GO/T&E ITEM 1
May 1, 2014
Worksession

MEMORANDUM

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

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

SUBJECT: **Worksession:** Resolutions to amend fuel-energy tax rates

The Council introduced a resolution to amend the fuel-energy tax rates on April 1, 2014, sponsored by Councilmembers Berliner and Andrews. The proposal would revise the tax rates to reduce the projected revenue received from the 2010 increase in the tax rates by 10%, with an estimated revenue loss of $11.5 million.

In his FY15 Recommended Operating Budget, the County Executive recommended continuing the fuel-energy tax rates set last year for FY14. The Executive's budget estimated $217.2 million in fuel-energy tax revenue in FY15.

At the public hearing on the resolution, held on April 22, speakers represented the County Executive, the Bethesda-Chevy Chase Chamber of Commerce, the Silver Spring Chamber of Commerce, the Apartment and Office Building Association of Metro Washington (AOBA), the Montgomery County Education Association (MCEA), and UFCW Local 1994 (MCGEO). See testimony, ©8-21. The Chambers of Commerce and AOBA recommended reducing the tax rates as proposed if the entire 2010 increase is not repealed. Representatives of the Executive, MCEA, and UFCW recommended retaining the current rates.

Fuel-energy Tax Rates – Recent History

The fuel-energy tax is imposed on suppliers of electricity, fuel oil, gas, steam, or liquefied petroleum gas. It is based on the quantity of energy supplied, not on changes in the price of the energy product. (For details, see County Code §52-14.) The tax is paid by the supplier, who will generally pass it on to its customers; for regulated electricity and natural gas suppliers, the state Public Service Commission approves this pass-through. Separate rates are set by Council resolution for residential/agricultural and commercial "categories of final consumption", as §52-14 allows.

In his FY11 Recommended Operating Budget, the County Executive proposed a large increase to the fuel-energy tax rates to help raise revenue in the County's fiscal crisis. The Executive eventually proposed raising the tax rates 100% beginning May 1, 2010 (before the start of FY11) and letting the increase sunset at the end of FY12. Ultimately, the Council in 2010 increased the fuel-energy tax rates for FY11 by a lower amount than the Executive recommended – raising 85% of the Executive's recommended revenue from the tax increase – an additional $110 million. The FY11 rate increase followed rate increases in 2008, 2005, 2004, and 2003.

In both FY13 and FY14, the County Executive recommended not carrying out his proposal to sunset the FY11 tax rate increases and instead indefinitely retaining the current rates. In both years, the Council instead reduced the tax rates. The rates for residential suppliers decreased by about 6% in FY13 and 7.5% in FY14. The rates for non-residential suppliers decreased by about 4% each year.

Current Proposal

In his FY15 Recommended Operating Budget, the Executive estimated $217.2 million in revenue from the fuel-energy tax. Currently, the fuel-energy tax is the County's third largest source of tax revenue, following the income tax ($1.3 billion) and property tax ($1 billion).

The resolution introduced by Councilmembers Berliner and Andrews would reduce the revenue produced by the 2010 rate increase by 10%, an estimated $11.5 million revenue decrease in FY15. This decrease would reduce rates by approximately 7% for residential suppliers and 4% for non-residential suppliers.

If the Council implements this rate decrease, the Council will have reduced revenue from the FY11 increase by 30% over three years, or approximately $34 million.

Issues/Options

1) How much revenue should the fuel-energy tax produce in FY15? In his FY15 Recommended Operating Budget, the County Executive proposed no change to the fuel-energy tax rates set by the Council last year. The Executive's budget projected $217.2 million in fuel-energy tax revenue in FY15, a 3% increase from the FY14 budgeted revenue of $210.7 million.

The resolution before the Council would lower the revenue received from the 2010 rate increases by reducing the tax rates. The proposal would reduce the revenue from the FY11 tax increase by $11.5 million or 10% (reducing the overall revenue from this tax by 5.3% from the Executive's projection).

2) How should the energy tax revenue be allocated? In FY10, 27% of total revenue from the fuel-energy tax came from residential suppliers and 63% came from commercial suppliers. After the Executive proposed increasing the tax rates for FY11, the Council adjusted the rates so that the revenue *from the rate increase* came equally from residential and commercial suppliers – resulting in a higher percentage rate increase for residential customers (a 155% rate increase) than commercial suppliers (a 60% rate increase). This change reallocated the tax burden between residential and commercial suppliers, increasing the residential share from 27% to 37% of total revenue.

When the Council lowered the tax rates in FY13 and FY14, the Council changed the rates to split the revenue reduction in the same way it had increased the revenue in FY11 – evenly between residential and commercial suppliers. Compared to the previous rates, the changes reduced residential rates by 6% in FY13 and 7.5% in FY14 and commercial rates by 4% each year.

Chambers of Commerce continue to express concerns about the larger percentage of fuel-energy tax revenue generated from commercial sources and its effect on local businesses and the County's economic development goals.

This packet contains:	**Circle #**
Resolution	1
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Resolution No.: ____________
Introduced: April 1, 2014
Adopted: ____________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner and Andrews

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 April 22, 2014.

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, 2014, the fuel/energy tax rates levied under Section 52-14 of the County Code are specified on Schedule A, attached to this resolution.

