Agenda Item 78
May 5, 2009
Public Hearing

MEMORANDUM

TO: County Council

FROM: MF Michael Faden, Senior Legislative Attorney

SUBJECT: **Public Hearing:** Expedited Bill 15-09, Recordation Tax – Use of Revenue

Expedited Bill 15-09, Recordation Tax – Use of Revenue, sponsored by the Council President at the request of the County Executive, was introduced on March 31, 2009. A Management and Fiscal Policy Committee worksession is scheduled for May 8 at 1:30 p.m.

Bill 15-09 would suspend for 3 fiscal years the requirement that a certain percentage of the County recordation tax be allocated to County government capital improvements and rental assistance programs.

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Expedited Bill No. 15-09
Concerning: Recordation Tax – Use of Revenue
Revised: 3-30-09 Draft No. 1
Introduced: March 31, 2009
Expires: October 1, 2010
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to amend County law requiring the allocation of certain revenue received from the recordation tax.

By amending
Laws of Montgomery County 2007
Chapter 17, Section 3

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 3 of Chapter 17 of the Laws of Montgomery County 2007 is amended as follows:

Sec. 3. Allocation of Revenue. During any fiscal year that begins on or after July 1, [2008] 2012, the net revenue attributable to the increase in the rate of the recordation tax enacted in this Act must be reserved for and allocated equally to:

(a) the cost of County government capital improvements; and

(b) rental assistance programs for low- and moderate-income households, which must not be used to supplant any otherwise available funds.

Sec. 3. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date when it becomes law.

Approved:

Philip M. Andrews, President, County Council Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 15-09
Recordation Tax—Use of Revenue

DESCRIPTION: This Bill would sunset for 3 years the current requirement that portions of the recordation tax be allocated to the cost of County Government capital improvements and rental assistance programs for low and moderate income households.

PROBLEM: In order to meet current fiscal challenges facing the County, the County must increase the amount of revenue available to maintain and enhance core government programs and services.

GOALS AND OBJECTIVES: To enhance the amount of revenue available to support core government programs and services.

COORDINATION: Department of Finance

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: Subject to the general oversight of the County Executive and the County Council.

EXPERIENCE ELSEWHERE:

SOURCE OF INFORMATION: Joseph Beach, Director, Office of Management and Budget
Marc Hansen, Deputy County Attorney
Kathleen Boucher, Assistant Chief Administrative Officer

APPLICATION WITHIN MUNICIPALITIES: Not applicable

PENALTIES: Not applicable

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BILL 16-09

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Isiah Leggett
County Executive

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

041303

MEMORANDUM

March 26, 2009

TO: Phil Andrews, Council President

FROM: Isiah Leggett, County Executive

SUBJECT: Budget Reconciliation Bill

I am attaching for the Council's consideration a budget reconciliation bill which makes changes to the County Code that are necessary to reconcile my recommended FY10 operating budget with projected FY10 revenues. This bill will help the County address its current fiscal challenges by increasing the amount of revenue available to maintain and enhance core government programs and services. I am also attaching a Legislative Request Report for the bill. A Fiscal Impact Statement for the bill has been transmitted to Council in a separate memorandum.

This bill consists of three primary components. First, it requires certain brokers of sleeping accommodations to collect and remit to the County the room rental tax. Second, it temporarily redirects the portion of recordation tax revenues that are currently reserved for County Government capital projects and rental assistance programs to the general fund for general purposes. Third, it authorizes the Fire and Rescue Service to impose an Emergency Medical Services (EMS) Transport Fee.

With several exceptions, the part of the bill that relates to the EMS Transport Fee is identical to the bill that I forwarded to Council on April 11, 2008 and was eventually introduced by Council as Bill 25-08, Emergency Medical Services Transport Fee – Imposition. The bill includes language that I recommended as an amendment to Bill 25-08 on September 16, 2008 to clarify the underlying reason for providing that a County resident is responsible for the EMS Transport Fee only to the extent of the resident's available insurance coverage. The underlying reason for this part of the bill is to credit residents for the taxes they pay to the County, thereby more equitably distributing the economic burden of providing EMS transport services in the County between residents and nonresidents. The bill includes a non-supplantation provision which, taken together with my recommended FY10 Budget, makes it clear that EMS Transport Fee revenues will be used to fund the ongoing cost of: (1) new programs or services included in the FY09 Budget and subsequent budgets; or (2) additions to existing programs and

provision which, taken together with my recommended FY10 Budget, makes it clear that EMS Transport Fee revenues will be used to fund the ongoing cost of: (1) new programs or services included in the FY09 Budget and subsequent budgets; or (2) additions to existing programs and services included in the FY09 Budget and subsequent budgets. Finally, the bill increases the hardship waiver threshold for non-residents from 100% to 300% of federal poverty guidelines.

Thank you for your prompt consideration of this legislation. I look forward to working with the Council as it considers this proposal.

