



**Committee:** PHED  
**Committee Review:** At a future date  
**Staff:** Christine Wellons, Legislative Attorney  
**Purpose:** To receive testimony – no vote expected  
**Keywords:** #GetTheMercuryOut, #MercuryRemovalMD

AGENDA ITEM #6  
January 26, 2021  
**Public Hearing**

## SUBJECT

Expedited Bill 50-20, Landlord-Tenant Relations – Fire Safety - Removal of Mercury Service Regulators

Lead Sponsor: Council President Hucker

Co-Sponsors: Councilmember Riemer, Council Vice President Albornoz, Councilmembers Navarro, Katz, Rice and Jawando

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Public Hearing

## DESCRIPTION/ISSUE

Expedited Bill 50-20 would require landlords to provide certain notices to tenants and to schedule the replacement of indoor mercury service regulators.

## SUMMARY OF KEY DISCUSSION POINTS

- N/A

### This report contains:

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Racial Equity and Social Justice Impact statement	©6
Economic Impact statement	©9
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**MEMORANDUM**

January 21, 2021

**TO:** County Council

**FROM:** Christine Wellons, Legislative Attorney

**SUBJECT:** Expedited Bill 50-20, Landlord-Tenant Relations – Fire Safety - Removal of Mercury Service Regulators

**PURPOSE:** Public Hearing – no Council votes required

Expedited Bill 50-20, Landlord-Tenant Relations – Fire Safety - Removal of Mercury Service Regulators, sponsored by Lead Sponsor Council President Hucker and Co-Sponsors, Councilmember Riemer, Council Vice President Albornoz, Councilmembers Navarro, Katz, Rice and Jawando, was introduced on December 8, 2020.<sup>1</sup> A Planning, Housing and Economic Development Committee worksession will be scheduled at a later date.

The expedited bill would require landlords to schedule the immediate replacement of indoor mercury service regulators, and to provide certain notices to tenants.

**BACKGROUND**

The purpose of the expedited bill is to facilitate the immediate replacement of indoor mercury service regulators with safer, more modern regulators. Indoor mercury service regulators have contributed to fatal building fires. Therefore, their replacement would improve fire safety. In addition, their removal would reduce mercury in the environment.

**SPECIFICS OF THE BILL**

Expedited Bill 50-20 would require landlords immediately to determine if their rental properties contain mercury service regulators. If an indoor mercury service regulator is present, the landlord would be required to notify each tenant, and to contact the gas utility to arrange for the immediate replacement of the regulator with a safe alternative. The landlord would notify the tenant once the regulator was replaced.

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#GetTheMercuryOut  
#MercuryRemovalMD

The requirements of the bill would be enforced by the Department of Housing and Community Affairs (DHCA). In addition, DHCA would maintain a searchable public database regarding premises where landlords have provided initial notice of the service regulators, premises where the regulators have been replaced, and enforcement actions regarding indoor mercury service regulators.

<u>This packet contains:</u>	<u>Circle #</u>
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Expedited Bill No. 50-20  
Concerning: Landlord-Tenant Relations  
- Fire Safety - Removal of Mercury  
Service Regulators  
Revised: 11/19/2020 Draft No. 3  
Introduced: December 8, 2020  
Expires: June 8, 2022  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**AN ACT** to:

- (1) require landlords to provide certain notices to tenants;
- (2) require landlords to schedule the replacement of indoor mercury service regulators; and
- (3) generally amend the law regarding landlord obligations and landlord-tenant relations.

By amending

Montgomery County Code  
Chapter 29, Landlord-Tenant Relations  
Sections 29-30

By adding

Montgomery County Code  
Chapter 29, Landlord-Tenant Relations  
Section 29-35C

<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:*



- 27           (2)   the landlord has requested, or immediately will request, the  
 28           removal of the regulator by the gas utility company;
- 29           (3)   the landlord will notify the tenant once the regulator is removed;  
 30           and
- 31           (4)   the tenant may contact the landlord, the gas utility company, or  
 32           the Office of Landlord-Tenant Affairs with questions, concerns,  
 33           or complaints.
- 34   (d)   Scheduling removal of the regulator. The landlord must, with due  
 35           diligence and in good faith, contact the gas utility company to schedule  
 36           the immediate removal of each indoor mercury service regulator on the  
 37           premises of the rental housing.
- 38   (e)   Follow-up requirements.
- 39           (1)   Within 30 days after providing notice under subsection (c), the  
 40           landlord must update the tenant in writing of the status of the  
 41           removal of the indoor mercury service regulator.
- 42           (2)   If the regulator has not been removed within 30 days after  
 43           providing the notice under subsection (c), the landlord must re-  
 44           contact the gas service company to arrange for the immediate  
 45           removal of the regulator.
- 46   (f)   Final notice.
- 47           (1)   The landlord must notify the tenant in writing once the indoor  
 48           mercury service regulator is removed.
- 49           (2)   The landlord must provide a copy of the notice to the  
 50           Department.
- 51   (g)   Enforcement.
- 52           (1)   The Department must enforce this section under Section 29-8.

