



Agenda Item 1  
October 30, 2018

OFFICE OF INTERGOVERNMENTAL RELATIONS

Isiah Leggett  
County Executive

Melanie L. Wenger  
Director

October 30, 2018

MEMORANDUM

TO: Montgomery County Council  
FROM: <sup>MLW</sup> Melanie L. Wenger, Director, Office of Intergovernmental Relations  
SUBJECT: Review of the Draft 2019 Session Priorities

The purpose of this morning's meeting is to discuss the draft of the Montgomery County's Priorities for the 2019 Session (circle 1).

MLW:wlw  
Attachments



**DRAFT**  
**Montgomery County's Priorities for the 2019 Session**

**Education**

- ***PreK-12 Public Education.*** Obtaining a fair share of State aid to support the County's public schools, including retention of the State payment for teacher retirement, remains a critical priority. Depending on the final recommendations of the Kirwan Commission, this may prove to be very challenging in the upcoming Session because the Commission's work has been informed in large part by a 2016 report (Adequacy of Funding of Education in Maryland) prepared by a consultant hired by the State that recommended dramatic changes to school finance formulas. For Montgomery County, those changes were estimated to result in a reduction of \$342 million in State aid and an increase of \$842 million in mandated local aid. Although the report estimated the full impact of the consultant's recommendations as a consolidated unit, it did not provide crucial information that would have allowed the County to independently analyze the fiscal impact of each separate component, including centerpiece suggestions like changing the wealth formula, shifting to a statewide "comparable wage index" for regional cost adjustments and altering the funding "weights" for higher-need students.

During the 2018 Interim, the Commission has focused on early childhood education, recruitment and retention of high quality teachers, college and career readiness (CCR) pathways, programs for students with special needs, and governance and accountability. It is considering major changes in each of these categories, including free or subsidized full-day pre-kindergarten for some low-income students, teacher salary increases of 10-30%, CCR assessment in 10<sup>th</sup> Grade, supplemental funding for schools with concentrated poverty, and new State-level oversight of local school systems. Implementing these programs is expected to require billions of dollars of new State and local funding. However, with less than 2 months left to complete its final report, the Commission has not yet finalized its recommendations, developed associated cost estimates or evaluated potential changes to school finance formulas.

The Commission's work is extraordinary in scope and its comprehensive efforts to fully understand the steps that must be taken to improve the State's public schools are laudatory. However, it seems questionable whether the Commission will be able to complete its work in a thoughtful manner by the end of December. The County requests the Delegation's support in ensuring that the Commission has sufficient time to appropriately complete its work, including adequate opportunity to receive and evaluate public comment after it formalizes draft proposals. The County will need to obtain any underlying data that is necessary to independently analyze costs and fiscal impacts and have sufficient time after obtaining this data to provide meaningful comments on draft recommendations. During the 2019 Session, it is essential that the Delegation work closely with the County, the Board

of Education and Montgomery County Public Schools to ensure equitable treatment of the County and its large, diverse, and growing student population.

- *Public School Construction.* The allocation of funds in the State capital budget remains insufficient to help counties address the public school construction needs across the State, particularly in subdivisions like Montgomery County that have experienced significant enrollment growth. Since fiscal year 2011, the State program has grown from about \$260 million a year to \$380 million a year, with a new program added in fiscal year 2016 earmarked for school systems with significant enrollment growth and/or a high utilization of relocatable classrooms. Montgomery County has benefited significantly from this program, although on a percentage basis its share of the base program has declined slightly, which was not the expectation when the new program was negotiated. Even with these increases, at \$60 million a year in State assistance (about \$21 million more than the five-year average for fiscal years 2011 through 2015), the County is struggling to make meaningful progress in addressing its public school construction needs.

While the Montgomery County Office of Management and Budget assumes in its five-year projections that the State will contribute about \$59 million annually to its school construction program, the County needs the help of the Delegation to substantially increase the State's commitment. This could occur by: (1) meaningfully increasing the Statewide allocation; (2) creating statutory guarantees in the base program or the program overall that will yield a greater allocation to Montgomery County and create more year to year certainty; and/or (3) revisiting legislation that was introduced in 2014 that would have allowed Montgomery County to take advantage of a program created for Baltimore City through the Maryland Stadium Authority, which would let the County "jumpstart" a larger capital program through leveraging.

### *Higher Education*

- *Universities at Shady Grove.* After demonstrating its commitment to the expansion of Universities at Shady Grove (USG) by providing \$20 million for the construction of a new parking garage, the County urges Delegation support for University System of Maryland's (USM) request for State funds to support Science, Technology, Engineering and Mathematics (STEM) academic program development at USG from its nine USM academic partners. These programs will support the second of three installments of the Governor's Workforce Development Initiative and enhance academic/industry partnerships that are critical to creating opportunities for research, entrepreneurship, innovation and company creation – all catalysts for a robust, economic development ecosystem in the County and State.

