



SUBJECT

Expedited Bill 40-19, Inspector General – Staff - Amendments
Lead Sponsor: then-Council President Navarro, Councilmember Friedson and then-Council Vice President Katz (GO Committee)

EXPECTED ATTENDEES

Inspector General Megan Davey Limarzi

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Final Action – Council vote required. This Bill did not go to Committee. A Councilmember must make a motion to enact the Bill for Council consideration.

DESCRIPTION/ISSUE

Bill 40-19 would authorize the Inspector General to hire one or more deputies as a term merit employee and other staff of the Office as a merit employee.

SUMMARY OF KEY DISCUSSION POINTS

- The operation of the Office of the Inspector General.

This report contains:


Staff Report	Page 1
Expedited Bill 40-19	©1
Legislative Request Report	©3
Fiscal and Economic Impact statement	©4
Testimony of Megan Davey Limarzi	©8
Testimony of Melissa McKenna	©9

Alternative format requests for people with disabilities. If you need assistance accessing this report you may submit alternative format requests to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

MEMORANDUM

January 16, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Expedited Bill 40-19, Inspector General – Staff - Amendments

PURPOSE: Action – Council votes required

This Bill was not reviewed by a Committee. A Councilmember must make a motion to enact the Bill for Council consideration.

Expected attendee:

Megan Davey Limarzi, Inspector General

Expedited Bill 40-19, Inspector General – Staff - Amendments, sponsored by Lead Sponsors then-Council President Navarro, Councilmember Friedson and then-Council Vice President Katz (GO Committee), was introduced on December 3, 2019. A public hearing was held on January 14 with two speakers.¹

Bill 40-19 would authorize the Inspector General to hire one or more deputies as a term merit employee and other staff of the Office as a merit employee. Under current law the Inspector General must hire each staff member as a term merit employee with a maximum term that ends at the same time as the 4-year term of the Inspector General. This requires a new Inspector General to start her term with no existing staff members or institutional experience. It also makes it more difficult to recruit staff when an Inspector General is appointed to either a new term or to complete the term of an Inspector General who leaves early.

Bill 40-19 would create a middle ground for the appointment of staff. The Inspector General would be required to appoint one or more deputies as a term merit employee but would be permitted to hire all other staff as merit employees. The Bill would require existing term merit staff members to continue in that status until their current term ends. They could be rehired as a merit employee after the end of their term. The Inspector General could fill new vacancies under the Bill as soon as the law takes effect.

The OMB Director concluded that the Bill would have no fiscal impact on the County's budget and the Finance Director concluded that the Bill would not affect the County's economy. See the FEIS at ©4-7.²

¹#InspectorGeneralStaff

² The Fiscal Impact Statement erroneously states that the current term merit employees in the OIG "do not receive equivalent pay per the General Salary/MLS schedules." All term merit employees are paid under the same General Salary/MLS schedules as a full-time merit employee. We do not believe this misstatement changes the conclusion that the Bill would have no fiscal impact.

Public Hearing

Both speakers supported the Bill. Inspector General Limarzi supported the Bill (©8) as an important change to help her recruit staff to implement the responsibilities added to the Office by Bill 11-19, Administration – Internal Audit – Inspector General – Amendments. Melissa McKenna also supported the Bill (©9) to help hire new staff members to oversee the Montgomery County Public Schools if the State authorizes the expansion of the IG jurisdiction.

Discussion

Personnel Regulation §33.07.01.01 defines a merit system position as:

1-39. *Merit system position:* A career position in the executive or legislative branch of the County government, the Office of the County Sheriff, or another position designated by County or State statute, except those excluded by Section 2-2 of these Regulations.

A *term position* is defined as:

1-80. *Term position:* A type of full-time or part-time career merit system position that is created for a special term, project, or program, or a position in which the incumbent's employment terminates at the expiration of a specified period of time or term.

A term merit position retains all the protections and benefits of the merit system except that the employment of an incumbent of a term merit position automatically ends at the end of the specified term.

