

**MEMORANDUM**

July 22, 2019

TO: Government Operations and Fiscal Policy Committee

FROM: Amanda Mihill, Legislative Attorney *Amihill/cw*

SUBJECT: Bill 13-19, County Property – Disposition – Reuse Analysis

PURPOSE: Worksession – Committee to make recommendations on Bill

Bill 13-19, County Property – Disposition – Reuse Analysis, sponsored by Lead Sponsor Councilmember Alborno and Co-Sponsors Councilmembers Rice, Jawando, Friedson, Council President Navarro, Council Vice President Katz and Councilmembers Riemer, Hucker and Glass, was introduced on May 7. A public hearing was held on June 18, at which the lone speaker Greg Ossont testified on behalf of the County Executive in support of Bill 13-19.<sup>1</sup>

Bill 13-19 would modify the procedures for disposition of County property and require the Executive to submit a reuse analysis to the County.

**Background**

**Reuse analysis.** Current law requires the Executive to promulgate regulations requiring a comparative analysis of reuse proposals before the Executive can dispose of County property. Bill 13-19 would require the Executive to submit to the Council for comment the reuse analysis, including any proposals received from an outside agency, which includes the Housing Opportunities Commission, the Maryland-National Capital Park & Planning Commission, Montgomery College, Montgomery County Public Schools, the Revenue Authority, the Washington Suburban Sanitary Commission, and County municipalities.

**Disapproval of the declaration of no further need.** Although it is implicit in the property disposition law, Bill 13-19 would make clear the Council’s authority to disapprove the Executive’s declaration of no further need. Under Bill 13-19, the Council could do so if the Council finds that:

- there is further need for the real property;
- a County department or outside agency has expressed need for the real property; or

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<sup>1</sup> #MoCoProperties

Other search terms: Disposition of Property, County properties, County facilities

- approval of the declaration is contrary to the public interest.

**Council staff recommendation**

There are no legal concerns associated with Bill 13-19. Council staff has broader comments about the property disposition process, which will be the subject of a separate Committee worksession. **Council staff recommends** the Council enact Bill 13-19.

This packet contains:

	<u>Circle #</u>
Bill 13-19	1
Legislative Request Report	7
Fiscal and Economic Impact statement	8
Executive Testimony	12

Bill No. 13-19  
Concerning: County Property –  
Disposition – Reuse Analysis  
Revised: 5/6/2019 Draft No. 2  
Introduced: May 7, 2019  
Expires: November 7, 2020  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**AN ACT** to:

- (1) modify the procedures for disposition of County property;
- (2) require the Executive to submit a reuse analysis to the [[County]] Council; and
- (3) generally amend the County law regarding disposition of County property.

By amending

Montgomery County Code  
Chapter 11B, Contracts and Procurement  
Section 11B-45

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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 11B-45 is amended as follows:**

2           **11B-45. Disposition of real property.**

3           (a)    The County Executive must adopt regulations to establish a process for  
4                    the disposition of any real property owned or controlled by the County,  
5                    other than surplus school facilities and property of nominal value  
6                    identified in the regulation. The regulations must provide for:

7                   (1)    coordination among [public] County departments and outside  
8                            agencies, including any municipality in which the real property is  
9                            located;

10                  (2)    opportunity to reserve property for alternative public use;

11                  (3)    comparative analysis of reuse proposals from County departments  
12                            and outside agencies before any disposition actions; and

13                  (4)    public notice and hearing on possible dispositions before final  
14                            decision on disposition, except that the County Executive may  
15                            waive the public hearing requirement for any real property that:

16                            (A)    has nominal value; or

17                            (B)    is recommended to be reused by the County government.

18           (b)    As used in this Section the following words have the meanings  
19                            indicated[,]:

20                   (1)    County Department means any department or office within the  
21                            executive branch of the Montgomery County Government.

22                   (2)    [disposition] Disposition means a sale, a lease or license for a term  
23                            of 2 years or longer, or a lease or other document which includes  
24                            an option to buy. If a license or lease for an initial term of less than  
25                            2 years is extended or renewed beyond 2 years, that extension or  
26                            renewal is a disposition. Disposition does not include:

- 27 [(1)] (A) a lease of or license to use any parkland, or any facility
- 28 located on parkland, that the Parks Department operates or
- 29 manages for the County;
- 30 [(2)] (B) a license to use County property that is coterminous with
- 31 a contract for services performed by the licensee;
- 32 [(3)] (C) a license to use County property to provide child or adult
- 33 day care services;
- 34 [(4)] (D) a sale or lease of property to the Housing Opportunities
- 35 Commission for housing development;
- 36 [(5)] (E) a sale of one or more housing units obtained by the
- 37 County using its right of first refusal under Section 11A-3
- 38 or 11A-4, Chapter 25A, or Chapter 53A, and resold for not
- 39 less than the County paid; or
- 40 [(6)] (F) a transfer of County right-of-way that is needed to
- 41 implement a road or transit project that is included in the
- 42 applicable master or other land use plan.