### Transportation

- *State Highways as Complete Streets.* Roads and facilities owned by the State are a major element of Montgomery County's street network. In many areas of the County, the State Highway is an urban or suburban street that requires facilities for all modes, along with lighting and other features that allow it to operate properly. It has long been the policy of

the Maryland Department of Transportation (MDOT) to install and maintain the roadway itself and to assign sidewalk, path and streetlight installation and maintenance to local jurisdictions on the basis that those facilities are not part of Statewide mobility but are provided by the local jurisdiction to meet local needs. The County requests that the Delegation require MDOT to evaluate the costs and benefits of changing this policy. The public may be better served if the State was wholly responsible for providing safe facilities for all users of the highway and not just the roadway that carries motor vehicle traffic.

- *I-495/I-270 Traffic Relief Plan.* MDOT is continuing to advance a Traffic Relief Plan for these two major corridors and the project is included in the Draft Visualize 2045 Long Range Plan for the Metropolitan Washington Region. The County asks the Delegation to encourage MDOT to ensure that the I-495/I-270 Traffic Relief Plan provides for expanded transit options like the Corridor Cities Transitway and MD 355 Bus Rapid Transit, both of which run parallel to I-270. The County also asks the Delegation to request MDOT to include provisions that continue to encourage High Occupancy Vehicle use on I-270. When coupled with transit investment, the I-270 Traffic Relief Plan could achieve its stated goals while also supporting the County's need for improved transit options and increased alternatives to single occupancy vehicles. Both are critical to ensure the functioning of the local road network serving the County's activity centers and reducing the environmental impacts of the transportation system.
- *Personal Mobility Devices.* Traditionally, personal mobility devices (e.g., powered chairs and scooters) were largely used by the disabled community and caused few concerns about conflicts with motor vehicle traffic, bicycles, and pedestrians. In the last two years, there has been tremendous growth in the variety of these devices and in their use on public roads. It is unclear how existing laws apply to these devices. The County recommends that the legislature convene a task force or work group to review the definitions of these vehicles and rules of the road, and recommend best-practices, and State law changes to better establish the responsibilities of personal mobility device operators and the circumstances under which the devices can be safely operated within public rights-of-way.
- *Video Bus Lane Enforcement.* The City of Baltimore and Montgomery County have exclusive bus lanes in place or soon to be operational. The State already permits red light cameras, speed cameras, and school bus cameras. Video enforcement of bus lanes may also be an effective approach to managing this infrastructure. In some jurisdictions, the camera is on the bus and records bus lane violators as it uses the bus lane. The County requests Delegation support of legislation that would enable the use of video cameras to strengthen enforcement of bus-only lanes. Similar legislation was introduced by a Baltimore City legislator last year.

## Housing

- *Increasing Availability of Affordable Housing.* Increasing the number of affordable housing units in the County continues to be a key priority. The two-year comprehensive Montgomery County Rental Housing Study that was published last year analyzed barriers and issues related to affordable housing production and preservation. It revealed a sharp

disparity between supply and demand at various price points. Based on the study's recommendations, two local bills were enacted this year to increase the availability of affordable housing units and give the County's Department of Housing and Community Affairs (DHCA) greater flexibility to negotiate workable development solutions and create additional affordable housing opportunities County-wide. At the State level, DHCA is currently discussing with the Department of Housing and Community Development (DHCD) an opportunity to partner to develop a funding mechanism for the preservation of market-rate affordable housing that may arise from the County's Right of First Refusal, which allows the County to purchase existing rental properties slated for private sale, to assure long-term affordability for a certain number of the units. The County requests that the Delegation assist DHCA by supporting its efforts with DHCD to establish a funding partnership that would help accomplish these objectives.