Ms. Limarzi was appointed Inspector General to complete the remainder of the 4-year term of the recently retired Inspector General, Ed Blansitt. Soon after her appointment, the Council expanded the duties of the Office and authorized Ms. Limarzi to fill additional positions. Recruitment of staff members for a short term is likely to reduce the number of well qualified applicants. An entire staff of term merit employees also runs the risk of leaving a newly appointed IG with little or no staff upon appointment. The Bill would retain the term merit status of one of more deputies hired by the IG while making the other positions full career merit positions. The Bill contains a transition clause that would require the existing term merit employees to complete their term and permit them to apply for a newly created full merit position after their current term ends.

The Bill is expedited and would take effect on the date it becomes law.

This packet contains:	<u>Circle #</u>
Expedited Bill 40-19	1
Legislative Request Report	3
Fiscal and Economic Impact statement	4
Testimony of Megan Davey Limarzi	8
Testimony of Melissa McKenna	9

F:\LAW\BILLS\1940 Inspector General - Staff - Amendments\Action Memo.Docx

Expedited Bill No. 40-19
Concerning: Inspector General – Staff -
Amendments
Revised: November 19, 2019 Draft No.1
Introduced: December 3, 2019
Expires: June 3, 2021
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Council President Navarro, Councilmember Friedson and Council Vice-President
Katz

AN EXPEDITED ACT to:

- (1) authorize the Inspector General to hire one or more deputies as a term merit employee;
- (2) authorize the Inspector General to hire other staff of the Office as a merit employee;
and
- (3) generally amend the law governing the staff of the Inspector General.

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-151

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

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

1 **Sec. 1. Section 2-151 is amended as follows:**

2 **2-151. Inspector General.**

3 * * *

4 (g) *Staff; Legal Counsel.*

5 (1) The Inspector General may, subject to appropriation and all
6 applicable merit system laws and regulations, appoint as a term
7 merit [employees] employee one or more deputies and each of the
8 other staff of the Office of the Inspector General as a merit
9 employee. The term of each deputy [employee] should end when
10 the next Inspector General takes office unless the Inspector
11 General specifies a shorter term when appointing the term merit
12 employee. The Inspector General may also, subject to
13 appropriation, retain project staff or other consultants by contract.
14 The Inspector General may, with the agreement of the head of any
15 other government department or agency, temporarily detail an
16 employee of that department or agency to the Office of the
17 Inspector General.

18 * * *

19 **Sec. 2. Transition.**

20 A term merit employee who is employed in the Inspector General's Office when
21 this law takes effect must continue as a term merit employee until the employee's term
22 is completed.

23 **Sec. 3. Expedited Effective Date.**

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

LEGISLATIVE REQUEST REPORT

Expedited Bill 40-19
Inspector General – Staff - Amendments

DESCRIPTION: Bill 40-19 would authorize the Inspector General to hire one or more deputies as a term merit employee and other staff of the Office as a merit employee.

PROBLEM: Under current law the Inspector General must hire each staff member as a term merit employee with a maximum term that ends at the same time as the 4-year term of the Inspector General. This requires a new Inspector General to start her term with no existing staff members or institutional experience. It also makes it more difficult to recruit staff when an Inspector General is appointed to either a new term or to complete the term of an Inspector General who leaves early.

GOALS AND OBJECTIVES: To improve the operation of the Office of Inspector General.

COORDINATION: Inspector General

FISCAL IMPACT: To be provided

ECONOMIC IMPACT: To be provided

EVALUATION: To be provided

EXPERIENCE ELSEWHERE: Unknown

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A



ROCKVILLE, MARYLAND

MEMORANDUM

December 18, 2019

TO: Sidney Katz, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*
Michael Coveyou, Acting Director, Department of Finance *mqc*

