fixed furloughs days prior to and during school year • Specific days vary by job class • No furloughs taken on student instruction days
Employee Exemptions	Bus drivers and aides are exempt
Other Details of Note	• Salary loss spread out over the entire year • Paid holidays cannot be used as furlough days • Staff not authorized to report to work or work from home on furlough days • Staff received no COLA and no increments for FY10
Estimated Savings	$5 million

The furlough plan originally adopted by the Anne Arundel County School Board required between two and five furlough days. In November 2009, the Board voted to restore one furlough day for all employees, making the final number of furlough days required between one and four. The Board set the number of required furlough days by job class, with more senior and/or higher-paid employees incurring a higher number of furlough days.

The school system reports that it was able to give back the furlough day due to greater than anticipated savings from lapse and a hiring freeze on non-teaching positions.[6] While the school system originally estimated $7.7 million in savings from the furlough days, the overall savings were reduced by $2.5 million due to the furlough day restoration. Teacher furlough days in Anne Arundel were all taken on days previously designated as teacher workdays or staff development days when students were not in school.

[6] Anne Arundel Schools, http://www.aacps.org/html/press/postrelease/files/files887/Furloughdayrestoration11-4-09.pdf and "Anne Arundel School Employees Get Furlough Day Back," http://www.wbaltv.com/education/21523042/detail.html

2. Gwinnett County Public Schools (Georgia)

Gwinnett County Public Schools FY10 Furlough Plan	
Amount of Furlough Time	3 days
Scheduling of Furlough Days	• Fixed furlough days prior to and during the school year • Specific days differ for school- and non-school-based staff • No furloughs taken on student instruction days
Employee Exemptions	None
Estimated Savings	$12 million

Gwinnett County Public Schools (GCPS) implemented a three-day furlough of all employees in FY10. Teachers and school-based staff took the furlough days on teacher planning and staff development days. Non-school-based staff took the furloughs on staff development days and holidays. The GCPS Superintendent's recommended budget for FY11includes a proposal for three additional days of furlough for all staff except bus drivers and school nutrition staff.

3. Fulton County School System (Georgia)

Fulton County School System FY10 Furlough Plan	
Amount of Furlough Time	6 days
Scheduling of Furlough Days	• Fixed furloughs for teachers days • Fixed and rolling furlough days for non-teaching staff • No teacher furloughs taken on student instruction days
Employee Exemptions	None
Other Details of Note	• Salary loss spread out over three pay periods • Paid holidays cannot be used as furlough days
Estimated Savings	$15.8 million

The Fulton County Board of Education implemented six furlough days in FY10. An initial three day furlough was adopted in July 2009, with an additional three days adopted in February 2010. Teachers took furlough days during a pre-planning week before school started and on staff workdays that were not student instruction days. Non-teaching staff took furlough days on staff workdays or as determined by each employee's supervisor.

4. Fayette County School System (Georgia)

Fayette County School System FY09 and FY10 Furlough Plan	
Amount of Furlough Time	• FY09: 2 days • FY10: 3 days
Scheduling of Furlough Days	• FY09: Rolling furloughs days • FY10: Fixed furlough days prior to and during school year
Employee Exemptions	Teachers exempt from FY09 furlough; bus drivers and food service employees exempt from FY10 furlough
Estimated Savings	$2.3 million in FY10

The Fayette County Board of Education adopted furlough plans in both FY09 and FY10. In FY09, all non-contract staff (custodians, secretaries, maintenance staff, etc.) took two furlough days. In addition, administrative staff (superintendents, principals, etc.) were asked to take four or five voluntary furlough days. In FY10, all employees (except for bus drivers and food service workers) took three furlough days prior to the start of school and/or on staff workdays that were not student instruction days.

