



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

NANCY NAVARRO
COUNCILMEMBER, DISTRICT 4
CHAIR, GOVERNMENT OPERATIONS & FISCAL POLICY COMMITTEE

August 8, 2014

TO: Montgomery County Municipal Leaders

FROM: Nancy Navarro 
Chair, Government Operations & Fiscal Policy Committee

SUBJECT: Municipal Tax Duplication Next Steps

As you know, the Government Operations and Fiscal Policy Committee (GO) met several times over the past couple of years to discuss the issue of Municipal Tax Duplication. The Committee reviewed the June 2012 final report of the County Executive's Task Force¹, the Office of Legislative Oversight (OLO)'s June 2013 report on Municipal Tax Duplication and Revenue Sharing², and discussed this issue each year during the Council's annual budget deliberations.

On June 15, 2013, the GO Committee had a preliminary discussion about reforming the current Municipal Tax Duplication system in response to OLO Staff recommendations. At that time, the Committee expressed a preference for a hybrid system that includes both a property tax differential and a rebate program. The Committee also leaned towards establishing a grant or rebate program and a separate stand-alone municipal grant program. However, please note that none of these preliminary decisions were in the context of draft legislation.

On October 28, 2013, the GO Committee asked Council Staff to convene an informal working group during the summer comprised of municipal and non-municipal representatives and stakeholders.

¹

[http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy12/mtd task force report.pdf](http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy12/mtd_task_force_report.pdf)

² <http://www6.montgomerycountymd.gov/content/council/olo/reports/oloreport2013-6.pdf>

Attached is a draft framework for the tax duplication program (Article I) and Municipal Infrastructure Improvement Fund (Article II). This draft framework, while not a recommendation of the Committee, was prepared by Council Staff based upon the work that has been done by the Committee and by OLO over the past two years. The purpose of this framework is to serve as the basis for the informal working group's discussions with respect to tax duplication. The draft framework is not specific with respect to other items that are within the scope of this working group, including any municipal grant program.

I have asked Senior Legislative Analyst Jacob Sesker to convene the first meeting of the working group before the end of the month. I expect the working group to meet up to 4 times between now and the end of October. In addition to the draft framework, the meetings should focus on the four items the Committee previously identified: (1) format and structure of a potential grant program, (2) a list of eligible (reimbursable) shared services, (3) simple and fair reimbursement formulas, and (4) potential criteria for applying service cost ratios. The working group should make specific recommendations. Following a fiscal analysis of those recommendations, the Committee will schedule a discussion of policy alternatives.

Thank you for your ongoing work and continuing commitment to improving Montgomery County's Municipal Tax Duplication system. I look forward to working with you in the coming months to make the system more predictable for municipalities and more equitable for all County residents.

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. Sections 2-53, 30A-1, 30A-2, 30A-3, 30A-4, 30A-5, and 30A-6 are**
2 **amended, Sections 30A-7 and 30A-8 are added, and Section 35-5 is deleted as**
3 **follows:**

4 **2-53. Annual payment of county library tax to certain municipalities.**

5 (a) If the governing body of any municipality in the County which
6 supports or operates a free public library on December 31, 1997 does not transfer
7 that library into the County system, [the Director of Finance must pay annually to
8 the governing body of that municipality for library purposes, as soon after the
9 beginning of each fiscal year as possible:

10 (1) an amount which would be realized if that portion of the
11 general County ad valorem tax rate on real and personal property attributable to the
12 appropriation for the Department of Public Libraries for that fiscal year were
13 levied against the assessed value, on the preceding County date of finality, of the
14 real and personal property in that municipality; or

15 (2) a lower amount approved in the annual operating budget or a
16 Council resolution.

17 For the purposes of this subsection, the amount of the appropriation
18 for the Department of Public Libraries in any fiscal year includes the estimated
19 amount of the payment to that municipality in that fiscal year. The amount of
20 payment to any municipality must not exceed in any given fiscal year the amount
21 of revenue derived from taxes levied by that municipality for library purposes for
22 the preceding fiscal year.] the operation of the free public library is an eligible
23 shared service under Chapter 30A.

24 (b) If the governing body of a library supported by a municipality
25 indicates a desire to transfer all or part of the library facilities owned by it into the
26 County public library system, the Director of Public Libraries must negotiate for
27 that transfer as provided in this Article.