SUBJECT: FEIS for Bill 40-19, Inspector General – Staff - Amendments

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

c: Andrew Kleine, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Caroline Sturgis, Assistant Chief Administrative Officer
Debbie Spielberg, Special Assistant to the County Executive
Dale Tibbitts, Special Assistant to the County Executive
Lisa Austin, Office of the County Executive
Barry Hudson, Director, Public Information Office
Rob Hagedoorn, Department of Finance
Dennis Hetman, Department of Finance
David Platt, Department of Finance
Monika Coble, Office of Management and Budget
Chrissy Mireles, Office of Management and Budget
Philip Weeda, Office of Management and Budget

Fiscal Impact Statement
Bill 40-19, Inspector General – Staff – Amendments

1. Legislative Summary

Bill 40-19 would authorize the Inspector General to hire one or more deputies as a term merit employee and other staff of the office as a merit employee.

The Office of the Inspector General (OIG) does not believe that Council Bill 40-19 will cause a fiscal impact on its organization. The OIG staff is presently appointed as full-time, term, and merit employees. As such, the staff does not receive equivalent pay per the General Salary/MLS Schedules. The staff does earn the same paid time off via annual, sick, paid holidays, etc. and are subject to the same 80 hour pay period work schedule. Both the term and permanent positions use the same Office of Human Resources' job classification and position descriptions.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Not applicable.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Not applicable.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable.

7. An estimate of the staff time needed to implement the bill.

Not applicable.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.


See response #1.

13. Other fiscal impacts or comments.

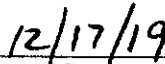
Not applicable.

14. The following contributed to and concurred with this analysis:

Michael Morgan, Office of the Inspector General
Philip Weeda, Office of Management and Budget



Richard S. Madaleno, Director
Office of Management and Budget



Date

**Economic Impact Statement
Bill 40-19 Inspector General – Staff Amendments**

Background:

Bill 40-19 would authorize the Inspector General to hire one or more deputies as a term merit employee and other staff of the Office as a merit employee.

1. The sources of information, assumptions, and methodologies used.

There were no sources of information, assumptions, or methodologies needed in the formulation of this economic impact statement.

2. A description of any variable that could affect the economic impact estimates.

There are no variables that could affect the economic impact estimates from this legislation. The goal of the legislation is to create a middle ground for the appointment of staff and improve the operation of the Office of the Inspector General. Under current law the Inspector General must hire each staff member as a term merit employee with a maximum term that ends at the same time as the 4-year term of the Inspector General. This requires a new Inspector General to start their term with no existing staff members or institutional experience. It also makes it more difficult to recruit staff when an Inspector General is appointed to either a new term or to complete the term of an Inspector General who leaves early.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

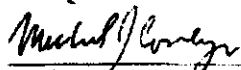
The Bill will have no measurable effect on employment, spending, savings, investment, incomes, or property values in the County.

4. If a Bill is likely to have no economic impact, why is that the case?

Please see paragraph 3.

5. The following contributed to or concurred with this analysis:

David Platt, Dennis Hetman – Department of Finance.



Michael Coveyou, Acting Director
Department of Finance

12/17/19
Date



16

OFFICE OF THE INSPECTOR GENERAL

Testimony in support of Expedited Bill 40-19, Inspector General-Staff- Amendments

Good afternoon Council President Katz, Vice President Hucker, and members of the Council.

For the record, my name is Megan Davey Limarzi, and I am the Inspector General for Montgomery County. I would like to begin this afternoon by thanking the Government Operations and Fiscal Policy Committee for introducing Expedited Bill 40-19. As I work to expand the OIG so that we can meet our newly delegated audit tasks, I am also working to build a solid foundation which will remain long after I am here. One key component to that is changing the categorization of most OIG employees from "term merit" to "merit". This bill would make any future OIG employees, other than Deputy Inspectors General, full merit employees. Currently, all OIG employees are term which means that when the IG's term ends, they must be reappointed in order to continue in their positions. I have come to understand that the initial idea behind this classification was to allow each IG the full independence and authority to choose her or his own staff and not carry over anyone she or he did not wish to retain. However, an unintended consequence of this system is it breeds great uncertainty for employees as the end of an IG's term approaches, can be a hindrance in recruiting, and ultimately can create an organizational void. In fact, when my predecessor Mr. Blansitt arrived, he had only one employee left and thereby had to create an entirely new office from scratch. This type of rebuilding can take months and effects an OIG's ability to establish its credibility, not to mention can be an enormously inefficient use of public resources.

