



**Committee:** Directly to Council  
**Committee Review:** N/A  
**Staff:** Wellons, Chen, McCartney-Green, Ndou  
**Purpose:** Final action – vote expected

**CORRECTED**

**Agenda Item #1**  
January 24, 2022

## **SUBJECT**

2022 Legislative Session, Maryland General Assembly

## **EXPECTED ATTENDEES**

Melanie Wenger, Director, Office of Intergovernmental Relations (OIR)  
Kathleen Boucher, OIR  
Sara Morningstar, OIR  
Leslie Frey, OIR  
Jason Mathias, OIR  
Ed Lattner, Chief, Division of Government Operations, Office of the County Attorney  
Alysoun McLaughlin, Deputy Election Director, Montgomery County Board of Elections  
Patrick Walsh, Montgomery County Recreation  
Patty Bubar, Deputy Director, Department of Environmental Protection

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

Review and take positions on General Assembly bills.

## **DESCRIPTION/ISSUE**

The Council will receive updates from OIR about the Governor's FY23 budget.

The Council will review pending State bills and, if desired, take positions on the bills.

## **SUMMARY OF KEY DISCUSSION POINTS**

Determine whether to support, support with amendments, take no position on, hold, or oppose the following State bills:

### COVID Relief & Economic Resilience

- House Bill 89, Child Care Stabilization Grant Program and Child Care Expansion Grant Program – Established, [Legislation - HB0089 \(maryland.gov\)](#)
- House Bill 114, Access to Counsel in Immigration Proceedings Program, [Legislation - HB0114 \(maryland.gov\)](#)
- Senate Bill 223, Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions, [Legislation - HB0089 \(maryland.gov\)](#)
- Senate Bill 6, Landlord and Tenant – Residential Leases – Tenant Rights and Protections (Tenant Protection Act of 2022), [2022 Regular Session - Senate Bill 6 First Reader \(maryland.gov\)](#)

### Local Authority

- Senate Bill 139, Public Health - Semipublic Pools – Lifeguards, [2022 Regular Session - Senate Bill 139 First Reader \(maryland.gov\)](#)
- Senate Bill 99, Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Law Authorization, [2022 Regular Session - Senate Bill 99 First Reader \(maryland.gov\)](#)

#### Elections

- SB158, State Board of Elections - Contracts and Invoices – Requirements, [2022 Regular Session - Senate Bill 158 First Reader \(maryland.gov\)](#)
- SB163, Election Law – Ballots – Processing and Reporting Procedures, [2022 Regular Session - Senate Bill 163 First Reader \(maryland.gov\)](#)

#### Environment

- HB307, Environment - Packaging Materials - Producer Responsibility, [2022 Regular Session - House Bill 307 First Reader \(maryland.gov\)](#)

#### **This report contains:**

Chart of State Bills (with Council Staff recommendations)	©1
Memorandum from OIR (with detailed bill descriptions and context)	©5

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	A	B	C	D	E	F	G
1	Bill Number	Bill Title	County Priority	Staff	Staff Rec.	Attorney/Analyst Comments	OIR Memo
2	House Bill 89	Child Care Stabilization Grant Program and Child Care Expansion Grant Program	COVID Relief & Economic Resilience	Yao / McMillan	Support	This bill would establish two state grant programs, including one to support childcare providers that are in danger of closing due to financial hardship. The grant program would be run by the State Department of Education. Council staff recommends support because the bill would assist childcare providers harmed by COVID.	Circle #7
3	House Bill 114	Access to Counsel in Immigration Proceedings Program	COVID Relief & Economic Resilience	McMillan / Wellons	Support	The bill would establish an Access to Counsel in Immigration Proceedings Program administered by the Maryland Legal Services Corporation to provide access to legal representation for certain covered individuals detained in the United States in certain covered judicial or administrative immigration proceedings where an individual is subject to removal from the United States. Council staff recommends support consistent with the Council's efforts to increase access to counsel as a matter of equity and inclusion for residents recovering from the COVID emergency.	Circle #7

