

# Economic Impact Statement

Montgomery County, Maryland

## Bill 40-23

## Tree Canopy and Roadside Tree Requirements – Fee Revisions

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 40-23 would have a negative impact on economic conditions in the County in terms of the Council's priority economic indicators. The Bill would primarily impact property owners and developers who remove roadside trees in the County's right-of-way or receive a sediment control permit. By increasing the fees for the County's Roadside Tree Law and Tree Canopy Law, the Bill would increase operating expenses and lower business income for property owners and developers, holding all else equal. Moreover, the Bill would increase the total cost of complying with existing County regulations for businesses engaging in development activity. By doing so, the change in law may undermine the County's reputation as a "business-friendly" jurisdiction.

### BACKGROUND AND PURPOSE OF BILL 40-23

The County charges permittees a fee for removing every tree in the County's right-of-way or for development requiring a sediment control permit.

Under the County's Roadside Tree Law, permittees who remove a roadside tree in the County's right-of-way must pay a fee in the Street Tree Planting Fund, which is maintained by the Department of Transportation (DOT).<sup>1</sup> As of September 2013, the rate is \$250 per tree.

Under the Tree Canopy Law, any development activity that requires a property owner to acquire a sediment control permit and removes one or more trees must either plant new shade trees or pay a fee into the Tree Canopy Conservation Account.<sup>2</sup> In general, a sediment control permit is required if an activity:

- Disturbs more than 5,000 square feet of land including cutting trees;
- Constructs a new primary residential or commercial building; or
- Moves 100 cubic yards or more of earth on or off the property.<sup>3</sup>

The purpose of Bill 40-23 is to change the fee structures for the Street Tree Planting Fund and the Tree Canopy Conservation Account, as current fees do not rise with inflation and have been insufficient to cover the actual costs of tree planting and maintenance. For the Street Tree Planting Fund, the proposed fee for removing a tree in the County's right-of-way is \$450 per tree, with a biannual increase based upon inflation. For the Tree Canopy Conservation Account, the

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<sup>1</sup> "Introduction Staff Report on Bill 40-23, Tree Canopy and Roadside Tree Requirements – Fee Revisions."

<sup>2</sup> "Tree Canopy Law FY22 Annual Report."

<sup>3</sup> "Tree Laws, Programs and Committees."

proposed fee is \$470 per tree charged to applicants of the sediment control permit, with a biannual increase based upon inflation.<sup>4</sup>

The Council introduced Bill 40-23, Tree Canopy and Roadside Tree Requirements – Fee Revisions, on November 7, 2023.

## 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 40-23 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>5</sup>

This statement relies on the following sources of information:

- Climate Assessment for Bill 40-23
- Bill 35-12, Trees – Tree Canopy Conservation
- Montgomery County Tree Canopy Law, FY22 Annual Report

## VARIABLES

The primary variables that would affect the economic impacts of enacting Bill 40-23 are the following:

- Total area disturbed per year; and
- Total number of roadside trees removed.

## IMPACTS

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

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

OLO anticipates Bill 40-23 would have negative impacts on certain private organizations in the County in terms of the Council's priority economic indicators.

The Bill would primarily impact property owners and developers who remove roadside trees in the County's right-of-way or receive a sediment control permit. The current fee for the Street Tree Planting Fund and the Tree Canopy Conservation Account is \$250 per tree. The Bill would increase the fees by \$200 for the former (from \$250 to \$450) and by \$220 for the latter (from \$250 to \$470).

The magnitude of the increase in operating expenses depends on the formulas for each program. To illustrate, for the Tree Canopy Law, any development that requires a sediment control permit must either plant trees or pay for the planting of trees to the Tree Canopy Conservation Account, based on a formula that considers the square footage of area disturbed

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<sup>4</sup> "Introduction Staff Report on Bill 40-23, Tree Canopy and Roadside Tree Requirements – Fee Revisions."

<sup>5</sup> Montgomery County Code, Sec. 2-81B.

by development. As shown in **Table 1**, the Bill would increase the total fee from \$660 to \$3,300 based on the area disturbed.

**Table 1. Difference in Fees for the Tree Canopy Law**

<b>Area of the Limits of Disturbance (Sq. Ft.)</b>	<b>Number of Shade Trees Required</b>	<b>Current Fee Total (\$250)</b>	<b>Proposed Fee Total (\$470)</b>	<b>Difference</b>
1 – 6000	3	\$750	\$1,410	\$660
6001 – 8000	6	\$1,500	\$2,820	\$1,320
8,001 – 12,000	9	\$2,250	\$4,230	\$1,980
12,001 – 14,000	12	\$3,000	\$5,640	\$2,640
14,001 – 40,000	15	\$3,750	\$7,050	\$3,300

Importantly, if the area in the limits of disturbance exceeds 40,000 sq. ft, then the minimum number of shade trees required must be prorated using the ratio of 15 trees per 40,000 sq. ft. Thus, the total fee can increase by multiples of \$3,300.

By increasing the total fee, the Bill would increase operating expenses and lower business income for property owners and developers, holding all else equal. However, it is possible that property owners and developers would pass a portion of the additional cost onto buyers or tenants, which would increase costs for these actors.

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

## **Residents**

OLO anticipates that Bill 40-23 would have insignificant impacts on certain residents in the County in terms of the Council's priority economic indicators.

## **Net Impact**

OLO anticipates that Bill 40-23 would have an overall negative impact on economic conditions in the County in terms of the Council's priority economic indicators. By increasing the fees for the County's Roadside Tree Law and Tree Canopy Law, the Bill would increase operating expenses and lower business income for property owners and developers, holding all else equal. Moreover, the Bill would increase the total cost of complying with existing County regulations for businesses engaging in development activity. By doing so, the change in law may undermine the County's reputation as a "business-friendly" jurisdiction.

## **DISCUSSION ITEMS**

Not applicable

## WORKS CITED

“[Introduction Staff Report on Bill 40-23](#), Tree Canopy and Roadside Tree Requirements – Fee Revisions.” Montgomery County Council, November 7, 2023.

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

Montgomery County Council. [Bill 35-12, Trees – Tree Canopy Conservation](#).

“[Montgomery County Tree Canopy Law FY22 Annual Report](#).” Departments of Permitting Services and Environmental Protection, March 2023.

Office of Legislative Oversight. [Climate Assessment for Bill 40-21](#).

“[Tree Laws, Programs and Committees](#).” Department of Environmental Protection. Accessed November 13, 2023.

## 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.

## AUTHOR

Stephen Roblin (OLO) prepared this report.