Expedited Bill 40-19 balances the original interest of giving deference to an IG by continuing to keep the deputy positions as term, while supporting the organization's interests in continuity and stability. In light of the audit work that we will be doing under bill 11-19 which was passed last fall, it will be critical to cultivate institutional knowledge and not hamstring future IGs. Furthermore, this change will allow me to build the necessary foundation as we stand up a new audit division and begin hiring high caliber, talented individuals who will serve Montgomery County well.

Thank you for your continued support of the OIG and our mission.

17

**Montgomery County Council Public Hearing
Testimony in Support of
Expedited Bill 40-19, Inspector General - Staff
January 14, 2020
Melissa McKenna**

Good afternoon. My name is Melissa McKenna.

Thank you for the expedited consideration of Bill 40-19, Inspector General staff. Not only will this allow continuity of staff from term to term, and pass on critical institutional knowledge, but will create flexibility to add staff as necessary to the Inspector General's office. This isn't a controversial issue, so I came to tell you **WHY** it's so important right now.

Last month I testified to the State Delegation to share my strong support of Bill MC14-20 to enable to the County Council to grant the Inspector General authority over MCPS and the Board of Education. Thanks to Senator Kramer and Delegate Solomon for this final piece of legislation to ensure transparency and accountability of County agencies. With the passage of MC14-20, our County Inspector General will have A LOT more to do.

As you know, I have spent the past many years getting MCPS tons of money. Now that we've gotten the money, where does it go? We need to examine what's really going into the **cost of MCPS projects and how things are built**.

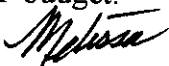
The new Seneca Valley HS started with a price tag of \$155M, it's now at \$175M, and last week the BOE approved a change order for up to an additional \$4.6M for CTE build out. I call this the Tesla Model X project. At more than 500K square feet and potentially \$180M, can we really afford this? Could we do with a nice, sturdy Subaru? Maybe a pre-owned ("refreshed") Honda? Such an expensive price tag for one project rings tone deaf to the needs of many other MCPS schools, much less what other counties may think. Even Baltimore City is building two, new, Net Zero Energy schools for roughly the same price as conventional construction.

Then there's Gaithersburg Cluster ES#8. Somehow, inexplicably, that price tag jumped from \$26M in the last CIP to \$39M in the BOE recommended FY21 CIP. Why? I greatly appreciate the County's funding of school construction and capital projects; however, we need to stretch funding as far as it can go.

The oversight authority granted in State Bill MC14-20 will not duplicate state audit efforts, and actually is very necessary for two reasons, beyond the obvious that the majority of MCPS capital funding comes from Montgomery County. From the Superintendent's Recommended Budget in Brief FY2021 Operating Budget:

1. The Public School Construction Program's (PSCP) Office of the Interagency Committee on School Construction audits the use of state construction funds provided to all Maryland school systems every two to three years. The examination is made in accordance with the public school laws of Maryland and the regulations for the administration of the PSCP, and includes tests of accounting and construction procedures.
2. PSCP conducted its most recent audit of MCPS in FY 2015 to evaluate its regulatory compliance. No material findings were identified in the report published on August 21, 2015, as well as in the two prior audit reports. PSCP personnel turnover has delayed the next audit of MCPS.*

Thank you for your support of Expedited Bill 40-19. I look forward to seeing you again soon to discuss the MCPS CIP budget.



*Superintendent's Recommended Budget in Brief FY2021 Operating Budget, December 2019, page 41.
https://www.montgomeryschoolsmd.org/uploadedFiles/departments/budget/fy2021/FY2021_Budget-In-Brief.pdf