- 53                   (2)    A violation of this section is a Class A violation.
- 54           (h)    Database. The Department must maintain data, in a searchable form  
55                   available to the public, regarding:
- 56                   (1)    premises subject to an initial notice under subsection (c);  
57                   (2)    premises subject to a final notice under subsection (f); and  
58                   (3)    enforcement actions under subsection (g).

59           **Sec. 2. Expedited Effective Date.** The Council declares that this legislation is  
60 necessary for the immediate protection of the public interest. This Act takes effect on  
61 the date on which it becomes law.

62           **Sec. 3. Transition.** A landlord must comply with the requirements of Section  
63 1, 29-35C(3) of this Act within 90 days after the effective date of the Act.

## LEGISLATIVE REQUEST REPORT

Expedited Bill 50-20

*Landlord-Tenant Relations – Fire Safety - Removal of Mercury Service Regulators*

<b>DESCRIPTION:</b>	Expedited Bill 50-20 would require landlords to provide certain notices to tenants; and require landlords to schedule the replacement of indoor mercury service regulators.
<b>PROBLEM:</b>	The presence of indoor mercury service regulators as a fire safety problem
<b>GOALS AND OBJECTIVES:</b>	Immediate replacement of indoor mercury service regulators
<b>COORDINATION:</b>	DHCA
<b>FISCAL IMPACT:</b>	Office of Management and Budget
<b>ECONOMIC IMPACT:</b>	Office of Legislative Oversight
<b>EVALUATION:</b>	
<b>EXPERIENCE ELSEWHERE:</b>	To be researched
<b>SOURCE OF INFORMATION:</b>	Christine Wellons, Legislative Attorney
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Does not apply within each municipality
<b>PENALTIES:</b>	Class A Violation

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## EXPEDITED LANDLORD-TENANT RELATIONS-FIRE SAFETY- BILL 50-20: REMOVAL OF MERCURY SERVICE REGULATORS

### SUMMARY

The Office of Legislative Oversight (OLO) expects Expedited Bill 50-20 (introduced on December 8, 2020) to favorably impact racial equity and social justice in the County.

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### BACKGROUND

The goal of Expedited Bill 50-20 is to enhance the safety of residential renters in the County. Over four years have passed since the tragic explosion at the Flower Branch Apartments in August 2016. Seven residents died, 65 residents were transported to the hospital, and three firefighters were treated and released from the hospital.<sup>1</sup> According to the National Transportation and Safety Board (NTSB) report, a defective mercury service regulator was the primary reason for the explosion.<sup>2</sup> The use of mercury service regulators in residential properties was widespread in the 1940's and 50's. But due to the toxicity of mercury, the installment of these regulators ended around 1968.<sup>3</sup>

The NTSB report identified that the apartment complex used indoor mercury-containing gas pressure regulators in the residential areas that were not adequately maintained.<sup>4</sup> The mercury service regulator had an unconnected vent line that released natural gas into the indoor meter room, where it accumulated and ignited from an unknown source.<sup>5</sup> The inaccessible indoor location of the mercury service regulators was also noted as contributing to the accident.<sup>6</sup>

Washington Gas is responsible for replacing the mercury service regulators across its jurisdictions; it is estimated that properties with mercury service regulators account for less than ten percent of its customers.<sup>7</sup> The focal point of Expedited Bill 50-20 is "connecting property owners with gas regulators while keeping tenants informed about the progress." It would require landlords to immediately assess their rental properties for mercury service regulators, contact Washington Gas for a replacement if necessary, and inform their tenants with updates. Towards this end, Expedited Bill 50-20 will increase landlord responsibilities and rental property safety standards in the County.<sup>8</sup> If enacted, the bill would:

- Require landlords to provide certain notices to tenants;
- Require landlords to schedule the replacement of indoor mercury service regulators; and
- Generally amend the law regarding landlord obligations and landlord-tenant relations.