	Bill #	Title	Priority	Staff	Staff rec	Staff comments	OIR memo
4	Senate Bill 223	Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions	COVID Relief & Economic Resilience	McCartney-Green / McMillan	Support	This bill was requested by the Attorney General. It is a reintroduction of last year's O. The bill would ) # against landlords , tenant holdover, and breach of lease actions. Council staff recommends support because the bill aligns with the Council's 2022 priority to support keeping tenants housed and to mitigate the impacts of COVID-19 and the related hardship.	Circle #8
5	Senate Bill 6	Landlord and Tenant - residential Leases - Tenant Rights and Protections (Tenant Protection Act of 2022)	COVID Relief & Economic Resilience	Wellons	Support	The bill requires landlords that use a ratio utility billing system (RUBS) to provide a written disclosure containing certain information to prospective tenants and makes any lease provision requiring a tenant to pay utility charges under a RUBS unenforceable if the landlord does not provide the information required under those mandatory disclosure provisions. Staff recommends support. Per DHCA, this bill is consistent with the County's approach and provides clarity on a landlord's obligations regarding utility billings. In addition, any local laws that are comparable to the bill's RUBS provisions will supersede those provisions to the extent that they are more stringent and provide stronger protections or broader applicability than the state law.	Circle #6

	Bill #	Title	Priority	Staff	Staff rec	Staff comments	OIR
6	Senate Bill 139	Public Health - Semipublic Pools – Lifeguards	Local Authority	McCartney-Green	Oppose	The bill would require at least one lifeguard to be present at certain facilities, including hotels, health clubs, and similar facilities regardless of the size of the swimming pool. Council staff recommends oppose. This would preempt our local law (Council Bill 21-20) that exempts lifeguards at public spas, hotels, and health clubs. Circle #9	
7	Senate Bill 99	Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Law Authorization	Local Authority	Wellons	Support	This bill would permit the County to regulate the sale and distribution of traditional hookahs (including tobacco and other smoked products containing tobacco or nicotine) and electronic hookahs (including vaping liquid). Council staff recommends support because the bill would expand the County's regulatory authority regarding products that affect public health. Circle #9	
8	Senate Bill 158	State Board of Elections - Contracts and Invoices – Requirements	Elections	Camacho	Support	The bill would increase transparency regarding state mandated election costs and codify the arrangement of a 50/50 cost share between the state and local BOEs for all state mandated election-related costs. Council staff recommends support. Circle #5	

	Bill #	Title	Priority	Staff	Staff rec.	Staff comments	OIR memo
9	Senate Bill 163	Election Law – Ballots – Processing and Reporting Procedures	Elections	Camacho	Support	The Bill would allow for the earlier processing and tabulation of absentee ballots. Currently, absentee ballots may not be tabulated until after election day. This bill would clarify that the absentee ballots may be accepted and processed before election day, and that they may be tabulated on election day. Staff recommends support, recognizing that some technical amendments might be needed.	Circle #10
10	House Bill 307	Environment - Packaging Materials	Environment	Levchenko	Support	The bill would provide a new funding source (payments from producers of materials that end up in our solid waste system) that could be available to jurisdictions throughout the state for recycling/composting and infrastructure and programs.	Circle #8



## OFFICE OF INTERGOVERNMENTAL RELATIONS

**Marc Elrich**  
**County Executive**

**Melanie Wenger**  
**Director**

January 24, 2022

### **MEMORANDUM**

TO: Montgomery County Council

FROM: Melanie L. Wenger, Director *MLW*  
Office of Intergovernmental Relations

SUBJECT: Discussion: State Legislation

### **UPDATE**

- Update on General Assembly Session
- Update on Governor's FY 23 Budget Request as it impacts Montgomery County at Circles 1 and 2

### **State Legislation**

1. **HB 35 / SB 158: State Board of Elections – Contracts and Invoices – Requirements** (Delegate Palakovich Carr; Senator Kagan)