28 * * *

29 **Article I. Municipal Property Tax Duplication**

30 **30A-1. Property tax setoff program established.**

31 There is [hereby established] a property tax setoff program to [reimburse] offset
32 property taxes levied by municipalities within the [county] County and aid the
33 municipalities in funding services or programs that are similar to County services
34 or programs. The set off must be in the form of a County property tax rate
35 differential or a total differential allowance, and is allowed only for those public
36 services provided by the municipalities which would otherwise be provided by the
37 [county] County government and funded by general fund property taxes.

38 **30A-2. [Qualification of municipal public services for county reimbursement.]**

39 **Definitions.**

40 [Municipal public services shall qualify for county reimbursement if the following
41 conditions are met: (1) The municipality provides the service to its residents and
42 taxpayers, (2) the service would be provided by the county if it were not provided
43 by the municipality, (3) the service is not actually provided by the county within
44 the municipality and (4) the comparable county service is funded from tax
45 revenues derived partially from taxpayers in the participating municipality.]

46 In this Article:

47 County property tax rate differential means the County property tax rate for
48 property owners in a municipality, calculated pursuant to this Article to
49 reflect the cost of eligible shared services provided by the municipality.

50 County personal property assessable base means the County personal
51 property assessable tax base, including all municipalities, as used in the
52 County's comprehensive annual financial report from the program year.

53 County real property assessable base means the County real property
54 assessable tax base, including all municipalities, as used in the County's
55 comprehensive annual financial report from the program year.

56 Director means the Director of the Office of Management and Budget.

57 Eligible shared service means:

58 (1) a service for which the Director determines that the following
59 conditions are met:

60 (A) the municipality and County provide a comparable
61 service;

62 (B) the municipality provides the service to its residents and
63 taxpayers;

64 (C) the service provided by the municipality is funded
65 entirely or in part with revenue derived from real or
66 personal property tax levied by the municipality;

67 (D) the County provides the service only to residents and
68 taxpayers outside of the municipality; and

69 (E) the comparable County service is funded from general
70 fund property tax revenue derived partially from
71 taxpayers in the participating municipality; or

72 (2) a free public library supported or operated by a municipality on
73 December 31, 1997, and not transferred into the County system.

74 Municipality means a city or town incorporated pursuant to Article XI-E of
75 the Maryland Constitution which is entirely in the County.

76 Municipal personal property assessable base means the personal property
77 assessable tax base within a municipality in the program year.

78 Municipal real property assessable base means the real property assessable
79 tax base within a municipality in the program year.

80 Municipal personal property tax differential means the net County shared
81 service cost funded by personal property tax revenue divided by the
82 difference between the County personal property assessable base minus the
83 municipal personal property assessable base.

84 Municipal real property tax differential means the net County shared service
85 cost funded by real property tax revenue divided by the difference between
86 the County real property assessable base minus the municipal real property
87 assessable base.

88 Net County shared service costs means the County's costs for eligible shared
89 services funded by County taxation of property. The amount of net shared
90 service costs is calculated for each service based on cost of services
91 formulas established by Method 2 regulation. Each formula must:

92 (1) use county expenditure data to estimate the saved County costs
93 for each shared service;

94 (2) subtract any non-tax revenue including fees, service charges,
95 grants, other earmarked revenue directly attributable to that
96 service; and

97 (3) apply a real property tax revenue general fund ratio and a
98 personal property tax revenue general fund ratio to exclude
99 General Fund non-property tax revenue, including income tax
100 revenue, from the service cost.

101 Participating municipality means a municipality that has applied under
102 Section 30A-5 to participate in the property tax setoff program.

103 Personal Property tax revenue general fund ratio means the share of general
104 fund tax revenue attributable to personal property taxes compared to all
105 other tax revenue sources that support the County general fund. The
106 personal property tax revenue general fund ratio is calculated by:

- 107 (1) subtracting all non-tax revenue from the total general fund
108 revenue amount;
- 109 (2) determining the amount of personal property tax revenue net of
110 credits; and
- 111 (3) dividing the amount of net personal property tax revenue by the
112 sum of the other remaining tax revenues.

113 Program Year means the fiscal year in which an eligible shared service is
114 provided by a municipality. An allowance or differential in fiscal year 2016
115 must be based on program year 2014. Thereafter, annual setoffs must
116 continue using a similar two-year interval.

117 Property tax means County general fund property tax revenue as reflected in
118 the County's comprehensive annual financial report from the program year.

