

# Economic Impact Statement

## Office of Legislative Oversight

### Bill 25-22

### Forest Conservation - Trees

#### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 25-22 would have an overall negative impact on economic conditions in the County in terms of the Council's priority indicators. By increasing the geographic scope and requirements for preservation, afforestation, and reforestation of the County's Forest Conservation Law, the Bill would increase capital and operating costs for certain property owners and developers undertaking development projects. To protect profit margins, certain property owners and developers likely would pass-through some portion of costs to certain buyers and commercial/residential tenants. While certain County-based nursery and landscaping companies may see increased demand, property owners and developers would also rely on companies based outside the County, thereby generating capital outflows.

#### BACKGROUND

##### Forest Conservation Law

Originally enacted in 1992, the County's Forest Conservation Law seeks "to save, maintain, and plant forested areas for the benefit of County residents and future generations."<sup>1</sup> To achieve this goal, the law subjects certain development projects to requirements that minimize tree loss because of development, protect trees and forests during and after construction or other land-disturbing activities, and establish forests on land previously forested ("reforestation") or land previously unforested ("afforestation").<sup>2</sup> The Montgomery County Planning Board is the agency responsible for implementing the law. To attain a development permit, property owners, government entities, and developers who are subject to the law must submit to the agency a Forest Conservation Plan (FCP) which outlines specific strategies for meeting these requirements on a development site.<sup>3</sup>

##### Bill Description

The goal of Bill 25-22 is to achieve "no net loss of forest" in the County, while allowing development to move forward.<sup>4</sup> The Bill would make many substantive and technical changes to the County's Forest Conservation Law. Through textual analysis of the Bill and correspondence with Planning staff, OLO has determined these changes generally fall into the following three categories:

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<sup>1</sup> Department of Environmental Protection, [Tree Laws, Programs and Committees](#).

<sup>2</sup> Ibid.

<sup>3</sup> Montgomery Planning, [Forest Conservation Plan](#).

<sup>4</sup> Montgomery Planning, [Staff Report: 'No Net Loss of Forest'](#).

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### 1. Increase the law's preservation, afforestation, and reforestation requirements

- a. by increasing the amount of forest required to be preserved in lower density land use categories, reforestation ratios, and incentives for reforestation/afforestation within the same watershed as the project or in a priority area for forest conservation;
- b. by broadening the terms of maintenance and management agreements to include required maintenance for areas of existing forest retained to meet forest mitigation requirements; and
- c. by expanding mitigation requirements for variance trees to include mitigation for variance trees located within a forest.

### 2. Expand the law's the geographic scope

- a. by requiring planting of forest in all unforested stream valley buffers; and
- b. by excluding activities in the Commercial Residential zone from qualifying for certain FCP exemptions and any development that occurs within an environmental buffer from qualifying for a FCP exemption.

### 3. Enhance the law's regulatory flexibility by allowing landscaping to meet reforestation and afforestation requirements in equity focus areas.

In addition, Bill 25-22 would amend the Forest Conservation Law by changing the timeline for approval of a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD); amending the requirements where forest retention required by the Forest Conservation Law is not possible; and, as required by the state, updating the allowable types of forest mitigation banks allowed in the County per recent amendment to the state's Forest Conservation Act.<sup>5</sup>

## INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess, both, the impacts of Bill 25-22 on residents and private organizations in terms of the Council's priority economic indicators and whether the Bill would have a net positive or negative impact on overall economic conditions in the County.<sup>6</sup> To do so, OLO limits its scope of analysis to assessing the impacts of the Bill's three primary changes to the Forest Conservation Law previously identified—that is, increasing the law's: (1) preservation, afforestation, and reforestation requirements; (2) geographic scope; and (3) regulatory flexibility.

To do so, OLO assesses how the Bill would impact various stakeholders—property owners and developers undertaking development projects, buyers and tenants of developed properties, nurseries, and landscaping companies—and whether the Bill's economic costs to some stakeholders would outweigh its economic benefits to others. The primary information

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<sup>5</sup> [Bill 25-22](#).

<sup>6</sup> Montgomery County Code, [Sec. 2-81B](#).

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sources for this analysis are OLO consultations with Planning staff and materials on the County's Forest Conservation Law and "no net loss of forest" initiative.<sup>7</sup>

## VARIABLES

The primary variables that would affect the economic impacts of enacting Bill 25-22 are the following:

- Number of development projects subject to the Forest Conservation Law;
- Capital expenses associated with purchasing and planting trees;
- Operating costs associated with managing and maintaining forests;
- Pass-through rates for affected projects; and
- Demand for County-based nurseries and landscaping companies.

## IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

### Businesses, Non-Profits, Other Private Organizations

OLO anticipates that enacting Bill 25-22 would have mixed, yet overall negative impacts on certain private organizations in the County in terms of several economic indicators prioritized by the Council.

