

MEMORANDUM

July 17, 2023

TO: Government Operations and Fiscal Policy Committee

FROM: Khandikile Mvunga Sokoni, Legislative Attorney

SUBJECT: Expedited Bill 29-23, Administration – Non-merit Positions – Department of Environmental Protection – Department of Transportation Executive Regulations 5-23 and 6-23

PURPOSE: Committee Worksession – Recommendation Expected

EXPECTED ATTENDEE(S): Fariba Kassiri, Deputy Chief Administrative Officer.

Expedited Bill 29-23, Administration – Non-merit Positions – Department of Environmental Protection – Department of Transportation, with accompanying resolutions to adopt Executive Regulation 5-23, and Executive Regulation 6-23 sponsored by Council President Glass at the request of Council Executive, were introduced on June 20, 2023. A public hearing was held on July 11, 2023. A worksession before the Government Operations and Fiscal Policy (GO) Committee is scheduled for July 20, 2023.

BACKGROUND

The County Executive, through Expedited Bill 29-23 seeks to reclassify two non-merit positions in the Executive Branch: 1. Deputy Director of Environmental Protection and 2. General Manager Transit Services in the Department of Transportation in accordance with Sec. 1A-104(b)(2) of the County Code.

The Council must concurrently decide whether to adopt resolutions approving Method 1 regulations that were published to create the job descriptions for these positions.

Montgomery County Code provides:

“Sec. 1A-104. Heads of departments and principal offices; other positions designated as non-merit.

(a) Names. The head of a department or principal office is called the Director of the department or principal office, except that:

(1) the Director of Police is also called the Chief of Police;

(2) *the Director of the Montgomery County Fire and Rescue Service is also called the Fire Chief; and*

(3) *the Director of the Office of the County Attorney is called the County Attorney.*

(b) *Qualifications.*

(1) *Each head of a department or principal office should be professionally qualified.*

(2) A person holding any other position in the Executive Branch designated by law as a non-merit position must be professionally qualified for the position under a position description established by regulation under method (1)¹.

(c) *Status. Heads of departments and principal offices, and holders of any other position in the Executive Branch designated by law as a non-merit position, are County employees but are not merit system employees.*

BILL SPECIFICS

Expedited Bill 29-23 would:

(1) make the position of Deputy Director in the Department of Environmental Protection a non-merit position;

(2) make the position of General Manager, Transit Services a non-merit position; and

(3) generally amend the laws regarding administration, merit and non-merit positions.

SUMMARY OF IMPACT STATEMENTS

The Office of Legislative Oversight (OLO) provided a Racial Equity and Social Justice (RESJ) Impact Statement finding that Bill 29-23 will have little to no impact on racial equity and social justice in the County.

OLO also provided an Economic Impact Statement finding that Bill 29-23 will have insignificant impact on the economic conditions within the County. OLO's Climate Assessment states that the bill will have no impact on climate in the County.

The Office of Management and Budget (OMB) estimates a potential fiscal impact from Expedited Bill 29-23 due to the potential of a higher salary due to a higher maximum salary on the Executive Level (EX3) pay band compared to the Management Level (M1) pay band. OMB estimates that there is no expected impact to County revenues or expenditures from the resolutions creating the respective job descriptions.

RELEVANT LEGAL PROVISIONS GOVERNING MERIT/NON-MERIT POSITIONS

a. [Charter - Article 2 Section 215](#)

- i. "The County Executive, after receiving the advice of the Chief Administrative Officer, shall appoint a single officer to head each department, principal office or agency of the Executive Branch, and an officer to fill any position in the Executive Branch designated by law as a non-merit position, all subject to the confirmation of the Council. Except

¹ Emphasis applied.

for commissions appointed to advise the Council, the County Executive shall appoint, subject to the confirmation of the Council, all members of boards and commissions unless otherwise prescribed by state law or this Charter. (Election of 11-8-94.)”

b. [Charter - Article 4 Section 401](#)

- i. The Council shall prescribe by law a merit system for all officers and employees of the County government except:
 1. Members of the Council, the County Executive, the Chief Administrative Officer, the County Attorney;
 2. The heads of the departments, principal offices and agencies, as defined by law;
 3. Any officer holding any other position designated by law as a non-merit position;
 4. One or more confidential aides for each member of the Council;
 5. Two senior professional staff members for the Council as a whole as the Council may designate from time to time; (f) three special assistants to the County Executive as the Executive may designate from time to time;
 6. Special legal counsel employed pursuant to this Charter;
 7. Members of boards and commissions; and
 8. Other officers authorized by law to serve in a quasi-judicial capacity.
- ii. **Any law which creates a new department, principal office, or agency, or designates a position as a non-merit position, requires the affirmative vote of seven Councilmembers for enactment.**² Any law which repeals the designation of a position as a non-merit position requires the affirmative vote of six Councilmembers for enactment.
- iii. Officers and employees subject to a collective bargaining agreement may be excluded from provisions of law governing the merit system only to the extent that the applicability of those provisions is made subject to collective bargaining by legislation enacted under Section 510, Section 510A, or Section 511 of this Charter.
- iv. The merit system shall provide the means to recruit, select, develop, and maintain an effective, non-partisan, and responsive work force with personnel actions based on demonstrated merit and fitness. Salaries and wages of all classified employees in the merit system shall be determined pursuant to a uniform salary plan. The Council shall establish by law a system of retirement pay.

WHICH POSITIONS IN THE COUNTY ARE MERIT/NON-MERIT?

c. Local Laws, Chapter 2, Article III

i. [Section 2-26](#)

1. The following positions in the Office of the County Executive are non-merit positions:

² Emphasis applied

- a. Five Directors of the Regional Services Centers;
 - b. Director, Office of Community Partnerships;
 - c. Director of Strategic Partnerships;
 - d. Four Assistant Chief Administrative Officers;
 - e. Two Special Projects Managers; and
 - f. Chief Labor Relations Officer.
- ii. [Section 2-27](#): Department of Housing and Community Affairs
 - The position of Deputy Director is a non-merit position
- iii. [Section 2-30](#) Department of General Services
 - The position of Deputy Director is a non-merit position
- iv. [Section 2-42A](#) Department of Health and Human Services
 - The Department has five senior level management positions that are non-merit positions. These positions consist of:
 - a. Chief of Public Health Services
 - b. Chief of Services to End and Prevent Homelessness
 - c. Chief of Aging and Disability Services
 - d. Chief of Behavioral Health and Crisis Services.
 - e. Chief of Children, Youth, and Family Services.
 - f. Chief of Public Health Services also serves as the Deputy Health Officer.
- v. [Section 2-43](#) Department of Police
 - The Department has five non-merit positions:
 - a. Four Assistant Chief of Police (Sworn) positions and
 - b. One Assistant Chief of Police (Civilian) position.
- vi. [Section 2-56](#) Department of Transportation
 - The positions of Deputy Director of Operations and Transportation Policy Officer are non-merit positions.
- vii. [Section 2-58D](#) Department of Technology and Enterprise Business Solutions
 - Non-merit positions
 - a. Chief Technology Officer
 - b. Chief Broadband Officer
 - c. Chief Digital Officer
 - d. Chief Data Officer
- viii. [Section 2-64K](#) Office of Management and Budget
 - Non-merit position
 - a. Deputy Director for Results

