

Bill No. 50-10
Concerning: Special Taxing District -
White Flint - Creation
Revised: 11-30-10 Draft No. 5
Introduced: October 5, 2010
Enacted: November 30, 2010
Executive: December 9, 2010
Effective: March 10, 2011
Sunset Date: None
Ch. 52, Laws of Mont. Co. 2010

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) establish a White Flint Special Taxing District;
- (2) authorize the levy of an *ad valorem* property tax to fund certain transportation infrastructure improvements;
- (3) authorize the issuance of a certain type of bond to finance certain transportation infrastructure improvements;
- (4) generally authorize a White Flint Special Taxing District; and
- (5) generally amend or supplement the laws governing the use of infrastructure financing districts and similar funding mechanisms.

By adding

Montgomery County Code
Chapter 68C, White Flint Special Taxing District

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

1 **Sec 1. Chapter 68C is added as follows:**

2 **Chapter 68C. White Flint Special Taxing District.**

3 **68C-1. Definitions.**

4 For purposes of this Chapter, the following terms have the meanings indicated:

5 *Bond* means a special obligation or revenue bond, note, or other similar
6 instrument issued by the County that will be repaid from revenue
7 generated by ad valorem taxes levied under this Chapter.

8 *Cost* means the cost of:

- 9 (1) the construction, reconstruction, and renovation of any
10 transportation infrastructure improvement, including the
11 acquisition of any land, structure, real or personal property, right,
12 right-of-way, franchise, or easement, to provide a transportation
13 infrastructure improvement for the District;
- 14 (2) all machinery and equipment needed to expand or enhance a
15 transportation infrastructure improvement for the District;
- 16 (3) financing charges and debt service related to a transportation
17 infrastructure improvement for the District, whether the charge or
18 debt service is incurred before, during, or after construction of the
19 transportation infrastructure improvement, including the cost of
20 issuance, redemption premium (if any), and replenishment of
21 debt service reserve funds for any bond that finances a
22 transportation infrastructure improvement for the District;
- 23 (4) reserves for principal and interest, the cost of bond insurance, and
24 any other type of financial guarantee, including any credit or
25 liquidity enhancement, related to a transportation infrastructure
26 improvement for the District;

- 27 (5) architectural, engineering, financial, and legal services related to
- 28 providing a transportation infrastructure improvement for the
- 29 District;
- 30 (6) any plan, specification, study, survey, or estimate of costs and
- 31 revenues related to providing a transportation infrastructure
- 32 improvement for the District;
- 33 (7) any administrative expense incurred by the County necessary or
- 34 incident to determining whether to finance or implement a
- 35 transportation infrastructure improvement for the District; and
- 36 (8) any other expense incurred by the County necessary or incident
- 37 to building, acquiring, or financing a transportation infrastructure
- 38 improvement for the District.

39 District means the White Flint Special Taxing District created under
 40 Section 68C-2.

41 Transportation infrastructure improvement means:

- 42 (1) the construction, rehabilitation, or reconstruction of a road, street,
- 43 or highway that serves the District, including any:
- 44 (A) right-of-way;
- 45 (B) roadway surface;
- 46 (C) roadway subgrade or shoulder;
- 47 (D) median divider;
- 48 (E) drainage facility or structure, including any related
- 49 stormwater management facility or structure;
- 50 (F) roadway cut or fill;
- 51 (G) guardrail;
- 52 (H) bridge;
- 53 (I) highway grade separation structure;

- 54 (J) tunnel;
- 55 (K) overpass, underpass, or interchange;
- 56 (L) entrance plaza, approach, or other structure that is an
- 57 integral part of a street, road, or highway;
- 58 (M) bicycle or walking path;
- 59 (N) designated bus lane;
- 60 (O) sidewalk or pedestrian plaza;
- 61 (P) streetscaping and related infrastructure; including placing
- 62 utilities underground; and
- 63 (Q) other property acquired to construct, operate, or use a road,
- 64 street, or highway; and
- 65 (2) a transit facility that serves the needs of the District, including
- 66 any:
 - 67 (A) track;
 - 68 (B) right-of-way;
 - 69 (C) bridge;
 - 70 (D) tunnel;
 - 71 (E) subway;
 - 72 (F) rolling stock;
 - 73 (G) station or terminal;
 - 74 (H) parking area;
 - 75 (I) related equipment, fixture, building, structure, or other real
 - 76 or personal property; and
 - 77 (J) service intended for use in connection with the operation
 - 78 of a transit facility, including rail, bus, motor vehicle, or
 - 79 other mode of transportation.

80 **68C-2. Creation; Boundaries.**

81 (a) The White Flint Special Taxing District is coterminous with the
 82 approved and adopted White Flint Sector Plan area.

