

**MEMORANDUM**

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Action:** Bill 25-12, Taxation – Impact Tax - Bikesharing

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

Bill 25-12, Taxation – Impact Tax - Bikesharing, sponsored by Council President Berliner and Councilmembers Ervin, Riemer, Elrich, Leventhal, Andrews and Navarro, was introduced on September 11, 2012. A public hearing was held on October 23, at which the only speaker endorsed the Bill and the companion Zoning Text Amendment 12-14 (see also the Washington Area Bicyclist Association letter of support on ©8). A Government Operations and Fiscal Policy Committee worksession was held on November 5, at which the Committee recommended enactment of Bill 25-12 as introduced.

Bill 25-12 would allow transportation impact tax funds to be used for certain bikesharing stations. No one has opposed this concept. However, Executive branch staff (see Boucher email on ©9) raised questions about the need to further define the requirements for permanent dedication of the necessary land or easements for each bike sharing station and the methods of setting the amount of the applicable credit when the applicant rather than the County provides the station.<sup>1</sup>

Executive staff agreed that these issues can and should be resolved in implementing regulations. They concurred that the Bill need not be amended to postpone its effective date to draft those regulations since the Bill is not an Expedited Bill and thus will not take effect until 90 days after the Executive signs it into law, which is enough time to draft the needed regulations and at least adopt them as temporary regulations.

| This packet contains:                        | <u>Circle #</u> |
|--|-----------------|
| Bill 25-12                                   | 1               |
| Legislative Request Report                   | 3               |
| Fiscal Impact Statement                      | 4               |
| Washington Area Bicyclist Association letter | 8               |
| Executive staff email                        | 9               |

F:\LAW\BILLS\1225 Impact Tax - Bikesharing\Action Memo.Doc

<sup>1</sup>Executive staff also discussed the potential need to increase impact tax rates and revenues to cover increased costs of various eligible uses of these funds (see ©9). While this issue is technically within the scope of Bill 25-12, it is much broader and the Committee agreed should be the subject of a more comprehensive impact tax review, which would be scheduled after the New Year.

Bill No. 25-12  
Concerning: Taxation - Impact Tax -  
Bikesharing  
Revised: 7-19-12 Draft No. 1  
Introduced: September 11, 2012  
Expires: March 11, 2014  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President Berliner and Councilmembers Ervin, Riemer, Elrich, Leventhal, Andrews  
and Navarro

---

**AN ACT** to:

- (1) allow transportation impact tax funds to be used for certain bikesharing stations; and
- (2) generally amend the law governing the transportation impact tax.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Section 52-58

|                                     |  |
|-------------------------------------|--|
| <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:*

**Sec. 1. Section 52-58 is amended as follows:**

**52-58. Use of impact tax funds.**

Impact tax funds may be used for any:

- (a) new road or widening of an existing road that adds highway or intersection capacity or improves transit service or bicycle commuting, such as bus lanes or bike lanes;
- (b) new or expanded transit center or park-and-ride lot,
- (c) bus added to the Ride-On bus fleet, but not a replacement bus;
- (d) new bus shelter, but not a replacement bus shelter;
- (e) hiker-biker trail used primarily for transportation;
- (f) bicycle locker that holds at least 8 bicycles;
- (g) bikesharing station (including bicycles) approved by the Department of Transportation;
- [(g)] (h) sidewalk connector to a major activity center or along an arterial or major highway; or
- [(h)] (i) the operating expenses of any transit or trip reduction program.

*Approved:*

---

Roger Berliner, President, County Council Date

*Approved:*

---

Isiah Leggett, County Executive Date

*This is a correct copy of Council action.*

---

Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 25-12

*Taxation - Impact Tax - Bikesharing*

**DESCRIPTION:** Allows transportation impact tax funds to be used for bikesharing stations approved by the Department of Transportation.