2. This Resolution supersedes Resolution 17-774.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

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SCHEDULE A (effective July 1, 2014)

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

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	0.01080
Natural Gas (per therm)	0.09300
Steam (per therm)	0.12147
Coal (per ton)	27.50410
Fuel oil (per gallon)	
No. 1	0.13328
No. 2	0.13826
No. 3	0.13826
No. 4	0.14150
No. 5	0.14423
No. 6	0.14747
Liquefied petroleum gas (per pound)	0.02010

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

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	0.01952
Natural Gas (per therm)	0.16806
Steam (per therm)	0.22036
Coal (per ton)	49.89229
Fuel oil (per gallon)	
No. 1	0.24084
No. 2	0.24984
No. 3	0.24984
No. 4	0.25570
No. 5	0.26064
No. 6	0.26650
Liquefied petroleum gas (per pound)	0.03632

SCHEDULE C-2

Revenues Detailed By Agency

	Actual FY13	Budget FY14	Estimated FY14	Recommended FY15	% Chg Bud/Rec
Special Funds Non-Tax Supported	78,296	550,000	550,000	550,000	—
Enterprise Funds Non-Tax Supported	15,143,815	13,731,684	13,293,880	13,451,825	-2.0%
TOTAL M-NCPPC	***125,576,127***	***123,289,886***	***123,077,340***	***128,743,764***	***4.4%***
OTHER					
SUMMARY					
GRAND TOTAL ALL FUNDS/AGENCIES	**4,767,026,188**	**4,832,218,927**	**4,924,037,319**	**4,946,372,974**	**2.4%**

SCHEDULE C-3

Revenues Detailed By Agency, Fund and Type

	Actual FY13	Budget FY14	Estimated FY14	Recommended FY15	% Chg Bud/Rec
TAX SUPPORTED					
MONTGOMERY COUNTY GOVERNMENT					
County General Fund					
Taxes					
Admissions Tax	3,178,502	3,043,200	3,118,400	3,212,000	5.5%
County Income Tax	1,317,533,090	1,299,191,344	1,365,884,524	1,340,644,366	3.2%
Energy Tax	223,948,716	210,727,982	215,790,000	217,215,000	3.1%
Hotel/Motel Tax	18,910,872	17,752,800	16,857,688	17,512,115	-1.4%
Property Tax	1,036,500,610	1,091,892,294	1,093,529,472	1,095,361,328	0.3%
Real Property Transfer Tax	84,391,394	85,730,000	94,210,000	97,880,000	14.2%
Recordation Tax	57,635,661	56,597,874	57,230,816	62,814,266	11.0%
Telephone Tax	45,696,525	45,126,000	52,640,212	47,833,000	6.0%
TOTAL TAXES	***2,787,795,370***	***2,810,061,494***	***2,899,261,112***	***2,882,472,075***	***2.6%***
Licenses & Permits					
Clerk of the Court Business Licenses	62,069	215,000	215,000	215,000	—
Electrical Licenses and Permits	-20	0	0	0	—
Hazardous Materials Permits	902,171	800,000	800,000	800,000	—
Health Inspection: Restaurants	1,696,121	1,580,540	1,808,680	1,808,680	14.4%
Health Inspections: Living Facilities	246,660	234,370	240,730	240,730	2.7%
Health Inspections: Swimming Pools	500,571	535,165	501,220	501,220	-6.3%
Landlord-Tennant Fees	4,801,435	4,830,000	4,830,000	4,988,040	3.3%
Marriage Licenses	318,044	353,100	353,100	353,100	—
New Home Builder's License	163,415	134,000	134,000	134,000	—
Pet Licenses	310,495	395,700	395,700	1,251,707	216.3%
Residential Parking Permits	206,636	216,580	200,000	200,000	-7.7%
Trader's License	232,751	780,000	780,000	780,000	—
Other Licenses/Permits	263,395	207,215	208,920	213,920	3.2%
TOTAL LICENSES & PERMITS	***9,703,743***	***10,281,670***	***10,467,350***	***11,486,397***	***11.7%***
Charges for Services					
Alternative Community Services	418,088	490,100	442,900	440,000	-10.2%
Board of Appeals Fees	205,537	306,334	306,334	306,334	—
Care of Federal/State Prisoners	2,025,075	1,710,000	1,814,071	1,639,310	-4.1%
Commission for Women Fees	2	0	0	0	—
Common Ownership Community Fees	400,763	405,500	405,500	405,500	—
Discovery Materials	25,963	55,000	55,000	30,000	-45.5%
Facility Rental Fees	23,437	23,000	23,000	23,000	—
Health and Human Services Fees	1,381,824	1,447,928	1,413,090	1,426,320	-1.5%
Home Confinement Fees	133,782	48,420	41,000	41,000	-15.3%
Library Fees	24,565	600	600	600	—
Motor Pool Charges/Fees	2,644	0	0	0	—

Testimony before the County Council on the County Executive's Proposed FY 2015 Budget - April 9, 2014

I am **Joan Fidler, president of the Montgomery County Taxpayers League**. Here are our comments on the proposed FY 2015 budget.

First, we find untenable the unsustainable pay raises ranging from 6.75% - 9.75% for county workers. Yes, they are deserving of a pay raise but these somewhat wild leaps do not make sense. Is the private sector in the county quite as generous? Is the federal government? Yes, we did support pay raises for you and the County Executive and we stand by them. 10 people with a pay raise who have responsibilities greater than those of the rest of the county government will not break the budget. 9,600 people are another matter. Reduce their pay raises by half. You will save $10 million.

Next, the energy tax that is now looked on as a permanent stream of revenue – a tax that we were promised was a temporary tax meant for extraordinary times. It should have faded into the sunset but continues to glow in the east. Yes, you did reduce it by 10 percent in each of the last 2 years. We suggest that you decrease it by another 20%.

And now to the $26 million increase for the school system which is above and beyond the Maintenance of Effort funding level. This punitive law, which favors education over every other service offered by the county, a law which was fought for by the unions and the entire educational establishment – well, we should give them what they so valiantly sought – funding **at** the Maintenance of Effort level. The $26 million increase will rebase per pupil funding upward - permanently. Please do not pander to the educational establishment. Unlike county workers, they receive better health benefits. Unlike county workers, they are not furloughed. Unlike county workers, they get an additional 2% supplement towards their pensions – the only county in Maryland that is so generous. Just heed Seneca's words of several centuries ago: "*Qui multum habet, plus cupit*" (he who has much desires more). Do not go over the MoE level. You will save $26 million.

