



Montgomery  
County Council

**Committee GO**

**Staff:** Robert H. Drummer, Senior Legislative Attorney

**Purpose:** Final action – vote expected

**Keywords:** #EquityMattersinMoCo



AGENDA ITEM #5A

November 19, 2019

Action

## **SUBJECT**

Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee - Established

Lead Sponsor: Council President Navarro

Co-Sponsors: Councilmembers Jawando, Rice, Hucker, Riemer, Council Vice President Katz, Councilmembers Albornoz, Friedson and Glass

## **EXPECTED ATTENDEES**

None

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

- Action – Roll call vote required

## **DESCRIPTION/ISSUE**

Bill 27-19, as amended by the Committee, would:

- (1) establish a racial equity and social justice program;
- (2) establish an Office of Racial Equity and Social Justice in the Executive Branch with a non-merit head;
- (3) remove the Chief Equity Officer position in the Office of the Executive as a non-merit position;
- (4) require the Executive to adopt, by Method 2 regulation, a racial equity and social justice action plan for the County;
- (5) require racial equity and social justice training of some type for all County employees;
- (6) require each Department and Office to develop a racial equity and social justice action plan;
- (7) require the Office of Legislative Oversight to submit a racial equity and social justice impact statement to the Council for each Bill and invalidate a non-expedited bill enacted without an impact statement;
- (8) require the Executive to explain how each management initiative or program in the recommended budget would promote racial equity and social justice;
- (9) establish a Racial Equity and Social Justice Committee with 8 public members and 7 members representing County departments or agencies and establish the duties of the Committee;
- (10) authorize a \$2,000.00 annual stipend for the 8 public members of the Committee;
- (11) require the Planning Board to consider racial equity and social justice impact when preparing a Master Plan;
- (12) require the Council to ensure sufficient funding for the program; and

- (13) delay the effective date of the provision requiring an impact statement for each bill until August 1, 2020.

**This report contains:**

Staff Report	Page 1
Bill 27-19	©1
County Attorney Bill Review memorandum	©15
Fiscal Impact Statement	©19
Executive's Comments and suggested amendments	©27

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**PLEASE BRING THE NOVEMBER 14 GO STAFF REPORT TO THE  
MEETING**

Agenda Item 5A  
November 19, 2019  
**Action**

**M E M O R A N D U M**

November 15, 2019

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee - Established

PURPOSE: Action – Roll call vote required

**Government Operations and Fiscal Policy Committee recommendation (3-0): enact the Bill with amendments.**

Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee - Established, sponsored by Lead Sponsor Council President Navarro, and Co-Sponsors Councilmembers Jawando, Rice, Hucker, Riemer, Council Vice President Katz, Councilmembers Alborno, Friedson and Glass, was introduced on September 17, 2019. Two public hearings were held on October 29 with 43 speakers. A Government Operations and Fiscal Policy Committee worksession was held on November 14.<sup>1</sup>

Bill 27-19, as amended by the Committee, would:

- (1) establish a racial equity and social justice program;
- (2) establish an Office of Racial Equity and Social Justice in the Executive Branch with a non-merit head;
- (3) remove the Chief Equity Officer position in the Office of the Executive as a non-merit position;
- (4) require the Executive to adopt, by Method 2 regulation, a racial equity and social justice action plan for the County;
- (5) require racial equity and social justice training of some type for all County employees;

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<sup>1</sup>#EquityMattersinMoCo

- (6) require each Department and Office to develop a racial equity and social justice action plan;
- (7) require the Office of Legislative Oversight to submit a racial equity and social justice impact statement to the Council for each Bill and invalidate a non-expedited bill enacted without an impact statement;
- (8) require the Executive to explain how each management initiative or program in the recommended budget would promote racial equity and social justice;
- (9) establish a Racial Equity and Social Justice Committee with 8 public members and 7 members representing County departments or agencies and establish the duties of the Committee;
- (10) authorize a \$2,000.00 annual stipend for the 8 public members of the Committee;
- (11) require the Planning Board to consider racial equity and social justice impact when preparing a Master Plan;
- (12) require the Council to ensure sufficient funding for the program; and
- (13) delay the effective date of the provision requiring an impact statement for each bill until August 1, 2020.