**Property Owners and Developers:** The primary business group negatively affected by the Bill would be property owners and developers undertaking development projects subject to the changes to the Forest Conservation Law.

By increasing the law's preservation, afforestation, and reforestation requirements, the Bill likely would increase capital expenditures<sup>8</sup> associated with planting trees for projects that otherwise would have less stringent requirements in the absence of the change of law. Similarly, expanding the law's geographic scope likely would increase capital expenditures for projects that otherwise would have been exempt from certain planting requirements. Moreover, certain property owners and developers likely would experience higher operating costs due to increased maintenance for areas of existing forest retained to meet forest mitigation requirements.

To protect profit margins, property owners and developers likely would mitigate some portion of increased capital and operating costs through several means. First, they may reduce operating costs in other areas (i.e., labor). Second, they may pass on some portion of costs to contractors, buyers, or building tenants. Third, for projects with less tree loss on or near the site than otherwise would occur in the absence of the Bill, property owners and developers may be able to

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<sup>7</sup> See

<sup>8</sup> Capital expenses are "funds used by a company to acquire, upgrade, and maintain physical assets such as property, plants, buildings, technology, or equipment." Fernando, "[Capital Expenditure \(CapEx\)](#)."

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recover a portion of costs through higher property sales. Indeed, researchers have found increasing tree canopy cover in the vicinity of a property increases its value.<sup>9</sup> Fourth, for projects in equity focus areas, the option for landscaping to meet reforestation and afforestation requirements may offset any costs from the Bill.

**Buyers and Tenants:** The Bill likely would also negatively impact certain buyers and commercial tenants of properties. As noted above, property owners and developers who experience increased costs from the changes to the Forest Conservation Law likely would pass on some portion of the costs to future buyers and building tenants.

**Nurseries and Landscaping Companies:** The Bill likely would positively impact certain County-based nurseries and landscaping companies. Increasing the Forest Conservation Law's preservation, afforestation, and reforestation requirements and geographic scope likely would increase demand for these companies' goods and services. Holding all else equal, increased revenues would increase these entities' business incomes. Moreover, certain businesses may increase the size of their workforces to meet greater demand.

Beyond these potential impacts, OLO does not expect the Bill to affect private organizations in terms of the Council's other priority economic indicators.

## Residents

OLO anticipates that enacting Bill 25-22 would have mixed economic impact on certain residents in the County in terms of the Council's priority indicators. On the one hand, certain home buyers and tenants of residential buildings likely would be negatively affected from cost pass-throughs. On the other hand, certain nurseries and landscaping companies may hire residents and/or increase hours for resident employees.

Beyond this potential impact, OLO does not expect the Bill to affect residents in terms of the Council's other priority indicators.

## Net Impact

OLO anticipates that enacting Bill 25-22 would have a net negative impact on economic conditions in the County in terms of the Council's priority indicators. First, property owners and developers likely would be unable to pass on the total cost to businesses based outside the County. Thus, a significant portion of additional costs would be borne directly by property owners and developers and indirectly by other market actors based in the County through cost pass-throughs. Second, property owners and developers likely would not rely exclusively on nurseries and landscaping companies based in the County. Thus, the Bill would generate capital outflows.

Additionally, OLO notes the Bill likely would not reduce the County's competitiveness to surrounding jurisdictions with less stringent planting requirements. The reason being that the magnitude of the increased costs to property owners and

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<sup>9</sup> Li, et al, "[A comparison of the economic benefits of urban green spaces.](#)"

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developers likely would be a negligible share of the total cost of projects. However, increasing regulations may contribute to a reputation of the County being unfriendly to development.

## DISCUSSION ITEMS

Information and time constraints prevented OLO from performing a quantitative assessment of Bill 25-22's impact on development costs in the County. Councilmembers may want to consider whether the Montgomery County Planning Board or another agency should perform a quantitative assessment to better understand the economic implications of the Bill.

## WORKS CITED

Li, Wei, Jean-Daniel M. Saphores, and Thomas W. Gillespie. "[A comparison of the economic benefits of urban green spaces estimated with NDVI and with high-resolution land cover data.](#)" *Landscape and Urban Planning* 133 (2015): 105-117.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements.](#)

Montgomery County Council. [Bill 25-22, Forest Conservation – Trees.](#) Introduced on September 13, 2022.

Montgomerycountymd.gov. [Tree Laws, Programs and Committees.](#) Department of Environmental Protection.

Montgomeryplanning.org. [Forest Conservation Plan.](#) Montgomery Planning.

Montgomery Planning. [Staff Report: 'No Net Loss of Forest' Amendments to the Forest Conservation Law & Amendments.](#) April 14, 2022.

## CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

## CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.