



**Committee GO**

**Staff:** Robert H. Drummer, Senior Legislative Attorney

**Purpose:** To introduce agenda item – no vote expected

**Keywords:** #WMATAPilot

Search terms: WMATA, Metro property, taxes

AGENDA ITEM #15B

July 7, 2020

Introduction

**SUBJECT**

Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property - Established

Lead Sponsors: Councilmembers Riemer and Friedson

Co-Sponsors: Councilmembers Glass, Navarro, Council President Katz, Councilmember Albornoz and Council Vice President Hucker

**EXPECTED ATTENDEES**

None

**COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

- To introduce Bill – no vote expected.

**DESCRIPTION/ISSUE**

Bill 29-20 would require the Director of Finance to offer a payment in lieu of taxes for a residential or commercial high-rise building constructed by a private developer on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro Station. The Bill would require the payment in lieu of taxes that would exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development.

**SUMMARY OF KEY DISCUSSION POINTS**

- Does encouraging this type of development provide a reasonable return to the County for the loss of property tax and the expansion of the Charter limit cap on property tax revenue from new construction?
- Should the exemption be automatic or should each proposed development be reviewed independently?

**This report contains:**

Staff Report

Bill 29-20

Legislative Request Report

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**MEMORANDUM**

July 2, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property -  
Established

PURPOSE: Introduction – no Council votes required

Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property - Established, sponsored by Lead Sponsors Councilmember Riemer and Friedson and Co-Sponsors Councilmembers Glass, Navarro, Council President Katz, Councilmember Alborno and Vice President Hucker, is scheduled to be introduced on July 7, 2020. A public hearing is tentatively scheduled for July 28 at 1:30 p.m.<sup>1</sup>

Bill 29-20 would require the Director of Finance to offer a payment in lieu of taxes for a high-rise building constructed by a private developer on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro Station. The Bill would require the payment in lieu of taxes that would exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development.

WMATA does not currently pay property tax because it is an instrumentality of the State of Maryland.<sup>2</sup> Property tax can be levied against a lessee of government property used for a private purpose under Md. Tax-Property Code Ann. §6-102(e). WMATA has agreed to a long-term lease with a developer of some of its property at the Grosvenor-Strathmore Metro Station. Md. Tax-Property Code Ann. §7-501 authorizes the Council to enact a law providing for a payment in lieu of taxes for property leased from a government agency that is otherwise subject to a tax levy under §6-102(e).

Bill 29-20 would apply to any property leased from WMATA at a Metro Station in the County for a qualifying development of a residential or commercial high-rise building.

This packet contains:	<u>Circle #</u>
Bill 29-20	1
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<sup>1</sup>#WMATAPilot  
Search terms: WMATA, Metro property, taxes

<sup>2</sup> WMATA is a regional transportation agency that is an instrumentality of Maryland, Virginia, and the District of Columbia. See Md. Transportation Code Ann. §10-204.

Bill No. 29-20  
Concerning: Taxation – Payments in Lieu  
of Taxes – WMATA property -  
Established  
Revised: July 6, 2020 Draft No. 5  
Introduced: July 7, 2020  
Expires: January 7, 2022  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsors: Councilmembers Riemer and Friedson  
Co-Sponsors: Councilmembers Glass, Navarro, Council President Katz, Councilmember Albornoz  
and Council Vice President Hucker

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**AN ACT** to:

- (1) authorize the Director of Finance to negotiate a payment in lieu of taxes for certain property leased from WMATA;
- (2) establish the amount of the payment in lieu of taxes; and
- (3) generally amend the law governing payments in lieu of taxes.

By adding

Montgomery County Code  
Chapter 52, Taxation  
Section 52-24A

<b>Boldface</b>	<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:*

**Sec. 1. Section 52-24A is added as follows:**

**52-24A. Payments in lieu of taxes for certain property leased from WMATA.**

(a) Definitions. In this Section, the following words have the following meanings:

Director means the Director of the Department of Finance or the Director's designee.

High-rise building means a building with an occupied floor that is more than 8 stories above ground level.

Metro station means a mass transit train station owned and operated by the Washington Metropolitan Area Transit Authority.

Qualifying development means a project to construct one or more high-rise buildings located on land leased from WMATA at a metro station.

Washington Metropolitan Area Transit Authority or WMATA means the regional transit instrumentality of the State of Maryland, Commonwealth of Virginia, and the District of Columbia created by Compact and described in Md. Transportation Code Ann. §10-204, as amended.

(b) When authorized by state law, the Director must offer a payment in lieu of taxes for a qualifying development.

(c) The payment in lieu of taxes must exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development, regardless of subleases executed by the lessee.

(d) Any payment accepted by the Director must conform to guidelines included in a regulation adopted by the Executive under method (1) to implement this Section.

(e) This Act must be known as the "Housing at Metrorail Stations Act."

## LEGISLATIVE REQUEST REPORT

Bill 29-20

*Taxation – Payments in Lieu of Taxes – WMATA property - Established*

<b>DESCRIPTION:</b>	Bill 29-20 would require the Director of Finance to offer a payment in lieu of taxes for a high-rise building constructed by a private developer on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro Station. The Bill would require the payment in lieu of taxes that would exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development.
<b>PROBLEM:</b>	The market does not currently support the construction of a high-rise building at a Metro station.
<b>GOALS AND OBJECTIVES:</b>	The goal is to encourage the construction of high-rise buildings at Metro stations in the County.
<b>COORDINATION:</b>	DHCA, Finance, County Attorney
<b>FISCAL IMPACT:</b>	To be provided
<b>ECONOMIC IMPACT:</b>	To be provided
<b>EVALUATION:</b>	To be provided
<b>EXPERIENCE ELSEWHERE:</b>	Unknown
<b>SOURCE OF INFORMATION:</b>	Robert H. Drummer, Senior Legislative Attorney
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	N/A
<b>PENALTIES:</b>	N/A