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### DEMOGRAPHIC DATA

A review of demographic data suggests that Black, Latinx, and Indigenous (native American) residents will disproportionately benefit from Expedited Bill 50-20 compared to White and Asian residents. For example, a review of 2019 data from the American Community Survey (ACS) demonstrates higher rental rates among Black, Latinx, and Indigenous households where 50% of Latinx and Indigenous residents and 58% of Black residents lived in rental housing compared to 25% of White and Asian residents.<sup>9</sup>

(6)

# RESJ Impact Statement

## Expedited Bill 50-20

A review of data comparing average rents for older multi-family properties to newer buildings also suggests that lower income renters will disproportionately benefit from Expedited Bill 50-20. According to CountyStat, the lowest average rent is \$1,555 per month in facilities built 50 or more years ago, whereas the lowest average rent is \$2,364 per month for facilities under ten years old. Of note, two-thirds of multi-family rental properties in Montgomery County are at least 50 years old.<sup>10</sup>

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### ANTICIPATED RESJ IMPACTS

OLO predicts that implementation of Expedited Bill 50-20 will favorably impact racial equity and social justice within the County because Black, Latinx and Indigenous residents are over-represented among the rental households that would benefit from enhanced safety standards. Low-income renters are also likely over-represented among residents and therefore will benefit from this bill.<sup>11</sup>

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### METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis rely on several sources of information, including the ACS,<sup>12</sup> CountyStat,<sup>13</sup> NTSB Safety Report,<sup>14</sup> OLO Economic Impact Statement and Expedited Bill 50-20.

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### RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequalities are warranted in developing RESJ impact statements.<sup>15</sup> Towards this end, OLO recognizes that on December 18, 2020, the Public Service Commission of Maryland imposed a civil penalty of \$750,00 on Washington Gas for failing to file annual reports pertaining to its mercury service regulator removal process.<sup>16</sup> As proposed by Washington Gas' regulator replacement plan and ordered by the Commission, this RESJ impact statement offers four recommended amendments for Expedited Bill 50-20:<sup>17</sup>

- Require Washington Gas to provide the County with an update on projected and annual costs within 60 days of completing its one- and three-year surveys;
- Require within 30 days of commencing its survey that Washington Gas to notify the County of the date of commencement;
- Require Washington Gas to file annual reports by February 10th of each year as to the status of its program; and
- Require Washington Gas to work with the County's Consumer Affairs Division and Engineering Division to adopt a Mercury Service Regulator Replacement Plan customer notification and service termination process.

### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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# RESJ Impact Statement

## Expedited Bill 50-20

### CONTRIBUTIONS

OLO staffer Dr. Theo Holt drafted this racial equity and social justice impact statement.

<sup>1</sup> National Transportation Safety Board. 2019. Building Explosion and Fire, Silver Spring, Maryland, August 10, 2016. NTSB/PAR-19/01. Washington, DC. <file:///C:/Users/holtth01/Downloads/637725.pdf>

<sup>2</sup> Ibid

<sup>3</sup> EPA, Before You Tear It Down, Get the Mercury Out Recommended Management Practices for Pre-Demolition Removal of Mercury-Containing Devices from Residential Buildings, United States Environmental Protection Agency. [https://www.epa.gov/sites/production/files/2015-10/documents/before\\_you\\_tear\\_it\\_down.pdf](https://www.epa.gov/sites/production/files/2015-10/documents/before_you_tear_it_down.pdf)

<sup>4</sup> NTSB Report

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Washington Gas, Mercury Regulator Fact Sheet, WGL Holdings Inc. <https://www.washingtongas.com/media-center/customer-advisory-mercury-regulators>

<sup>8</sup> Montgomery County Council, Expedited Bill 50-20, Landlord-Tenant Relations- Fire Safety- Removal of mercury Service Regulators, Introduced December 8, 2020, Montgomery County, Maryland.

<sup>9</sup> American Community Survey (ACS), Selected Housing Characteristics, The United States Census Bureau, 2019. [https://data.census.gov/cedsci/table?g=0400000US24\\_0500000US24031&tid=ACSDP5Y2019.DP04](https://data.census.gov/cedsci/table?g=0400000US24_0500000US24031&tid=ACSDP5Y2019.DP04)

<sup>10</sup> CountyStat, Performance Management and Data Analytics, Montgomery County Annual Rental Facility Occupancy Survey, 2018, Montgomery County Maryland Department of Housing and Community Affairs. <https://reports.data.montgomerycountymd.gov/stat/goals/qw5z-mdcn/aadg-iy9b/fupp-ze2q>

<sup>11</sup> Stephen Roblin, Economic Impact Statement, Expedited Bill 50-20, December 2020, Office of Legislative Oversight, Montgomery County Maryland.

<sup>12</sup> ACS

<sup>13</sup> CountyStat

<sup>14</sup> NSTB Safety Report

<sup>15</sup> Montgomery County Council, Bill No. 27-19 Racial Equity and Social Justice, Effective on March 2, 2020, Montgomery County, Maryland.

<sup>16</sup> The Public Service Commission of Maryland, Order No. 89680, Investigation of Washington Gas Light Company Regarding a Building Explosion and Fire In Silver Spring, Maryland on August 10, 2016, Maryland, December 2020.