Further, we are not convinced that the $2.3 billion budget of the public schools has any objective oversight. An organization as large, expensive and complex as the MCPS needs and deserves an Inspector General reporting directly to the Board of Education. We urge you to make that happen. The MoE law does nothing to incentivize efficiencies or avoid waste; an Inspector General would.

Also we are alarmed that we have 2 classes of tax-supported workers in the county – those that work for the school system and those that work for the county government. We urge you to suggest to the school system that all new workers pay the same share of their health premiums as do county government workers. It will be a small step towards equity and would save the school system close to $2 million in the first year alone.

So what could you do with all the savings we've suggested? The opportunities are endless. Create jobs. Lower property taxes. Improve infrastructure. And do not forget the "the least of our brethren" – the homeless, the unemployed, the poor, the hungry, and the developmentally disabled.

Budgets are a matter of choices. You have the power- and the ability- to make good ones.

Thank you.

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The Voice of Montgomery County *Business*

CHRISTOPHER CARPENITO, CHAIRMAN
LISA CINES, CHAIR-ELECT
ORI REISS, IMMEDIATE PAST CHAIR
GEORGETTE "GIGI" GODWIN, PRESIDENT & CEO

MONTGOMERY COUNTY COUNCIL
HEARING ON THE FY15 COUNTY EXECUTIVE PROPOSED BUDGET
APRIL 8, 2014
WRITTEN TESTIMONY
MONTGOMERY COUNTY CHAMBER OF COMMERCE

The Montgomery County Chamber of Commerce commends the County Executive and his staff for providing a thorough and transparent explanation of the recommended operating budget. Our remarks focus on key areas that are explained in our 2014 Legislative Agenda: Business Climate, Tax Reform and a Vibrant Economy. The full platform is attached.

<u>The overriding goal of this Operating Budget must be to increase economic activity in order to preserve our strong community. We must invest in expanding the revenue base. Policies must support this goal. If we do not grow our tax base (specifically income tax and sales tax) and the county budget continues to grow, more will be asked of fewer people which is unsustainable.</u>

Montgomery County is fortunate to have many strategic assets including our geography and our high concentration of skilled and experienced talent. This County does remarkable things. Efforts to be more transparent, more customer-oriented, and more accountable are hallmarks of our civil culture. Our top-ranked schools, unparalleled public safety and high quality of life are strong assets. This is why, year after year, we support the emphasis placed on dedicating resources to attract the best and the brightest to educate our children and keep our streets safe. We don't want to see any of that minimized. And yet, it continues to concern us that without a robust local economy, we will lose our competitive edge.

<u>The challenge is to sustain this level of quality as demands on resources continue to increase.</u> Economic Development and policies that support a vibrant economy are critical if we want to sustain the high quality of life that defines this County. The county's economic development efforts, which the County Executive counts among his priorities, should focus on promoting the county and attracting new business to our area.

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Therefore, we support the increase in the Department of Economic Development's budget and encourage even more activity around marketing, promotion and 'capture' that is critical to continued success. Think of it in election terms. A political candidate does not design a strategy that relies solely on voters from the last election. That is why they and their campaign staffs work so hard months in advance of an election to identify new voters to engage, involve and ultimately get out to vote. We need that same attention focused on bringing in new business to make us competitive and to sustain the quality of life we have come to expect.

As we invest in identifying and attracting new business, we need a strong voice telling our story in a compelling manner. We support the continued work of MBDC and encourage the County Council to continue to invest in these efforts that are producing real results.

We support a number of initiatives in the Department of Economic Development budget because these pieces of public policy reinforce goals and objectives that propel the county forward. We are encouraged to see innovative tax credits for the bio health and cyber security continued in this budget. We also support efforts to improve the incubator program so that Montgomery County can continue to be at the forefront of nurturing home grown businesses. We encourage the County to develop more programs to support established businesses so that there are more advantages to staying in Montgomery County and Maryland once a company is profitable.

And yet, policies that hamper the goal of attracting and retaining businesses continue to exist. One such policy is the FY11 increase to the Energy Tax that is borne disproportionately by the non-residential energy users.

An artificially elevated consumption tax on something as fundamental as energy usage increases the cost of living and doing business in Montgomery County. The market cannot bear the additional cost and it negatively affects the very economic activity needed to underwrite and grow the county government budget. Companies in the bio tech, life sciences and cyber security industries are heavily dependent on energy to power their research and work. The energy tax is a very real burden on their ability to succeed in Montgomery County. We need to align our policies to attract and support the companies we need.

Returning to FY10 energy tax levels has the following benefits:

- Honors the original sunset provision included in the FY11 increase
- Supports the stated policy goals of county government to attract and retain technology-driven, knowledge economy businesses – which are heavy energy users - to strengthen the local economy.
- Lowers the cost of living for Montgomery County residents (lower utility bills)

- Lowers the cost of utility expenses for business making it easier to absorb other costs imposed on businesses
- More in line with energy tax rates in nearby jurisdictions
- Conservation goals can still be promoted
- Allows government contractors to remain competitive by keeping operating costs low
- The county will not incur the additional tax and will pay less for its energy usage

For these reasons, we continue to recommend the FY11 Energy Tax be sunset as originally promised.

Another area of government service that continues to strain the ability to attract and retain businesses is the hidden cost of doing business in Montgomery County, particularly with regard to planning and permitting services. While we know much emphasis has been placed on streamlining processes and providing improved customer service, there are still concerns about the length of time it takes to get things done. We hope that with the additional resources recommended for DPS that improved processes and customer service will continue to be goals.