43 (3) Outside agency means:

- 44 (A) the Housing Opportunities Commission;
- 45 (B) the Maryland-National Capital Park & Planning
- 46 Commission;
- 47 (C) Montgomery College;
- 48 (D) Montgomery County Public Schools;
- 49 (E) the Revenue Authority;
- 50 (F) the Washington Suburban Sanitary Commission; and
- 51 (G) municipalities located in Montgomery County.

52 \* \* \*

53 (d) Before seeking Council approval of a declaration of no further need under  
54 subsection (e), the Executive must submit to the Council and allow the  
55 Council at least 30 days to comment on:

- 56 (1) all material terms of the disposition, including the price or rent to  
57 be paid and any associated economic incentives; [and]
- 58 (2) any appraisal that the Executive relied on or will rely on in setting  
59 the property’s market value[.]; and
- 60 (3) the comparative analysis of reuse proposals required in paragraphs  
61 (a)(3) and (h), including any proposals received from an outside  
62 agency.

63 \* \* \*

64 (e) (1) In addition to the process required under subsection (a), before the  
65 disposition of any real property owned or controlled by the County  
66 (other than a property which has either nominal value or an  
67 appraised value lower than \$100,000) becomes final:

68 [(1)] (A) the Executive must publish a declaration in the County  
69 Register and post a notice on the County website that the  
70 County has no further need for the property or, if the  
71 disposition is a lease or license, has no further need for the  
72 property during the term of the lease or license; and

73 [(2)] (B) the Council, by resolution adopted after the Council holds  
74 a public hearing with a least 15 days advance notice, must  
75 approve[;]:

76 [(A)] (i) the Executive’s declaration of no further need; and

77 [(B)] (ii) any disposition of the property at less than full  
78 market value.

- 79                    (C) The Council may disapprove the Executive's declaration of  
80                    no further need if the Council finds that:  
81                    (i) there is further need for the real property;  
82                    (ii) a County department or outside agency has expressed  
83                    need for the real property; or  
84                    [[~~(ii)~~] (iii) approval of the declaration is contrary to the  
85                    public interest.
- 86                    (2) The Director must adjust the \$100,000 floor in this subsection on  
87                    July 1 every third year by the percentage increase or decrease in  
88                    the applicable Consumer Price Index for All Urban Consumers  
89                    (CPI-U) for the Washington-Arlington-Alexandria Core Based  
90                    Statistical Area (CBSA), as published by the United States  
91                    Department of Labor, Bureau of Labor Statistics, or any successor  
92                    index, during the previous 3 calendar years, rounded to the nearest  
93                    \$1000.
- 94                    (3) The Council may waive the public hearing required by this  
95                    subsection if it concludes that a hearing on a particular proposed  
96                    disposition is not necessary to properly assess the proposed action.
- 97                    (4) If the Council does not act under this subsection within 60 days  
98                    after the Executive has submitted the proposed action, the  
99                    proposed action is automatically approved. The Council may  
100                    extend the 60-day deadline by resolution if the Council President  
101                    has informed the Executive, within 30 days after the Executive  
102                    submitted the proposed action, that the Council has not received  
103                    all information necessary to review the proposed action. If the 60  
104                    day deadline would fall during August or from December 15

105 through December 31, the deadline is automatically extended until  
106 the next scheduled Council session.

107 (5) This subsection and subsection (c) do not apply to any disposition  
108 of property that will be used primarily for housing development if  
109 the recipient legally commits to the Director of the Department of  
110 Housing and Community Affairs that at least 30% of the housing  
111 units built on the property will be moderately priced dwelling units  
112 or other units that are exempt from the development impact tax  
113 under Section 52-41(g)(1)-(4).

114 \* \* \*

115 *Approved:*

116

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Nancy Navarro, President, County Council Date

117 *Approved:*

118

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Marc Elrich, County Executive Date

119 *This is a correct copy of Council action.*

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Megan Davey Limarzi, Esq., Clerk of the Council Date



LEGISLATIVE REQUEST REPORT  
Bill 13-19

*County Property -- Disposition -- Reuse Analysis*

- DESCRIPTION:** Bill 13-19 would modify the procedures for disposition of County property and require the Executive to submit a reuse analysis to the County.
- PROBLEM:** Under the current process, the reuse analysis is not required to be presented to Council.
- GOALS AND OBJECTIVES:** To bring an additional layer of transparency and accountability to the property disposition process and give the Council information on how the reuse analysis was performed. To allow the Council to see which County departments or outside agencies expressed interest in potential surplus property and for what purpose.
- COORDINATION:** Procurement
- FISCAL IMPACT:** To be requested
- ECONOMIC IMPACT:** To be requested
- EVALUATION:** To be requested
- EXPERIENCE ELSEWHERE:** To be researched
- SOURCES OF INFORMATION:** Amanda Mihill, Legislative Attorney, 240-777-7815
- APPLICATION WITHIN MUNICIPALITIES:** n/a
- PENALTIES:** n/a



