



Committee: GO
Committee Review: At a future date
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #SettlementTransparency

AGENDA ITEM #10
June 22, 2021
Public Hearing

SUBJECT

Bill 19-21, Finance – Reports on Settlement Agreements

Lead Sponsor: Councilmember Jawando; Co-Sponsors: Council President Hucker, Councilmembers Glass, Reimer, Rice and Navarro.

EXPECTED ATTENDEES

Members of the Public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Public Hearing – No vote expected

DESCRIPTION/ISSUE

Bill 19-21 would:

- require the County Attorney periodically to report to the County Executive and County Council regarding settlement agreements entered into by the County; and
- require the County Attorney to publish each report on the County's website.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

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M E M O R A N D U M

June 18, 2021

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 19-21, Finance – Reports on Settlement Agreements

PURPOSE: Public Hearing – no Council vote required

Bill 19-21, Finance – Reports on Settlement Agreements, sponsored by Lead Sponsor Councilmember Jawando and Co-Sponsors Council President Hucker, Councilmembers Glass, Reimer, Rice and Navarro was introduced on May 18, 2021.¹ A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for July 19, 2021 at 9:30 a.m.

Bill 19-21 would:

- require the County Attorney periodically to report to the County Executive and County Council regarding settlement agreements entered into by the County; and
- require the County Attorney to publish each report on the County's website.

PURPOSE

The purpose of the bill is to increase public transparency regarding settlement agreements entered into by the County.

BILL SPECIFICS

The bill would require the County Attorney, by October 1 of each year, to submit to the County Executive and the County Council, and to publish on the County's website, a written report that summarizes the settlement of claims by or against the County during the prior fiscal year.

For each settlement, the report would be required to identify:

- the claimant or claimants;
- the dollar amount, or other consideration, under the settlement;
- the nature of the claim; and
- the County departments or offices involved in the claim.

¹ #settlementtransparency

The bill also would make non-substantive, technical amendments to existing provisions of Section 20-2 of the County Code.

This packet contains:

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Bill No. 19-21
Concerning: Finance – Reports on
Settlement Agreements
Revised: 4/22/2021 Draft No. 1
Introduced: May 18, 2021
Expires: November 18, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando

Co-Sponsors: Council President Hucker, Councilmembers Glass, Reimer, Rice and Navarro

AN ACT to:

- (1) require the County Attorney periodically to report to the County Executive and County Council regarding settlement agreements entered into by the County;
- (2) require the County Attorney to publish each report on the County website; and
- (3) generally amend the law regarding the settlement of claims by or against the County.

By amending

Montgomery County Code
Chapter 20, Finance
Section 20-2

The County Council for Montgomery County, Maryland approves the following Act:

| | |
|-------------------------------------|--|
| 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> |

1 **Sec. 1. Section 20-2 is amended as follows:**

2 **20-2. Settlement of claims by [county attorney] County Attorney; annual**
 3 **reports.**

- 4 (a) On behalf of the [county] County, the [county attorney] County
 5 Attorney is [hereby] authorized to [effect a settlement of] settle all
 6 claims by or against the [county] County and all court cases to which
 7 the [county] County is a party where the amount of the claim or the
 8 amount involved in the suit is not more than five thousand dollars
 9 (\$5,000.00) and when in the [county attorney's] County Attorney's
 10 judgment it is proper and advisable to do so. The [county attorney]
 11 County Attorney is further authorized to [effect] settle, with the
 12 approval of the [county executive] County Executive, [a settlement of]
 13 all other claims by or against the [county] County and all other court
 14 cases to which the [county] County is a party, when in the [county
 15 attorney's] County Attorney's judgment and that of the [county
 16 executive] County Executive it is advisable and proper to do so. In
 17 court cases in which the members of the [county council] County
 18 Council are parties in their capacity as such, the [county attorney]
 19 County Attorney is hereby authorized to [effect settlement] settle the
 20 cases on their behalf upon the approval of the [council] Council, except
 21 in cases where each [member of the council] Councilmember may be
 22 personally liable or responsible, in which cases settlement [shall] must
 23 be made only on behalf of each [member] Councilmember approving
 24 such settlement.
- 25 (b) The authority granted by this section [shall] must apply to all future and
 26 past settlements.

(c) By October 1 of each year, the County Attorney must submit to the County Executive and the County Council, and must publish on the County website, a written report that summarizes the settlement of claims by or against the County during the prior fiscal year. For each settlement, the report must identify:

- (1) the claimant or claimants;
- (2) the dollar amount, or other consideration, under the settlement;
- (3) the nature of the claim; and
- (4) the County departments or offices involved in the claim.