119 Real Property tax revenue general fund ratio means the share of general
120 fund tax revenue attributable to real property taxes compared to all other tax
121 revenue sources that support the County general fund. The real property tax
122 revenue general fund ratio is calculated by:

- 123 (1) subtracting all non-tax revenue from the total general fund
124 revenue amount;
- 125 (2) determining the amount of real property tax revenue net of
126 credits; and
- 127 (3) dividing the amount of net real property tax revenue by the sum
128 of the other remaining tax revenues.

129 Shared services means discretionary services that both the County and a
130 municipality are authorized to provide which may result in property tax
131 duplication.

132 Total differential allowance means a payment to a municipality, calculated
133 pursuant to this Article, to reimburse the municipality for the cost of eligible
134 shared services.

135 **30A-3. Determination of [reimbursement] the municipal property tax**
136 **differential.**

137 [Subject to the provisions of section 30A-4, each participating municipality shall
138 be reimbursed by an amount determined by the county executive to approximate
139 the amount of municipal tax revenues required to fund the eligible services. The
140 amount of reimbursement shall be limited to the amount the county executive
141 estimates the county would expend if it were providing the services.]

142 (a) County real property tax rate differential. The County real property
143 tax rate for assessments of real property in a participating municipality
144 that levies a real property tax and that has elected to have its
145 taxpayers' tax rate reduced by a County tax rate differential must be
146 calculated as follows:

147 (1) For each eligible shared service, the Director must calculate the
148 net County service cost attributable to real property tax revenue.

149 (2) For each participating municipality, the Director must calculate
150 the sum of net County service costs attributable to real property
151 tax revenue based on the list of eligible shared services.

152 (3) For each participating municipality, the Director must calculate
153 a municipal real property tax differential by dividing its service
154 costs from paragraph (2) by the difference of the (County real

155 property assessable base minus the municipal real property
156 assessable Base)/\$100.

157 (4) The Director must subtract the municipal real property tax
158 differential from the County real property tax rate to calculate
159 the County real property tax rate for municipal property owners.

160 (b) County personal property tax rate differential. The County personal
161 property tax rate for assessments of personal property in a
162 participating municipality that levies a personal property tax and that
163 has elected to have its taxpayers' tax rate reduced by a County tax rate
164 differential must be calculated as follows:

165 (1) For each eligible shared service, the Director must calculate the
166 net County service cost attributable to personal property tax
167 revenue.

168 (2) For each participating municipality that levies a personal
169 property tax, the Director must calculate the sum of net County
170 service costs attributable to personal property tax revenue based
171 on the list of eligible shared services.

172 (3) For each participating municipality, the Director must calculate
173 a municipal personal property tax differential by dividing its
174 service costs from paragraph (2) by the difference of the
175 (County personal property assessable base minus the municipal
176 personal property assessable base)/\$100.

177 (4) The Director must subtract the municipal personal property tax
178 differential from the County personal property tax rate to
179 calculate the County personal property tax rate for municipal
180 property owners.

181 (c) Total differential allowance. For a participating municipality that has
182 elected to be reimbursed by a total differential allowance paid to the
183 municipal government, the Director must calculate the allowance as
184 follows:

185 (1) for a participating municipality that levies a real property tax,
186 multiply the municipal real property tax differential by the
187 municipal real property assessable base/\$100 to determine the
188 amount of the rebate payment attributable to real property tax
189 due to the municipal government; and

190 (2) for a participating municipality that levies a personal property
191 tax, multiply the municipal personal property tax differential by
192 the municipal personal property assessable base/\$100 to
193 determine the amount of the rebate payment attributable to
194 personal property tax due to the municipal government

195 (d) The differentials determined pursuant to this Section must be rounded
196 to the nearest tenth of a cent.

197 **30A-4. Limitations [on expenditures].**

198 (a) All expenditures by the [county] County under the authority of this
199 [chapter shall be] Article are subject to the limits of the funds
200 appropriated by the [county council] County Council.

201 (b) Nothing in this Chapter limits the authority of the County Council to
202 set the County real property tax rate and personal property tax rate on
203 any property in the County.

204 (c) The amount of the total differential or total allowance provided to a
205 municipality for an eligible shared service under this Article must not
206 exceed in any given fiscal year the sum of:

- 207 (1) the amount of revenue derived from real property tax levied by
208 that municipality for the purpose of providing that eligible
209 shared service in the program year; and
- 210 (2) the amount of revenue derived from personal property tax
211 levied by that municipality for the purpose of providing that
212 eligible shared service in the program year.