5. Lynwood Unified School District (California)

Lynwood Unified School District FY09 and FY10 Furlough Plans	
Amount of Furlough Time	• FY09: 4 days • FY10: 1 or 6 days
Scheduling of Furlough Days	Fixed and rolling furloughs days
Employee Exemptions	• FY09: Teachers exempt • FY10: None
Other Details of Note	• FY10 also includes a 3% reduction in pay for the employees with 1 furlough day. • For both years, furlough agreements with unions included promise to forgo or rescind employee layoffs

The Lynwood School Board enacted furlough plans in FY09 and FY10. In FY09, all employees except teachers took four furlough days. In FY10, the School Board came to an agreement with employee unions for teachers and administrators for a 3% salary reduction in FY10 along with one furlough day. The furlough day was taken on a pupil-free work day during the school year. The Board’s agreement with the remaining employee union (SEIU) did not include a salary reduction, but did require six furlough days. The six furlough days for these employees were scheduled as rolling days, requiring mutual consent of the employee and the supervisor.

6. Charleston County School District (South Carolina)

Charleston County School District FY09 Furlough Plan	
Amount of Furlough Time	4 days
Scheduling of Furlough Days	Fixed furloughs days during winter and spring break
Employee Exemptions	Teachers exempt
Other Details of Note	All non-exempt employees required to take mandatory furloughs, even if they had taken voluntary furlough days
Estimated Savings	$650,000

In FY09, the Charleston County School Board approved a furlough plan that applied only to 12-month positions (e.g., principals, district-based officials, maintenance and IT staff, etc.) and exempted teachers. All furlough days were taken during the district's spring break, previously scheduled as paid holidays.

7. Washoe County School District (Nevada)

Washoe County School District FY11 Furlough Plan	
Amount of Furlough Time	• 2 days for teachers • 1 to 3 days for non-teaching staff • 5 days for senior administrative staff • 10 days for superintendent
Scheduling of Furlough Days	• Fixed and rolling furloughs days, varies by position • All fixed days taken on non-student instruction days
Employee Exemptions	None
Other Details of Note	• Furloughs agreed to by all employee unions • FY11 also includes wage freeze for all employees
Estimated Savings	$3.3 million

The Washoe County School Board has approved a furlough plan for employees in FY11 in agreement with each of the school district's employee unions. The number of furlough days and when they will be taken vary by employee group. All fixed furlough days will be scheduled for professional development, holiday, or other non-student instruction days.

8. Brea Olinda Unified School District (California)

Brea Olinda Unified School District FY10-FY12 Furlough Plan	
Amount of Furlough Time	• FY10: 3 days • FY11: 8 days • FY12: 2 days
Scheduling of Furlough Days	• Fixed furlough days • Elimination of 8 student instruction days over the three school years • Remaining 5 days will be taken on teacher development or teacher prep days
Employee Exemptions	Classified employees (e.g., custodians, health clerks, librarians)
Estimated Savings	$1.2 million over three school years

In March 2010, the Brea Olinda School Board and Brea Olinda Teachers Association agreed to a furlough plan that will result in teachers taking 13 furlough days over FY10, FY11, and FY12. The Brea Olinda furlough plan will reduce student instruction days. Student instruction days will be reduced by two in FY10, five in FY11, and one in FY12. The school district has not reached an agreement for furlough days with its classified employee union, which includes custodians, health clerks, and librarians.

9. Elk Grove Unified School District (California)

Elk Grove Unified School District FY10 Furlough Plan	
Amount of Furlough Time	2 days
Scheduling of Furlough Days	Fixed days at the end of the school year, eliminating 2 student instruction days
Employee Exemptions	Certain non-instructional staff, such as custodial staff and bus drivers
Estimated Savings	$2.5 million

In April 2010, the Elk Grove School Board and the Elk Grove Education Association agreed to a two-day furlough in the current school year that will reduce student instruction days. School administrators, non-instructional managers, and other administrative support staff have also agreed to take the two furlough days. The district will use the estimated $2.5 million in savings to restore 29 counseling positions targeted for elimination in FY11. The school district is asking employees to take seven furlough days in FY11, but an agreement has not yet been reached with employee groups.

