Agenda Item 4
May 18, 2011
Action

MEMORANDUM

TO: County Council

FROM: Michael Faden, Senior Legislative Attorney
Glenn Orlin, Deputy Staff Director

SUBJECT: **Action:** Expedited Bill 10-11, Recordation Tax – Allocation of Revenue

Government Operations and Fiscal Policy Committee recommendation: enact as introduced.

Expedited Bill 10-11, Recordation Tax – Allocation of Revenue, sponsored by the Council President at the request of the County Executive, was introduced on April 5, 2011. At the public hearing held on April 26, the only speaker, a representative of the Greater Capital Area Association of Realtors (GCAAR), opposed the Bill (see testimony, ©6-7). The Executive did not testify or send a representative. The Government Operations and Fiscal Policy Committee held a worksession on this Bill on May 3.

Summary Bill 10-11 would suspend for fiscal year 2012 the current law's requirement that certain revenue from the recordation tax (Tier 3, explained below) must be allocated to the cost of County Government capital projects and rental assistance programs for low and moderate income households.

Recordation tax background The County recordation tax, levied under state law and shown in County Code §52-16B, has (since 2008) 3 levels or tiers which determine how the revenue from this tax is allocated:

Tier	Rate	Use of funds
1	$4.40 per $1000	General Fund (unrestricted)
2	$2.50 per $1000	MCPS capital, College educational technology
3	$3.10 per $1000 (>$500,000)	50% County government capital improvements 50% new funding for rental assistance programs

When the Council enacted a similar Bill (Bill 14-10) last year for the current fiscal year, that Bill also suspended the requirement that Tier 2 recordation tax revenue be allocated to

MCPS capital improvements and College educational technology. This Bill, as drafted by the Executive. would not reallocate Tier 2 revenue.

Fiscal impact Total reallocations of $8.3 million (Tier 3 only). See fiscal impact statement on ©5. **Economic impact**: none assumed (effect of lowering rental assistance funding not discussed).

Options

Options to allocate County recordation tax revenue include:

1) suspend the statutory revenue allocations in Tier 3 for the next fiscal year, FY12, as the Executive proposed;
2) suspend the statutory revenue allocations in Tiers 2 and 3 for the next fiscal year, FY12, as the Executive proposed and the Council did last year;
3) suspend the statutory revenue allocations in Tiers 2 and 3 for the next several (say 3) fiscal years, so this kind of legislation will not be needed every year;
4) repeal the statutory revenue allocations in Tiers 2-3 so that all recordation tax revenue goes to the General Fund and is available for any appropriation.

In its testimony, GCAAR argued that "decisions like this ... would divert funds from the uses that justified their collection in the first place". GCAAR also cited other pending or potential federal legislation that would negatively impact the "fragile housing market", as well as the need for more, rather than less, rental assistance funding. Proponents of this Bill would counter that severe fiscal stresses on the County require greater flexibility in using available revenues. They also would note that this Bill gives the Council more latitude in reallocating these funds, but does not require any reallocation; that decision would be made in the operating budget resolution.

Council staff recommendation: option 2, suspend the statutory revenue allocation for the next year. It's clear that the County's fiscal situation will not improve markedly next year, so this kind of flexibility will continue to be necessary.

Committee recommendation: enact as introduced (option 1); suspend allocation of Tier 3 only in Fy12.

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Expedited Bill No. 10-11
Concerning: Recordation Tax – Allocation of Revenue
Revised: March 31, 2011 Draft No. 1
Introduced: April 5, 2011
Expires: October 5, 2012
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:
1) revise the allocation of certain revenue received from the recordation tax; and
2) generally amend County law related to the recordation tax.

By amending
Laws of Montgomery County 2010
Chapter 19

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. Chapter 19 of the Laws of Montgomery County 2010 is amended as follows:

* * *

Sec. 3. Allocation of Revenue. During any fiscal year that begins on or after July 1, [2011] <u>2012</u>, 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. 2. 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:

Valerie Ervin, 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 10-11
Recordation Tax – Allocation of Revenue

DESCRIPTION: This Bill would suspend the current requirement that portions of the recordation tax be allocated to: (a) the cost of County Government capital projects; and (b) rental assistance programs for low and moderate income households.

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

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

COORDINATION: Office of Management and Budget and 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: Not applicable.

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

APPLICATION WITHIN MUNICIPALITIES: Revenue laws apply County wide.

PENALTIES: Not applicable.

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

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RECEIVED
MONTGOMERY COUNTY
COUNCIL

March 15, 2011

TO: Valerie Ervin, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

SUBJECT: Proposed Legislation – Recordation Tax – Allocation of Revenue

I am attaching for the Council's consideration a bill that would suspend the current requirement that portions of the recordation tax be allocated to: (a) the cost of County Government capital projects; and (b) rental assistance programs for low and moderate income households. In order to meet current fiscal challenges facing the County, the County must increase the amount of revenue available to maintain core Government programs and services.

