

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## **BILL 24-24: TAXATION – PAPER CARRYOUT BAGS AND PROHIBITION ON PLASTIC CARRYOUT BAGS (“BRING YOUR OWN BAG”)**

### **SUMMARY**

The Office of Legislative Oversight (OLO) anticipates Bill 24-24 would have a small negative impact on racial equity and social justice (RESJ) in the County. Reducing plastic pollution through a ban on plastic carryout bags would proportionately benefit all community members in the County by race and ethnicity. However, despite exemptions for community members who participate in the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), households with lower incomes – who are more likely to be Black or Latinx – would be disproportionately burdened by the cost of purchasing alternative bags, including from an increased tax on paper carryout bags. OLO offers one recommended amendment for Council consideration.

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### **PURPOSE OF RESJ IMPACT STATEMENTS**

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social inequities that have caused racial and social disparities.<sup>2</sup>

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### **PURPOSE OF BILL 24-24**

Taxes and bans on plastic bags have been implemented in multiple jurisdictions across the country.<sup>3</sup> They are intended to disincentivize customers from using single-use plastic bags and reduce the amount of plastic litter.<sup>4</sup> Depending on the jurisdiction, revenue from bag taxes goes towards environmental protection.<sup>5</sup>

In 2012, a County law requiring a 5-cent tax on paper and plastic carryout bags provided by retail establishments went into effect. This included supermarkets, convenience stores, shops, gas stations, and restaurants. Under the law, retailers may retain 1 cent of the bag tax to cover administrative costs. Revenues from the tax are deposited into the County’s Water Quality Protection Charge, which goes towards activities such as restoring and monitoring streams and cleaning and maintaining storm drains.<sup>6</sup>

If enacted, Bill 24-24 would repeal the 5-cent tax on plastic carryout bags and ban plastic carryout bags provided by retail establishments. Some goods would be exempted from this ban, such as prescriptions, dry-cleaned garments, bulk foods, and perishable food items. Bill 24-24 would also:<sup>7</sup>

- Require a 10-cent tax on paper carryout bags (certain exemptions apply);
- Exempt recipients of food assistance programs from the paper carryout bag tax;
- Set guidelines for businesses subject to the tax, including allowing businesses to retain 5 cents of the tax for administrative costs and requiring businesses to remit the collected taxes to the County every quarter; and

# RESJ Impact Statement

## Bill 24-24

- Increase the amount the County Water Quality Protection Fund receives from each bag fee from 4 cents to 5 cents.

The County Council introduced Bill 24-24, Taxation – Paper Carryout Bags and Prohibition on Plastic Carryout Bags, on October 15, 2024.

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### PLASTIC POLLUTION AND RACIAL EQUITY

The National Resources Defense Council (NRDC) defines environmental justice as “everyone – regardless of race, color, national origin, or income – [having] the same environmental protections and benefits, as well as meaningful involvement in policies that shape their communities.”<sup>8</sup> The Environmental Justice Movement was organized by Black, Indigenous, and other people of color (BIPOC) activists during the 1980s to combat environmental racism<sup>9</sup> – the disproportionate exposure of BIPOC and people with low incomes throughout the U.S. to harmful environmental conditions.<sup>10</sup> These disparate conditions often resulted from decision-making at all levels of government that historically ignored the needs and priorities of BIPOC community members.<sup>11</sup> “[E]qual protection, community involvement and healthy living environments” are enduring themes of the Environmental Justice Movement today.<sup>12</sup>

Plastic pollution is a mounting global issue, especially for environmental justice. Nearly eighty percent of plastics that have ever been produced – or 4.9 billion metric tons of plastic – are accumulating in landfills and the natural environment.<sup>13</sup> Further, between 19 to 23 million tons of plastic waste leak into waterways every year, polluting lakes, rivers, and seas throughout the world.<sup>14</sup> According to the United Nations Environment Programme (UNEP), there are three main consequences from using plastics and plastic packaging:<sup>15</sup>

1. Ecosystem degradation due to leakage, especially in the marine environment;
2. Fossil fuel emissions from plastic production and incineration of disposed materials; and
3. Health and environmental impacts (including biodiversity loss) from toxic substances;

In *NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution*,<sup>16</sup> the UNEP describes how vulnerable communities throughout the world are disproportionately impacted by all stages of the plastics life cycle,<sup>17</sup> from oil extraction and plastic production to the use and disposal of plastic products. For instance, hazardous waste facilities in the U.S. – including oil refineries that are necessary to produce plastic and landfills where plastics accumulate – are predominantly located near lower-income BIPOC communities,<sup>18</sup> exposing them to toxic pollution and increasing their risk of adverse health effects.<sup>19</sup> Figure A in the Appendix includes an infographic from the UNEP report that summarizes the impacts to vulnerable communities at each stage of the plastics life cycle.