ANALYSIS

In general, the benefits of having County employees at the deputy department head level down be merit-system employees include preservation of institutional knowledge and talent, continuity in leadership, impartiality, and non-partisanship. The concerns of reclassifying positions at the deputy department level have been addressed by legal staff previously including in 2019 in connection with the enactment of Bill 3-19. [Bill 3-19 March 7, 2019 Worksession Staff Report](#).

The benefits advanced by the County Executive for the reclassification sought in Expedited Bill 27-23 are noted and understood.³ However, it is for Council to decide on whether those benefits outweigh the pitfalls. The Directors who are the heads of County departments are already non-merit employees and serve at the pleasure of the County Executive. Continuing to reclassify the deputy director level positions further erodes the benefits outlined above.

A recent non-scientific polling by staff of some other counties in the State indicate that Montgomery County may in fact be more heavily skewed toward having deputy department positions be non-merit. Some counties do not use the terms merit/non-merit in their charters and codes but instead use the terms classified and exempt. Although the structures were quite varying the overall trend appears to lean more toward the department heads being non-merit and deputies and below being merit personnel.

One possible alternative to reclassifying deputy department heads would be something similar to what the County did with the position of Executive Director of the County's Board of Investment Trustees. In recognition of the sensitivity of this position and the importance of this position being "tenured" or secure, and the reality that offering a competitive might be challenging if this position was kept within the merit system, the position was classified as a merit position, but a new compensation tier was added to the merit salary scale to provide for the appropriate compensation. This arrangement would address the salary concerns raised.

This report contains:

Expedited Bill 29-23	©1
Executive Regulation 5-23	©3
Executive Regulation 6-23	©11
County Executive Memorandum	©19
Legislative Request Report	©24
Fiscal Impact Statement – Bill 29-23	©25
Fiscal Impact Statement – ER 5-23	©27
Fiscal Impact Statement – ER 6-23	©28
RESJ Impact Statement	©29
Economic Impact Statement	©31
Climate Assessment	©34
Public Hearing Testimony	©37

³ © 19 and © 37

Expedited Bill No. 29-23
Concerning: Administration - Non-merit
Positions - Department of Environmental
Protection - Department of
Transportation
Revised: 6/15/2023 Draft No. 1
Introduced: June 20, 2023
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) make the position of Deputy Director in the Department of Environmental Protection a non-merit position; and
- (2) make the position of General Manager, Transit Services a non-merit position.

By adding
Montgomery County Code
Chapter 2, Administration
Sections 2-29A

By amending
Montgomery County Code
Chapter 2, Administration
Sections 2-56

Boldface	<i>Heading or a 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:

1 **Sec 1. Section 2-29A is added and Section 2-56 is amended as follows:**

2 **Sec. 2-29A. Non-merit position.**

3 The position of Deputy Director in the Department of Environmental
4 Protection is a non-merit position.

5 * * *

6 **Sec. 2-56. Non-merit positions.**

7 [The positions of Deputy Director of Operations and Transportation Policy
8 Officer are non-merit positions.]

9 The following positions in the Department of Transportation are non-merit
10 positions:

- 11 (a) Deputy Director of Operations;
- 12 (b) Transportation Policy Officer; and
- 13 (c) General Manager, Transit Services.

14 **Sec. 2. Expedited Effective Date.**

15 The Council declares that this legislation is necessary for the immediate
16 protection of the public interest. This Act takes effect on the date on which it
17 becomes law.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: Deputy Director of Environmental Protection, Department of Environmental Protection	Number 5-23
Originating Department Office of Human Resources	Effective Date

Montgomery County Regulation on

POSITION DESCRIPTION: DEPUTY DIRECTOR ENVIRONMENTAL PROTECTION, DEPARTMENT OF ENVIRONMENTAL PROTECTION

Issued by: County Executive

Regulation No. 5-23

Authority: Montgomery County Code (2014) Section 1A-104(b)(2)

Supersedes: None

Council Review: Method (1) under Code Section 2A-15

Register Vol. 40 No. 2

Comment Deadline: March 2, 2023

Effective Date: _____

Summary: This regulation establishes the position description of Deputy Director Environmental Protection in the Department of Environmental Protection, a non-merit position.

Staff contact: Kimberly D. Williams
(240) 777-5198

Address: Office of the Human Resources
Executive Office Building
101 Monroe Street, Twelfth Floor
Rockville, Maryland 20850

Background: Under County Code Section 1A-104(b)(2), a person holding a position in the Executive Branch designated by law as a non-merit position must be professionally qualified under a position description established by regulation under method (1).

COMCOR 01A.104.35 Deputy Director Environmental Protection, Department of Environmental Protection

01A.104.35.01 Definition of Class:

This is an appointed, non-merit full-time position in the County Government reporting to the Director of Environmental Protection. Under the executive appointment of the County Executive and Directorship of the



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: Deputy Director of Environmental Protection, Department of Environmental Protection	Number 5-23
Originating Department Office of Human Resources	Effective Date

Department of Environmental Protection, the Deputy Director is responsible for assisting the Director in the leadership, operational management and administrative work directing the planning, analysis and execution of Environmental Protection services and programs across all divisions of the department. This position ensures safe continuity of operations and handles the strategic planning and execution of programs and business operations.

Key responsibilities of the position include organizational leadership and oversight of the budgets (General Fund, Water Quality Protection Fund, Solid Waste Fund Collection and Disposal Funds, and Capital Improvements Program), development of integrated resources (financial, human capital), and defining revenue financing plans that align with the department’s operational and strategic direction. The Deputy Director plays an integral role in assisting the Directors in defining and developing requirements and programs to ensure safe operations as well as identifying cost saving measures while ensuring effective and efficient operations, processes and services. This role works in consultation with the Director of Environmental Protection to plan, oversee and direct high-priority, cross-cutting, or time-sensitive special initiatives and projects. The Deputy Director also oversees the development and execution of health and safety programs for the department.