Attachments (2)

cc: Jennifer Barrett, Director, Finance Department
Joseph Beach, Director, OMB
Tina Benjamin, Acting Director, DED
Kathleen Boucher, ACAO
Richard Bowers, Interim Director, MCFRS
Marc Hansen, Deputy County Attorney
Richard Y. Nelson, Jr., Director, DHCA

Bill 16-09

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Isiah Leggett
County Executive

OFFICE OF MANAGEMENT AND BUDGET 041304

Joseph F. Beach
Director

MEMORANDUM

March 26, 2009

TO: Phil Andrews, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Expedited Bill, Budget Reconciliation – Revenues – Room Rental and Transient Tax – Recordation Tax - Emergency Medical Service Transportation Fee

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The expedited bill has three separate components with the following elements:

Room Rental Tax (i.e. Hotel/Motel Tax): This section will require certain brokers of sleeping accommodations to collect and remit to the County a room rental tax on certain transients; make certain technical and clarifying amendments to the County's room rental tax; and generally amend the law governing room rental and transient tax. The purpose of this amendment is to ensure that the differential charged by internet brokers to the consumer is subject to the room rental tax. Currently, only the amount paid to the hotel by the broker is subject to the tax. In addition, the legislation changes the basis for the dedication of 3.5 percent of the Hotel/Motel tax from actual revenues collected to the amount estimated in the annual budget.

Recordation Tax Premium: This section will amend the County law requiring the allocation of certain revenue received from the recordation tax. The purpose of this amendment is to allow a temporary redirection of the recordation tax premium to the general fund for general purposes. Currently, County law requires that 50 percent of these revenues be used for County Government capital projects and the balance for rental assistance programs.

Emergency Medical Services Transport Fee: This section of the expedited bill proposes the following: authorize the County to impose and collect a fee to recover costs generated by providing emergency medical service transports; provide for a schedule of emergency medical services transport fees, fee waiver criteria, permitted uses of fee revenues, and other procedures

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to operate the emergency medical services fee program; prohibit a Local Fire and Rescue Department from imposing a separate emergency medical services transport fee; require the Executive to issue certain regulations to implement an emergency medical services transport fee; require a certain annual transfer be made as payment of residents' uninsured portion of the emergency medical services transport fee; and generally amend County law regarding the provision of emergency medical services.

FISCAL SUMMARY

Hotel/Motel Tax: The projected revenue from the subject legislation is estimated to be $223,820. This estimate is based on the following assumptions (according to Smith Travel Research data):

- Total hotel room inventory in Montgomery County: 8,445.
- Friday occupancy countywide in 2008 annual average was 57.8% with an average daily room rate of $105.
- Saturday occupancy countywide in 2008 annual average at 58.9% with an average daily room rate of $103.
- Friday: 8,445 rooms x 57.8% yields 4,881 room nights x $105 = $512,505 total hotel sales revenue.
- Saturday: 8,445 rooms x 58.9% yields 4,974 room nights x $103 = $512,322 total hotel sales revenue.
- Total Revenue Weekend = $1,024,827 x 52 weekends.
- Total Weekend Hotel Revenues Annually = $53,291,000.
- With the assumption that 30% of weekend business is sold to third party (Orbitz, Hotels.com, etc).
- Sales to Third Party: $53,291,000 x 30% = $15,987,300 (paid by third parties for hotel rooms to resale).
- Third Party Charge to Consumer: $15,987,300 resold x 1.2 = $19,184,760 (assumed 20% markup by third party or $3,197,300).
- Additional Revenue: Difference of $3,197,460 x 7% hotel occupancy tax = $223,822.20.

Recordation Tax Premium: The proposed amendment will not change the rate or estimated collections for this tax, but will only allow the funds to be used without restriction. The Executive's FY10 Recommended budget, however, did not propose that all recordation tax premium revenues be redirected to the general fund, but only those revenues in FY09 and FY10 that exceeded the previous estimates as indicated in the table below.

Allocation of Recordation Tax Premium Revenues Approved by County Council on 5/22/09				
	FY09	**FY10**	**FY11**	**FY12**
Total Recordation Tax Premium	5.231	6.094	7.361	8.762
MCG CIP Projects*	2.616	3.047	3.681	4.381
Rental Assistance - MHI**	2.616	3.047	3.681	4.381
Revised Recordation Tax Premium as of March 16, 2009				
Total Recordation Tax Premium	8.736	12.603	12.997	13.499
Difference Recommended for General Purposes	**3.505**	**6.509**	**5.636**	**4.737**

* CIP Projects include: Traffic Signal System Modernization, Rural and Residential Road Rehabilitation, and Facility Planning Transportation

** Allocated between County Government HHS and the Housing Opportunities Commission

The Department of Finance estimates that the revenues collected for the recordation tax premium are $8.736 million in FY09 and $12.603 million in FY10. The Executive's recommended budget preserved the use of the recordation tax premium revenues approved by the County Council in both the Operating and Capital Budgets for FY09 and the revenues assumed for FY10-12. However, the difference, as shown in the chart above, was redirected to the general fund.

Emergency Medical Services Transport Fee:

Revenues

The projected revenues are based on a mix of four payer types: Medicare, Medicaid, Commercial/Auto Insurance and Self Pay and an average revenue per transport rate of $255 in FY09 up to $259 in FY12 and a Montgomery County Fire and Rescue Service estimated transport volume of 56,980 for FY10 which is expected to increase to 64,090 in FY12. The