I am also attaching a Legislative Request Report and Fiscal and Economic Impact Statement for the bill. Thank you for your prompt consideration of this legislation. I look forward to working with the Council as it considers this proposal.

Attachments (2)

c: Jennifer Barrett, Director, Department of Finance
Joseph F. Beach, Director, Office of Management and Budget
Kathleen Boucher, Assistant Chief Administrative Officer
Marc Hansen, County Attorney

OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

March 15, 2011

TO: Valerie Ervin, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Expedited Bill XX-10, Recordation Tax-Allocation of Revenue

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

LEGISLATION SUMMARY

The proposed legislation suspends, for one fiscal year, a requirement that portions of the recordation tax be allocated to the cost of County Government capital projects and rental assistance programs for low and moderate income households.

FISCAL SUMMARY

The subject legislation will not affect the amount of recordation tax collected, but instead permits the reallocation of an estimated $8.3 million in FY12 recordation tax premium revenues from capital projects and rental assistance programs to the general fund to be used for general purposes. The County Executive included the use of these revenues in his March 15 recommended operating budget to address the County's current fiscal challenges by increasing the amount of revenue available to maintain critical government programs and services.

ECONOMIC SUMMARY

This bill has no quantifiable economic impact.

The following contributed to and concurred with this analysis: Jennifer Bryant, Office of Management and Budget, and Michael Coveyou, Department of Finance.

JFB:bh

c: Kathleen Boucher, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Jennifer Bryant, Office of Management and Budget
Michael Coveyou, Department of Finance

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GCAAR

GREATER CAPITAL AREA ASSOCIATION OF REALTORS®

TESTIMONY OF *THE GREATER CAPITAL AREA ASSOCIATION OF REALTORS®* BEFORE THE MONTGOMERY COUNTY COUNCIL REGARDING *"EXPEDITED BILL 10-11, RECORDATION TAX – ALLOCATION OF REVENUE"*

April 26, 2011

Council President Ervin and members of the council, my name is Bonnie Casper and I am the 2011 President-elect for the Greater Capital Area Association of REALTORS® ("GCAAR") – the voice of Montgomery County and the District of Columbia's nearly 9,000 REALTORS®, property managers, title attorneys and other real estate professionals. On behalf of GCAAR, I would like to express our opposition and some concerns regarding Bill 10-11.

GCAAR appreciates the fact that the Montgomery County government is facing difficult budgetary decisions. However, GCAAR is concerned with one such decision in particular – the decision to divert funds that have been collected in County recordation taxes from certain capital purposes and rental assistance to the general fund. In fact, it is our understanding from last year's bill, Expedited Bill 14-10, that the planned reallocation was to be $8.221 million in FY '11 recordation tax premium revenues. These monies, in accordance with County Code 52-16B, were to have been collected for the purposes of capital construction and rental assistance. It is misleading to divert them from these important uses. When this was adopted originally in 2007 GCAAR agreed that increasing the recordation tax rate was acceptable if the increase was dedicated to rental assistance. To change that would break faith with these prior decisions – and would cause real harm to those most vulnerable who need that assistance. Furthermore, decisions like this that would divert funds from the uses that justified their collection in the first place undermines credibility.

To put the criticality of this matter in context, we must consider that the US Congress is currently considering legislation that would eliminate the mortgage interest deduction, lower the conforming loan limits, and abolish Fannie Mae and Freddie Mac – the institutions that have enabled the mortgage market to finance long-term loans. If Congress enacts all or any of these provisions, the fragile housing market will be negatively impacted. In addition, in this morning's Washington Post, there was an article by Dina ElBoghdady entitled "Study: Affordable rental housing scarce … 26 percent of tenants spend more than half their income per month". The article cites a Harvard University Study and concludes by saying…"the number of people who rent shot up 8 percent nationally and 12 percent locally between 2007 and 2009, Census Bureau figures show. As demand surged, rents climbed 3 percent nationwide and 5 percent in this region." This statistic will only get worse if Congress passes its legislation thus putting more and more pressure on folks to find rental housing that is affordable. This is not the time to divert funds from rental assistance programs.

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This will be the third year in a row that GCAAR is commenting on legislation regarding the use of revenue from the recordation tax. And every year we have stressed this should be a temporary measure.

Therefore, in the event you pass legislation that does continue to divert these funds from rental assistance – please do not thereafter enact legislation which increases the recordation tax if you are going to use the special purposes of supporting rental assistance as your justification for doing so!

As always, I would like to thank the County Council for your consideration of GCAAR's perspective on this issue.

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