<https://www.psc.state.md.us/wp-content/uploads/Order-No.-89680-Case-No.-9622-WGL-FB-Investigation-Order-Assessing-Civil-Penalty.pdf>

<sup>17</sup> Order No. 89680

# Economic Impact Statement

Office of Legislative Oversight

## Expedited BILL 50-20

## Landlord-Tenant Relations – Fire Safety – Removal of Mercury Service Regulators

### SUMMARY

The Office of Legislative Oversight (OLO) believes that enacting Expedited Bill 50-20 would potentially increase costs to private organizations and residents subject to any increase in gas utility rates related to the replacement of mercury service regulators. OLO anticipates that the bill could have a negative economic impact on the County.

### BACKGROUND

The purpose of Expedited Bill 50-20 is to improve fire safety by promoting “the immediate replacement of indoor mercury service regulators with safer, more modern regulators.”<sup>1</sup> If enacted, Expedited Bill 50-20 would change the law regarding landlord obligations in several ways. Landlords would be required to determine whether there are any mercury service regulators (MSRs) on the premises of rental properties they lease.<sup>2</sup> If they identify any MSRs, landlords would be required to contact the gas utility company to schedule the immediate removal of the regulators.<sup>3</sup> Landlords would also be required to provide notifications to tenants during the process of detection and removal of MSRs.<sup>4</sup> Expedited Bill 50-20 would assign the Department of Housing and Community Affairs (DHCA) with enforcing the new regulations, and require DHCA to maintain a public database that includes information on the status of the detection and removal of MSRs and any enforcement actions.<sup>5</sup>

Expedited Bill 50-20 would apply to all rental properties in the County that are subject to the Department of Housing and Community Affairs (DHCA) enforcement. The scope of the law would exclude properties within municipalities that have not opted into Chapter 29 of the Montgomery County Code. DHCA personnel estimate that approximately 690 rental properties and 70,000 units were subject to the department’s enforcement in 2017. These figures represent the best estimate of the number of rental properties that would be impacted by the expedited bill.

The requirements set forth in Expedited Bill 50-20 would complement efforts under way to replace MSRs throughout the state. In 2002, Washington Gas and Light Company (WGL) committed to replacing all MSRs in its Maryland service area within 10 years.<sup>6</sup> The Maryland Public Service Commission (hereinafter “the commission”), the entity that regulates gas utilities operating in the state, has *twice* approved the company’s requests to increase rates for utility services to recover costs associated with the removal of MSRs.<sup>7</sup> However, the company has not completed the removal of MSRs. In its recent

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<sup>1</sup> Christine Wellons to Montgomery County Council, Memorandum, December 3, 2020, [https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2688\\_1\\_12107\\_Bill\\_50-2020\\_Introduction\\_20201208.pdf](https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2688_1_12107_Bill_50-2020_Introduction_20201208.pdf).

<sup>2</sup> Montgomery County Council, Expedited Bill 50-20, Landlord-Tenant Relations – Fire Safety – Removal of Mercury Service Regulators, Introduced on December 8, 2020, 2, [https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2688\\_1\\_12107\\_Bill\\_50-2020\\_Introduction\\_20201208.pdf](https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2688_1_12107_Bill_50-2020_Introduction_20201208.pdf).

<sup>3</sup> Ibid, 3.

<sup>4</sup> Ibid, 2-3.

<sup>5</sup> Ibid, 3-4.

<sup>6</sup> Initial Brief of the Maryland Office of People’s Council, Case No. 9622, Filed on October 28, 2020, <https://www.psc.state.md.us/search-results/?q=9622&x.x=23&x.y=15&search=all&search=case>.

<sup>7</sup> Ibid.

# Economic Impact Statement

## Office of Legislative Oversight

decision to fine Washington Gas in a case relating to the 2016 gas explosion at the Flower Branch apartments in Silver Spring, the commission decided that “the MSR Replacement Program as outlined in the ‘Revised Stipulation and Settlement’ in Case No. 8920 constituted a *binding commitment* by WGL to remove all indoor MSRs within 10 years” (emphasis added).<sup>8</sup> In addition, the commission approved WGL’s new replacement program with modifications and directed the company to:

- “maintain accounts of all capital and operating expenses, including any incremental costs related to the program;”
- “include these expenses in its annual status report;” and
- “record and maintain a list of all requests to remove an MSR from residential properties.”

To recover any costs associated with the removal of MSRs, WGL would need to apply and attain approval from the commission to increase base rates. In its ruling, the commission did not “address prudence or recovery of costs associated with this new MSR replacement program since projected costs are not available at this time.”

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## METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

The economic impacts associated with replacing MSRs would occur through two primary channels:

- **Change to the utility base rate for customers in the service territories of utility companies.** A future base rate adjustment would be the primary channel through which the costs incurred in the removal of MSRs would be passed from gas utilities to private organizations and residents in the County.
- **Contracts awarded to third-party companies for the removal of MSRs.**<sup>9</sup> Economic benefits would be channeled to local businesses that are awarded contracts to remove MSRs.