**Bill summary:** This bill is an initiative of the Maryland Association of Counties for the purpose of clarifying and codifying the 20-year legal requirement (often ignored by the State) that the cost of voting machines and related systems be split 50/50 between the State Board of Elections and local boards of elections and establishing rules governing procurement of goods and services that ensure proper local input for contracts that obligate county funds. In the past, the Board has often made unilateral decisions that place substantial administrative and cost burdens on local boards of elections, whose operations depend on county funding. Without proper resources to

offset substantial costs for equipment purchases/leases, equipment storage and transportation, staff compensation and training, and other overhead, these State-mandated expenditures represent significant unfunded mandates on county governments. In addition to mandating a 50/50 cost split, the bill requires the Board to review and vote on every contract with a value of \$50,000 or more and to ensure the cost-effective use of federal, State, and county resources in administering elections. For each proposed contract, contract renewal, and change order, the State Elections Administrator must provide a report to the Board that includes an explanation of: (1) the purpose of the proposed contract, contract renewal, or change order; (2) how the proposal will be funded; (3) how federal and/or State funds will be used to fund the proposal; and (4) costs that will be imposed on local boards. The bill requires the Board to submit a similar report to the Board of Public Works before it acts on a proposed contract, contract renewal, or change order.

**2. HB 86 / SB 6: Landlord and Tenant – Residential Leases – Tenant Rights and Protections (Tenant Protection Act of 2022) (Delegate Stewart; Senator Waldstreicher)**

**Bill summary:** These bills would enhance residential tenants' rights, including (1) establishing requirements and procedures for landlords that use a ratio utility billing system (RUBS); (2) requiring a statement of costs, as required under current law if a landlord withholds the return of a security deposit, to include specified documentation if practicable; and (3) expanding protections for tenants or legal occupants who are victims of specified crimes to include victims of stalking.

Under the bills, a lease provision that requires a tenant to pay the utility charges billed to the tenant under a RUBS is unenforceable if the landlord fails to provide certain information, such as how the utility costs are allocated and how the tenant can verify the amount they are billed. A county or municipal corporation may enact related local laws consistent with these provisions; any local law or ordinance comparable in subject matter supersedes the State statutory provisions to the extent that the local law or ordinance is more stringent or provides stronger protection or broader applicability. The disclosure requirements in the bills are similar to the disclosure requirements that must be included in a lease under County regulation if a landlord uses a RUBS to bill tenants for water and sewer service.

The bills require a statement of costs incurred by a landlord, as required under specified current law provisions when a security deposit is withheld, to also – where practicable – include supporting documentation (such as bills, invoices, and receipts) that identifies the materials or services provided.

Additionally, the bills address the rights of tenant organizations with regard to free assembly and expand certain statutory provisions that pertain to victims of domestic violence, sexual assault, or stalking. These protections are similar to those provided to tenants under County law.



3. **HB 89: *Child Care Stabilization Grant Program and Child Care Expansion Grant Program – Established*** (Delegate Queen)

**Bill summary:** This bill would create two grant programs in the State Department of Education (MSDE). The Child Care Stabilization Grant Program would provide annual financial support to licensed child care providers who demonstrate that they are in danger of closing within twelve months due to financial hardship. The criteria for eligibility would be developed by MSDE and grants would be between \$1,000 and \$35,000; the award amount would factor the child care provider's capacity as a key criteria.

The Child Care Expansion Grant Program would provide annual financial support to new or existing child care providers who do not also access the Child Care Stabilization Grant Program; the purpose of the grant is to increase access to and availability of child care. The criteria for eligibility would be developed by MSDE and grants would be between \$3,000 and \$50,000. Under the bill, grants may be used for certain capital and operating costs associated with establishing or expanding child care programs.

This bill fits under the County's priority to support economic relief for child care providers experiencing the effects of COVID-19.

4. **HB 114 / SB 129: *Access to Counsel in Immigration Proceedings Program*** (Delegate Williams; Senators Hettelman and Waldstreicher)

**Bill summary:** These bills would enable low-income Maryland residents who are in detention and facing an administrative or judicial proceeding to remove them from the United States to access legal representation. The legal representation would be provided by non-profit organizations contracted with the Maryland Legal Services Corporation and would be funded by an \$8M appropriation in the State budget. The bills provide for outreach and education related to immigrants' rights to be conducted by community groups.