In the U.S., state and local governments have worked to address the issue of plastic pollution by focusing on disposable plastic bags. As of 2021, over 500 local jurisdictions and 12 states have enacted legislation taxing or banning the use of plastic carryout bags from retailers.<sup>20</sup> Plastic bag restrictions can be effective policies for reducing plastic pollution.<sup>21</sup> However, these policies can be regressive by disproportionately burdening lower-income households that already spend a large portion of their income on basic needs such as food.<sup>22,23</sup> Based on a review of policies throughout the country, student researchers from the Environmental Law and Policy Clinic at Duke University provide four recommendations for developing disposable bag policies that promote equity and environmental justice:<sup>24</sup>

1. Emphasize that customers using SNAP and WIC, or other assistance programs are exempt from the bag fee;
2. Support non-profit and business efforts to provide free reusable bags to community members;

# RESJ Impact Statement

## Bill 24-24

3. Consider implementing complementary water reduction programs and policies to maximize the environmental and social benefits of this policy; and
4. Practice culturally appropriate messaging and communication.

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 24-24 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who would primarily benefit or be burdened by this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

If enacted, Bill 24-24 would ban most plastic carryout bags provided by retailers in the County. This ban would likely help to reduce one source of plastic pollution in communities.<sup>25</sup> Reducing plastic pollution from plastic bags would proportionately benefit all community members in the County by race and ethnicity.

Conversely, a ban on plastic carryout bags would burden community members who have to purchase alternative bags to carry groceries, clothing, and other goods purchased from retailers. If enacted, Bill 24-24 would increase the tax on paper carryout bags from 5 cents to 10 cents. So community members who choose to purchase paper bags as an alternative would pay 5 cents more. As previously described, increasing the cost of carryout bags disproportionately burdens community members with lower incomes. In Montgomery County, the self-sufficiency standard for a family with 2 adults and 1 school-aged child – the amount of income a family of this composition must earn to meet basic needs – is \$90,729.<sup>26,27</sup> Data on median incomes in the County by race and ethnicity (Table A, Appendix) suggest that Black and Latinx households are more likely to have incomes below this threshold.

Bill 24-24 would exempt community members who receive SNAP and WIC from the tax on paper carryout bags in grocery stores. This would help offset the economic burden of the increased tax on community members with low incomes. However, many low-income households that do not receive public benefits would still be burdened by the tax increase. Feeding America estimates that 50 percent of people who experience food insecurity may not qualify for SNAP.<sup>28</sup> Further, a 2017 study by Maryland Hunger Solutions found that 64 percent of community members in the County who were eligible for SNAP – or 109,282 community members – were not participating in the program.<sup>29</sup>

OLO anticipates Bill 24-24 would have a small negative impact on racial equity and social justice in the County. Reducing plastic pollution through a ban on carryout bags would proportionately benefit all community members in the County by race and ethnicity. However, households with lower incomes – who are more likely to be Black or Latinx – would be disproportionately burdened by the cost of purchasing alternative bags, including from an increased tax on paper carryout bags. This burden would be offset in part by exempting community members who participate in SNAP and WIC from the paper carryout bag tax. Still, many community members with low incomes who do not participate in these programs would be burdened by this cost.

# RESJ Impact Statement

## Bill 24-24

### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>30</sup> OLO anticipates Bill 24-24 would have a small negative impact on racial equity and social justice in the County. As such, OLO offers one recommended amendment:

**Require distribution of free reusable bags.** To offset the economic burden of Bill 24-24 on BIPOC community members with lower incomes, the Council could amend the Bill to require the distribution of free reusable bags. Several local jurisdictions with carryout bag taxes have used the proceeds to help provide reusable bags to community members.<sup>31</sup> For instance, bag fee revenue from the District of Columbia’s carryout bag tax is used “to support watershed protection initiatives, including education programs, stream restoration efforts, trash capture projects, and community outreach including the distribution of reusable bags.”<sup>32</sup>

To ensure the reusable bags reach BIPOC community members who are most impacted, the Council could require the Department of Environmental Protection to engage with BIPOC community stakeholders to determine the best distribution channels for the free reusable bags. Engagement with BIPOC stakeholders could also yield additional recommendations for developing the County’s carryout bag initiative to advance RESJ and environmental justice.