At this juncture, it is unknown whether the MSR removal costs will be recovered through an upward adjustment to the base rate. The Maryland Office of the People’s Council (OPC) and the Apartment and Office Building Association of Metropolitan Washington (AOBA) have argued that ratepayers should not bear the cost of removing MSRs.<sup>10</sup> If WGL (or any other utility company) applies for a rate change in the future, it would be up to the discretion of the commission on whether to approve the request.

In addition to the occurrence of a rate change, the magnitude of any change to the rate cannot be estimated. A representative from WGL informed OLO that the cost of removing an MSR is approximately \$1,800. (Note that this amount is significantly greater than the \$200 per unit replacement cost the company has reportedly cited previously.<sup>11</sup>) While

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<sup>8</sup> Order No. 89680, In the Matter of an Investigation of Washington Gas & Light Company Regarding a Building Explosion and Fire in Silver Spring, Maryland, Case No. 9622, Issued on August 10, 2016, December 18, 2020, <https://www.psc.state.md.us/wp-content/uploads/Order-No.-89680-Case-No.-9622-WGL-FB-Investigation-Order-Assessing-Civil-Penalty.pdf>

<sup>9</sup> A representative from WGL informed OLO that the company would contract with third-party vendors for the removal of MSRs. These entities would be the primary beneficiaries of the MSR Replacement Program.

<sup>10</sup> Order No. 89680; Initial Brief of the Maryland Office of People’s Council.

<sup>11</sup> The Washington Post recently reported that “[w]hile seeking a rate increase in 2003, the gas provider said it would replace all 66,793 of its indoor mercury gas regulators over the next decade to address age and environmental concerns. The utility said it would deploy a staff of seven to replace more than 6,000 regulators a year for 10 years at a cost of about \$200 per regulator.” Steve Thompson, “Washington Gas fined \$750,000 in case connected to deadly 2016 explosion,” December 22, 2020, [https://www.washingtonpost.com/local/md-politics/washington-gas-fine-flower-branch/2020/12/21/e502b034-43cb-11eb-a277-49a6d1f9dff1\\_story.html](https://www.washingtonpost.com/local/md-politics/washington-gas-fine-flower-branch/2020/12/21/e502b034-43cb-11eb-a277-49a6d1f9dff1_story.html).

# Economic Impact Statement

## Office of Legislative Oversight

WGL states that no more than 10 percent of its customers are likely to have MSRs,<sup>12</sup> the company does not know the total number of remaining MSRs in the County or state.<sup>13</sup> The company is conducting a survey to identify the remaining ones.<sup>14</sup> Moreover, the commission has already approved two rate increases for WGL to recover expenses associated with its MSR Removal Program. If the commission were to approve a rate increase, the total MSR removal costs and amount collected would likely influence the magnitude of any rate change.

Despite these uncertainties, OLO uses available information to estimate the total cost of replacing MSRs in the County. It is important to emphasize that these estimates are not forecasts. They are instead intended to illustrate the general magnitude of MSR replacement costs in the County. Representatives from WGL have stated that the total costs of removing MSRs in the County and state will not be known until after the survey is complete. The estimates are based on the following assumptions:

- Rental properties will have between one and two MSRs;<sup>15</sup> and
- The per unit cost of replacing MSRs is \$1,800.

**Figure 1** estimates the cost of replacing MSRs in up to 25% of rental properties affected by Expedited Bill 50-20. The cost of replacing MSRs at or below 10% of the rental properties – WGL’s upper-bound estimate – may fall short of \$500,000.

Importantly, Expedited Bill 50-20 would not constitute the primary cause of the costs WGL incurs from replacing MSRs. Given that the commission determined that WGL’s MSR Replacement Program constitutes a binding commitment, the removal of MSRs on rental properties in the County that receive gas service from WGL would occur in the absence of Expedited Bill 50-20. However, OLO believes it is possible that the requirements set forth in the bill (requiring landlords to detect MSRs and schedule for their immediate removal, and DHCA to maintain a database on the status of MSR detection and removal) could potentially have two results:

- A more complete accounting of all the MSRs in the County; and/or
- Expediting the removal of MSRs.

Expedited Bill 50-20 would be responsible for only the costs associated with these potential outcomes, not the total cost of removing MSRs within WGL’s service territory in the County.

In terms of other gas utilities operating in the County, the bill may be responsible for the entire costs of replacing MSRs. WGL appears to be the only gas utility that has an MSR replacement program underway. Expedited Bill 50-20 may compel other utility companies to replace MSRs in the County, thereby increasing the number of replaced MSRs that would otherwise not have occurred in the absence of the bill’s enactment. However, OLO cannot estimate the number of MSRs that would fall into this category nor the total cost of replacing them, because we have been unable to attain information on the percentage of the approximately 690 rental properties under the enforcement of DHCA that fall within the respective gas utilities’ service territories. Nevertheless, it is OLO’s understanding that the majority of private organizations and residents who would be affected by Expedited Bill 50-20 are WGL customers.

