



OFFICE OF THE COUNTY AUDITOR

Craig Glendenning, CPA
County Auditor

MEMORANDUM

January 14, 2021

MEMO TO: Howard County Council Members

FROM: Craig Glendenning
County Auditor *CG*

Subject: Fiscal Impact of Council Bill No. 4-2021

Fiscal Impact:

The fiscal impact of this legislation cannot be determined. It is uncertain at this time whether this bill will impact County expenditures.

Proposed changes in Council Bill 4-2021 would require changes in policies and procedures for the Council as well as the Administration. The challenges brought about by these changes are detailed below.

Additionally, we cannot determine if changes in Council policy/procedures as envisioned by the bill will require additional resources for the Council or County Auditor. While the Administration's testimony - titled "The Parity Act" - indicates that their objective is to obtain "uniformity," this cannot be accomplished without significant changes in procedures. Unless Council and the Administration procedures are changed, the proposed legislation would make it impossible to perform a fiscal analysis in compliance with the revised County Code requirements.

Purpose:

Council Bill 4-2021 will do the following:

- Require the Office of the County Auditor to submit their fiscal impact of legislation introduced by the County Executive and the Council at pre-file rather than the Thursday prior to the Public Hearing.
- Allow the County Executive to notify the Council Chair that they are unable to submit their fiscal impact at pre-file, provide a reason for the delay, and request approval from the Council Chair for a revised submission date.

Background:

The County Auditor was appointed September 2012. Starting in 2013, the Office of the County Auditor began providing a fiscal impact analysis of proposed legislation to the Council prior to the Public Hearing (usually scheduled for the third Monday of each month).

The County Council passed **CB8-2020** (effective May 5, 2020), which added Section 5.4 – Fiscal Analysis to the County Code and did two things. First, it required that the fiscal impact analysis be provided and stipulated that the County Auditor submit the analysis on or before 5:00 p.m. the Thursday before the Public Hearing. Second, it required the Council to make the analysis public at least one business day before the Public Hearing.

Council Bill 55-2020 (effective January 5, 2021) amended the County Code and requires the County Executive to submit a fiscal analysis at pre-file, concurrent with each Executive-submitted bill or with other legislation that they request to be introduced by the Council.

To do this, the Chief Administrative Officer established the following process in early December 2020:

1. Relevant agencies are required to submit a draft testimony to both the Legislative Coordinator and the Budget Office no later than 10 business days prior to pre-file. A fiscal impact template must be provided with the testimony, which includes detailed projected expenditure and revenue impacts.
2. The Budget Office has 10 business days to review and finalize the agency's analysis before pre-file.

On January 5, 2021, we asked if there are more current procedures. As of 4:00 p.m. on Thursday, January 14, we have yet to receive a response.

Effects of the Changes Proposed by CB4-2021:

The Office of the County Auditor notes the following challenges as a result of changes proposed by CB4-2021:

1. Insufficient time for review of County Executive-sponsored legislation:

Section 5.4 of the Charter requires the Administration to provide a fiscal impact concurrent with submission of legislation for introduction. The County Solicitor agrees that the Administration is required to submit testimony at pre-file.

As the Office of the County Auditor does not see the Executive's proposed legislation until pre-file, it would be impossible to develop and submit a fiscal impact concurrent with submission of the legislation as required by CB4-2021.

NOTE: The Administration was unaware that under the proposed bill the Office of the County Auditor would still be required to provide a fiscal impact of Executive-introduced legislation. It has advised the County Auditor that it will be amending CB4-2021 to apply to Council-submitted legislation only.

2. Insufficient time for review of Council-sponsored legislation:

The Office of the County Auditor has three weeks after pre-file to provide a fiscal impact of both Executive and Council-introduced legislation to the Council and the public. Under current practice, Administration staff are instructed not to respond directly to auditor questions on legislation. Agency responses are routinely reviewed by the Chief Administrative Officer and County Executive staff and then submitted to the County Auditor. This contributes to the fact that fiscal impact statements normally require a full three weeks to complete.

3. Lack of confidentiality for Council-sponsored legislation:

Similar to the County Executive, Council members often desire to keep contents of their legislation confidential until pre-file. Under this bill, Council members would need to disclose legislative intent at least three weeks prior to pre-file to allow for the fiscal analysis. The fiscal analysis process routinely requires that Auditor staff contact the Administration for information.

It should be noted that, based on County Auditor experience and knowledge of the County's information systems, the current practice for Council legislation is for the Auditors to work with Council Members and their staff to provide possible fiscal impacts for consideration prior to pre-filing legislation. Auditor staff do not routinely contact Administration staff until the bill is pre-filed and publicly accessible.

Conclusion:

Passing this bill represents a permanent change in the Council's legislative process and how legislation is analyzed by the Office of the County Auditor. This change will not only impact the current Council Members and County Auditor, but future Council Members and County Auditors as well.

In order for the Office of the County Auditor to provide a fiscal analysis at the time legislation is pre-filed, the Council would have to initiate significant changes to their policies and procedures for introducing legislation. The Council Members will need to prepare and disclose legislative contents to the Office of the County Auditor for our review significantly earlier than the current practice. Second, the Council would have to allow Auditor staff to contact the Administration at least three weeks prior to pre-file in order to provide sufficient time to perform an adequate fiscal impact analysis. Additionally, the Administration would have to allow the Auditor staff to communicate directly with County staff and Management.

The County Auditor is hesitant to recommend any such change in the Council's policies and questions if it is appropriate for the Administration to require such a change.