5. **HB 291 / SB 101: *Election Law – Contested Elections*** (Delegate Kaiser; Senator Kagan)

**Bill summary:** These bills prohibit a person from accepting a donation or making a disbursement relating to a contested election (i.e., recount situation) unless the person first establishes a contested election committee and complies with comprehensive rules governing donation limits, bank accounts, deposits, disbursements, acceptance of loans, disposal of surplus funds, recordkeeping, and reporting. The bill also establishes a prohibition against a candidate petitioning for a recount if the margin of difference between the number of votes received by an apparent winner and the losing candidate with the highest number of votes for the office is greater than 5% of the total votes cast for those candidates and increases the margin of difference that triggers public funding of a recount from .10% to .25% of the total votes cast for the two candidates. Importantly, the bill grants enabling authority for a county to provide public funds to a publicly financed candidate's contested election committee.

These bills are similar to House Bill 761/Senate Bill 632 from the 2021 Session, which the County supported. The initial impetus for that bill was a request by Montgomery County for legislation that would provide enabling authority to enact a local law governing the use of public and private funds in a recount situation for candidates who participate in the County's public campaign finance system. The County's request triggered the interest of the sponsors in addressing a broader array of issues Statewide. House Bill 291/Senate Bill 101 includes three amendments that were requested by the County last year which clarify that: (1) a County may allow a publicly financed candidate to transfer any amount of funds from the candidate's campaign finance entity to the candidate's contested election committee; (2) the definition of "contested election" includes elections where there is a potential for a recount that eventually does not materialize because neither candidate decides to file a formal recount petition or initiate a judicial action; and (3) that a candidate may create a contested election committee at any time (i.e., before or after the original certification of the votes).

**6. HB 298 / SB 223: *Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions* (House – The Speaker (By Request – Office of the Attorney General); Senate – The President (By Request – Office of the Attorney General))**

**Bill summary:** These bills would protect tenants from superfluous evictions filings by raising the surcharge filing fees for summary ejectment (failure to pay rent), tenant holding over, and breach of lease actions against a residential tenant. Currently, the maximum filing fee is \$8; under the bill, the maximum fee would be raised to \$73.

Maryland has among the lowest fees in the country for filing these actions; by raising fees, landlords would not be incentivized to turn to the courts at the earliest opportunity to resolve these issues. These bills fit under the County's priority to support initiatives to mitigate eviction and to keep residents housed as part of COVID-19 economic recovery.

**7. HB 307 / SB 292: *Environment – Packaging Materials – Producer Responsibility* (Delegate Lierman; Senator Augustine)**

**Bill summary:** These bills are intended to enhance recycling and diversion, improve recycling markets, and reduce waste in the State by requiring (1) a Statewide recycling needs assessment, and (2) requiring certain producers of packaging materials to adopt plans for reducing packaging waste. The bill also states legislative intent that a framework for reimbursing local governments for costs for managing packaging materials waste be established.

Under the bills, producers are those that produce packaging material or materials used as primary, secondary, or tertiary packaging for the consumer market, including carry-out bags, bulk goods bags, take-out and delivery food packaging, pharmaceutical packaging, and beverage containers. As defined, producers are not local governments or nonprofit charitable organizations. Further, the bill does not apply to producers that generated less than \$1,000,000 in revenue in the preceding calendar year, sold less than 1 ton of packaging in the State in the

preceding calendar year, or conducted its sales at a single point of retail sale that was not a franchise.

Each producer, or producers in a representative organization, must submit a producer responsibility plan by April 1, 2024. This plan must be coordinated with local governments to ensure recycling services are provided in a seamless manner and public outreach and education are consistent.

**8. SB 99: Cigarettes, Tobacco Products, and Electronic Smoking Devices – Local Law Authorization (Senator Kramer)**

**Bill summary:** Except for the issuance of licenses or the imposition of taxes, Senate Bill 99 would permit the County to regulate the sale and distribution of cigarettes and other tobacco products (e.g., cigars, pipe tobacco, smoked products containing tobacco or nicotine, chewing tobacco, snuff, traditional hookahs) by enacting local laws at least as stringent as the State’s laws.