83 (b) The following properties, identified by street address, are not included
 84 in the District: 5411 McGrath Boulevard, 5440 Marinelli Road, 5801
 85 Nicholson Lane, 11700 Old Georgetown Road, 11701 Old Georgetown
 86 Road, 11750 Old Georgetown Road, 11800 Old Georgetown Road,
 87 11801 Rockville Pike, 5800 Nicholson Lane, 5802 Nicholson Lane,
 88 5809 Nicholson Lane, 5440 Marinelli Road, 5503 Edson Lane, 5505
 89 Edson Lane, 5507 Edson Lane, 5509 Edson Lane, 11201 Woodglen
 90 Drive, 11203 Woodglen Drive, 11205 Woodglen Drive, 11207
 91 Woodglen Drive, 11209 Woodglen Drive, 11351 Woodglen Drive,
 92 11418 Rockville Pike, 11200-11219 Edson Park Place, 11222 Edson
 93 Park Place, 11224 Edson Park Place, 11226 Edson Park Place, 11228
 94 Edson Park Place, 11230 Edson Park Place, 11232 Edson Park Place,
 95 11234 Edson Park Place, 11236 Edson Park Place, 11238 Edson Park
 96 Place, and 11240 Edson Park Place.

97 **68C-3. Levy of Tax; Limits.**

98 (a) Each tax year the County Council may levy against all the assessable
 99 real and personal property in the District a sum on each \$100 of
 100 assessable property that does not exceed an amount sufficient to cover
 101 the costs of transportation infrastructure improvements that have been
 102 identified in a Council resolution approved under Section 68C-4.

103 (b) Under Section 9-1302 of Article 24, Maryland Code, the limit in
 104 Charter Section 305 on levies of ad valorem taxes on real property to
 105 finance County budgets does not apply to revenue from any tax imposed
 106 under this Chapter.

- 107 (c) The tax imposed under this Chapter must be levied and collected as
108 other County property taxes are levied and collected.
- 109 (d) The tax imposed under this Chapter has the same priority, bears the
110 same interest and penalties, and in every respect must be treated the
111 same as other County property taxes.
- 112 (e) Paying the tax imposed under the Chapter does not entitle any person to
113 claim a credit against any other tax that the County imposes, including
114 the development impact tax for transportation improvements imposed
115 under Section 52-49 or the development impact tax for public school
116 improvements imposed under Section 52-89.

117 **68C-4. Transportation Infrastructure Improvement Resolution.**

- 118 (a) After holding a public hearing, the Council may approve a resolution
119 that lists each transportation infrastructure improvement that would be
120 entirely or partly paid for by a tax imposed under Section 68C-3.
- 121 (b) The resolution must indicate the estimated cost, including a contingency
122 amount, for each listed improvement.
- 123 (c) The Council may amend the resolution after holding a public hearing.
- 124 (d) The Council must present the resolution and each amended resolution to
125 the Executive for approval or disapproval. If the Executive disapproves
126 a resolution within 10 days after it is transmitted to the Executive and
127 the Council readopts the resolution by a vote of 6 Councilmembers, or if
128 the Executive does not act within 10 days after the resolution is
129 transmitted, the resolution takes effect.
- 130 (e) Before the Council holds a public hearing under subsection (a) or (c),
131 the Executive should transmit to the Council:

- 132 (1) a list of recommended transportation infrastructure improvements
- 133 to be entirely or partly paid for by a tax imposed under Section
- 134 68C-3;
- 135 (2) the estimated cost, including a contingency amount, for each
- 136 listed improvement; and
- 137 (3) an estimated tax rate for each tax to be imposed under Section
- 138 68C-3.

139 (f) Before the County loans or advances any funds to the District that the
 140 District is required to repay to the County, the Council must adopt a
 141 [[financing]] repayment plan in a resolution under this Section, or as
 142 part of an approved Capital Improvements Program resolution, that
 143 specifies:

- 144 (1) each transportation infrastructure improvement for which funds
- 145 would be advanced;
- 146 (2) the amount of funds advanced which the District must repay;
- 147 (3) the [[amount]] expected rate of interest, if any, the District must
- 148 repay;
- 149 (4) the time period during which the District [[must]] is expected to
- 150 repay the amount due; and
- 151 (5) [[the number and timing of installment payments, if any; and]]
- 152 [[6]] any other principal term of repayment.

153 Any [[financing]] repayment plan adopted under this subsection is
 154 binding on the District and the County, except as later modified in a
 155 Council resolution.

156 **68C-5. District Fund.**

- 157 (a) The Director of Finance must establish a separate fund for the proceeds
- 158 collected from any tax imposed under this Chapter. The proceeds of

159 any tax imposed under this Chapter must be pledged to and paid into
 160 this fund.

161 (b) The Director of Finance must use this fund only to pay the cost of any
 162 transportation infrastructure improvement related to the District.

163 (c) If in any fiscal year a balance remains in the fund, the Director of
 164 Finance may use the balance to:

165 (1) pay the cost of any transportation infrastructure improvement for
 166 the District;

167 (2) create a reserve to pay the future costs of any transportation
 168 infrastructure improvement for the District;

169 (3) pay bond-related obligations or retire bonds then outstanding; or

170 (4) pay into a sinking fund required by the terms of bonds which
 171 finance the cost of any transportation infrastructure improvement
 172 for the District that may be incurred or accrue in later years.