M E M O R A N D U M

May 5, 2010

TO: Management and Fiscal Policy Committee

FROM: Craig Howard, Legislative Analyst
Office of Legislative Oversight

SUBJECT: **Response to Committee Request for FY11 Alternative Furlough Scenarios**

This memorandum responds to the Management and Fiscal Policy Committee's April 29th request that OLO:

- Price additional furlough options of between five and ten days for all agencies; and
- Develop progressive furlough scenarios (i.e., differentiating the number of furlough days by salary level) for the amount of savings to be achieved from County Government.

As of May 5, 2010, the estimated FY11 tax supported savings from agency furlough proposals is $17.6 million. This includes the Executive's proposed FY11 furlough plan for certain County Government employees, and furlough plans being considered by M-NCPPC and Montgomery College to help close the gap between their original FY11 budget requests and the Executive's most recent recommended agency allocations.

So as not to double-count savings, the rest of this memorandum compares the furlough proposals already under consideration with estimated savings from furloughs that would include employees across County Government, M-NCPPC, Montgomery College, and Montgomery County Public Schools. In sum:

- A five-day furlough for all employees across all agencies could achieve an estimated $30.6 million in additional tax supported savings (see page 2);

- A seven-day furlough for all employees across all agencies could achieve an estimated $49.8 million in additional tax supported savings (see page 3); and

- A ten-day furlough for all employees across all agencies could achieve an estimated $78.7 million in additional tax supported savings (see page 4).

For each alternative structure, OLO includes a progressive option for County Government employees that achieves the same amount of savings but differentiates the number of required furlough days by three salary ranges: employees with salaries less than $50K, employees with salaries between $50K and $100K, and employees with salaries greater than $100K.

ALTERNATIVE #1: FIVE-DAY (40 HOURS) FURLOUGH SCENARIO FOR ALL AGENCIES

Compared to the current furlough proposals, a five-day furlough (or 40 hours) for all employees of County Government, M-NCPPC, Montgomery College, and MCPS would net an additional $30.6 million in tax supported savings.

Agency	Estimated Tax Supported Savings From:		Budget Change with Five-Day Furlough Plan
	Agency Furlough Proposals (as of 5/ 5)	Five-Day Furlough (no exempt employees)	
Montgomery County Government	$12.4 million[1]	$10.5 million	+ $1.9 million[3]
M-NCPPC	$2.2 million[2]	$1.1 million	+ $1.1 million
Montgomery College	$3.0 million[2]	$2.9 million	+ $100,000
Montgomery County Public Schools	None	$33.7 million	- $33.7 million
Total	$17.6 million	$48.2 million	**+ $30.6 million**

[1] The $12.4 million represents estimated tax supported savings from the Executive's FY11 furlough proposal. The $15.1 million total savings from the furlough cited in the Executive's budget includes $2.8 million in non-tax supported savings.

[2] The savings for M-NCPPC and Montgomery College represent estimated savings from furlough proposals currently under consideration by the agencies to meet the target reductions contained in the Executive's recommended budget.

[3] In addition to the +$1.9 million change for tax supported funds, the five-day furlough proposal would produce a +$1.4 million budget change for Montgomery County Government's non-tax supported funds.

ALTERNATIVE #1A: "FIVE-DAY" PROGRESSIVE SCENARIO FOR COUNTY GOVERNMENT

As shown in the table above, a five-day furlough for County Government would achieve $10.5 million in tax supported savings. This alternative shows one scenario for achieving the County Government "five-day" savings with a progressive structure that assigns more furlough days to higher-earning employees. This structure considers base salary only, and does not prorate the furlough for non-full-time employees.

County Government Progressive Structure		Estimated Savings
Salary <$50K:	3 days (24 hours)	$10.7 million
Salary $50-100K:	5 days (40 hours)	
Salary >$100K:	8 days (64 hours)	

ALTERNATIVE #2: SEVEN-DAY (56 HOURS) FURLOUGH SCENARIO FOR ALL AGENCIES

Compared to the current furlough proposals, a seven-day furlough (or 56 hours) for all employees of County Government, M-NCPPC, Montgomery College, and MCPS would net an additional $49.8 million in tax supported savings.