Except for the issuance of licenses, this bill would also permit the County to regulate the sale and distribution of electronic smoking devices (e.g., e-cigarettes, e-cigars, e-hookahs, vaping liquid) with local laws at least as stringent as the State’s laws. The bill is silent as to whether a county would be permitted to impose taxes on the sale and distribution of electronic smoking devices, but existing State law generally prohibits the County from imposing a tax on electronic smoking devices (except for taxes imposed on or before 1/1/20). Currently, Montgomery County is permitted by State law to impose an excise tax on distributors who supply electronic smoking devices to retailers in the County.

The following sections of County Code currently regulate tobacco products and electronic smoking devices and would remain unaffected by the enactment of Senate Bill 99:

- § 24-9 (smoking and vaping in public places)
- § 24-11 (distribution of tobacco and electronic smoking devices to minors)
- § 24-12 (display and storage of tobacco and electronic smoking devices products)
- § 24-13 (use of possession of tobacco and electronic smoking devices by minors)
- § 24-14 (child resistant packaging of liquid nicotine container)
- § 24-15 (distribution of electronic smoking devices near schools)
- § 24-16 (distribution of flavored electronic smoking devices near schools, libraries, and recreational facilities)

**9. SB 139: Public Health – Semipublic Pools – Lifeguards (Senator Jackson)**

**Bill summary:** Senate Bill 139 would require at least one lifeguard to be on duty at a semipublic swimming pool from Memorial Day to Labor Day any time a person is in the water and for every 50 people in the water. A semipublic swimming pool is defined as a pool that is generally not open to the public but is available to members, residents, or visitors at facilities

such as hotels, campgrounds, health clubs, apartment complexes, and housing subdivisions, among others.

This bill would preempt current County law which in certain circumstances exempts public spas, health club, and hotel pools from the County requirement to have a lifeguard on duty when a pool is open for use.

**10. SB 163: Election Law – Ballots – Processing and Reporting Procedures**  
**(Senator Kagan)**

**Bill summary:** Under current law, a local board may not start to canvass (i.e., “open”) any envelope of an absentee ballot before 8:00 a.m. on Wednesday following Election Day. This bill modifies current law to allow the canvassing of absentee ballots to begin 20 days before Election Day. Specifically, the bill provides that a local board may not “accept, reject, open or process” an absentee ballot until 8:00 a.m. on the day that is 8 days before the first day of Early Voting. The bill also prohibits the “tabulation” of absentee ballots results before Election Day. According to Montgomery County’s Acting Elections Director Alysoun McLoughlin, there is confusion among local boards of elections throughout the State as to the meaning of “tabulate” and the specific point at which permissible steps in the ballot canvassing process would become part of the impermissible tabulation process. The Maryland Association of Elections Officers (MAEO) and the Maryland Association of Counties (MACo) are working together to try to obtain clarity about the sponsor’s intent and the challenges that might be encountered by local boards that would have to comply with that intended meaning. Given all of the confusion, a clarifying amendment of some kind will be needed. The Office of Intergovernmental Relations staff are in touch with MACo staff who are trying to develop possible amendment language and Acting Director McLoughlin is in touch with MAEO representatives who are trying to develop possible amendment language but there is no specific proposal to consider at this time.

Additional information:

Link to the Montgomery County Office of Intergovernmental website:  
<https://www.montgomerycountymd.gov/oir/>.

Link to the Maryland General Assembly website:  
<http://mgaleg.maryland.gov/webmga/frm1st.aspx?tab=home>.

Link to the Montgomery County Delegation website which allows you to access the text of all local and bi-county bills: <http://www.montgomerycountydelegation.com/legislation.html>.