Lastly, as we look at priorities in the pipeline that will transform our county and make it a showcase of managing growth and investment in infrastructure, the County needs to play an active role in managing large scale projects like the Purple Line and CCT to ensure they are done to the highest standard with the least disruption possible. Each of these projects has enormous impacts on housing, transportation, and economic development. <u>The County Executive should appoint a high-level "Project Czar" as the designated point person with authority to manage these multi-year, multi-jurisdiction projects. The goal of the position should be to ensure that projects in Montgomery County are world class from beginning to end.</u>

Investing in the community through effective economic development will result in increased economic activity that is vital to generating much needed resources. It is how we will gain the competitive edge and ensure that Montgomery County maintains its place as the best: The best place to work. The best place to live. The best place to be.

Thank you for the opportunity to provide these comments.

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TESTIMONY ON BEHALF OF COUNTY EXECUTIVE ISIAH LEGGETT ON RESOLUTION TO AMENDFUEL/ENERGY TAX RATES

April 22, 2014

Good afternoon, my name is Joseph Beach, Director of the County Department of Finance and I am here on behalf of County Executive Isiah Leggett to testify in support of the Fuel Energy Tax rates recommended by the County Executive in his FY15 Recommended Operating Budget and in opposition to the proposed reduction in those rates.

The fuel energy tax is a broad based tax that allows the County Government to collect a significant amount of revenue, mainly through utilities, from the federal and state government. These entities are exempt from the property and income tax, though the County government incurs substantial costs in providing transportation, public safety, and other local government services to these entities, their employees and contractors.

By working collaboratively over the past several years, the Council and the Executive have made great progress in creating a sustainable and responsible budget for County services. However, the proposed reduction to the FY15 fuel/energy tax rates would reduce revenues by $11.5 million in FY15 and $69 million over six years. As the latest projections for the FY16-20 tax supported fiscal plan indicate, the County Government will remain under substantial fiscal pressure in the immediate future. Even with revenues projected to grow at 4.0 percent, the FY16 operating budget is projected to contract by 0.4 percent. Additional impact from the *Wynne* case, an economic downturn, volatility in the stock market, volatility in the residential and commercial real estate markets, or an accelerated downturn in federal procurement and employment could adversely affect revenues.

The County has been able to manage around the fuel/energy tax reductions in FY13 and FY14 and maintain, and in some cases enhance, service levels, largely because of the continued economic recovery in the County, the continued fiscal effects of the difficult service and position reductions during the Great Recession, and for FY15, the planned transition to the Employer Group Waiver Program for County retiree prescription costs. In fact, were it not for the proposed transition to the employer group waiver program, the FY15 budget would have required significant service reductions, rather than targeted service enhancements, due in large part to the previous erosion of the fuel/energy tax revenues.

In previous years, the fuel energy tax was a relatively minor part of the County's tax supported resources. Now it is the third largest source of tax revenues, and is an important component in providing a sustainable, predictable budget for County services into the future. Continued erosion of this tax base will make it much more difficult in the future to maintain a balanced budget, sustain public safety service levels and safety net services, and provide fair and adequate compensation for County employees. Less reliance on this revenue source, which as stated before is broad-based, could require greater reliance in the future on the property tax, which is a more regressive form of taxation.

I urge you to support the County Executive's recommended fuel/energy tax rates in his FY15 Recommended operating budget. Thank you for permitting me the time to address the County Council on this very important matter.

THE GREATER BETHESDA-CHEVY CHASE CHAMBER OF COMMERCE
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THE GREATER BETHESDA-CHEVY CHASE CHAMBER OF COMMERCE
TESTIMONY BY CHRISTOPHER RUHLEN
ON FUEL/ENERGY TAX RATES
BEFORE THE MONTGOMERY COUNTY COUNCIL – April 22, 2014

Good afternoon. I am Chris Ruhlen, Vice President of Economic Development and Government Affairs for The Greater Bethesda-Chevy Chase Chamber of Commerce, representing over 575 member businesses and nonprofit organizations in Montgomery County.

In April, 2010, our Chamber came before you to urge you not to impose the significant increases to the County fuel/energy tax rates that County Executive Leggett had proposed at that time. We expressed our concern that this tax increase would adversely impact small and large businesses, and would stifle economic development at a sensitive moment when the County should have been doing all it could to attract and retain businesses. You told us not to worry, however, because the County Executive and the members of the County Council would sunset the tax in just two years, by which time economic conditions would have improved.

Four years have now passed and we are here again – just like last year and the year before – to express our dismay that the promises to sunset the 2010 energy tax increase remain unfulfilled. We appreciate that the Council has provided small incremental reductions in the tax rates since 2010, and we also appreciate the efforts of Councilmember Andrews and Councilmember Berliner to take the lead this year to provide another reduction. However, sunsetting the energy tax increase has somehow become elusive, despite the clear legislative intent for the increase to be only temporary. Instead, while our business members continue to struggle in a harsh economy, the County Executive's proposed FY15 operating budget treats the tax as dedicated revenue. The County Executive recommends keeping the energy tax rates at current levels to subsidize substantial increases in County employee salaries, new expenditures by various County agencies, and even an increase in the budget of the Montgomery County Public Schools that exceeds Maintenance of Effort. (The proposed budget represents an increase of more than $160 million dollars over last year's budget, including a 6.3% increase for overall personnel costs, and is wildly out of line with conditions in the private sector.)

In 2010, we expressed specific concerns about the impact of the energy tax on businesses that were suffering from the Great Recession. We also stated our concern that the increased tax would hamper the County's economic development efforts by disproportionately increasing costs for Federal government operations in Montgomery County. At that time, in 2010, the Federal government leased over 7 million square feet of space within the County. Now, in 2014, the GSA indicates that the Federal government has reduced leased space in the County by more than 400,000 square feet. By the end of 2015, leases are due to expire on almost 40 buildings, potentially freeing up **more than 3 million square feet** at a time when our office market is very soft. We question the wisdom in continuing to target our Federal installations for this tax while other neighboring jurisdictions are aggressively trying to lure the same Federal installations out of the County. Maintaining our fuel/energy taxes at such a high rate is only making the decision to leave easier, and we do not need any more vacant office space.