Approved:

Tom Hucker, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 19-21

Finance – Reports on Settlement Agreements

| | |
|---|--|
| DESCRIPTION: | Bill 19-21 would require the County Attorney periodically to report to the County Executive and County Council regarding settlement agreements entered into by the County; and require the County Attorney to publish each report on the County website. |
| PROBLEM: | Improving public transparency of settlement agreements entered into by the County. |
| GOALS AND OBJECTIVES: | Require public reporting regarding County settlement agreements. |
| COORDINATION: | |
| FISCAL IMPACT: | Office of Management and Budget |
| ECONOMIC IMPACT: | Office of Legislative Oversight |
| RACIAL EQUITY AND SOCIAL JUSTICE IMPACT: | Office of Legislative Oversight |
| EVALUATION: | |
| EXPERIENCE ELSEWHERE: | To be researched |
| SOURCE OF INFORMATION: | Ludeen McCartney Green, Legislative Attorney |
| APPLICATION WITHIN MUNICIPALITIES: | N/A |
| PENALTIES: | N/A |



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

WILL JAWANDO
COUNCILMEMBER
AT-LARGE

M E M O R A N D U M

TO: Montgomery County Councilmembers

FROM: Will Jawando, Councilmember At-Large

DATE: May 12, 2021

SUBJECT: Settlement Transparency Bill - Introduction

Colleagues, I am submitting a new Settlement Transparency Bill for introduction. This bill would require the County Attorney to report to the County Executive and the Council regarding settlement agreements entered into by the County. It is imperative that elected officials have a clear understanding of the amount of money that is being paid from County resources to settle complaints against Montgomery County employees, including police officers, as a matter of basic transparency. We cannot do our jobs properly as Councilmembers if we do not have a clear understanding of the scale of the issue. Furthermore, these reports will be made public and posted on the County website for residents to review. It is unacceptable that as elected officials of this county, we do not have a clear grasp on the depth of the settlements taxpayer dollars are being used for.

This bill will:

1. Require the County Attorney periodically to report to the County Executive and County Council regarding settlement agreements entered into by the County;
2. Require the County Attorney to publish each report on the County website; and
3. Generally amend the law regarding the settlement of claims by or against the County

Please let Lily Bolourian in my office know if you would like to be a co-sponsor of this important bill. Thank you.

Economic Impact Statement

Office of Legislative Oversight

Bill 19-21

Finance – Reports on Settlement Agreements

SUMMARY

The Office of Legislative Oversight (OLO) believes that enacting Bill 19-21 would have insignificant impacts on economic conditions in the County.

BACKGROUND

The purpose of Bill 19-21 is to improve public transparency regarding settlement agreements entered by the County. The bill would attempt to do so by making the following changes to County law regarding the settlement of claims by or against the County: “(1) require the County Attorney periodically to report to the County Executive and County Council regarding settlement agreements entered into by the County; [and] (2) require the County Attorney to publish each report on the County website.”¹

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

No methodologies were used in this analysis. The assumptions underlying the claims in subsequent sections are based on OLO staff judgment.

VARIABLES

Not applicable

¹ Montgomery County Council, Bill 19-21, Finance – Reports on Settlement Agreements, introduced on May 18, 2021. See Introduction Staff Report, https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2710_1_14446_Bill_19-21_Introduction_20210518.pdf.

Economic Impact Statement

Office of Legislative Oversight

IMPACTS

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

Businesses, Non-Profits, Other Private Organization

OLO believes that Bill 19-21 would have no economic impacts on private organizations in the County in terms of the Council's priority indicators, namely business income, workforce, operating costs, capital investments, property values, taxation policy, economic development, and competitiveness.²

Residents

OLO does not believe that enacting Bill 19-21 would affect County residents in a way that would significantly impact the Council's priority indicators.

DISCUSSION ITEMS

Not applicable

WORKS CITED

Montgomery County Code. Sec. 2-81B. Economic Impact Statements.

Montgomery County Council. Bill 19-21, Finance – Reports on Settlement Agreements. Introduced on May 18, 2021.

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.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

² For the Council's priority indicators, see Montgomery County Code, Sec. 2-81B. Economic Impact Statements, https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-80894.

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 19-21: FINANCE – REPORTS ON SETTLEMENT AGREEMENTS

SUMMARY

OLO anticipates that Bill 19-21 will have a minimal impact on racial equity and social justice in the County but could have a favorable impact if it includes amendments requiring the reporting of demographic data on settlement claimants and employees accused of misconduct.

BACKGROUND

Bill 19-21, Finance – Reports on Settlement Agreements, was introduced to the County Council on May 18, 2021. The purpose of the Bill is to increase public transparency regarding settlement agreements entered into by the County. Toward this end, Bill 19-21 would require the County Attorney to submit by October 1 of each year a report to the County Executive and County Council describing for each settlement the following:

- The claimant and claimants;
- The dollar amount, or other consideration, under the settlement;
- The nature of the claim; and
- The County departments or offices involved in the claim.

The Bill would also require the publishing of the report on the County website and non-substantive, technical amendments to existing County Code.

ANTICIPATED RESJ IMPACT

OLO anticipates that Bill 19-21 will have a minimal impact on RESJ in the County as the information required for the annual settlements report will be insufficient for helping the Executive, Council, or the public determine whether racial and social inequities contribute to the County's settlement agreements.

RECOMMENDED AMENDMENTS

To enable the Executive, the Council, and the public to discern whether patterns of racial and social inequities impact the County's settlement agreements, OLO recommends the Council consider amendments to Bill 19-21 to require the County Attorney's annual settlement reports to include demographic data on settlement claimants and County employees accused of misconduct that result in settlements. Additional recommended data points for the County's annual settlement reports include race, ethnicity, gender, and age data for claimants and accused employees.

RESJ Impact Statement

Bill 19-21

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 impact 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.

CONTRIBUTIONS

OLO Senior Legislative Analyst Dr. Elaine Bonner-Tompkins authored this RESJ impact statement.