The work is primarily sedentary, performed primarily in office settings, and subject to usual everyday risks.

01A.104.35.02 Examples of duties:

- Oversee development of the Departments Roadmap clarifying the strategic direction with goals and objectives
- Oversee development of the capital and operating budgets for the Department’s General Fund, Water Quality Protection Charge and Solid Waste Enterprise funds
- Assist the Climate Change Officer with development of the capital and operating budgets for the Climate Fund
- Develop financing strategy for all Department Capital projects
- Ensure requirements for safe operations at all department facilities are in place and document they are being followed
- In coordination with the Strategic Services Division, identify programs to be evaluated for efficiency. Work with appropriate division chiefs to perform the evaluation and implement necessary changes
- Identify organizational changes that may be needed to enhance efficiency and break down stovepipes.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Position Description: Deputy Director of Environmental Protection, Department of Environmental Protection	Number 5-23
Originating Department Office of Human Resources	Effective Date

Implement necessary changes with support from the HR Liaisons and OHR

- Develop strategy, programs, procedures, and policies to ensure compliance with environmental regulations at U.S. Federal, state, and local levels
- Evaluate execution of budgets to identify areas of opportunity to be more efficient and provide enhanced services to residents at lower cost
- In coordination with Division Chiefs identify the areas of coordination within DEP and between DEP and other county departments that must be managed to ensure efficiencies in program implementation
- Ensure the department is following procurement regulations and administrative procedures related to financial controls and budgeting
- Performs full range of supervisory duties and leadership responsibilities including providing guidance, consultation and direction to direct reports, multiple executives as well as senior staff as required
- In coordination with Division Chiefs, ensure compliance with federal, state, and local laws governing the delivery of environmental protection services and programs
- Display executive level communication, long-range strategic planning, and organizational leadership competencies
- Build trust and communicate effectively with internal and external stakeholders
- Perform other related duties as required

01A.104.35.03 Recommended qualifications:

Experience: Seven (7) years of progressively responsible professional experience in organizational or operations management in a related field, four (4) years of which were in a supervisory or executive capacity.

Education: Graduation from an accredited college or university with a Master's Degree.

Equivalency: An equivalent combination of education and experience may be substituted.

01A.104.35.04 Knowledge, skills, and abilities:

- Extensive knowledge of the principles, practices, methods, and techniques of service delivery in a public administration with particular reference to management concepts and techniques, strategic planning principles, resource allocation and budgeting.
- Extensive knowledge of and ability to apply knowledge of budget, fiscal, and human resource regulations, and requirements and defend and execute large complex budgets
- Extensive knowledge of government and private sector procurement, contract management, and



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: Deputy Director of Environmental Protection, Department of Environmental Protection	Number 5-23
Originating Department Office of Human Resources	Effective Date

human resources management

- Extensive knowledge of the principles and practices of public administration with particular reference to management concepts and techniques, strategic planning principles, resource allocation and budgeting
- Ability to prepare, defend, and execute large, complex budgets
- Extensive knowledge of government and private sector procurement, contract management, and human resources management
- Extensive knowledge of program development, implementation, management and evaluation techniques
- Skilled in high level interagency coordination, negotiations, and conflict resolution
- Skilled in interpersonal relations and ability to work tactfully and effectively with elected/appointed officials, union representatives, employees, supervisors and managers, and community and business organization leaders
- Knowledge of applicable Federal, State and County laws, regulations, and policies affecting environmental protection services and programs
- Skill in identifying, analyzing, and evaluating information concerning highly complex and often sensitive environmental protection services and programs
- Skill and ability to manage a department/agency/organization, set priorities, communicate expectations, anticipate problems, develop contingency plans, and monitor achievement of broad programmatic goals, objectives, and quality standards
- Ability to lead, inspire, motivate, evaluate, and counsel subordinate supervisory staff and to delegate responsibility to them, as appropriate
- Ability to communicate effectively, orally and in writing, in a clear and concise manner

01A.104.35.05 Medical protocol:

Medical History Review.

Approved:

Marc Elrich, County Executive

4/13/2023

Date

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

BY:

DATE: 3/17/23

(6)



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: Deputy Director of Environmental Protection, Department of Environmental Protection	Number 5-23
Originating Department Office of Human Resources	Effective Date

Montgomery County Regulation on

POSITION DESCRIPTION: DEPUTY DIRECTOR ENVIRONMENTAL PROTECTION, DEPARTMENT OF ENVIRONMENTAL PROTECTION

Issued by: County Executive

Regulation No. 5-23

Authority: Montgomery County Code (2014) Section 1A-104(b)(2)

Supersedes: None

Council Review: Method (1) under Code Section 2A-15

Register Vol. 40 No. 2

Comment Deadline: March 2, 2023

Effective Date: _____

Summary: This regulation establishes the position description of Deputy Director Environmental Protection in the Department of Environmental Protection, a non-merit position.

Staff contact: Kimberly D. Williams
(240) 777-5198

Address: Office of the Human Resources
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Rockville, Maryland 20850

Background: Under County Code Section 1A-104(b)(2), a person holding a position in the Executive Branch designated by law as a non-merit position must be professionally qualified under a position description established by regulation under method (1).

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MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Position Description: Deputy Director of Environmental Protection, Department of Environmental Protection	Number 5-23
Originating Department Office of Human Resources	Effective Date

Department of Environmental Protection, the Deputy Director is responsible for assisting the Director in the leadership, operational management and administrative work directing the planning, analysis and execution of Environmental Protection services and programs across all divisions of the department. This position ensures safe continuity of operations and handles the strategic planning and execution of programs and business operations.

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The work is primarily sedentary, performed primarily in office settings, and subject to usual everyday risks.