OFFICE OF MANAGEMENT AND BUDGET

Marc Elrich  
County Executive

Richard S. Madaleno  
Director

MEMORANDUM

June 7, 2019

TO: Nancy Navarro, President, County Council

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

SUBJECT: FEIS for Bill 13-19, County Property – Disposition – Reuse Analysis

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

RSM:cm

cc: Andrew Kleine, Chief Administrative Officer  
Fariba Kassiri, Deputy 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  
David Platt, Department of Finance  
Dennis Hetman, Department of Finance  
Monika Coble, Office of Management and Budget  
Bruce Meier, Office of Management and Budget  
Chrissy Mireles, Office of Management and Budget

Office of the Director

101 Monroe Street, 14th Floor • Rockville, Maryland 20850 • 240-777-2800  
[www.montgomerycountymd.gov/omb](http://www.montgomerycountymd.gov/omb)

**Fiscal Impact Statement**  
**Bill 13-19, County Property – Disposition – Reuse Analysis**

**1. Legislative Summary**

Bill 13-19 as introduced clarifies the County's process to dispose of real property. Council's authority in the disposition process. Council's authority in the disposition process is currently limited to approving or disapproving, by resolution, a Declaration of No Further Need (DNFN) issued by the Executive. The Bill would add a requirement that all reuse analyses, prepared during the County Executive's process, be sent to Council. Further the Bill gives Council the authority to disapprove the DNFN if they find that (1) there is further need for the real property; (2) a County Department or Outside Agency has expressed need for the real property, or; (3) approval of the declaration is contrary to the public interest.

**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.**

The Bill is not estimated to have a fiscal impact, as a reuse analysis is already prepared during the Executive process. The Bill could lead to fewer dispositions of real property, but any actual impact is indeterminate.

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

Per #2, Bill 13-19 should not impact County revenue or expenditures.

**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. Bill 13-19 does not authorize future spending.

**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.**

There is no impact to staff responsibilities, as a reuse analysis is already prepared during the Executive process.

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

No additional appropriation is needed to implement Bill 13-19.

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

See #2.

**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.**

Bill 13-19 requires transmittal to the Council of analyses prepared under the existing Executive process.

**13. Other fiscal impacts or comments.**

Not applicable.

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

Greg Ossont, Deputy Director, Department of General Services

Bruce Meier, Office of Department Management and Budget

Richard Madaleno

Richard S. Madaleno, Director  
Office of Management and Budget

6/6/19

Date

**Economic Impact Statement**  
**Bill 13-19 County Property – Disposition – Reuse Analysis**

**Background:**

**Bill 13-19 would:**

- (1) modify the procedures for disposition of County property;
- (2) require the Executive to submit a reuse analysis to the County; and
- (3) generally amend the County law regarding disposition of County property.

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

There were no assumptions or needed methodologies in the formulation of this economic impact statement. Under the current process, the reuse analysis is completed by DGS but not required to be presented to Council.

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

The Bill enables the Council to see which County departments or outside agencies expressed interest in potential surplus property and for what purpose. Variables that could affect economic impact estimates are the resulting leveraged efficiencies that are potentially identified as a result of the reuse analysis. The scope and frequency that Council uses the analysis in making planning and development decisions with a more precise understanding of the costs and benefits inherent in each disposition will also affect the extent of the impact of this Bill for dispositions that are to be determined.

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

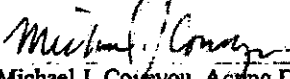
The extent of the Bill's impact on employment, spending, savings, investment, incomes, and property values in the County cannot be quantified with specificity given the effects will be contingent on the volume, scope, and findings of the future disposition analysis that will vary according to prevailing market conditions for specific sites that are not known at this time.

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

See number 3.

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

David Platt, Rob Hagedoorn, and Dennis Hetman, Finance.

  
\_\_\_\_\_  
Michael J. Cooney, Acting Director  
Department of Finance

5/23/19 \_\_\_\_\_  
Date

TESTIMONY ON BEHALF OF COUNTY EXECUTIVE MARC ELRICH

SUPPORT OF BILL 13-19 – COUNTY PROPERTY - DISPOSITION – REUSE ANALYSIS

June 18, 2019

Good afternoon, Greg Ossont, Department of General Services, testifying on behalf of County Executive Elrich.

Bill 13-19 would modify the procedures for disposition of County property and require the Executive to submit the reuse analysis to the County Council.

The County Executive was a co-sponsor of the amendments to the County's Disposition of Real Property regulations in 2012. The amendments from 2012 obligate the County Executive to provide pertinent information to the County Council when seeking to surplus County-owned real estate. As a councilmember, the County Executive co-sponsored the legislation to ensure transparency and a higher level of scrutiny when considering the disposition of public land. The County Executive supports the bill and amendments to the regulations as they further promote transparency.

As you have noted in the analysis from the Office of Management and Budget, there is little, or no cost associated with Bill 13-19 as the information is prepared as a matter of course. As such, the County Executive has no concerns with operational impacts of the bill or providing the 'reuse analysis' for future property disposition matters.

Thank you for the opportunity to testify.