

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 17-23: TAXATION – RECORDATION TAX RATES – AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 17-23 will have a positive impact on racial equity and social justice (RESJ) in the County through increasing funding for rent assistance programs that will disproportionately benefit Black, Latinx, and lower-income tenants. Rent assistance will support increased housing stability for benefitting tenants, which will likely encourage positive outcomes across multiple areas of well-being. On the other hand, the RESJ impact of increased Capital Improvements Program (CIP) funding for government and Montgomery County Public Schools (MCPS) projects through Bill 17-23 is indeterminant. As such, OLO cannot estimate the overall size of the RESJ impact of this Bill. Of note, the positive RESJ impact of this Bill relies on the assumption that additional revenue raised by the tax will be spent specifically to supplement and not replace current funding of rental assistance.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 17-23

A recordation tax is an excise tax imposed by certain states, including Maryland, as compensation for registering the purchase or sale of property as public record.³ The tax applies to the principal amount of debt secured by a mortgage or deed of trust when a house or building is being purchased. When a mortgage is refinanced, the tax applies to the amount of the principal debt that is greater than the principal remaining on the original debt.⁴

Bill 17-23 proposes to increase the recordation tax rate levied under state law for certain transactions and allocate revenue received from the recordation tax for capital improvements and for rent assistance programs through the Montgomery Housing Initiative Fund (HIF). Specifically, the Bill proposes:⁵

- Increasing the rate of the “school increment” from \$2.37 to \$3.79 for each \$500 of the secured debt amount. The school increment funds can be used for any MCPS capital project;
- Increasing the rate of the “Recordation Tax Premium” from \$2.30 to \$3.45 for each \$500 on the secured debt amount, only if it is over \$500,000. The proceeds are split equally – half is allocated to County government capital projects and the other half is for rent assistance for low- and moderate-income households; and
- Adding a new premium rate of \$1.15 for each \$500 on the secured debt amount, only if it is over \$1,000,000. The proceeds would be split equally – half would be allocated to County government capital projects and the other half to rent assistance for low- and moderate-income households.

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Bill 17-23, Taxation – Recordation Tax Rates – Amendments, was introduced by the Council on March 21, 2023.

TAX POLICY AND RACIAL EQUITY

In FY23, taxes comprised nearly 70 percent, or \$4.4 billion, of County revenues, funding essential services ranging from public schools and parks to health and human services and transportation.⁶ Taxes are fundamental, and the policies that shape them have been a strong conduit for embedding racial inequities throughout society. As explained by the Colorado Fiscal Institute, government policies and actions advantaging White people while suppressing Black, Indigenous, and Other People of Color (BIPOC) created an environment where “state and local budget and tax policies often deepened the profound challenges that people [of color] faced even when those tax policies were not explicitly race-based.”⁷

In *The Color of Law*, Richard Rothstein’s analysis of how local governments “extracted excessive taxes” from Black residents through inequitable property tax assessments illustrates how tax policies can exacerbate racial inequities. Among other evidence, he cites a 1973 study of ten large U.S. cities, including Baltimore, by the Department of Housing and Urban Development. The study found a “systematic pattern of overassessment in low-income African American neighborhoods, with corresponding underassessment in [W]hite middle-class neighborhoods.” Rothstein explains that higher property taxes contributed to the deterioration of Black neighborhoods through leaving families with less money for home maintenance, forcing families to double up to afford tax payments, and causing families to altogether lose their homes to tax-lien reposessions.⁸

Today, tax policies continue to exacerbate racial inequities. For instance, because of government policies and practices that created the racial wealth gap,⁹ White families disproportionately benefit from the lack of taxation on wealth in the U.S.¹⁰ Further, a study published in 2020 of 118 million homes in the U.S. suggests that discrimination in local property tax assessments persists. The study found that, within the same local jurisdiction, Black and Latinx homeowners paid a 10 percent to 13 percent higher tax rate on average compared to White homeowners. This amounts to an extra \$300 to \$400 annually in property taxes for the median Black and Latinx homeowner.¹¹ A 2021 report from WUSA9 documented how residents of a historically Black neighborhood in D.C. were being strained by property tax assessments amid gentrification of the neighborhood.¹²