01A.104.35.02 Examples of duties:

- Oversee development of the Departments Roadmap clarifying the strategic direction with goals and objectives
- Oversee development of the capital and operating budgets for the Department's General Fund, Water Quality Protection Charge and Solid Waste Enterprise funds
- Assist the Climate Change Officer with development of the capital and operating budgets for the Climate Fund
- Develop financing strategy for all Department Capital projects
- Ensure requirements for safe operations at all department facilities are in place and document they are being followed
- In coordination with the Strategic Services Division, identify programs to be evaluated for efficiency. Work with appropriate division chiefs to perform the evaluation and implement necessary changes
- Identify organizational changes that may be needed to enhance efficiency and break down stovepipes.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: Deputy Director of Environmental Protection, Department of Environmental Protection	Number 5-23
Originating Department Office of Human Resources	Effective Date

Implement necessary changes with support from the HR Liaisons and OHR

- Develop strategy, programs, procedures, and policies to ensure compliance with environmental regulations at U.S. Federal, state, and local levels
- Evaluate execution of budgets to identify areas of opportunity to be more efficient and provide enhanced services to residents at lower cost
- In coordination with Division Chiefs identify the areas of coordination within DEP and between DEP and other county departments that must be managed to ensure efficiencies in program implementation
- Ensure the department is following procurement regulations and administrative procedures related to financial controls and budgeting
- Performs full range of supervisory duties and leadership responsibilities including providing guidance, consultation and direction to direct reports, multiple executives as well as senior staff as required
- In coordination with Division Chiefs, ensure compliance with federal, state, and local laws governing the delivery of environmental protection services and programs
- Display executive level communication, long-range strategic planning, and organizational leadership competencies
- Build trust and communicate effectively with internal and external stakeholders
- Perform other related duties as required

01A.104.35.03 Recommended qualifications:

Experience: Seven (7) years of progressively responsible professional experience in organizational or operations management in a related field, four (4) years of which were in a supervisory or executive capacity.

Education: Graduation from an accredited college or university with a Master's Degree.

Equivalency: An equivalent combination of education and experience may be substituted.

01A.104.35.04 Knowledge, skills, and abilities:

- Extensive knowledge of the principles, practices, methods, and techniques of service delivery in a public administration with particular reference to management concepts and techniques, strategic planning principles, resource allocation and budgeting.
- Extensive knowledge of and ability to apply knowledge of budget, fiscal, and human resource regulations, and requirements and defend and execute large complex budgets
- Extensive knowledge of government and private sector procurement, contract management, and



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: Deputy Director of Environmental Protection, Department of Environmental Protection	Number 5-23
Originating Department Office of Human Resources	Effective Date

human resources management

- Extensive knowledge of the principles and practices of public administration with particular reference to management concepts and techniques, strategic planning principles, resource allocation and budgeting
- Ability to prepare, defend, and execute large, complex budgets
- Extensive knowledge of government and private sector procurement, contract management, and human resources management
- Extensive knowledge of program development, implementation, management and evaluation techniques
- Skilled in high level interagency coordination, negotiations, and conflict resolution
- Skilled in interpersonal relations and ability to work tactfully and effectively with elected/appointed officials, union representatives, employees, supervisors and managers, and community and business organization leaders
- Knowledge of applicable Federal, State and County laws, regulations, and policies affecting environmental protection services and programs
- Skill in identifying, analyzing, and evaluating information concerning highly complex and often sensitive environmental protection services and programs
- Skill and ability to manage a department/agency/organization, set priorities, communicate expectations, anticipate problems, develop contingency plans, and monitor achievement of broad programmatic goals, objectives, and quality standards
- Ability to lead, inspire, motivate, evaluate, and counsel subordinate supervisory staff and to delegate responsibility to them, as appropriate
- Ability to communicate effectively, orally and in writing, in a clear and concise manner

01A.104.35.05 Medical protocol:

Medical History Review.

Approved:

Marc Elrich, County Executive

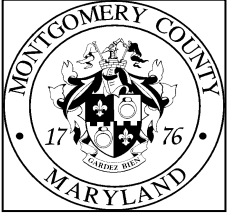
4/13/2023

Date

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

BY:

DATE: 3/17/23



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: General Manager of Transit Services, Department of Transportation	Number 6-23
Originating Department Office of Human Resources	Effective Date

Montgomery County Regulation on

POSITION DESCRIPTION: GENERAL MANAGER OF TRANSIT SERVICES, DEPARTMENT OF TRANSPORTATION

Issued by: County Executive

Regulation No. 6-23

Authority: Montgomery County Code (2014) Section 1A-104(b)(2)

Supersedes: None

Council Review: Method (1) under Code Section 2A-15

Register Vol. 40 No. 2

Comment Deadline: March 2, 2023

Effective Date: _____

Summary: This regulation establishes the position description of General Manager of Transit Services in the Department of Transportation, a non-merit position.

Staff contact: Kimberly D. Williams
(240) 777-5198

Address: Office of the Human Resources
Executive Office Building
101 Monroe Street, Twelfth Floor
Rockville, Maryland 20850

Background: Under County Code Section 1A-104(b)(2), a person holding a position in the Executive Branch designated by law as a non-merit position must be professionally qualified under a position description established by regulation under method (1).

COMCOR 01A.104.36 General Manager Transit Services, Department of Transportation

01A.104.36.01 Definition of Class:

This is an appointed, non-merit full-time position in the County Government reporting to the Director of Transportation. Under the executive appointment of the County Executive and Directorship of the Department



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: General Manager of Transit Services, Department of Transportation	Number 6-23
Originating Department Office of Human Resources	Effective Date

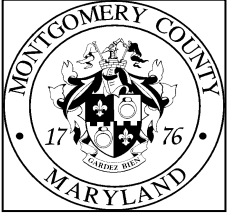
of Transportation, the General Manager of Transit Services is responsible for the leadership, management and administrative work directing the Division of Transit Services within the Department of Transportation. The General Manager of Transit Services is responsible for the safe and timely delivery of public transit services to meet the needs of the public

Key responsibilities of the position include organizational leadership; full line management; fiscal oversight; planning and operational implementation; and policy development to achieve County objectives related to a county-wide public transit bus system, including planning, direction and operation of the transit system and related facilities. The General Manager leads and supervises the operation of the County's transit system including Ride On, Ride On extRa, Ride On Flex, and the FLASH bus rapid transit network, overseeing a staff of approximately 800 employees, and 400 buses operating out of 3 transit depots. The General Manager ensures a commitment to safety and customer service through effective leadership, role modeling, and implementing practices that demonstrate that safety, customer service, and stewardship of County resources are fundamental values in all aspects of work. The General Manager ensures that County provided transit and related mobility services will address equity within the community and meet the needs of county residents, including the specific needs of youth, low-income seniors, and residents with disabilities. The General Manager also ensures the County's system is coordinated with regional services such as MetroBus, MARC Commuter Rail, and MTA Commuter Bus services.

The work is primarily sedentary, performed primarily in office settings, and subject to usual everyday risks.