Agency	Estimated Tax Supported Savings From:		Budget Change with Seven-Day Furlough Plan
	Agency Furlough Proposals (as of 5/5)	Seven-Day Furlough (no exempt employees)	
Montgomery County Government	$12.4 million[1]	$14.7 million	- $2.3 million[3]
M-NCPPC	$2.2 million[2]	$1.5 million	+ $700,000
Montgomery College	$3.0 million[2]	$4.1 million	- $1.1 million
Montgomery County Public Schools	None	$47.1 million	- $47.1 million
Total	$17.6 million	$67.4 million	**+ $49.8 million**

[1] The $12.4 million represents estimated tax supported savings from the Executive's FY11 furlough proposal. The $15.1 million total savings from the furlough cited in the Executive's budget includes $2.8 million in non-tax supported savings.

[2] The savings for M-NCPPC and Montgomery College represent estimated savings from furlough proposals currently under consideration by the agencies to meet the target reductions contained in the Executive's recommended budget.

[3] In addition to the -$2.3 million change for tax supported funds, the seven-day furlough proposal would produce a +$800,000 budget change for Montgomery County Government's non-tax supported funds.

ALTERNATIVE #2A: "SEVEN-DAY" PROGRESSIVE SCENARIO FOR COUNTY GOVERNMENT

As shown in the table above, a seven-day furlough for County Government would achieve $14.7 million in tax supported savings. This alternative shows one scenario for achieving the County Government "seven-day" savings with a progressive structure that assigns more furlough days to higher-earning employees. This structure considers base salary only, and does not prorate the furlough for non-full-time employees.

County Government Progressive Structure		Estimated Savings
Salary <$50K:	5 days (40 hours)	$14.7 million
Salary $50-100K:	7 days (56 hours)	
Salary >$100K:	10 days (80 hours)	

ALTERNATIVE #3: TEN-DAY (80 HOURS) FURLOUGH SCENARIO FOR ALL AGENCIES

Compared to the current furlough proposals, a ten-day furlough (or 80 hours) for all employees of County Government, M-NCPPC, Montgomery College, and MCPS would net an estimated $78.7 million in tax supported savings.

Agency	Estimated Tax Supported Savings From:		Budget Change with Ten-Day Furlough Plan
	Agency Furlough Proposals (as of 5/5)	Ten-Day Furlough (no exempt employees)	
Montgomery County Government	$12.4 million[1]	$21.0 million	- $8.6 million[3]
M-NCPPC	$2.2 million[2]	$2.2 million	$0
Montgomery College	$3.0 million[2]	$5.8 million	- $2.8 million
Montgomery County Public Schools	None	$67.3 million	- $67.3 million
Total	$17.6 million	$96.3 million	**+ $78.7 million**

[1] The $12.4 million represents estimated tax supported savings from the Executive's FY11 furlough proposal. The $15.1 million total savings from the furlough cited in the Executive's budget includes $2.8 million in non-tax supported savings.

[2] The savings for M-NCPPC and Montgomery College represent estimated savings from furlough proposals currently under consideration by the agencies to meet the target reductions contained in the Executive's recommended budget.

[3] The ten-day furlough proposal would not produce any budget change for Montgomery County Government's non-tax supported funds.

ALTERNATIVE #3A: "TEN-DAY" PROGRESSIVE OPTION FOR COUNTY GOVERNMENT

As shown in the table above, a ten-day furlough for County Government would achieve $21.0 million in tax supported savings. This alternative shows one scenario for achieving the County Government "ten-day" savings with a progressive structure that assigns more furlough days to higher-earning employees. This structure considers base salary only, and does not prorate the furlough for non-full-time employees.

County Government Progressive Structure		Estimated Savings
Salary <$50K:	7 days (56 hours)	$21.3 million
Salary $50-100K:	10 days (80 hours)	
Salary >$100K:	15 days (120 hours)	