213 **30A-5. Application to participate in program; One time election.**

214 (a) Annual application. Any municipality within the [county] County
215 which desires to participate in the [county municipal revenue]
216 property tax setoff program [shall] must submit [not later than] by
217 November 15 of the year following the program year to the [county]
218 County an application which [shall] must be in such form and contain
219 such information as may be required by the [county executive] County
220 Executive.

221 (b) One-time election. A municipality participating in the property tax
222 setoff program must, on its first application submitted after January 1,
223 2015, make a one-time election to receive either an offset through a
224 County property tax rate differential or reimbursement through a total
225 differential allowance.

226 **Article II. Municipal Infrastructure Improvement Fund.**

227 **30A-6. [County tax rate in certain municipalities.] Fund created.**

228 [(a) Reduced tax rate. Pursuant to section 6-305 of the Tax-Property
229 Article, Annotated Code of Maryland, before June 30 the county
230 council may set for the coming taxable year a general county property
231 tax rate on assessments of properties in any municipality at a rate that
232 is less than the general county tax rate on assessments of properties in
233 parts of the county outside of the municipality if the municipality:

- 234 (1) Lies partly in Montgomery County and partly in another
235 county;
- 236 (2) Performs fire and rescue services in whole or in part in lieu of
237 the county performing those services; and
- 238 (3) The conditions in subsection (d) are met.
- 239 (b) Performance of services. The municipality may perform fire and
240 rescue services by actually providing the services or by paying for all
241 or part of the costs and expenses of fire and rescue services.
- 242 (c) Amount of tax rate. The general County property tax rate on
243 assessments of properties in the municipality must be less than the
244 general County property tax rate on assessments outside of the
245 municipality by the amount of the tax rate established for the Fire Tax
246 District for the same taxable year.
- 247 (d) Conditions for reduced rate. The municipality, on or before June 15,
248 must present satisfactory written evidence to the County Council
249 demonstrating that the municipality for the coming taxable year:
- 250 (1) Has levied a general municipal property tax on all assessments
251 of properties in the municipality equal to the tax rate proposed
252 to be set for the Fire Tax District for the coming taxable year;
253 and
- 254 (2) Will collect and remit to Montgomery County the full amount
255 of taxes imposed on assessments of properties in the
256 municipality under paragraph (d)(1) in partial payment of the
257 costs and expenses of providing fire and rescue services in the
258 municipality.
- 259 (e) Allocation of funds. Taxes received from the municipality must be
260 allocated by the County as follows:

261 (1) Taxes on assessments of properties in the Montgomery County
 262 section of the municipality will be placed in the General Fund.

263 (2) Taxes on assessments of properties in the other county's section
 264 of the municipality will be placed in the Fire Tax District
 265 Fund.]

266 (a) The Director of the Department of Finance must create Municipal
 267 Infrastructure Improvement Fund. This Fund is continuing and non-
 268 lapsing.

269 (b) The Fund consists of:

270 (1) all funds appropriated to it by the County Council;

271 (2) all payments on any loan from the Fund;

272 (3) all interest earned on funds in the Fund; and

273 (4) all funds received from any other public or private entity.

274 **30A-7. Purpose of Fund.**

275 (a) The purpose of the Fund is to assist municipalities in financing non-
 276 recurring infrastructure improvements which, if located outside of the
 277 municipality, would be funded by County general fund property tax
 278 revenue.

279 (b) Assistance to a municipality from this Fund may take the form of:

280 (1) loans or grants of public funds as otherwise authorized by law;

281 (2) provision of services, when otherwise authorized, by a County
 282 agency; or

283 (3) plans, studies, or other technical assistance.

284 **30A-8. Use of Fund.**

285 * * *

286 **35-5. [Takoma Park Rebate.] Reserved.**

287 [(a) If the County and the City of Takoma Park agree that the substation
288 located in the City is abolished, the County does not provide police protection in
289 the City, and the City provides its own citywide police protection, the Director of
290 Finance must, during each fiscal year that this agreement is in effect, pay to the
291 City treasurer, in quarterly installments, that portion of the revenue from the
292 County tax levied on each \$100.00 of assessable:

293 (1) personal property in the City which is produced by 12 cents of
294 the tax rate levied on personal property; and

295 (2) real property in the City which is produced by 4.8 cents of the
296 tax rate levied on real property.

297 (b) If any agreement referred to in subsection (a) is terminated or
298 modified after a fiscal year begins, the amount paid under it must be prorated
299 according to the number of days in that fiscal year that the agreement has been in
300 effect.

301 (c) Nothing in this Section limits the jurisdiction of the County police in
302 the City of Takoma Park.]