173 **68C-6. Issuing Bonds.**

174 (a) Before the County issues any bond payable from ad valorem taxes
 175 levied under Section 68C-3, the Council must adopt a resolution
 176 authorizing the issuance of bonds that meets the requirements of this
 177 Section.

178 (b) Each resolution under this Section must:

179 (1) describe the types of transportation infrastructure improvements
 180 and related costs to be financed; and

181 (2) specify the maximum principal amount of bonds to be issued.

182 (c) Each resolution may specify, or authorize the Executive by executive
 183 order to specify:

184 (1) the actual principal amount of bonds to be issued;

185 (2) the actual rate or rates of interest for the bonds;

- 186 (3) how and on what terms the bonds must be sold;
 187 (4) how, when, and where principal of, and interest on, the bonds
 188 must be paid;
 189 (5) when the bonds may be executed, issued, and delivered;
 190 (6) the form and tenor of the bonds, and the denominations in which
 191 the bonds may be issued;
 192 (7) how any or all of the bonds may be called for redemption before
 193 their stated maturity dates;
 194 (8) the nature and size of any debt service reserve fund;
 195 (9) the pledge of other assets in and revenues from the District to pay
 196 the principal of and interest on the bonds;
 197 (10) any bond insurance or any other financial guaranty or credit or
 198 liquidity enhancement of the bonds; and
 199 (11) any other provision consistent with law that is necessary or
 200 desirable to finance any transportation infrastructure
 201 improvement that has been identified in a Council resolution
 202 approved under Section 68C-4.
 203 (d) (1) The County [[covenants]] must covenant to levy ad valorem
 204 taxes against all assessable real and personal property in the
 205 District at a rate and amount sufficient in each year when any
 206 bonds are outstanding to:
 207 (A) provide for the payment of the principal of, interest on, and
 208 redemption premium if any, on the bonds;
 209 (B) replenish any debt service reserve fund established with
 210 respect to the bonds; and
 211 (C) provide for any other purpose related to the ongoing
 212 expenses of and security for the bonds.

- 213 (2) The County further [[covenants]] must covenant, when any bond
 214 is outstanding, to enforce the collection of all ad valorem taxes
 215 under this Chapter as provided by applicable law.
- 216 (e) All proceeds received from any issuance of bonds must be applied
 217 solely towards costs of the transportation infrastructure improvements
 218 listed in the resolution adopted under Section 68C-4, including the cost
 219 of issuing bonds and payment of the principal of, interest on, and
 220 redemption premium if any, on the bonds.
- 221 (f) The bonds issued under this Chapter:
- 222 (1) are special obligations of the County and do not constitute a
 223 general obligation debt of the County or a pledge of the County's
 224 full faith and credit or the County's general taxing power;
- 225 (2) may be sold in any manner, either at public or private sale, and on
 226 terms as the Executive approves;
- 227 (3) are not subject to Sections 10 and 11 of Article 31, Maryland
 228 Code; and
- 229 (4) must be treated as securities to the same extent as bonds issued
 230 under Section 9-1301 of Article 24, Maryland Code.
- 231 (g) To the extent provided by law, the bonds, their transfer, the interest
 232 payable on them, and any income derived from them, including any
 233 profit realized on their sale or exchange, must be exempt at all times
 234 from every kind and nature of taxation by the State of Maryland and any
 235 county or municipality in Maryland.
- 236 (h) The bonds must be payable from the fund required under Section 68C-5
 237 and any other asset or revenue of the District pledged toward their
 238 payment. When any bond is outstanding, the monies in the fund are
 239 pledged to pay the costs of any transportation infrastructure

240 improvement funded entirely or partly by the proceeds of the bonds,
241 including the costs of issuing the bonds and payment of the principal of,
242 interest on, and redemption premium if any, on the bonds. In addition
243 to ad valorem taxes, the bonds may be secured by any other asset in or
244 revenue generated in the District.

245 (i) Any ad valorem tax imposed under this Chapter must not be accelerated
246 because of any bond default.

247 **68C-7. Expiration of district.**

248 Any special taxing district created under this Chapter expires by operation of
249 law 30 days after the cost of all transportation infrastructure improvements identified
250 in a Council resolution approved under Section 68C-4, including all outstanding
251 bonds and cash advances made by the County, have been paid.

252 *Approved:*

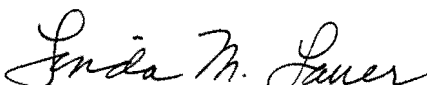
253  12/1/10
Nancy Floreen, President, County Council Date

254 *Approved:*

255  12/9/10
Isiah Leggett, County Executive Date

256

257 *This is a correct copy of Council action.*

258  12/10/10
Linda M. Lauer, Clerk of the Council Date