The Chamber has stressed to you over the past several years that there are two primary ways to increase revenue: 1) to increase taxes and fees on businesses already existing in the County, which creates a continuing burden that makes it harder and harder to stay and remain viable; and 2) to grow the tax base by attracting more businesses, Federal employers and taxpayers. In order to grow the tax base, we have to provide the right balance of costs and benefits to businesses and to the Federal government. Keeping the energy tax increase on the books is a significant cost to doing business in the County, and undermines the effort to provide this balance and thus be competitive with our neighbors.

For these reasons, the Chamber supports Councilmembers Andrews and Berliner's proposal to decrease the fuel/energy tax rate by 10% this year. We ask, however, that you continue to work to find a way to sunset the rate increase, so as to fulfill the promises made by the Council in 2010. We thank you for the opportunity to present these comments, and we look forward to continuing our discussions with you as we all work to support our existing businesses in the County and to improve our economic viability and competitiveness.

AOBA
APARTMENT and OFFICE BUILDING ASSOCIATION

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APARTMENT AND OFFICE BUILDING ASSOCIATION OF METROPOLITAN WASHINGTON

TESTIMONY BEFORE THE

MONTGOMERY COUNTY COUNCIL

ON A

RESOLUTION TO AMEND THE COUNTY FUEL/ENERGY TAX RATES

April 22, 2014

Submitted By:

W. Shaun Pharr, Esq.

Senior Vice President, Government Affairs

GOOD AFTERNOON PRESIDENT RICE AND MEMBERS OF THE COUNCIL. I AM SHAUN PHARR, SENIOR VICE PRESIDENT OF GOVERNMENT AFFAIRS FOR THE APARTMENT AND OFFICE BUILDING ASSOCIATION OF METROPOLITAN WASHINGTON (AOBA), A NON-PROFIT TRADE ASSOCIATION WHOSE MEMBERS ARE OWNERS AND MANAGERS OF MORE THAN 110,000 APARTMENTS UNITS AND OVER 23 MILLION SQUARE FEET OF OFFICE SPACE IN SUBURBAN MARYLAND, THE MAJORITY OF WHICH IS IN MONTGOMERY COUNTY. TODAY I WANT TO REITERATE ONE MAJOR POINT FROM MY FY 2015 BUDGET TESTIMONY EARLIER THIS MONTH AND RAISE TWO OTHERS FOR YOUR CONSIDERATION IN REGARD TO THE FUEL/ENERGY TAX.

I PREVIOUSLY NOTED THAT, FOR ANY BUSINESS IN, OR CONSIDERING LOCATING TO, MONTGOMERY COUNTY, THE OPTICS OF THE ENERGY TAX ARE HARD TO OBSCURE OR SUGAR-COAT. THIS IS BECAUSE:

- IT IS A TAX PURPOSELY DISPROPORTIONATELY PLACED ON THE COUNTY'S BUSINESSES, BY VIRTUE OF RATES THAT HAVE COMMERCIAL RATE PAYERS PAYING 65% OF THE TOTAL REVENUE TAKE;
- IT IS A TAX THAT ADDS $8,000 TO $15,000 A MONTH TO THE COSTS THAT OFFICE BUILDING TENANTS MUST PAY;
- IT IS A TAX THAT ACCOUNTS FOR MORE THAN 50% OF THE UTILITY'S CHARGE FOR DELIVERING ENERGY TO A HOME OR BUILDING;
- IT IS A TAX THE COUNTY HAS INCREASED FREQUENTLY AND TO AN UNSEEMLY DEGREE, ALLOWING IT TO BECOME ITS THIRD LARGEST TAX SOURCE.

IN FY03 THIS WAS A MUCH MORE REASONABLE AND LESS OBJECTIONABLE TAX—REVENUES FROM IT THAT YEAR WERE $24 MILLION. THEN, YOUR PREDECESSORS TRIPLED IT, IN ONE FELL SWOOP, IN FY04. IT WAS INCREASED AGAIN IN FISCAL YEARS '05, '06 AND '09. THEN CAME THE FY11 BUDGET, WHEN THE EXECUTIVE AND COUNCIL EFFECTIVELY DOUBLED IT, COUPLED WITH A PROMISE TO SUNSET IT AFTER TWO YEARS, WHICH NEVER HAPPENED. FY12 REVENUE FROM IT WAS $243 MILLION. IN 2003, MY MEMBERS WERE NOT HEARING

FROM THEIR OFFICE BUILDING TENANTS ABOUT THEIR PASS-THROUGH BILLS FOR THE ENERGY TAX. TEN YEARS-- AND A TEN-FOLD INCREASE-- LATER, THEIR TENANTS ARE STAGGERED BY THE COUNTY'S ENERGY TAX. SO, BELIEVE ME AND VIRTUALLY EVERY COUNTY BUSINESS ORGANIZATION: AT TENS OF THOUSANDS OF DOLLARS A YEAR FOR A COMMERCIAL LESSEE, YES, IT IS A FACTOR IN DECISIONS TO SIGN, OR RENEW, COMMERCIAL LEASES IN MONTGOMERY COUNTY. AND, AS AOBA HAS CONSISENTLY NOTED, IT ALSO INDISPUTABLY RESULTS IN RENT PRESSURE IN EVERY MULTIFAMILY BUILDING WHERE UTILITY COSTS ARE INCLUDED IN THE RENT, AND THE COUNTY HAS MANY SUCH BUILDINGS.