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### 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.

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### CONTRIBUTIONS

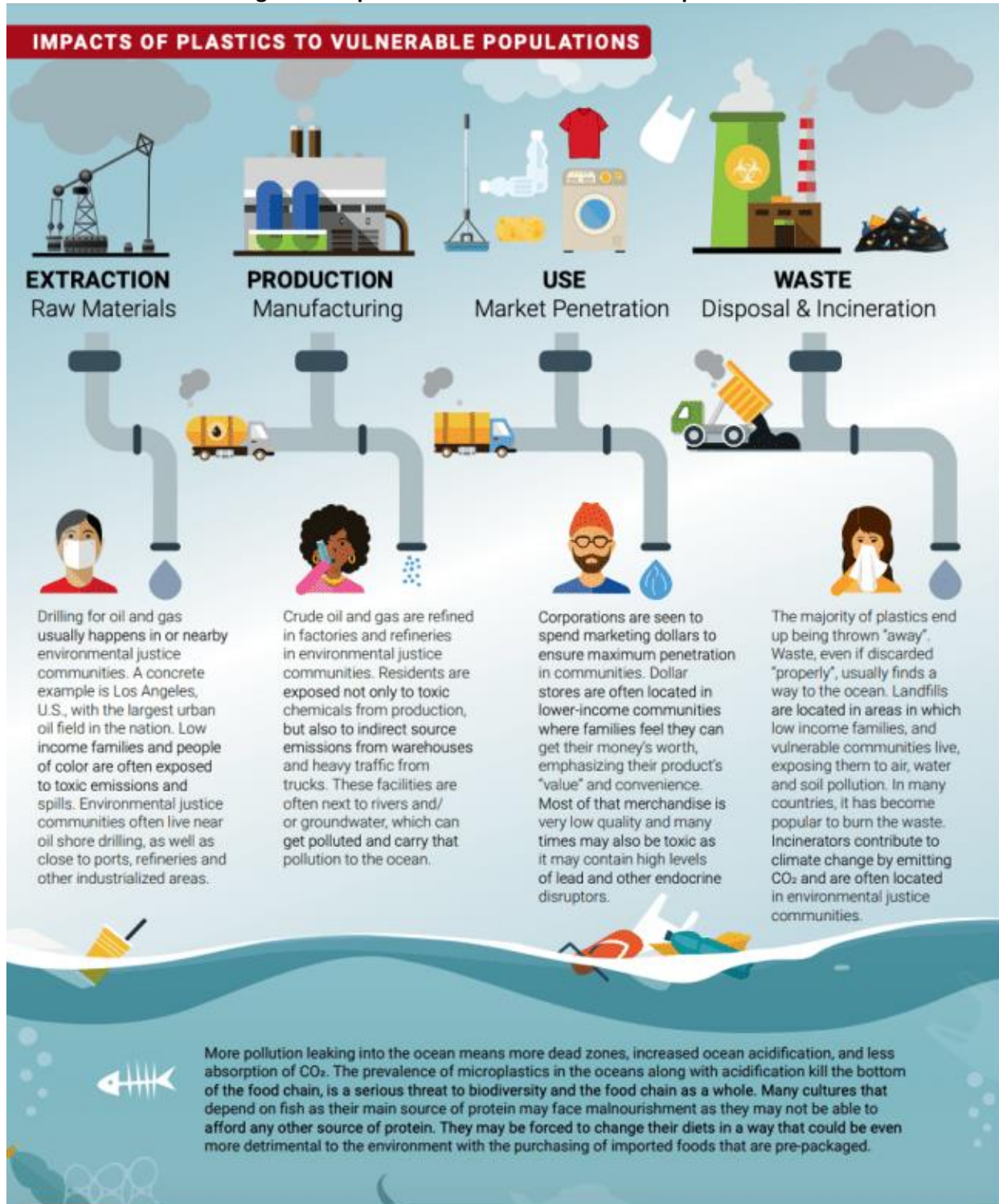
OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

# RESJ Impact Statement

## Bill 24-24

### APPENDIX

Figure A. Impacts of Plastics to Vulnerable Populations



Source: "[NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution](#)," United Nations Environment Programme, pg. 24.