Just as tax policies have played a key role in entrenching racial inequities, they can play a central role in undoing them. The Institute on Taxation and Economic Policy (ITEP) offers the following general recommendations for state and local governments to advance racial equity through tax policy:¹³

- Ensure the wealthy pay their fair share by structuring a progressive tax code free of special treatment for people with high incomes or wealth.
- Improve the financial standing of low-income families with targeted, refundable credits.
- Reduce reliance on fees and fines by shifting toward progressive revenue sources at the state and local levels.
- Create adequate, sustainable revenue levels to support the public services and institutions essential to building broadly shared prosperity.

Equitable tax policies can also be crafted for specific taxation methods. For instance, the Urban Institute offers recommendations for developing equitable property tax assessments.¹⁴

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ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 17-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

To answer these questions, OLO considered the various stakeholders that would be impacted by an increase in the recordation tax and RESJ concerns for each group:

- **Potential homebuyers, current homeowners, and other stakeholders** would face higher costs to purchase or refinance a home or building in the County. With respect to homes, White and Asian people are more likely to be homeowners in the County, as evidenced by existing disparities in homeownership rates (Table 1, Appendix). Table 2 (Appendix) lists the median net worth of Washington Metropolitan Area households by race and ethnicity, as estimated by the Urban Institute from 2014 survey data. This data suggests that Black and Latinx households have low levels of wealth available to make a major purchase, in contrast to White and Asian households. Census data suggests White and Asian constituents also have higher median incomes, further implying homeownership is more attainable for these households (Table 3, Appendix).
- **County constituents, government employees and other stakeholders using government facilities** would benefit from increased CIP funding for County government capital projects, including transportation, public safety, libraries, recreation, and general government projects.¹⁵ Council staff estimates Bill 17-23 would increase funding for FY23-28 government CIP projects by \$59 million over six years.¹⁶

OLO considered cumulative funding for County government projects in the approved FY23 CIP budget to understand whether certain communities could benefit more from increased funding. Table 4 (Appendix) contains the demographics of the former Council districts referenced in the FY23 CIP budget. However, Table 5 (Appendix) demonstrates that most funding (54.1 percent or \$3.5 billion) for government projects was not identifiable by district. Thus, it is unclear whether the increased CIP funding for government projects would particularly benefit stakeholders in districts where BIPOC or White constituents are overrepresented.

- **Students, staff and other MCPS stakeholders** would benefit from increased funding for MCPS capital projects. Council staff estimates Bill 17-23 would increase funding for FY23-28 MCPS CIP projects by \$202 million over six years.¹⁷

OLO considered cumulative funding for MCPS projects in the approved FY23 CIP budget to understand whether certain communities could benefit more from increased funding. Table 6 (Appendix) demonstrates that for the FY23 approved CIP, most funding (41.8 percent or \$1.7 billion) for MCPS projects was not identifiable by district. Thus, it is unclear whether the increased CIP funding for MCPS would particularly benefit stakeholders in districts where BIPOC or White constituents are overrepresented.

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- **Low- to moderate-income tenants** would benefit from increased funding for rent assistance programs. Council staff estimates Bill 17-23 would increase funding for rent assistance programs by \$59 million over six years.¹⁸

Census data in Table 7 (Appendix) suggests Black and Latinx households could disproportionately benefit from increased rent assistance, as they are overrepresented among renter households. Further, the median household income of renter households in the County was \$72,005 compared to \$117,345 for all households in the County, suggesting that lower-income residents could also primarily benefit from increased rent assistance.¹⁹ Rent assistance supports housing stability for tenants,²⁰ which in turn promotes education, economic security, and health.²¹