01A.104.36.02 Examples of duties:

- Performs full range of supervisory duties and responsibilities associated with leading the Division of Transit Services
- Develops and implements long and short-range strategies designed to achieve the County's transit service goals and objectives and establishes priorities as necessary to accomplish.
- Exercise technical management oversight for transit operations.
- Ensure compliance with federal, state, and local laws governing the provision of transit services and its resources (personnel, vehicles, passenger facilities, etc.).
- Lead and manage a workforce consisting of unionized employees, and foster a positive labor relations environment based on trust, respect, and cooperation in a collective bargaining environment.
- Display executive level communication, long-range strategic planning, and organizational leadership competencies.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: General Manager of Transit Services, Department of Transportation	Number 6-23
Originating Department Office of Human Resources	Effective Date

- Build trust and communicate effectively with residents and businesses about transit services, programs, and plans.
- Ensure and be available on a 24/7/365 basis to respond to major events and emergencies that affect countywide transit service continuity.
- Perform other related duties as required.

01A.104.36.03 Recommended qualifications:

Experience: Ten (10) years of progressively responsible professional experience in organizational management and long-range strategic planning in Public Transit Bus Systems, four (4) years of which were in a supervisory or executive capacity.

Education: Graduation from an accredited college or university with a Bachelor's Degree

Equivalency: An equivalent combination of education and experience may be substituted.

01A.104.36.04 Knowledge, skills, and abilities:

- Extensive knowledge of the principles, practices, methods, and techniques of service delivery in a public transit system.
- Extensive knowledge of and ability to apply knowledge of budget, fiscal, and human resource regulations, and requirements.
- In-depth knowledge of federal, state, and local laws and regulations governing the provision of transit services and its resources (personnel, vehicles, passenger facilities, etc.).
- Skill and ability to manage and lead a large organization, set priorities, anticipate problems, develop contingency plans, and monitor achievement of broad program goals and objectives.
- Skill in interpersonal relations and ability to establish and maintain effective working relationships with other government staff, civic, community and private groups, and passengers.
- Ability to represent the organization on policy matters and controversial topics
- Exceptional ability to inspire, empower, mentor, develop and sustain a highly functional team, including ability to evaluate and counsel subordinate supervisory staff and to delegate responsibility to them as appropriate.
- Ability to communicate clearly, concisely, and effectively; listen effectively and share information internally and externally.
- Ability to attend meetings and/or perform assignments at location outside the office.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: General Manager of Transit Services, Department of Transportation	Number 6-23
Originating Department Office of Human Resources	Effective Date

01A.104.36.05 Medical protocol:

Medical History Review.

Approved:

Handwritten signature of Marc Elrich in black ink.

Marc Elrich, County Executive

4/13/2023

Date

Approved as to form and legality:

Handwritten signature of Edward B. Lattner in blue ink.

Jan. 25, 2023

Edward B. Lattner
Office of the County Attorney



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: General Manager of Transit Services, Department of Transportation	Number 6-23
Originating Department Office of Human Resources	Effective Date

Montgomery County Regulation on

POSITION DESCRIPTION: GENERAL MANAGER OF TRANSIT SERVICES, DEPARTMENT OF TRANSPORTATION

Issued by: County Executive

Regulation No. 6-23

Authority: Montgomery County Code (2014) Section 1A-104(b)(2)

Supersedes: None

Council Review: Method (1) under Code Section 2A-15

Register Vol. 40 No. 2

Comment Deadline: March 2, 2023

Effective Date: _____

Summary: This regulation establishes the position description of General Manager of Transit Services in the Department of Transportation, a non-merit position.

Staff contact: Kimberly D. Williams
(240) 777-5198

Address: Office of the Human Resources
Executive Office Building
101 Monroe Street, Twelfth Floor
Rockville, Maryland 20850

Background: Under County Code Section 1A-104(b)(2), a person holding a position in the Executive Branch designated by law as a non-merit position must be professionally qualified under a position description established by regulation under method (1).

COMCOR 01A.104.36 General Manager Transit Services, Department of Transportation

01A.104.36.01 Definition of Class:

This is an appointed, non-merit full-time position in the County Government reporting to the Director of Transportation. Under the executive appointment of the County Executive and Directorship of the Department



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: General Manager of Transit Services, Department of Transportation	Number 6-23
Originating Department Office of Human Resources	Effective Date

of Transportation, the General Manager of Transit Services is responsible for the leadership, management and administrative work directing the Division of Transit Services within the Department of Transportation. The General Manager of Transit Services is responsible for the safe and timely delivery of public transit services to meet the needs of the public

Key responsibilities of the position include organizational leadership; full line management; fiscal oversight; planning and operational implementation; and policy development to achieve County objectives related to a county-wide public transit bus system, including planning, direction and operation of the transit system and related facilities. The General Manager leads the operation of the County’s transit system including Ride On, Ride On extRa, Ride On Flex, and the FLASH bus rapid transit network, overseeing a staff of approximately 800 employees, and 400 buses operating out of 3 transit depots. The General Manager ensures a commitment to safety and customer service through effective leadership, role modeling, and implementing practices that demonstrate that safety, customer service, and stewardship of County resources are fundamental values in all aspects of work. The General Manager ensures that County provided transit and related mobility services will address equity within the community and meet the needs of county residents, including the specific needs of youth, low-income seniors, and residents with disabilities. The General Manager also ensures the County’s system is coordinated with regional services such as MetroBus, MARC Commuter Rail, and MTA Commuter Bus services.

The work is primarily sedentary, performed primarily in office settings, and subject to usual everyday risks.

01A.104.36.02 Examples of duties:

- Performs full range of supervisory duties and responsibilities associated with leading the Division of Transit Services
- Develops and implements long and short-range strategies designed to achieve the County’s transit service goals and objectives and establishes priorities as necessary to accomplish.
- Exercise technical management oversight for transit operations.
- Ensure compliance with federal, state, and local laws governing the provision of transit services and its resources (personnel, vehicles, passenger facilities, etc.).
- Lead and manage a workforce, and foster a positive labor relations environment based on trust, respect, and cooperation in a collective bargaining environment.
- Display executive level communication, long-range strategic planning, and organizational leadership competencies.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: General Manager of Transit Services, Department of Transportation	Number 6-23
Originating Department Office of Human Resources	Effective Date

- Build trust and communicate effectively with residents and businesses about transit services, programs, and plans.
- Ensure and be available on a 24/7/365 basis to respond to major events and emergencies that affect countywide transit service continuity.
- Perform other related duties as required.

01A.104.36.03 Recommended qualifications:

Experience: Ten (10) years of progressively responsible professional experience in organizational management and long-range strategic planning in Public Transit Bus Systems, four (4) years of which were in a supervisory or executive capacity.