### Health and Human Services

- ***Medicaid Match for County Funds Used to Supplement Wages Paid to Developmental Disability Providers Serving County Clients.*** In 2015, the County's Department of Health and Human Services (DHHS) received permission from the State's Developmental Disabilities Administration (DDA) to apply for matching Medicaid funds, contingent on DDA completing a rate-setting study and releasing new DDA provider rate information. To date, the release of the new provider rates has not yet occurred and DHHS has been unable to apply for Medicaid matching funds for the past three years, which leaves potential federal dollars unclaimed. DDA must approve the County's proposal before it can be forwarded to the Centers for Medicare and Medicaid Services. As the Delegation's budget committee members review the DDA budget, the County asks for assistance to ensure that the State remains supportive of the County's efforts to secure federal matching funds and the County's application can proceed within the current rate structure. Adjustments can be made in the future when the updated provider rates are released.
- ***Public Health Grant Funding.*** Montgomery County has had the highest tuberculosis (TB) case rate in Maryland for more than five consecutive years. The County's TB case rate in 2016 was 7.1 per 100,000 people, as compared to the case rate of 3.7 per 100,000 people in the State. In 2016, there was a 25% increase in TB cases in the County, many of which were complicated by the care of clients with dual diagnoses such as HIV and diabetes. Despite the increase in TB cases, our TB grant funding from the Maryland Department of Health (MDH) was cut by 37% (approximately \$137,000) this past year. This cut impacted 2.5 Community Health Nurse positions and 1 Principle Administrative Aide position. DHHS has been in touch with MDH and both Secretary Robert Neall and Deputy Secretary Fran Phillips are aware of the County's shortfalls in this critical area. DHHS asks the Delegation budget committee members to support the County's advocacy for the restoration for these funds.
- ***Funds to Divert Behavioral Patients from Hospital Emergency Departments.*** Local hospitals have reported a significant increase in behavioral health patients leading to a shortage of Crisis Evaluation Unit (CEU) beds. The increase in patients results from both patients who come in from the community as well as those who have forensic involvement.

For example, the County's Department of Correction and Rehabilitation reports that, in fiscal year 2018, 32 percent of the inmate population required immediate behavioral intervention, and acuity across the County is significantly increasing. This results in a challenge for hospitals to find extra resources such as security and staff to handle the large patient volume. Additionally, once the immediate needs of the patients accessing the CEU beds are met, there is an insufficient amount of step-down beds, so patients languish in the CEU beds. DHHS asks the Delegation to encourage MDH to study this problem and facilitate a Statewide collaboration of stakeholders to find solutions for addressing the inefficient use of resources that creates a scarcity of CEU and step-down beds.

### Economic Development

- *Make Office Vacancies Extinct (MOVE) program.* Legislation enacted in 2017 created a State grant program modelled after the County's MOVE program to encourage the location of new businesses and reduce office space vacancies in the State. To be eligible for State funds, counties must offer comparable incentives to these businesses. Funding for the State program is subject to appropriation. If the Governor includes funds in his budget request, the County asks the Delegation to make sure the funds are appropriated; if not, the County asks the Delegation to work with their budget committee colleagues to identify other means by which the funding goals of MOVE can be met.

### Victims' Rights

- Montgomery County urges the Delegation to continue its commitments to advancing victims' rights for all Marylanders. Better policies and laws are needed to address domestic violence, sexual assault, and human trafficking. The County requests that the Delegation support legislative initiatives to ensure that trafficking victims who commit specific crimes while being trafficked can remove those convictions from their records. This process is called "vacatur." The County also requests that the Delegation support legislation providing immunity for trafficked minors (Safe Harbor), and the pursuit of stronger State contracting laws to protect workers from other countries from trafficking and coercive labor practices.

### Public Safety

- *Next-Generation 9-1-1 in Maryland.* In the 2018 General Assembly session, the State established the Commission to Advance Next Generation 9-1-1 Across Maryland and charged the Commission with studying best practices for new 9-1-1 technology and making recommendations on operational and funding issues. The availability of effective and reliable emergency service is critically important to the State and will require complicated planning matched with sufficient appropriations. The County requests the Delegation's support and attention to the Commission's preliminary report due in December to the Governor and the General Assembly that will help to guide Maryland's implementation of Next Generation 9-1-1 technology.

- ***School Bus Monitoring Cameras.*** During the 2017-2018 school year, the Montgomery County Police Department (MCPD) issued more than 32,000 citations to drivers who illegally passed stopped school buses. While this number is still unacceptably high, MCPD has observed a positive impact on driver behavior attributed to the increased civil penalty enacted by the General Assembly in 2017. Prior to the higher fine which went from \$125 to \$250 per violation, MCPD issued an average of 0.67 citations per bus per day. Since July 1, 2017, the department has reported an average of 0.37 citations per bus per day. Two years ago, the Delegation supported the enactment of this important public safety legislation. The law will sunset on June 30, 2019. The County seeks the Delegation's support to eliminate the sunset provision on the higher fine that will continue to lower the number of violations and repeat offenders, and increase the safety of children travelling to and from schools within Maryland.
- ***Gang Violence.*** Gang-related violence, from drugs and property crime to homicide, continues to increase in Montgomery County. In 2018, the legislature passed a crime bill that increased penalties for witness intimidation and creates the Task Force to Study Maryland's Criminal Gang Statutes. While there have been numerous successful prosecutions of gang members under statutes relating to crimes of violence, prosecutors have rarely used Maryland's Gang Participation statute, because its evidentiary requirements are unwieldy and in need of change. A report of the Task Force's finding is due to the Governor and the General Assembly by the end of December. We ask our Delegation to carefully consider that report and support programs intended to deter at-risk youth and families from gang involvement, and legislation to enhance the prosecution of gang-related crimes.