**PROBLEM:** Need to encourage expansion of bikesharing.

**GOALS AND OBJECTIVES:** To allow transportation impact tax funds to be used for bikesharing.

**COORDINATION:** Department of Transportation, Planning Board

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Michael Faden, Senior Legislative Attorney, 240-777-7905; Glenn Orlin, Deputy Council Staff Director, 240-777-7936.

**APPLICATION WITHIN MUNICIPALITIES:** Transportation impact tax applies County-wide.

**PENALTIES:** Not applicable.



ROCKVILLE, MARYLAND

MEMORANDUM

October 5, 2012

TO: Roger Berliner, President, County Council

FROM: Jennifer A. Hughes, <sup>JAH</sup>Director, Office of Management and Budget  
Joseph F. Beach, Director, Department of Finance

SUBJECT: Council Bill 25-12 – Taxation – Impact Tax - Bikesharing

Attached please find the fiscal and economic impact statements for the above-referenced legislation.

JAH:bg

c: Kathleen Boucher, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Alex Espinosa, Office of Management and Budget  
William Selby, Department of Transportation  
Brady Goldsmith, Office of Management and Budget  
Naeem Mia, Office of Management and Budget  
David Platt, Department of Finance  
Michael Coveyou, Department of Finance

**Fiscal Impact Statement**  
Council Bill 25-12 – Taxation - Impact Tax - Bikesharing

**1. Legislative Summary**

The proposed bill allows transportation impact tax funds to be used for bikesharing stations approved by the Department of Transportation.

**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 proposed bill allows for impact taxes to be used towards bikesharing stations. It does not impact County revenues or expenditures.

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

See item #2 above.

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable.

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

The bill does not authorize future spending.

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

No staff time is needed to implement this bill.

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

Not applicable.

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

Not applicable.

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

Not applicable.

**10. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable.

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

The proposed bill allows impact taxes to be used as a funding source of bikesharing station projects. There is no impact on departmental administration or programming.

**12. Other fiscal impacts or comments.**


Not applicable.

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

William Selby, Department of Transportation

Brady Goldsmith, Office of Management and Budget

Naeem Mia, Office of Management and Budget

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

10/9/12  
\_\_\_\_\_  
Date

**Economic Impact Statement**  
**Council Bill 25-12, Taxation - Impact Tax - Bikesharing**

**Background:**

Bill 25-12 allows Transportation Impact Taxes to be used to fund bikesharing stations, including bicycles, that are approved by the Department of Transportation.

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

Since Bill 25-12 only affects how Transportation Impact Tax funds may be used, but does not affect the rate or how the taxes are assessed it has no economic impact.

2. A description of any variable that could affect economic impact statements.

See #1 above.

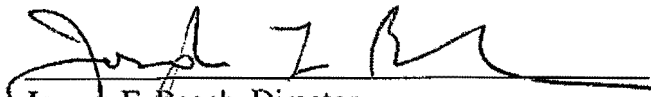
3. The bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property value in the County.

See #1 above.

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

Bill 25-12 allows a specific, existing, revenue to be used for a new type of expenditure, but does not increase, decrease, or change the revenue, underlying rates, or who is responsible for paying the tax.

5. The following contributed to and concurred with this analysis: David Platt and Mike Coveyou, Finance.

  
Joseph F. Beach, Director  
Department of Finance

9-24-12  
Date



① BILL 25-12

② ZTA 12-14

MF  
CC  
JZ

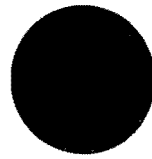


2599 Ontario Rd. NW  
Washington, DC 20009  
P: 202.518.0524 F: 202.518.0936

WASHINGTON AREA BICYCLIST ASSOCIATION

WWW.WABA.ORG

October 23, 2012



070610

Montgomery County Council  
100 Maryland Ave.  
Rockville, MD 20850  
VIA ELECTRONIC MAIL

RE: WABA Support of Bill 25-12 and ZTA 12-14 (Bikeshare)

To the Members of the Montgomery County Council:

The Washington Area Bicyclist Association strongly supports the integration of bicycling into the fabric of the Montgomery County's transportation and legal infrastructure. The bills under consideration facilitate this goal by proactively integrating bikesharing into the county's tax and zoning codes in a way that supports the involvement of the private sector in the system's growth and success.