Taken together, OLO anticipates Bill 17-23 will have a positive impact on RESJ in the County through increasing funding for rent assistance programs that will disproportionately benefit Black, Latinx, and lower-income tenants. Rent assistance will support increased housing stability for benefitting tenants, which will likely encourage positive outcomes across multiple areas of well-being. On the other hand, the RESJ impact of increased CIP funding for government and MCPS projects through Bill 17-23 is indeterminant. As such, OLO cannot estimate the overall size of the RESJ impact of this Bill. Of note, the positive RESJ impact of this Bill relies on the assumption that additional revenue raised by the tax will be spent specifically to supplement and not replace current funding of rental assistance.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²² OLO anticipates Bill 17-23 will have a positive impact on RESJ, with some components having an indeterminant impact. As such, OLO does not offer recommended amendments. However, should the Council seek to improve the RESJ impact of this Bill, the following item can be considered:

- **Comprehensive equity review of the CIP.** To have a more accurate understanding of the RESJ impact of CIP projects, the Council could consider commissioning a comprehensive equity review of the CIP, as previously recommended for Expedited Bills 15-22, 16-22, and 19-22.²³

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 impact 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.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

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APPENDIX

Table 1: Homeownership Rates by Race and Ethnicity, Montgomery County

Race and Ethnicity ²⁴	Homeownership Rate
All	65.7
Asian	69.1
Black	43.3
White	77.1
Latinx	54.3

Source: Table S0201, 2021 American Community Survey 1-Year Estimates, Census Bureau.

Table 2: Household Median Net Worth by Race and Ethnicity, Washington Metropolitan Area

Race and ethnicity	Median Net Worth
White	\$284,000
Black, US	\$3,500
Black, African	\$3,000
Latinx	\$13,000
Chinese	\$220,000
Korean	\$496,000
Vietnamese	\$423,000
Asian Indian	\$573,000

Source: Urban Institute, “The Color of Wealth in the Nation’s Capital” (adapted from Table 12)

Table 3: Median Household Income by Race and Ethnicity, Montgomery County, Maryland

Race and ethnicity	Median Household Income
All	\$117,345
Asian	\$128,746
Black	\$82,835
Native American	\$95,129
White	\$139,371
Latinx	\$85,910

Source: Table S1903, 2021 American Community Survey 5-Year Estimates, Census Bureau.

Table 4: Resident Demographics by Council District²⁵

District	% White	% Black	% Latinx	% Asian
Countywide	45.9	17.3	18.6	14.5
District 1	71.5	4.8	8.5	12.0
District 2	40.1	19.0	19.2	18.2
District 3	45.8	12.2	18.8	19.5
District 4	38.6	18.5	26.4	12.7
District 5	33.2	32.4	20.2	10.2

Source: 2016 Demographic Profile of Council Districts.

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Table 5: Total Cost of FY23 Government CIP Projects* by Council District

District	Total Cost (in thousands)	Total Cost (%)
Countywide	\$3,541,096	54.1
District 1	\$751,004	11.5
District 2	\$515,884	7.9
District 3	\$622,709	9.5
District 4	\$505,127	7.7
District 5	\$613,875	9.4

*Includes culture and recreation, general government, public safety, and transportation projects

Source: Montgomery County Office of Management and Budget via Open Budget.

Table 6: Total Cost of FY23 MCPS CIP Projects by Council District

District	Total Cost (in thousands)	Total Cost (%)
Countywide	\$1,697,735	41.8
District 1	\$593,069	14.6
District 2	\$523,296	12.9
District 3	\$390,571	9.6
District 4	\$405,734	10.0
District 5	\$451,107	11.1

Source: Montgomery County Office of Management and Budget via Open Budget.