### Core Government Functions

- ***Local Decision-Making Authority.*** The State has delegated broad home rule authority to Charter Counties and Montgomery County regularly exercises this authority to address matters of importance to our community that are not addressed, or are addressed differently, at the State level. Each session, the General Assembly considers legislative proposals that seek to preempt local authority. In recent years, this has included legislation relating to sick and safe leave, minimum wage, solar farms, and pesticides. The County expects that various preemption bills will be introduced in the 2019 Session, including bills governing the minimum wage, small cell antennas, and implied preemption. An initiative of the Maryland Association of Counties (MACo) will seek to override the legal doctrine of implied preemption, which allows courts to invalidate local laws even when there is no express preemption language in a State statute. In recent years, courts have used this doctrine to invalidate laws governing tobacco regulation, solar farms, and pesticides. The County requests that the Delegation support this MACo initiative and oppose any legislation that seeks to expressly preempt the County's authority to enact laws and implement programs that best serve the interests of our community.
- ***Deployment of Small Cell Wireless Antennas.*** According to industry, small cell antennas (small cells) are an essential component of fifth generation (5G) wireless broadband technology. The industry's desire to deploy this technology quickly and at the lowest

possible cost has fueled unprecedented efforts at the State and federal levels to preempt local authority to manage the placement and size of this equipment in public rights-of-way and on public property. During the 2018 Session, the industry introduced a sweeping preemption bill that was eventually withdrawn due to strong opposition from counties and municipalities. Since the end of Session, the Federal Communications Commission (FCC) has acted aggressively to impose shot clocks on applications, ban franchise fees for use of public rights-of-way, ban rent for use of public property (e.g., street lights and buildings), and limit the ability to recover administrative costs. The County strongly supports the goal of achieving fast and reliable broadband service but believes that the extensive federal rules that already apply to small cell deployment, together with the County's efforts to develop its own balanced solution, alleviate the need for State preemption in this area. Therefore, the County requests that the Delegation oppose any effort to preempt local authority at the State level.

### Other Capital Projects

- *Public School Construction – number not yet available*
- *Montgomery College - \$35,000,000.* The County is supporting Montgomery College's State capital request to construct the Takoma Park/Silver Spring Campus Math/Science building. Because of the size of the request, the State may allocate funding over more than one fiscal year.
- *Avery Road Treatment Center -- \$840,000.* Montgomery County is in the process of rebuilding its Avery Road Treatment Center, which offers detoxification and intermediate residential behavioral health treatment services for low-income County residents. The State committed to funding 28% of project costs. Due to recent cost increases in the price of building materials, the project is under-funded in the range of \$1.5 million to \$3 million. The County is requesting that the State share in this cost, which at the high end would be \$840,000.
- *Poolesville Economic Development Project - \$1,000,000.* The Montgomery County Revenue Authority is requesting a fiscal year 2020 State capital grant to help support the costs of utilizing excess land at the Poolesville Golf Course property, located in the Agricultural Reserve, to develop a comprehensive facility to support agriculture, economic development, and education/workforce development. This is a multiphase project that is focused on supporting farmers through research, sale of local crops, and alternative product development. It will support economic development in the region related to agritourism. Partnerships with educational institutions and industry will be utilized to create workforce development programs. All of these activities will help to preserve open space and foster a healthy agricultural ecosystem. The Delegation's previous financial support has allowed this project to move through the design phase and approval process, and a Request For Proposal has been issued.
- *Round House Theatre - \$3,000,000.* The County is supporting Round House Theatre's request for a \$3 million State grant in fiscal year 2020. This would be the second



installment of a multi-year State request to help support the costs of a \$9 million renovation of the Bethesda theatre, to be completed by September 2019. The County has also invested in this project.

- *Olney Theatre - \$2,000,000.* The County is supporting Olney Theatre's request for a \$2 million State grant in fiscal year 2020. This would be the second installment of a multi-year State request to help support the costs of the Theatre's \$25 million capital improvement project to develop community amenities at the location. The County has also invested in this project.

10/26/18, 9:10 a.m.

S:GA2019:Priorities:State Priorities for the 2019 Session