

Racial Equity and Social Justice (RESJ) Impact Statement

BILL 43-20: NON-MERIT EMPLOYEES - MERIT SYSTEM EMPLOYEES- SEVERANCE PAY - LIMITED

SUMMARY

The Office of Legislative Oversight (OLO) expects Bill 43-20 to have a minimal impact on racial equity and social justice among Montgomery County Government (MCG) employees and the County at large.

BACKGROUND

The County Council introduced Bill 43-20 on September 29, 2020. The bill intends to "end the practice of using taxpayer dollars to compensate public employees in an unregulated and often undisclosed fashion."¹ If enacted, the bill would:

- Prohibit severance pay for a County employee unless authorized by law;
- Prohibit severance pay for certain employees who violate the Ethics Law;
- Provide for certain exceptions; and
- Generally, amend the law governing severance pay for County employees.²

DEMOGRAPHIC DATA

Understanding the impact of Bill 43-20 on racial equity and social justice in the County requires understanding the demographics of the County's workforce as compared to residents. There are four major categories of MCG employees:

- **Seasonal and temporary employees** that include lifeguards, camp counselors, cashiers and front-desk staff. Seasonal employees earn the minimum wage; temporary employees can work for up to 1,040 hours annually.
- **Permanent merit employees** covered by the Merit Protection Board, including administrative support, service/maintenance, technicians, paraprofessionals, protective service workers and professionals.
- **Management Leadership Service employees** that represent the subset of permanent, merit employees that serve as managers and administrators in the Legislative and Executive Branches.
- **Non-merit, appointed employees** who account for the senior-most positions in the Montgomery County government. They include department directors, senior advisors, and confidential aides.

An analysis of data (Table 1) comparing the demographics of County residents to MCG personnel shows that:

- Black employees are over-represented among permanent merit employees and among employees who left County government compared to their residents' share, but they are proportionately represented in the MLS.
- White employees are under-represented among permanent merit employees and among employees who left County government compared to their resident share,³ but over-represented in the MLS.

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- Latinx and especially Asian employees are under-represented among every MCG employee group and among employees who left County government compared to their resident populations.⁴

Table 1: Montgomery County Residents, Government Workforce, and Turnover by Race and Ethnicity

| Race and Ethnicity | County Residents | Permanent Merit Employees | Management Leadership Service | Non-Merit (Appointed) Employees | Merit Employee Turnover |
|---------------------|------------------|---------------------------|-------------------------------|---------------------------------|-------------------------|
| White | 55% | 48% | 64% | 37% | 46% |
| Black | 21% | 27% | 19% | 9% | 32% |
| Latinx | 20% | 11% | 6% | 6% | 10% |
| Asian | 17% | 7% | 6% | 3% | 6% |
| Other/Non-Reported | 11% | 8% | 5% | 46% | 6% |
| Total Number | 1,050,688 | 9,381 | 396 | 89 | 661 |

Sources: American Community Survey, 2019; Montgomery County Personnel Management Review, 2020; and Montgomery County Office of Human Resources Unpublished Data on Non-Merit Positions, 2020

The over-representation of Black employees among non-managerial positions and the over-representation of White employees among managerial positions are consistent with the occupational segregation that characterizes the U.S. workforce.⁵ It's unclear whether occupational segregation by race and ethnicity characterizes non-merit, appointed positions in the County because nearly half of employees in these positions (46%) did not disclose their race or ethnicity or selected "Other." However, the racial and ethnic makeup of MLS employees suggests that White employees are also over-represented among the 89 non-merit positions that would most be impacted by Bill 43-20 if enacted.

ANTICIPATED RESJ IMPACTS

Montgomery County Employees: Since the racial and ethnic makeup of non-merit employees remains unknown, the RESJ impact of Bill 43-20 remains undetermined. An analysis of MLS demographics, however, suggests that White employees are likely to be disproportionately impacted by the proposed changes to County law under Bill 43-20 because they likely account for a majority of non-merit employees.⁶ Yet, since non-merit employees account for less than one percent of MCG's overall workforce, the overall impact of Bill 43-20 on the MCG workforce is negligible.

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis relies on several sources of information, including: the American Community Survey;⁷ Montgomery County Management Personnel Management Review;⁸ Montgomery County Non-Merit Demographics;⁹ and OLO economic impact statement Bill 43-20.¹⁰

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RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequalities are warranted in developing RESJ impact statements.¹¹ If the goal of Bill 43-20 was to limit disparities in permanent employment, OLO could offer such amendments. The purpose of Bill 43-20, however, is not to decrease racial and social inequities in the County. As such, this RESJ impact statement does not offer recommended amendments for Bill 43-20.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than 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.

¹ Memorandum, Bill 43-20, Non-Merit Employees – Merit System Employee – Severance Pay – Limited, September 24, 2020, Montgomery County Council.

² Montgomery County Council, Bill 43-20, Non-merit Employees-merit System Employees, Severance Pay-Limited, Introduced on September 29, 2020, Montgomery County, Maryland.

³ White MCG employees, however, are proportionately represented among those leaving County government compared to their share of permanent merit employees (46% v. 48%).

⁴ Latinx MCG employees, however, are proportionately represented among those leaving County government compared to their share of permanent merit employees (10% v. 11%).

⁵ Equitable Growth, U.S. Occupational Segregation by Race, Ethnicity, and Gender, July 2020 <https://equitablegrowth.org/wp-content/uploads/2020/07/063020-occup-seg-fs.pdf>

⁶ Montgomery County Personnel Management Review, April 2020 <https://www.montgomerycountymd.gov/HR/Resources/Files/Classification/Compensation%20Documents/PMR%202020%2004072020.pdf>

⁷ American Community Survey Demographic and Housing Estimates, Montgomery County, Maryland, 2019 (1 Year Estimates) Table DP05 <https://data.census.gov/cedsci/table?q=montgomery%20county%20maryland&tid=ACSDP1Y2019.DP05&hidePreview=true>

⁸ Montgomery County Personnel Management Review, April 2020

⁹ Unpublished data from Office of Human Resources shared with OLO on October 10, 2020

¹⁰ Stephen Roblin, Bill 43-20 Legislative Branch- Economic Impact Statement, Office of Legislative Oversight, October 2020.

¹¹ Montgomery County Council, Bill No. 27-19 Racial Equity and Social Justice, Effective on March 2, 2020, Montgomery County, Maryland.