



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #5
July 7, 2011

MEMORANDUM

DATE: July 1, 2011
TO: Montgomery County Planning Board
VIA: Rollin Stanley, Director *RS*
FROM: Jacob Sesker, Planner Coordinator *JS*
Director's Office
SUBJECT: Bill 23-11

UPDATE

Bill 23-11, *inter alia*, prohibits the White Flint Special Taxing District from imposing a tax to pay for any infrastructure improvement that is or may be financed or credited by any other government agency. The bill was introduced to address potential double crediting and double payment problems in certain infrastructure finance districts.

The bill, as written, could prevent Taxing District funds from being used to pay for projects that would be financed in whole or in part by government (local, state, federal). This potentially creates problems for funding and financing improvements to Rockville Pike or other projects that might include both public and private participation.

The bill, as written, could also prevent Taxing District funds from being used to finance any impact tax creditable improvements outside of the Taxing District boundary.

RECOMMENDATION

Direct staff to draft testimony recommending amendments to Bill 23-11 that would address the concerns identified above.

Attachment: Council Packet, June 21, 2011

JS:js: G:\Sesker\council bills roundtable 07_07.doc

MEMORANDUM

TO: County Council

FROM: *MA* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Bill 23-11, Development Districts, Special Taxing Districts – Duplication of Funding

Bill 23-11, Development Districts, Special Taxing Districts – Duplication of Funding, sponsored by Councilmember Elrich and Council President Ervin, is scheduled to be introduced on June 21, 2011. A public hearing is tentatively scheduled for July 12 at 1:30 p.m.

Bill 23-11 would prohibit any development district from financing any infrastructure improvement that is or may be financed or credited by any other government agency, and similarly prohibit the White Flint Special Taxing District from imposing a tax to pay for any infrastructure improvement that is or may be financed or credited by any other government agency.

This Bill results from concerns expressed by Councilmembers about potential double-funding of infrastructure items by development districts or special taxing districts and other government agencies at the March 28 joint worksession by the Government Operations and Fiscal Policy Committee and Transportation, Infrastructure, Energy, and Environment Committee to review the Inspector General's report regarding the West Germantown development district's funding of certain water and sewer items for which the Washington Suburban Sanitary Commission had also issued Systems Development Charge credits.

This packet contains:

Bill 23-11
Legislative Request Report

Circle #

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Bill No. 23-11
Concerning: Development Districts,
Special Taxing Districts – Duplication
of Funding
Revised: 6-16-11 Draft No. 1
Introduced: June 21, 2011
Expires: December 21, 2012
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Elrich and Council President Ervin

AN ACT to:

- (1) prohibit any development district from financing any infrastructure improvement financed or credited by any other government agency;
- (2) prohibit the White Flint Special Taxing District from imposing a tax to pay for any infrastructure improvement financed or credited by any other government agency; and
- (3) generally amend County law regarding the financing of infrastructure improvements.

By amending

Montgomery County Code
Chapter 14, Development Districts
Section 14-9

Chapter 68C, White Flint Special Taxing District
Section 68C-4

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>

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

Sections 14-9 and 68C-4 are amended as follows:

14-9. Second Council Resolution.

* * *

(h) An infrastructure improvement financed by a development district may include any infrastructure required by the Planning Board as a condition of project, preliminary, or site plan approval. A development district must not finance any infrastructure improvement that has been or is likely to be financed by any other government agency, or for which any government agency may issue any credit toward the payment of any tax, fee, or charge.

* * *

68C-4. Transportation Infrastructure Improvement Resolution.

* * *

(f) A tax imposed under Section 68C-3, must not pay for any infrastructure improvement that has been or is likely to be financed by any other government agency, or for which any government agency may issue any credit toward the payment of any tax, fee, or charge.

Approved:

Valerie Ervin, 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 23-11

Development Districts, Special Taxing Districts - Duplication of Funding

DESCRIPTION: Prohibits any development district from financing any infrastructure improvement that is or may be financed or credited by any other government agency, and similarly prohibits the White Flint Special Taxing District from imposing a tax to pay for any infrastructure improvement that is or may be financed or credited by any other government agency.

PROBLEM: Councilmembers expressed concerns about potential double-funding of infrastructure items by development districts or special taxing districts and other government agencies.

GOALS AND OBJECTIVES: To preclude double funding of infrastructure items by government agencies.

COORDINATION: Department of Finance

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

APPLICATION WITHIN MUNICIPALITIES: Applies only to County government funding mechanisms.

PENALTIES: Not applicable.