THE SECOND POINT I WANT TO MAKE IS THIS: IF YOU, THE COUNCIL, DON'T CONTINUE TO REDUCE THIS EXORBITANT ENERGY TAX, THEN THAT DOES NOT GET DONE. THE COUNTY EXECUTIVE HAS DRAFTED THE 5-YEAR FISCAL PLAN (FY15 – FY20) TO REFLECT NO CHANGE WHATSOEVER IN THE ENERGY TAX—NO SUNSET OF THE 2010 DOUBLING, NO REDUCTION OF ANY AMOUNT, IN ANY OUT-YEAR, PERIOD. HE HAS THUS MADE CLEAR THAT HE HAS NO INTENTION OF, ON HIS OWN INITIATIVE, OFFERING ANY RELIEF ON THIS TAX TO CITIZENS AND BUSINESSES FOR THE BALANCE OF WHAT HE HOPES WILL BE AN EXTENDED TENURE. AGAIN: IF THE COUNCIL DOES NOT CONTINUE REDUCING THE ENERGY TAX, IT SIMPLY DOES NOT HAPPEN.

THE FINAL POINT IS THAT THE COUNCIL SHOULD CHALLENGE THE UNACCEPTABLE RATIONALE THE COUNTY EXECUTIVE CONTINUES TO OFFER FOR THE EXORBITANT RATE OF THIS TAX-- THAT IT IS "PRESERVING A BROAD-BASED REVENUE SOURCE THAT INCLUDES FEDERAL INSTITUTIONS BASED IN THE COUNTY WHO OTHERWISE PAY NO TAXES IN EXCHANGE FOR COUNTY SERVICES." (MARCH 17 MEMO TRANSMITTING BUDGET TO COUNCIL)

SO: WE SHOULD ALL BE FINE, APPARENTLY, WITH SADDLING THE COUNTY'S RESIDENTS AND BUSINESSES WITH A HUGELY DISPROPORTIONATE ENERGY TAX, THE REVENUE FROM WHICH IS NOTHING BUT GENERAL FUND GRAVY—IT'S NOT REMOTELY TIED TO ANYTHING ENERGY-

RELATED, FOR INSTANCE—SOLELY IN ORDER TO SQUEEZE OUT SOME UNSPECIFIED AMOUNT OF ENERGY TAX REVENUE FROM THE FEDS.

AOBA DOES NOT BELIEVE THE COUNCIL SHOULD BE FINE WITH DOING SO. HAS ANYONE ON THE DAIS EVER ACTUALLY SEEN THE NUMBERS THAT WOULD LET YOU DETERMINE WHETHER THE AMOUNT OF MONEY EXTRACTED FROM THE FEDS IS REALLY WORTH THE BURDEN THAT YOU'VE PLACED ON YOUR CITIZENS AND BUSINESSES WITH THE PREVIOUS RATE HIKES—PARTICULARLY IN LIGHT OF BOTH ACTUAL AND PROJECTED FUTURE DECLINES IN FEDERALLY LEASED AND OWNED SPACE IN THE COUNTY? AOBA BELIEVES THE EXECUTIVE AND COUNCIL SHOULD IDENTIFY, WITH SPECIFICITY, THE ACTUAL AMOUNT OF REVENUE THAT THIS TAX IS YIELDING FROM THE FEDS AND WHAT PERCENTAGE OF THE TOTAL THAT AMOUNT REPRESENTS.

FURTHER, THE COUNCIL SHOULD DIRECT THE EXECUTIVE TO RESEARCH AND IDENTIFY, BEFORE NEXT YEAR'S BUDGET, WAYS THAT THE IMPACT ON CITIZENS AND BUSINESSES COULD BE MITIGATED. FOR INSTANCE, THE EXECUTIVE AND COUNCIL HAVE HIKED THE PROPERTY TAX RATE EACH OF THE LAST FOUR YEARS, BUT INSULATED HOMEOWNERS FROM THE IMPACT BY INCREASING THE HOMESTEAD INCOME TAX DEDUCTION. IF THE COUNTY REMAINS INTENT ON USING THE ENERGY TAX TO SQUEEZE MONEY OUT OF THE FEDS, THEN IT SHOULD ALSO LOOK FOR WAYS—PERHAPS A TAX CREDIT FOR THE ENERGY TAX-- TO EASE THE IMPACT ON THE NON-FEDERAL BUSINESSES AND HOMEOWNERS THAT PAY IT.

THE COUNTY'S BUSINESS ATTRACTION AND RETENTION EFFORTS CONTINUE TO BE UNDERMINED BY FORCING BUSINESSES TO SHOULDER THE COUNTY'S STAGGERING ENERGY TAX. WE URGE YOU TO REDUCE IT. THANK YOU AGAIN FOR CONSIDERING THE VIEWS AND INTERESTS OF AOBA MEMBERS.

GREATER SILVER SPRING
CHAMBER OF COMMERCE

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Testimony of
The Greater Silver Spring Chamber of Commerce
Public Hearing – Fuel Energy Tax Rates
Montgomery County Council
Tuesday, April 21, 2014

Council President Rice, members of the Council, good afternoon. I'm Jane Redicker, President of the Greater Silver Spring Chamber of Commerce, representing almost 400 businesses – large, and mostly small – and non-profit members of our Chamber.

To paraphrase a line from a famous horror movie, "I'm baaack."

In 2010, I was here, probably in this same seat, asking you to reject the County Executive's proposal to increase the energy tax by 100%. I described the significant financial burden it would place on commercial office building owners, their tenants, and small businesses, especially in a tough economy. I told you then what our members suggested -- instead of increasing the energy tax, the County should tighten its belt, make the same tough decisions about employee compensation that businesses had made that year. But that was not to be. Instead, you lowered the rate a bit that year and promised a sunset in two years.