Education: Graduation from an accredited college or university with a Bachelor's Degree

Equivalency: An equivalent combination of education and experience may be substituted.

01A.104.36.04 Knowledge, skills, and abilities:

- Extensive knowledge of the principles, practices, methods, and techniques of service delivery in a public transit system.
- Extensive knowledge of and ability to apply knowledge of budget, fiscal, and human resource regulations, and requirements.
- In-depth knowledge of federal, state, and local laws and regulations governing the provision of transit services and its resources (personnel, vehicles, passenger facilities, etc.).
- Skill and ability to manage and lead a large organization, set priorities, anticipate problems, develop contingency plans, and monitor achievement of broad program goals and objectives.
- Skill in interpersonal relations and ability to establish and maintain effective working relationships with other government staff, civic, community and private groups, and passengers.
- Ability to represent the organization on policy matters and controversial topics
- Exceptional ability to inspire, empower, mentor, develop and sustain a highly functional team, including ability to evaluate and counsel subordinate supervisory staff and to delegate responsibility to them as appropriate.
- Ability to communicate clearly, concisely, and effectively; listen effectively and share information internally and externally.
- Ability to attend meetings and/or perform assignments at location outside the office.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Position Description: General Manager of Transit Services, Department of Transportation	Number 6-23
Originating Department Office of Human Resources	Effective Date

01A.104.36.05 Medical protocol:

Medical History Review.

Approved:

Handwritten signature of Marc Elrich in black ink.

Marc Elrich, County Executive

4/13/2023

Date

Approved as to form and legality:

Handwritten signature of Edward B. Lattner in blue ink.

Jan. 25, 2023

Edward B. Lattner
Office of the County Attorney




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

April 13, 2023

TO: Evan Glass, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Proposed Legislation Designating Executive Branch Positions as Non-Merit

I am submitting to Council the enclosed bill and associated Executive Regulations, which would redesignate two positions in the Executive Branch from merit to non-merit positions in accordance with §1A-104(b)(2) of the County Code. These two positions are deeply involved in the development of high-level, Countywide policies that have direct impact on the quality of life for Montgomery County residents. These two positions are responsible for public engagement and the implementation of high-impact programs that protect Montgomery County's air, water and land, as well as ensure safe and equitable transportation options across the County. Designating these positions as non-merit will improve the effectiveness of County government and ensure full accountability to the County Executive, the County Council and the taxpayers of Montgomery County. Furthermore, the non-merit designation of these positions allows for regular innovation at the senior management level in these mission critical departments. This bill establishes the non-merit positions of Deputy Director in the Department of Environmental Protection and the General Manager of Transit Services in the Department of Transportation.

Montgomery County Code §1A-104(b)(2) requires this position be supported by a position description established by executive regulation under method (1). Executive Regulations No. 5-23 (Position Description - Deputy Director, Department of Environmental Protection) and 6-23 (Position Description - General Manager of Transit Services, Department of Transportation) were advertised in the February 2023 Montgomery County Register with a comment deadline of March 2, 2023, and no comments were received. The Legislative Request Report and Fiscal Impact Statement for this proposed legislation are also attached. We are requesting this bill be expedited so that the bill becomes effective at the same time the regulations for the position descriptions are adopted to allow recruitment for these important positions to begin immediately.

Proposed Legislation Designating Executive Branch Positions as Non-Merit

April 13, 2023

Page 2 of 2

I appreciate the Council's introduction of this legislation, and my staff is ready to assist in any way needed.

Enclosures

cc: Richard Madaleno, Chief Administrative Officer, Office of the County Executive
Fariba Kassiri, Deputy Chief Administrative Officer, Office of the County Executive
Ken Hartman, Director of Strategic Partnerships, Office of the County Executive
Traci L. Anderson, Director, Office of Human Resources
Jennifer Bryant, Director, Office of Management and Budget
Chris Conklin, Director, Department of Transportation
Adriana Hochberg, Acting Director, Department of Environmental Protection
John Markovs, County Attorney, Office of the County Attorney
Edward B. Lattner, Chief, Division of Government Operations, Office of the County Attorney

Expedited Bill No. _____
 Concerning: _____
 Revised: _____ Draft No.2 _____
 Introduced: _____
 Expires: _____
 Enacted: _____
 Executive: _____
 Effective: _____
 Sunset Date: _____
 Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) make the position of Deputy Director in the Department of Environmental Protection a non-merit position; and
- (2) make the position of General Manager, Transit Services a non-merit position.

By adding
 Montgomery County Code
 Chapter 2, Administration
 Sections 2-29A

By amending
 Montgomery County Code
 Chapter 2, Administration
 Sections 2-56

Boldface	<i>Heading or a 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:

1 **Sec 1. Sections 2-29A is added and Section 2-56 is amended as follows:**

2 **Sec. 2-29A. Non-merit position.**

3 The position of Deputy Director in the Department of Environmental
4 Protection is a non-merit position.

5 * * *

6 **Sec. 2-56. Non-merit positions.**

7 [The positions of Deputy Director of Operations and Transportation Policy
8 Officer are non-merit positions.]

9 The following positions in the Department of Transportation are non-merit
10 positions:

- 11 (a) Deputy Director of Operations;
- 12 (b) Transportation Policy Officer; and
- 13 (c) General Manager, Transit Services.

14 **Sec. 2. Expedited Effective Date.**

15 The Council declares that this legislation is necessary for the immediate
16 protection of the public interest. This Act takes effect on the date on which it
17 becomes law.

Approved:

Evan Glass, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Judy Rupp, Clerk of the Council

Date

Approved as to form and legality:



Edward B. Lattner

March 16, 2023

LEGISLATIVE REQUEST REPORT
Bill XX-23

Designation of Positions as Non-Merit

DESCRIPTION: This bill converts the deputy director positions in both the Department of Environmental Protection and the Department of Transportation from merit to non-merit.

PROBLEM: These two positions are responsible for policy, public engagement and the implementation of high-impact programs in the areas of environment and transportation. Designating these positions as non-merit will improve the effectiveness of County government and ensure full accountability to the County Executive, County Council and the taxpayers of Montgomery County, as well as allows for regular innovation at the senior management level in these mission critical departments.