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<sup>12</sup> [Washingtongas.com](https://www.washingtongas.com/media-center/customer-advisory-mercury-regulators), Information about Mercury Service Regulators, Washington Gas, <https://www.washingtongas.com/media-center/customer-advisory-mercury-regulators>.

<sup>13</sup> Order No. 89680.

<sup>14</sup> Ibid.

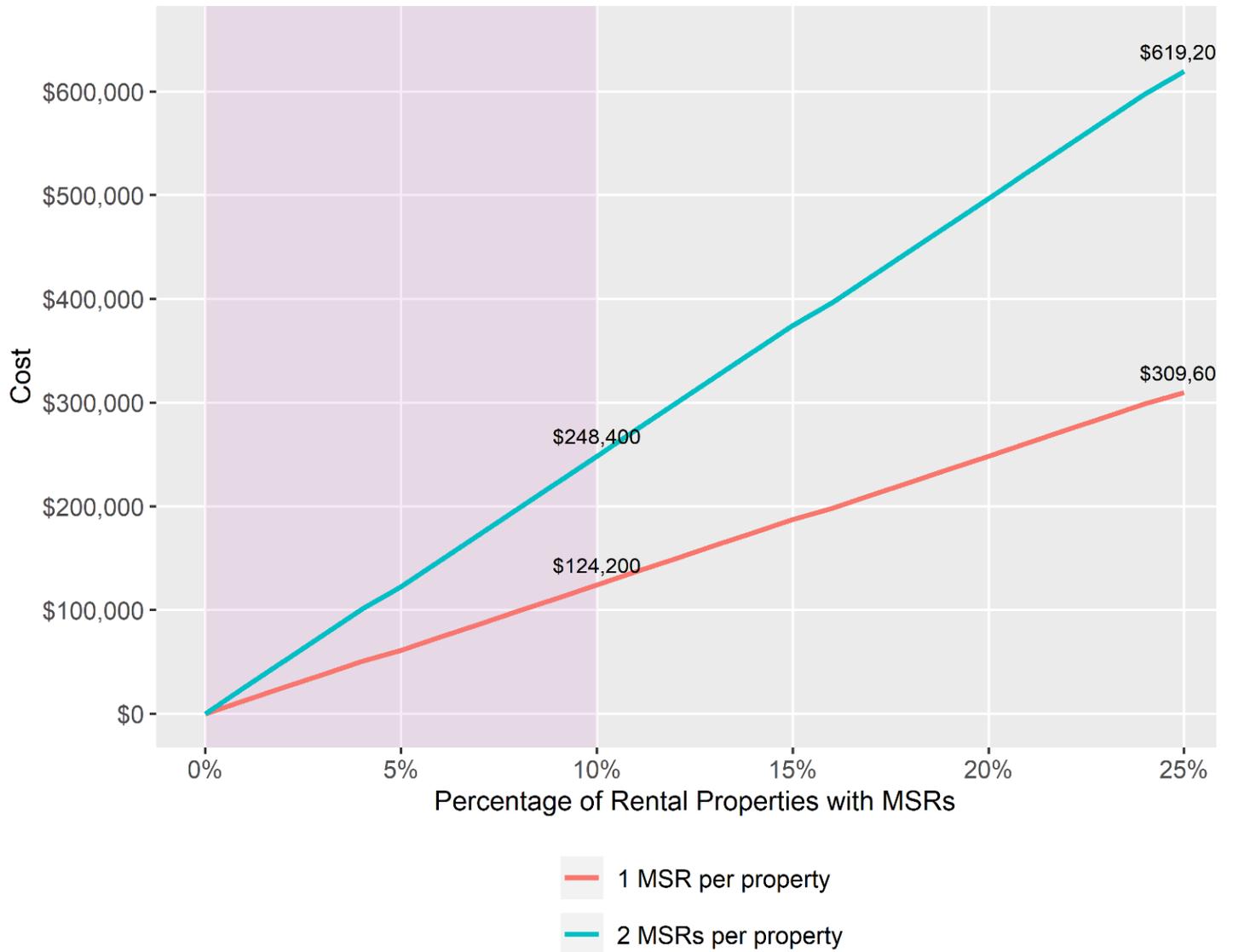
<sup>15</sup> In our correspondence with a representative from WGL, OLO was informed that multi-family rental properties may have up to two MSRs. We were unable to attain any more information that would allow us to make a more precise estimate of the average number of MSRs per rental property.