Link to the Montgomery County Association of Counties (MACo) website:  
<https://www.mdcounties.org/>

**Montgomery County Local Aid  
Year-Over-Year Comparison (draft)  
(\$ in thousands)**

<b><u>Direct Aid</u></b>	<b><u>Final FY 2022</u></b>	<b><u>Request FY 2023</u></b>	<b><u>FY 2022 vs. FY 2023</u></b>	
			<b><u>chg. \$</u></b>	<b><u>chg. %</u></b>
Primary & Secondary Education	832,821	869,317	36,496	4.4
Libraries	3,509	3,632	123	3.5
Community Colleges	57,255	70,708	13,453	23.5
Health Formula Grant	4,256	4,946	690	16.2
Transportation *	14,527	15,711	1,184	8.2
<i>County Highway User Formula Funds</i>	7,923	8,586	663	8.4
<i>Municipal Highway User Formula Funds</i>	6,225	6,746	521	8.4
<i>Elderly and Handicapped</i>	379	379	-	-
Police **	16,375	23,328	6,953	42.5
Fire and Rescue **	1,995	1,935	(60)	(3.0)
 Total Direct Aid	 930,738	 989,577	 58,839	 6.3
 <b><u>Retirement Contributions</u></b>	 <b><u>FY 2022</u></b>	 <b><u>FY 2023</u></b>	 <b><u>chg. \$</u></b>	 <b><u>chg. %</u></b>
Board of Education	162,162	153,186	(8,976)	(5.5)
Library Employees	2,120	2,120	-	-
Community College Faculty	10,842	10,901	59	0.5
 Total Retirement Contributions	 175,124	 166,207	 (8,917)	 (5.1)

\* highway user county and municipality splits are estimated

\*\* these figures include municipality allocations

Sources: Maryland Department of Budget and Management  
Montgomery County Office of Intergovernmental Relations

Montgomery County Office of Intergovernmental Relations  
January 19, 2022



**Montgomery County Capital Projects**  
**(Not Included in the Consolidated Transportation Program)**  
**Fiscal Year 2023**  
**(Draft)**

<u>Public Schools *</u>		<u>27,703,000</u>
Diamond Elementary	929,000	
East Silver Spring Elementary	474,500	
Flower Valley Elementary	2,000,000	
Harmony Hills Elementary	2,662,500	
John F. Kennedy High	1,344,500	
Meadow Hall Elementary	162,500	
Parkland Middle	367,000	
Ritchie Park Elementary	269,500	
Rock View Elementary	825,000	
Sligo Middle	4,500,000	
Springbrook High	1,750,000	
Westland Middle	4,500,000	
Westover Elementary	635,000	
White Oak Middle	4,500,000	
Woodfield Elementary	757,500	
Wyngate Elementary	362,000	
McNair ( Ronald Elementary School)	1,664,000	
<u>Higher Education Facilities</u>		<u>7,632,000</u>
Montgomery College, Silver Spring/Takoma Park - Leggett		
Math/Science Bldg.	3,939,000	
Montgomery College, Silver Spring/Takoma Park - Library	3,693,000	
<u>Health Facilities</u>		<u>400,000</u>
Sheppard Pratt - Rockville Campus	400,000	
<u>Housing and Community Development</u>		<u>5,074,000</u>
Charles E. Smith Life Communities	600,000	
Housing Unlimited Inc.	974,000	
National Capital Strategic Economic Development Fund	3,500,000	
<u>Parks, Recreation, and Land Preservation</u>		<u>15,155,000</u>
Gaithersburg - Morris Park Playground	275,000	
Rockville - Croydon Creek Nature Center Playground	96,000	
Seneca Creek State Park	25,000	
Program Open Space	14,759,000	
<u>Environment</u>		<u>50,000</u>
Linden Lane - Hazardous Substance Clean-up Program	50,000	
<u>Public Safety</u>		<u>300,000</u>
Maryland State Police - Barrack N (Rockville)	300,000	
<u>Other Legislative Initiatives</u>		<u>5,500,000</u>
Bender Jewish Community Center of Greater Washington	600,000	
Burtonsville Crossing Shopping Center	3,500,000	
Olney Theatre Center	500,000	
Round House Theatre	400,000	
Warrior Canine Connection	500,000	
<b>Grand Total</b>		<b><u>61,814,000</u></b>

\* \$77.9 of the \$95.4 million requested for the Supplemental Capital Grant program and \$480 million, which reflects the total amount requested for the Built to Learn Program, have not yet been allocated.