As bikesharing stations are largely standardized, the exemption from the requirement of a site plan amendment is a simple one that removes an unnecessary barrier to the private sector's willingness to provide bikesharing facilities.

Further, WABA supports the addition of bikeshare stations to the list of transportation projects eligible for impact tax funds. While we caution that funding for bicycling projects should primarily go to projects that benefit the entire bicycling community comprised of both traditional bicyclists and bikeshare users, we recognize the importance of ensuring available funding sources for the implementation of such a transportation system and agree that the implementation and growth of bikeshare is a use that falls squarely within the purpose of the impact tax.

Thus, we support both Zoning Text Amendment 12-14 and Bill 25-12, and we appreciate the ongoing opportunity to work with the Council to bring better biking to Montgomery County.

Sincerely,

Shane Farthing  
Executive Director

RECEIVED  
MONTGOMERY COUNTY

2012 OCT 23 AM 9:51

⑧

**Faden, Michael**

**From:** Boucher, Kathleen  
**Sent:** Wednesday, October 31, 2012 11:05 AM  
**To:** Berliner, Roger  
**Cc:** Brecher, Sandra; Root, Anne; Biggins, Carolyn; Beach, Joseph; Coveyou, Michael; Ossont, Greg; Bell-Pearson, Ramona; Nurmi, Joy; Faden, Michael; Mihill, Amanda; Drummer, Bob; Bolt, Chad; Gibson, Cindy; Ervin, Valerie; Healy, Sonya; Riemer, Hans; Pagnucco, Adam; Elrich, Marc; Tibbitts, Dale; Leventhal, George; Vitale, Patricia; Andrews, Phil; Mandel-Trupp, Lisa; Navarro, Nancy; Fogel, Adam; Laceyfield, Patrick; Firestine, Timothy  
**Subject:** Bill 25-12, Taxation - Impact Tax - Bikesharing

Dear Councilmember Berliner,

Last week, I advised Chad Bolt that the County Executive supports Bill 25-12, Taxation -Impact Tax -Bikesharing but that he also recommends that the bill be amended to include a delayed effective date that will allow sufficient time for Executive staff to make necessary changes to related Executive Regulations.

I am writing to clarify that before the bill can be implemented, the County needs to amend the regulations governing the Development Impact Tax for Transportation Improvements to:

- Specify that any right-of-way or land dedication or easement needed to accommodate a bikesharing station must be permanent and irrevocable. This is necessary to avoid having property owners obtaining a credit, and a few years later eliminating the bikeshare station location.
- Include a methodology for a systematic approach to determining the cost of the bike station, bikes, and operating costs of the station (and therefore the amount of the credit). This will clarify which costs are eligible in calculating the amount of the credit, providing certainty to the property owner, and to improve the overall efficiency of certifying a credit. Greater clarity in either the legislation or the implementing regulations will prevent future challenges to the calculation of the amount of the credit.

We also note that, while the number of projects for which impact tax revenues can be used as a funding source has grown over the years, there has not been a change in the rates to ensure that there is sufficient revenue to accommodate all of the eligible uses. Expanding the number of eligible uses without increasing the pool of available resources may result in eroding impact tax resources for other uses including road capacity projects, park and ride lots, and other existing eligible uses. At some point, the County should revisit the rates for Development Impact Tax for Transportation to more appropriately account for the full cost of the remaining transportation infrastructure, which should be the basis of the rates. Executive staff are available to discuss this issue at any time.

Thank you for your consideration of these comments.

Kathleen

Kathleen Boucher  
 Assistant Chief Administrative Officer  
 Office of the County Executive  
 Montgomery County, Maryland  
 240-777-2593