# Economic Impact Statement

## Office of Legislative Oversight

Ultimately, due to WGL's market share and the MRS Replacement Program that is underway, OLO assumes that the bill would be responsible for a minority portion of any increase in the base rate due to MSR replacement costs.

**Figure 1. Cost of Replacing MSRs in the County**



# Economic Impact Statement

## Office of Legislative Oversight

### VARIABLES

The primary variables that would affect the economic impacts of Expedited Bill 50-20 are:

- Total amount already collected by WGL for MSR detection and removal;
- Number of remaining MSRs in the County and state;
- Per unit cost of replacing MSRs;
- Percentage of affected rental properties within WGL's service territory;
- Total amount of contracts awarded to local businesses for the removal of MSRs;
- Change to base rates to recover MSR removal costs; and
- Percentage of base rate hikes passed on by landlords to tenants.

### IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

#### Businesses, Non-Profits, Other Private Organizations

Expedited Bill 50-20 would have direct economic impacts on landlords of the approximately 690 rental properties subject to DHCA enforcement, and any companies that receive contracts for the removal of MSRs.<sup>16</sup> The bill would require owners of the approximately 690 rental properties subject to DHCA enforcement to determine if there are MSRs on the premises of their properties. However, OLO does not anticipate that there would be significant costs associated with detection. WGL's website provides instructions and support on how to detect MSRS, and states that MSRs "can be identified easily."<sup>17</sup> If this is the case, the direct negative economic impacts of Expedited Bill 50-20 on landlords would instead occur through costs associated with notifying tenants of the status of detection and removal of MSRs (e.g., paper, envelopes, postage). OLO anticipates that these costs would be minimal. These direct costs, as well as any potential indirect costs (see below), could be offset by passing them onto tenants in the forms of higher rents.

Local businesses may also experience direct economic benefits from Expedited Bill 50-20. WGL plans to contract with companies for the removal of MSRs. It is possible that companies based in the County may receive contracts for the removal of MSRs in the County and state. Local businesses awarded contracts would experience a net increase in business incomes.

Furthermore, Expedited Bill 50-20 may result in negative *indirect* impacts on private organizations in the County. These impacts would be mediated by the commission.<sup>18</sup> As previously stated, the commission may approve requests by WGL and/or other utilities to increase base rates to recover costs associated with replacing MSRs, a portion of which may be attributable to the bill. Such an adjustment would apply to all customers subject to the rate schedule. Any upward

<sup>16</sup> For the Council's priority indicators, see Montgomery County Council, Bill 10-19 Legislative Branch – Economic Impact Statements – Amendments, Enacted on July 30, 2019, Montgomery County, Maryland, 3.

<sup>17</sup> Washingtongas.com, Information about Mercury Service Regulators.

<sup>18</sup> Here, I use "indirect impacts" to refer to the effects of a change in law on private organizations/residents that are mediated or transmitted through another entity. This definition is distinct from the one used in Input-Output analysis, in which an "indirect impact" is defined as a "[c]hange in economic activity resulting from the subsequent rounds of inputs purchased by industries affected by a final-demand change." See *RIMS II: An Essential Tool for Regional Developers and Planners*, U.S. Bureau of Economic Analysis, December 2003.

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adjustment to the base rate for gas utilities would increase operating costs for the affected private organizations, thereby reducing their net operating income.

OLO does not expect Expedited Bill 50-20 to have impacts on the Council's other priority indicators, particularly taxation policy, property values, private sector capital investment, economic development, or competitiveness.

### Residents

Expedited Bill 50-20 could result in direct and indirect economic impacts to residents. In terms of direct impacts, owners and employees of local businesses that are contracted to replace MSRs could experience additional earnings. All residents subject to an increase in utility rates designed to recover MSR replacement costs would experience a net increase in household expenses. Moreover, to the extent that landlords pass on costs caused by the bill to their tenants, these renter households would also experience a net increase in expenses.

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## QUESTIONS FOR CONSIDERATION

OLO has recently produced economic impact statements for three bills (Expedited Bill 50-20, Bill 51-20, and Bill 52-20) related to rental housing and landlord responsibilities. All three are likely to have a negative economic impact on landlords. Should the Council desire more economic analysis, OLO suggests conducting an examination of the aggregate economic impact of these bills.

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## WORKS CITED

Christine Wellons to Montgomery County Council. Memorandum. December 3, 2020. [https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2688\\_1\\_12107\\_Bill\\_50-2020\\_Introduction\\_20201208.pdf](https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2688_1_12107_Bill_50-2020_Introduction_20201208.pdf).

Initial Brief of the Maryland Office of People's Council. Case No. 9622. Filed on October 28, 2020. <https://www.psc.state.md.us/search-results/?q=9622&x.x=23&x.y=15&search=all&search=case>.