Two years later, I came back and asked you to keep your promise....to reject the Executive's efforts to renege in order to fund a 5.5 % budget increase and a 10.2% hike for government employee wages and benefits. You did ease the pain a bit that year, decreasing the tax by 10 percent...and we thanked you for that.

Last year, I came back with the same request. Keep your promise.. Reject the Executive's effort to make the increase a permanent stream of revenue for the County. Recognize that businesses are still struggling in the wake of the recession. Understand that this tax is a burden to them, and a deterrent to potential new employers who might consider coming here. You responded by reducing the tax by another 10 percent...and we thanked you for that.

Which brings us to today. It's 2014, and I'm back. Unfortunately. Again. With the same requests and most the same reasons why.

I'm tired of coming back on this. And, Councilmembers, you are probably tired of seeing me.

The Executive needs this tax to pay for substantial increases in County personnel costs, as well as a permanent increase in the Montgomery County Public Schools budget beyond the Maintenance of Effort....all at a time when many businesses are still struggling, commercial office space is going vacant, and, the Federal Government – the real target for this tax – could be decreasing its footprint in Montgomery County. More on these...

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Now the Chamber fully supports making sure that Montgomery County has the best schools. Excellent schools are a critical factor in a business's decision to locate in our community. Our concern, however, is that in the name of education improvement, the County continues to pour more and more dollars into a school system that has no objective oversight, and no accountability other than to itself.

By the end of 2015, Federal government leases on more than 3 million square feet of office space here are due to expire. Neighboring jurisdictions are working hard to lure these facilities away. And, the Federal Government is working to tighten its belt. The notion that targeting these federal facilities with a local energy tax seems at best misguided, and at worst, could turn into a disaster if the Feds decide they are exempt from local taxes.

One more point. Vacancy rates in commercial office buildings are at record highs. At the end of March, the vacancy rate in Silver Spring was 25%, projected to reach 30% later this year. Our energy tax, the highest in the region, has had a major impact on economic development at a time when we should have been doing everything possible to attract and retain businesses here. And, by the way, **attracting** businesses, more Federal employers, more taxpayers – that should be the goal. That's what we need to be doing, instead of making it more difficult, more expensive to do business here.

So, as I said, I'm baaaack. I wish I didn't have to be. So, make me go away. I ask you, please, for once and for all of us – sunset the energy tax increase. Because supporting the highest energy tax in the region is not a strategy to attract businesses, to create jobs, and create long-term sustainability for our County's fiscal needs.

Which is why I'm back. Again.

Montgomery County Council Hearing, Energy Tax
April 22, 2014
Christopher Lloyd, National Board Certified Teacher, MCEA Vice President

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Good evening President Rice, Vice-President Leventhal, and Council members. I'm Chris Lloyd, and I have the honor of teaching scholars at Baker Middle School.

Tonight, I'm here as an advocate for them and their peers. Harvard professor Ron Ferguson talks about a partnership of five that's necessary to close a racial achievement gap: parents, teachers, peers, employers, and community. He says, "The kinds of things I'm talking about won't happen by accident. We're not training kids to compete with their classmates. The goal is to have them compete with the world." And so we know deliberate and measured action makes a difference. It has, and it will.

We are all faced with choices to make. As a community, I believe choosing to cut the local energy tax is the wrong choice. It would yield the average residential taxpayer just $26 per year. The largest beneficiary would be the federal government. The numerous federal agencies housed in Montgomery County collectively pay the largest share of the tax, and those agencies don't pay county property or income taxes.

From an environmental standpoint, the energy tax is a carbon tax. It promotes conservation, discourages energy waste and helps decrease the demand for environmentally harmful reliance on carbon fuels. Our lungs and health like such a tax.

From a public sentiment standpoint: our polling shows that voters by 6 to 1 margin think it is more important to preserve important programs such as public education even if it means *raising* taxes.

I understand and respect the view that a promise was made when the energy tax was last increased in 2010; that the increase would be temporary. But times change. Circumstances are different. And so the partnership of five can see the wonderfully changing face of Montgomery in the past four years, and the great promise we can deliver to our kids in a competitive world, if we put resources to work. I believe in such moments we can bend the arc of history.

Making decisions is about making choices. We can choose to cut the energy tax by $11.5 million or we can invest that money in programs designed to improve schools in our communities most greatly impacted by poverty. Please look over the attached list of targeted programs designed to help close the achievement gap. We can deliver on this promise if we are deliberate this spring. And I'm here because I want us to do just that.

In a speech to teachers, Ferguson said, "Even though we usually don't think of education as an economic development policy, it is in fact **the most** important economic development policy we have. So, gradually over the years, my own attention to economic development has shifted from thinking about business location and employment decisions to thinking about what teachers do in classrooms."

This spring, we can demonstrate our support for that development and our scholars by opposing the reduction in the energy tax. Unnecessarily reducing resources at a time when they are so urgently needed to help close the achievement gaps in our schools, is not the right choice to make. Thank you very much for your reflection and thoughtful deliberation.

BOARD OF EDUCATION'S FY15 BUDGET REQUEST FOR PROGRAM IMPROVEMENTS:

Districtwide Investments:

- **$3 million to purchase new technology,** mainly tablets, for implementation of the new PARCC assessments;
- **$1,252,330 to increase support for students' social and emotional development** by adding 5.5 elementary school counselors, 5 school psychologists, and 6 pupil personnel workers;
- **$800,000 to attract and retain high performing teacher leaders** who take on added responsibilities in our 57 highest poverty schools, through implementation of the Teacher Career Lattice;
- **$300,000 to provide support and coaching to Innovation and Interventions Schools Networks;**
- **$150,000 for a Special Education Program and Services Review,** to ensure that students with disabilities have access to high-quality, rigorous instruction and the supports that enable them to be successful;
- **$125,000 to provide professional development to staff in cultural competency:** understanding how to set high expectations for all students in our diverse community.