# RESJ Impact Statement

## Bill 24-24

**Table A. Median Household Income by Race and Ethnicity, Montgomery County**

Race or ethnicity	Median Household Income
Asian	\$138,040
Black	\$89,022
Native American	\$98,313
Pacific Islander	\$139,396
White	\$151,572
Latinx	\$90,657
County	\$125,583

Source: [Table S1903](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.

<sup>1</sup> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid.

<sup>3</sup> A. Muposhi, M. Mpinganjira, and M. Wait, "[Considerations, benefits and unintended consequences of banning plastic shopping bags for environmental sustainability: A systematic literature review](#)", Waste, Management & Research, 2022.

<sup>4</sup> T. G. Abate and K. Elofsson, "[Environmental taxation of plastic bags and substitutes: Balancing marine pollution and climate change](#)," Journal of Environmental Management, May 2024.

<sup>5</sup> "[Disposable Plastic Bag Tax in Fairfax County](#)," Fairfax County Office of Environmental and Energy Coordination; "[Disposable Plastic Bag Tax](#)," Loudoun County, VA; "[Bring Your Bag](#)," Montgomery County, MD Department of Environmental Protection.

<sup>6</sup> "[Water Quality Protection Charge](#)" and "[Bring Your Bag](#)," Montgomery County, MD Department of Environmental Protection.

<sup>7</sup> [Introduction Staff Report for Bill 24-24](#), Montgomery County Council, Introduced October 15, 2024.

<sup>8</sup> R. Skelton, V. Miller, and C. Lindwall, "[The Environmental Justice Movement](#)," NRDC, August 22, 2023.

<sup>9</sup> "[History](#)," Congressional Black Caucus Foundation.

<sup>10</sup> M. Ihejirika, "[What is Environmental Racism](#)," NRDC, May 24, 2023.

<sup>11</sup> Skelton, Miller, and Lindwall

<sup>12</sup> "[Environmental Justice Matters: What is Environmental Justice?](#)" Detroiters Working for Environmental Justice.

<sup>13</sup> "[NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution](#)," United Nations Environment Programme, April 2021, pg. 15.

<sup>14</sup> "[Plastic Pollution](#)," United Nations Environment Programme.

<sup>15</sup> "NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution," pgs. 12-13.

<sup>16</sup> "NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution"

<sup>17</sup> The UNEP defines vulnerable populations as persons, groups and peoples in vulnerable situations outside of the traditional or mainstream spheres of power due to a different ethnic or national origin, political/religious affiliation, socioeconomic status, or gender. Refer to "NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution," pg. 14.

<sup>18</sup> R.D. Bullard, et. al., "[Toxic Wastes and Race at Twenty: 1987-2007](#)," United Church of Christ, 2007.

<sup>19</sup> A. Taylor, "[Millions of Americans Live Near Toxic Waste Sites. How Does This Affect Their Health?](#)," Urban Institute, February 16, 2022.

<sup>20</sup> Bennett, "[Plastic bag bans in the US reduced plastic bag use by billions, study finds](#)," World Economic Forum, January 25, 2024.

<sup>21</sup> Climate Assessment for Bill 24-24, Office of Legislative Oversight, November 4, 2024.

<sup>22</sup> A. Hessenius, "[Implementing Equity Solutions and Promoting Environmental Justice Through Durham’s Proposed Plastic Bag Fee](#)," Environmental Law and Policy Clinic, Duke University, December 10, 2020, pgs. 4-5.

<sup>23</sup> [Food Prices and Spending](#), Economic Research Service, U.S. Department of Agriculture, last updated June 27, 2024.

<sup>24</sup> Hessenius, pgs. 12-13

<sup>25</sup> Climate Assessment for Bill 24-24

<sup>26</sup> [The Maryland 2023 Self-Sufficiency Standard Calculator](#), Maryland Community Action Partnership. Inputs: County-Montgomery County; Adults-2; Infants-0; Preschoolers-0; Schoolagers-1; Teenagers-0.

# RESJ Impact Statement

## Bill 24-24

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<sup>27</sup> University of Washington, "[The Self-Sufficiency Standard for Montgomery County, Maryland 2023](#)," Montgomery County Community Action Agency, 2023.

<sup>28</sup> [Food Insecurity Report Briefs](#), Feeding America, May 14, 2024.

<sup>29</sup> "[Missed Opportunities: An Analysis of SNAP Participation in Maryland by County](#)," Maryland Hunger Solutions, 2017.

<sup>30</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

<sup>31</sup> Hessenius, pgs. 8-12

<sup>32</sup> "[Purpose and Impact of the Bag Law](#)," DC Department of Energy & Environment.