

MEMORANDUM

TO: County Council

FROM:  Michael Faden, Senior Legislative Attorney

SUBJECT: **Public Hearing:** Bill 2-13, Streets and Roads – Reconstruction - Coordination

Bill 2-13, Streets and Roads – Reconstruction - Coordination, sponsored by Councilmembers Leventhal, Riemer and Elrich, was introduced on January 15, 2013. A Transportation, Infrastructure, Energy and Environment Committee worksession will be scheduled at a later date.

Bill 2-13 would

- require the Director of Transportation to adopt a 5-year schedule of reconstruction, rehabilitation, and resurfacing to County sidewalks, streets, and roads, and to publicize that schedule; and
- direct the Department to take all feasible steps to coordinate the County's reconstruction, rehabilitation, and resurfacing activities with those of other government agencies, public utilities, and other entities, and in so doing to locate utility transmission facilities underground when feasible.

The Office of Legislative Oversight's current work program includes a project that focuses on this topic. See OLO work program excerpt on ©5. OLO staff expect to participate in the Transportation, Infrastructure, Energy, and Environment Committee's review of this bill.

This packet contains:

Bill 2-13

Legislative Request Report

Office of Legislative Oversight work program excerpt

Circle #

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Bill No. 2-13
Concerning: Streets and Roads -
Reconstruction - Coordination
Revised: 1-8-13 Draft No. 2
Introduced: January 15, 2013
Expires: July 15, 2014
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Leventhal

AN ACT to:

- (1) require the Director of Transportation to adopt a schedule of reconstruction, rehabilitation, and resurfacing to County sidewalks, streets, and roads, and to publicize that schedule;
- (2) direct the Department to take all feasible steps to coordinate the County's reconstruction, rehabilitation, and resurfacing activities with those of other government agencies, public utilities, and certain other entities, and in so doing to locate utility transmission facilities underground when feasible; and
- (3) generally amend the law governing the reconstruction, rehabilitation, and resurfacing of County streets and roads.

By amending

Montgomery County Code
Chapter 49, Streets and Roads
Section 49-42

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 49–42 is amended as follows:**

2 **49-42. [Reserved.] Reconstruction, rehabilitation, and resurfacing**
 3 **schedule; coordination with other government agencies and private parties.**

4 (a) The Director of Transportation must annually adopt a 5-year schedule
 5 for the reconstruction, rehabilitation, and resurfacing of sidewalks,
 6 streets, and roads that the County controls or maintains. That schedule
 7 must be based on the approved County Capital Improvements Program
 8 and on consultations with other government agencies and public
 9 utilities.

10 (b) The 5-year schedule must be published in the County Register each
 11 January. The Director must send the schedule annually to:

- 12 (1) the State Highway Administration;
- 13 (2) each municipality in the County;
- 14 (3) each public utility, and each cable communications franchisee,
 15 that operates in the County;
- 16 (4) the Washington Suburban Sanitary Commission;
- 17 (5) the County Planning Board;
- 18 (6) civic, business, and community organizations active in the
 19 County; and
- 20 (7) any other agency, organization, or person that would benefit from
 21 that information.

22 (c) In adopting and implementing a 5-year schedule under subsection (a),
 23 the Director must take all feasible steps to coordinate the Department's
 24 reconstruction, rehabilitation, and resurfacing activities with those of
 25 other government agencies, public utilities and cable communications
 26 providers, and any other entity authorized to reconstruct, rehabilitate, or
 27 resurface sidewalks, streets, or roads, to avoid conflicting or duplicative

activities and to minimize the number of times that a given sidewalk, street, or road will be unavailable for unimpeded public use.

(d) In coordinating its activities with those of public utilities and cable communications providers, the Department must make every effort to locate or aid the location of transmission facilities underground where feasible.

(e) The adoption of a schedule under this Section does not limit the Department's authority to respond to any emergency.

Approved:

Nancy Navarro, 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

Bill 2-13

Streets and Roads – Reconstruction - Coordination

DESCRIPTION:	Requires the Director of Transportation to annually adopt a 5-year schedule for the reconstruction, rehabilitation, and resurfacing of sidewalks, streets, and roads that the County controls or maintains. The schedule must be based on the approved County CIP and on consultations with other government agencies and public utilities. Directs the Department to take all feasible steps to coordinate the County's reconstruction, rehabilitation, and resurfacing activities with those of other government agencies, public utilities, and certain other entities, and in so doing to locate utility transmission facilities underground when feasible.
PROBLEM:	Frequently County roads and streets are repeatedly torn up when better coordination would reduce the disruption of public use.
GOALS AND OBJECTIVES:	To better coordinate reconstruction, rehabilitation, and resurfacing of County streets and roads and minimize public expense and inconvenience.
COORDINATION:	Department of Transportation, Department of Permitting Services, State highway Administration, Planning Board
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched. The Office of Legislative Oversight is currently conducting a study of this topic.
SOURCE OF INFORMATION:	Michael Faden, Senior Legislative Attorney, 240-777-7905 Glenn Orlin, Deputy Council Staff Director, 240-777-7936
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Not applicable.

PROJECT # 5B
UTILITY AND TRANSPORTATION WORK IN COUNTY RIGHTS-OF-WAY

Principal Agency: County Government

Origin of Project: County Council

The County Government Department of Transportation (DOT) Division of Highway Services builds, reconstructs, and repairs County roads under its jurisdiction. At the same time, the County Government's Department of Permitting Services (DPS) regulates and issues permits for all utility construction, reconstruction, or maintenance activities performed in County rights-of-way (ROW) under DPS' jurisdiction. Several utilities maintain infrastructure within and perform work in County rights-of-way, including Washington Suburban Sanitary Commission (WSSC), Washington Gas, and Potomac Electric Power Company (PEPCO). DPS sets standards and issues permits for this work.

This OLO report will examine where opportunities exist to improve coordination between DPS, DOT, WSSC, PEPCO, and State agencies for work performed in County Rights-of-Way. OLO will examine the County Government's processes for:

- Granting County Government approval for work performed in County ROWs,
- Coordinating work by multiple entities in individual ROWs, and
- Ensuring that entities comply with County Government requirements for work in ROWs.

OLO will explore past work and coordination in County Government's ROWs and identify opportunities to improve coordination in order to maximize County Government resources.