Table 7: Percent of All Households and Renter-Occupied Households by Race and Ethnicity, Montgomery County, MD

Race and ethnicity	All Households	Renter-Occupied Households
Asian	14.4	12.2
Black	18.0	30.0
Native American	0.3	0.3
Pacific Islander	0.1	0.1
White	55.0	40.5
Latinx	14.3	18.8

Source: Table S2502, 2021 American Community Survey 5-Year Estimates, Census Bureau.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.raciaequitytools.org/glossary>

² Ibid

³ Maryland Tax – Property Code §§12-101 to 12-118,

<https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gtp§ion=12-108&enactments=false>

⁴ Introduction Staff Report for Bill 17-23, Montgomery County Council, March 21, 2023.

https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2792_1_24860_Bill_17-2023_Introduction_20230321.pdf

⁵ Ibid

⁶ FY23 Approved Revenues, Montgomery County Open Budget.

<https://apps.montgomerycountymd.gov/basisoperating/Common/BudgetRevSnapshot.aspx>

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⁷ Structural Racism and State Tax Policy: A Walk through History, Colorado Fiscal Institute. <https://www.coloradofiscal.org/wp-content/uploads/2020/02/Posters-for-Racist-Roots.pdf>

⁸ Richard Rothstein, *The Color of Law*, pages 169-172 (Liveright, 2017)

⁹ “Turning the Floodlights on the Root Causes of Today’s Racialized Economic Disparities,” Federal Reserve Bank of Boston, December 2020. <https://www.bostonfed.org/publications/community-development-field-notes/2020/racialized-economic-disparities.aspx>

¹⁰ Shaun Harrison, “How Inequities in U.S. Taxation Can Perpetuate Systemic Racism,” Washington Center for Equitable Growth, April 20, 2021. <https://equitablegrowth.org/how-inequities-in-u-s-taxation-can-perpetuate-systemic-racism/>

¹¹ Carlos Fernando Avenancio-Leon and Troup Howard, “Misvaluations in Local Property Tax Assessments Cause the Tax Burden to Fall More Heavily on Black, Latinx Homeowners,” Washington Center for Equitable Growth, June 10, 2020. <https://equitablegrowth.org/misvaluations-in-local-property-tax-assessments-cause-the-tax-burden-to-fall-more-heavily-on-black-latinx-homeowners/>

¹² Diego Mendoza, How Rising Property Taxes are Disproportionately Impacting Low-Income, Gentrified Neighborhoods,” WUSA9, August 13, 2021. <https://www.wusa9.com/article/news/local/dc/rising-property-taxes-disproportionately-impact-low-income-gentrified-neighborhoods/65-3851f7b5-f2aa-415f-8880-d19e44122618>

¹³ Carl Davis and Meg Wiehe, “Taxes and Racial Equity,” ITEP, March 31, 2021. <https://itep.org/taxes-and-racial-equity/>

¹⁴ Caitlin Young, “What Policymakers Need to Know about Racism in the Property Tax System,” The Urban Institute, March 15, 2023. <https://housingmatters.urban.org/articles/what-policymakers-need-know-about-racism-property-tax-system>

¹⁵ Specific government projects confirmed by Council staff

¹⁶ Introduction Staff Report for Bill 17-23

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Table S2503, Financial Characteristics, 2021 American Community Survey 5-Year Estimates, Census Bureau.

²⁰ Will Fischer, et. al, “Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families,” Center on Budget and Policy Priorities, December 5, 2019. <https://www.cbpp.org/research/housing/research-shows-rental-assistance-reduces-hardship-and-provides-platform-to-expand>

²¹ “Promoting Mental Health Through Housing Stability,” Office of Policy Development and Research, U.S. Department of Housing and Urban Development, May 31, 2022. <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-053122.html>

²² Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

²³ Racial Equity and Social Justice Impact Statement for Expedited Bill 19-22, Office of Legislative Oversight, Montgomery County, Maryland, June 29, 2022. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2022/Bille19-22.pdf>

²⁴ Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups throughout this impact statement, unless where otherwise noted. Estimates for Native American and Pacific Islander constituents not available for all data points presented in impact statement.

²⁵ Latinx people are not included in other racial groups within this table.