High Schools:

- **$977,145 to reduce English and Mathematics class sizes in the district's highest poverty schools;**
- **$996,918 to increase observation, support and coaching of classroom teachers** by High School Resource Teachers and Staff Development Teachers ;
- **$136,534, to support the redesign Alternative Programs;**
- **$49,500 for the redesign of Wheaton High School** based on project-based learning, and establish a model for engaging students in instruction that builds academic excellence and creative problem-solving skills.;
- **$39,150 to add STEM Clubs in high schools** to provide interested students with opportunities to extend and enrich the instruction they receive in classrooms in Science, Technology, Engineering and Mathematics.

Middle Schools:

- **$1.45 million to provide focused support to ESOL students;** through the additional ESOL staffing in 21 schools;
- **$704,167 to expand the Middle School Reform model** through additional Middle School Content Specialists and Team Leaders who observe, support and coach other classroom teachers.

Elementary Schools:

- **$541,677 to restore critical positions in smaller elementary schools** that have been reduced over the past five years, including Reading Specialists, Media Specialists, Counselors, and Staff Development Teachers;
- **$456,000 to expand the compacted (i.e. accelerated) Mathematics curriculum to Grade 5;**
- **$251,832 to support instruction in targeted elementary schools that serve higher special education and ESOL populations,** through creating of additional team leader positions;
- **$140,441 to add two additional Pre-Kindergarten classes** to increase the number of available slots to meet the need of eligible young children from low-income families.

Community Partnerships and Engagement:

- **$532,230 to increase staffing to develop business and community connections and provide support to parents;**
- **$148,480 to expand transportation for students in *Excel Beyond the Bell*,** a collaborative effort that provides high-quality after-school programs in middle schools that are impacted by poverty;
- **$118,157 to expand the *Kennedy Cluster Project*,** a multiagency partnership that provides students and families with access to healthcare, housing, financial assistance, and other social services. These funds would extend the program into the Watkins Mill Clust

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Testimony of Amy Millar, UFCW Local 1994
Before the Montgomery County Council
on the Resolution to amend fuel/energy tax rates
April 22, 2014

Good afternoon,

My name is Amy Millar. I am the Growth and Strategic Coordinator for UFCW Local 1994.

I'm here today to testify against the resolution to reduce the fuel/energy tax rates in Montgomery County. The county should continue the 2010 energy tax rates at their current level.

Our recovery in Montgomery County is still fragile. We're still carrying a budget shortfall of $166 million and allowing this cut would cost the county an additional $11.5 million in revenue.

The Maintenance of Effort law forces cuts in other areas of the budget and hamstrings the County budget process. In the general government, we've lost 1000 county positions since FY2011, positions that put greater burden on county employees.

Montgomery County needs to continue this tax to keep our economy moving in the right direction. We don't want Montgomery County to be considered "unfriendly to businesses" but we must remember that too many residents are still increasingly relying on public services provided by our members. Until the recent minimum wage increase has had the effect of decreasing public need for public services, we need to keep our revenues strong enough to provide the best public services possible.

I urge you to reject the reduction of the energy tax.

Thank you.

The Voice of Business

CHRISTOPHER CARPENITO, CHAIR
LISA CINES, CHAIR-ELECT
ORI REISS, IMMEDIATE PAST CHAIR
GEORGETTE W. GODWIN, PRESIDENT AND CEO

MONTGOMERY COUNTY COUNCIL
RESOLUTION TO AMEND FUEL/ENERGY TAX RATES
PUBLIC HEARING
APRIL 22, 2014

TESTIMONY SUBMITTED BY MONTGOMERY COUNTY CHAMBER OF COMMERCE

The Montgomery County Chamber of Commerce (MCCC) appreciates the efforts of Councilmember Berliner and Councilmember Andrews to address a glaring dichotomy in the policies of the Montgomery County Government by proposing to curtail the negative impact of the continued increased energy tax. However, a 10% reduction of the schedule outlined in Resolution 17-744 still leaves in place a tremendous burden on the residents and businesses of Montgomery County.

The Montgomery County Chamber of Commerce reiterates our request that the County Council honor the original legislation enacted in 2010 and sunset the FY11 energy tax.

Montgomery County must align its policies to attract and support the companies our local economy needs to stay strong. MCCC supports the County Executive's budget to increase funding to the Department of Economic Development. But those additional resources will not produce results in terms of new companies locating in Montgomery County and adding jobs to the local economy if Montgomery County continues to be seen as too expensive to do business and not competitive in the race to attract the technology companies of the future.

The elevated tax on energy usage increases the cost of both living and doing business in Montgomery County. Companies in the bio tech, life sciences and cyber security industries are heavily dependent on energy to power their research and work. The energy tax is a very real burden on their ability to succeed in Montgomery County. The market cannot bear the additional cost and it negatively affects the very economic activity needed to underwrite and grow the county government budget.

(over)

Returning to FY10 energy tax levels has the following benefits:

- Honors the original sunset provision included in the FY11 increase
- Supports the stated policy goals of county government to attract and retain technology-driven, knowledge economy businesses – which are heavy energy users - to strengthen the local economy.
- Lowers the cost of living for Montgomery County residents (lower utility bills)
- Lowers the cost of utility expenses for business making it easier to absorb other costs imposed on businesses
- More in line with energy tax rates in nearby jurisdictions
- Conservation goals can still be promoted
- Allows government contractors to remain competitive by keeping operating costs low
- The county will not incur the additional tax and will pay less for its energy usage

For these reasons, we continue to recommend the FY11 Energy Tax be sunset as originally promised. Absent that, we support Councilmembers Andrews and Berliner's leadership efforts to work to reduce the very real burden this tax places on us all through the resolution being offered today.

Thank you for the opportunity to share our concerns.