Montgomery County Council. Bill 10-19, Legislative Branch – Economic Impact Statements – Amendments. Enacted on July 30, 2019. Montgomery County, Maryland.

Montgomery County Council. Expedited Bill 50-20, Landlord-Tenant Relations – Fire Safety – Removal of Mercury Service Regulators. Introduced on December 8, 2020. [https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2688\\_1\\_12107\\_Bill\\_50-2020\\_Introduction\\_20201208.pdf](https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2688_1_12107_Bill_50-2020_Introduction_20201208.pdf).

Order No. 89680. In the Matter of an Investigation of Washington Gas & Light Company Regarding a Building Explosion and Fire in Silver Spring, Maryland. Case No. 9622. Issued on December 18, 2020, <https://www.psc.state.md.us/wp-content/uploads/Order-No.-89680-Case-No.-9622-WGL-FB-Investigation-Order-Assessing-Civil-Penalty.pdf>.

*RIMS II: An Essential Tool for Regional Developers and Planners*. U.S. Bureau of Economic Analysis. December 2003.

Thompson, Steve. "Washington Gas fined \$750,000 in case connected to deadly 2016 explosion." *Washington Post*. December 22, 2020. [https://www.washingtonpost.com/local/md-politics/washington-gas-fine-flower-branch/2020/12/21/e502b034-43cb-11eb-a277-49a6d1f9dff1\\_story.html](https://www.washingtonpost.com/local/md-politics/washington-gas-fine-flower-branch/2020/12/21/e502b034-43cb-11eb-a277-49a6d1f9dff1_story.html).

Washingtongas.com. Information about Mercury Service Regulators. Washington Gas. <https://www.washingtongas.com/media-center/customer-advisory-mercury-regulators>.

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## CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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## CONTRIBUTIONS

Stephen Roblin (OLO) drafted this economic impact statement.

**Fiscal Impact Statement**  
**Expedited Bill 50-20, Landlord-Tenant Relations – Fire Safety –**  
**Removal of Mercury Service Regulators**

**1. Legislative Summary**

Expedited Bill 50-20 would require landlords to immediately determine if their rental properties contain mercury service regulators. If an indoor mercury service regulator is present, the landlord would be required to notify each tenant, and to contact the gas utility company to arrange for the immediate replacement of the regulator with a safe alternative. The landlord would notify the tenant once the regulator was replaced.

The requirements of the bill would be enforced by the Department of Housing and Community Affairs (DHCA). In addition, DHCA would maintain a searchable public database regarding premises where landlords have provided initial notice of the service regulators, premises where the regulators have been replaced, and enforcement actions regarding indoor mercury service regulators.

**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.**

Expedited Bill 50-20 will not impact County revenues currently assumed in the approved budget. However, this bill requires DHCA to create and maintain a searchable public database. Based on recent systems created, DHCA estimates that this searchable system would require 100-200 hours of staff time, including a senior IT developer, code staff, and licensing staff to create, populate, and host on a public space. The staff time could be cut in half if existing systems, such as eProperty, can be modified to meet the needs. The costs associated with the staff time are estimated at \$10,000, which will be one-time expenses. The amount would be \$5,000 if existing systems could be utilized. To implement the proposed bill, DHCA anticipates that related expenses would be absorbed within existing appropriation.

Position	Hours	Hourly Rate	Estimated Expenses
Sr. IT Developer	50	\$ 100	\$ 5,000
Licensing Staff	50	\$ 50	\$ 2,500
Code Staff	50	\$ 50	\$ 2,500
<b>Total</b>	<b>150</b>		<b>\$ 10,000</b>

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

Per item #2, it is expected that the expenditures identified are one-time costs, therefore the total 6-year cost would be approximately \$10,000 or reduced to \$5,000 if existing systems could be utilized. Bill 50-20 does not impact revenue.

**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.**

Per item #2, DHCA will first attempt to modify current DHCA IT systems prior to developing a stand-alone system. IT expenditures are estimated at \$5,000 for the staffing costs associated with a senior IT developer.

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

Bill 50-20E does not authorize future spending.

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

Per item #2, the estimated staff time is 50 hours for a senior IT developer, code staff, and licensing staff respectively.

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

It is expected that these new responsibilities can be managed with current staffing.

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

Although cost up to \$10,000 may be necessary for implementation of Bill 50-20E, additional appropriation is not needed at this time.

**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.**

Per item #2, DHCA will first attempt to modify current DHCA IT systems prior to developing a stand-alone system. If existing systems can be utilized, it would reduce the estimated expenditures by a half.

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

Not applicable.

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

Not applicable.

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

Tim Goetzing, Department of Housing and Community Affairs  
Frank Demarais, Department of Housing and Community Affairs  
Pofen Salem, Office of Management and Budget



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Jennifer Bryant, Acting Director  
Office of Management and Budget

1-11-21

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Date