GOALS AND OBJECTIVES: Increase the effectiveness, efficiency, and responsiveness of these policy-driven positions

COORDINATION: Office of the Chief Administrative Officer

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Office of Legislative Oversight

EVALUATION: Subject to the general oversight of the County Executive and the County Council

EXPERIENCE ELSEWHERE: Unknown

SOURCES OF INFORMATION: Edward B. Lattner, Chief, Division of Government Operations
Office of the County Attorney

Fariba Kassiri, Deputy Chief Administrative Officer
Office of the Chief Administrative Officer

APPLICATION WITHIN MUNICIPALITIES: None

PENALTIES: None



Fiscal Impact Statement

Office of Management and Budget

Bill XX-23

Administration - Non-Merit Positions - Amendment

Bill Summary

This bill makes the positions of Deputy Director in the Department of Environmental Protection, and General Manager, Transit Services non-merit positions.

Fiscal Impact Summary

Expenditures could increase by up to \$7,394 in FY23 and \$22,180 annually thereafter. Revenues will not be impacted.

Fiscal Year	2023	2024	2025	2026	2027	2028	Total
Personnel Costs	\$7,394	\$22,180	\$22,180	\$22,180	\$22,180	\$22,180	\$118,294
Operating Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenditures	\$7,394	\$22,180	\$22,180	\$22,180	\$22,180	\$22,180	\$118,294
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Impact	(\$7,394)	(\$22,180)	(\$22,180)	(\$22,180)	(\$22,180)	(\$22,180)	(\$118,294)
FTE	0.00	0.00	0.00	0.00	0.00	0.00	

Fiscal Impact Analysis

The fiscal impact is the potential for a higher salary due to a higher maximum salary on the Executive Level (EX3) pay band compared to the Management Level (MI) pay band. There would be up to a \$22,180 increase in annualized salary and benefits costs with these positions transitioning from the M1 pay band (\$108,684 - \$191,726 range) to the EX3 pay band (\$118,420 - \$201,315 range), if the salary at the top of grade on the new schedule is offered. FY23 costs of \$7,394 reflect four month costs of \$3,697 for each position. Annualized costs are \$11,090 for each position, beginning in FY24. The fiscal impact analysis assumes an annual salary range for the positions within the FY23 salary schedules, plus benefits. To the extent that the assumed salary range for these position deviates from these assumptions, the fiscal impact will adjust accordingly.

Staff Impact

The Office of Human Resources advises that staff time to implement this bill will be minimal, and will not increase staff responsibilities.

Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

Future compensation increases could increase the costs of these positions, however, it is difficult to estimate compensation increases for non-merit positions at this time.

Sources of information

FY23 Management Leadership Service Salary Schedule, FY23 Executive Salary Schedule



Contributors

Samuel Frushour, Office of Human Resources
Shantee Jackson, Office of Management and Budget





Fiscal Impact Statement

Office of Management and Budget

Executive Regulation 5-23

Position Description: Deputy Director of Environmental Protection

Regulation Summary

Executive Regulation 5-23 establishes the position description of Deputy Director of Environmental Protection in the Department of Environmental Protection, a non-merit position.

Fiscal Impact Summary

There is no fiscal impact from this regulation.

Fiscal Year	0	0	0	0	0	0	Total
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Impact	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Fiscal Impact Analysis

Establishing the position description of Deputy Director of Environmental Protection is not expected to impact County revenues or expenditures.

Staff Impact

The Office of Human Resources advises that staff time to implement this regulation will be minimal, and will not increase staff responsibilities.

Actuarial Analysis

The regulation is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The regulation is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

The regulation does not authorize future spending.

Contributors

Samuel Frushour, Office of Human Resources
Shantee Jackson, Office of Management and Budget





Fiscal Impact Statement

Office of Management and Budget

Executive Regulation 6-23

Position Description: General Manager of Transit Services

Regulation Summary

Executive Regulation 6-23 establishes the position description of General Manager of Transit Services in the Department of Transportation, a non-merit position.

Fiscal Impact Summary

There is no fiscal impact from this regulation.

Fiscal Year	0	0	0	0	0	0	Total
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Impact	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00	

Fiscal Impact Analysis

Establishing the position description of General Manager of Transit Services is not expected to impact County revenues or expenditures.

Staff Impact

The Office of Human Resources advises that staff time to implement this regulation will be minimal, and will not increase staff responsibilities.

Actuarial Analysis

The regulation is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The regulation is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

The regulation does not authorize future spending.

Contributors

Samuel Frushour, Office of Human Resources
Shantee Jackson, Office of Management and Budget



Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED ADMINISTRATION - NON-MERIT POSITIONS – BILL 29-23: DEPARTMENT OF ENVIRONMENTAL PROTECTION- DEPARTMENT OF TRANSPORTATION

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 29-23 will have little to no impact on racial equity and social justice (RESJ) in the County. Redesignating the two positions from merit to non-merit positions is unlikely to materially impact RESJ in the County.

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.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF EXPEDITED BILL 29-23

The Purpose of Bill 29-23 is to redesignate two merit positions in the Executive Branch into two non-merit positions:

- Deputy Director of Department of Environmental Protection; and
- General Manager of Transit Services in the Department of Transportation.³

The County Executive provided the following reasons for the proposed redesignations of the two positions:⁴

- The positions are responsible for public engagement and the implementation of high-impact programs that protect Montgomery County's air, water, and land, and ensure safe and equitable transportation options.
- Designating the two positions as non-merit will improve the effectiveness of County government and ensure full accountability to the County Executive, the County Council, and the taxpayers of Montgomery County.
- The non-merit designation of these positions allows for regular innovation at the senior management level in mission critical departments - the Departments of Environmental Protection and Transportation.

Expedited Bill 29-23, Administration– Non-merit Positions – Department of Environmental Protection – Department of Transportation, was introduced by the Council on behalf of the County Executive on June 20, 2023.

RESJ Impact Statement

Expedited Bill 29-23

ANTICIPATED RESJ IMPACTS

OLO does not anticipate a racial equity and social justice impact for Expedited Bill 29-23 because the proposed redesignation of the two positions from merit to a non-merit position is unlikely to materially impact RESJ in the County.

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.⁵ OLO anticipates that Expedited Bill 29-23 will have little to no impact on RESJ in the County. As such, OLO does not offer recommended amendments.

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.

CONTRIBUTIONS

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

¹ 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>

² Ibid

³ Memorandum from Khandikile Mvunga Sokoni, Legislative Attorney to County Council. June 15, 2023

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230620/20230620_1B-3D-3E.pdf

⁴ Memorandum from Marc Elrich, County Executive Legislative Attorney to County Council. April 13, 2023

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230620/20230620_1B-3D-3E.pdf

⁵ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

Economic Impact Statement

Montgomery County, Maryland

Expedited Bill 29-23

Administration – Non-merit Positions – Department of Environmental Protection – Department of Transportation

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Expedited Bill 29-23 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.

BACKGROUND AND PURPOSE OF EXPEDITED BILL 29-23

Merit system positions in the County are governed by detailed regulations that prescribe a range of factors– from recruitment and compensation, to leave benefits and termination.¹ Merit system employees also have access to the Merit System Protection Board to appeal adverse personnel decisions, including suspension, demotion, and termination.² Non-merit system positions on the other hand are more flexible in that they are subject to less regulations and have less protections than merit system positions. Non-merit positions in the Executive Branch are appointed by the County Executive and confirmed by the Council.³

The purpose of Bill 29-23 is to redesignate two positions in the Executive Branch – the Deputy Director in the Department of Environmental Protection and the General Manager of Transit Services in the Department of Transportation Services – from merit to non-merit.⁴ According to the County Executive, “[d]esignating these positions as non-merit will improve the effectiveness of County government and ensure full accountability to the County Executive, the County Council and the taxpayers of Montgomery County” and allow for “regular innovation at the senior management level in these mission critical departments.”⁵

The Office of Management and Budget estimates Bill 29-23 would cost \$118,294 over six years given the potential increase in salary and benefits for the Deputy Director and General Manager positions.⁶ The Bill was also introduced with accompanying resolutions to adopt Executive Regulations 5-23 and 6-23, the job descriptions for each position.⁷

Expedited Bill 29-23, Administration – Non-merit Positions – Department of Environmental Protection – Department of Transportation, was introduced by the Council at the request of the County Executive on June 20, 2023.⁸

¹ [Personnel Regulations](#), Montgomery County Office of Human Resources.

² [Appeals Process](#), Merit System Protection Board.

³ Montgomery County Code § 1A-102.

⁴ Memorandum from County Executive to County Council, [Introduction Staff Report for Expedited Bill 29-23](#), April 13, 2023.

⁵ Ibid.

⁶ Fiscal Impact Statement, Introduction Staff Report for Expedited Bill 29-23

⁷ Introduction Staff Report for Expedited Bill 29-23

⁸ Ibid

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Expedited Bill 29-23 on County-based private organizations and residents in terms of the Council's priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.⁹ Reclassifying the two positions as non-merit would have insignificant impacts on private organizations, residents, and overall economic conditions in the County in terms of the indicators prioritized by the Council.

VARIABLES

Not applicable

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

[Appeals Process](#). Merit System Protection Board.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Introductory Staff Report for Expedited Bill 29-23](#). Introduced on June 20, 2023.

[Personnel Regulations](#). Montgomery County Office of Human Resources.

⁹ Montgomery County Code, [Sec. 2-81B](#).

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not 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.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

Climate Assessment

Office of Legislative Oversight

Expedited Administration – Non-Merit Positions – Department of Environmental Protection – Department of Transportation Bill 29-23:

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 29-23 will have no impact on the County's contribution to addressing climate change as the bill proposes to redesignate two merit positions in the Executive branch into two non-merit positions.

BACKGROUND AND PURPOSE OF BILL 29-23

The Purpose of Bill 29-23 is to redesignate two merit positions in the Executive Branch into two non-merit positions:

- Deputy Director of Department of Environmental Protection; and
- General Manager of Transit Services in the Department of Transportation.¹

The County Executive provided the following reasons for the proposed redesignations of the two positions:²

- The positions are responsible for public engagement and the implementation of high-impact programs that protect Montgomery County's air, water, and land, and ensure safe and equitable transportation options.
- Designating the two positions as non-merit will improve the effectiveness of County government and ensure full accountability to the County Executive, the County Council, and the taxpayers of Montgomery County.
- The non-merit designation of these positions allows for regular innovation at the senior management level in mission critical departments - the Departments of Environmental Protection and Transportation.

Expedited Bill 29-23, Administration– Non-merit Positions – Department of Environmental Protection – Department of Transportation, was introduced by the Council on behalf of the County Executive on June 20, 2023.

ANTICIPATED IMPACTS

As the bill proposes to designate two existing merit positions to two non-merit positions, OLO anticipates Bill 29-23 will have little to no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.³ OLO does not offer recommendations or amendments as Bill 29-23 is likely to have little to no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not 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.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [Memorandum from Khandikile Mvunga Sokoni, Legislative Attorney to County Council. June 15, 2023](#)

² [Memorandum from Marc Elrich, County Executive Legislative Attorney to County Council. April 13, 2023](#)

³ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

**Testimony on behalf of County Executive on
Bill 29-23E, Administration – Non-merit Positions – Department of Environmental
Protection – Department of Transportation, with accompanying Resolutions to adopt
Executive Regulation 5-23 and Executive Regulation 6-23**

July 11, 2023

Good afternoon. My name is Fariba Kassiri, Deputy Chief Administrative Officer for Montgomery County Government, and I am here on behalf of County Executive Elrich to testify in support of Bill 29-23E. This Bill converts one position from the Department of Transportation and one from the Department of Environmental Protection to non-merit, appointed positions.

I would like to clarify that the staff packet indicates we would be creating two new positions. Instead, we will repurpose two existing positions, which will be cost-neutral and not change the personnel compliment.

This action would, however, provide key strategic leadership at the top of these two departments. The action proposed by this Bill brings these two positions in alignment with similar positions in other mission-critical departments such as HHS, Police, Fire, DHCA, TEBS, and OMB - which have appointed deputy directors and/or division chiefs. The appointment process for these high-level, non-merit positions offers the public the opportunity for input and requires County Council's interview and approval.

These two positions are deeply involved in the development of high-level, Countywide policies and services that have a direct impact on the quality of life for Montgomery County residents. These positions also have key management responsibilities, maintain public engagement, develop and implement high-impact programs that protect the county's air, water and land, and ensure top-notch, safe and equitable transportation options across the County.

The Division of Transit Services, with a budget of nearly \$183M and a staff of 870 people, represents the vast majority of front-facing staff in DOT and the most significant direct public service provided by the Department on a daily basis.

The Department of Environmental Protection, with an operating budget of \$187M, a CIP budget of \$400M, and a staff of 250 people, leads the County's efforts in all areas of environmental protection such as climate change, energy, watershed restoration, as well as recycling and resource management.

Repurposing these existing positions to non-merit will increase the value that these positions bring to the County and ensure full accountability to the taxpayers of Montgomery County, the County Council, and the County Executive. Furthermore, the non-merit designation of these positions allows for regular innovation at the senior management level in these mission critical departments, thereby resulting in more effective operations and value to taxpayers.

We appreciate your consideration of this bill and your favorable vote.