### **Public Hearing**

The Council held 2 separate public hearings on October 29 with 43 speakers. County Executive Elrich supported the Bill as did Planning Board Chair Casey Anderson. Mr. Anderson suggested that a representative from M-NCPPC be added to the ex-officio members of the Advisory Committee. All the other speakers supported the Bill. There were several suggested amendments. Many of the speakers suggested expanding the number of community members on the Advisory Committee to 9 and paying the community members so that lower income residents could afford to serve. Several speakers suggested that no legislation should be enacted, or agency budgets adopted, without approval by the new Office of Racial Equity and Social Justice. Some speakers wanted the legislation to mandate adequate funding for the new Office. Finally, several speakers were concerned that the Bill may be reducing the focus on racial equity issues by including social justice issues based on other characteristics. We also received written testimony from a speaker opposing the Bill as an attempt to protect undocumented immigrants instead of eliminating race discrimination through existing agencies, such as the EEOC. Finally, we received written testimony supporting the Bill from residents who did not speak at the public hearings.

### **November 14 GO Worksession**

Senior Legislative Attorney Robert Drummer participated in the discussion with the Committee. The Committee reviewed the issues described in the staff report and the amendments proposed by Committee members, the County Attorney's Office, the Executive, and Council staff. The Committee approved the following amendments:

1. approved the clarifying amendments suggested by the County Attorney's Office;
2. required racial equity and social justice training for all County employees;
3. removed the special provisions for removing members of the Advisory Committee in order to rely on the general provisions of §2-148;

4. required OLO to prepare impact statements for bills instead of the Executive and made a non-expedited bill enacted without an impact statement invalid;
5. approved the Executive's suggested definition of social justice with modifications;
6. clarified the language requiring the Planning Board to consider racial equity and social justice impact when proposing a master plan;
7. modified the composition of the Advisory Committee by adding 5 more public members and 1 member from the Planning Board;
8. authorized a \$2,000.00 annual stipend for public members of the Advisory Committee;
9. added an additional duty to the Advisory Committee;
10. required the Council to ensure sufficient funding for the program;
11. accepted the Executive's suggested language for the components of the action plan; and
12. delayed the effective date of the provision requiring impact statements for bills until August 1, 2020.

### **Issues**

#### **1. What are the County Attorney's clarifying amendments?**

The County Attorney's October 7 Bill Review Memorandum did not find any legal impediments to the Bill's enactment but suggested several constructive amendments to clarify the Bill's intent. Most of their suggestions centered around ensuring that the defined terms of racial equity and social justice are consistent throughout the Bill. The County Attorney's Bill Review Memorandum and their suggested amendments are at ©15-18. Each of these amendments clarify the original intent of the Bill and do not change the substance. Council staff recommends approving each of these amendments recommended by the County Attorney. The Executive agrees with these suggested changes. See the Executive's comments at ©27-28.

**Committee recommendation (3-0):** approve each of the amendments suggested by the County Attorney's Office clarifying the terms racial equity and social justice and making them consistent throughout the Bill. These changes appear on lines 27, 30, 32, 40, 54-59, 78, 81, 87-88, 89-92, 95, 111, 120, 122-123, 125-126, 129-130, 132-133, 155-160, 167, 169, 172, 184, 187-188, and 190-192 of the Bill.

#### **2. Should the Bill require the Council to adopt a resolution for the Legislative Branch mirroring the Executive Regulation required by the Bill?**

The Council is primarily responsible for enacting legislation, approving regulations adopted by the Executive, adopting an operating and capital budget, adopting a capital improvements program, and making land use decisions. The Bill would require the Executive to submit a racial equity and social justice impact statement for each Bill and each management initiative or program that would be funded in the operating or capital budget. The Bill would also require the Planning Board to consider these issues in proposing a master plan for approval by the Council. Therefore, the major actions taken by the Council already require the Council to consider the racial equity and social justice impact before acting. While the Council could adopt a resolution mirroring the Executive Regulation

that they must approve, it is not necessary for the Bill to require it. **Committee recommendation (3-0):** no change.

**3. Should the Bill require racial equity and social justice training for all County employees or just managers?**

Some speakers suggested racial equity and social justice training be mandatory for all County employees. The County Attorney suggested that the Bill requiring the new Office to provide training to County employees is inconsistent with the requirement that the action plan include mandatory training for all managers and supervisors. We disagree that these two sections are inconsistent. The Office is generally tasked with providing training. The action plan must include, at a minimum, mandatory training for managers and supervisors. The Bill would not prohibit the Office from providing training for County employees who are not managers or supervisors. Mandatory training for managers and supervisors is a minimum standard. The Executive should have discretion to decide the type of training offered and which County employees should receive this training.

**Committee recommendation (3-0):** amend the Bill to require some type of training for all County employees. See lines 95-95 of the Bill.

**4. Should the Bill rely on the general removal procedures for members of the Committee instead of establishing a specific mechanism to remove a member?**

The general provisions for removal of a Board member in Section 2-148 are like the provisions in the Bill. The major difference is that the Bill would require the Council's consent to remove a member and §2-148 does not. Also, §2-148 would require removal for missing meetings in addition to misconduct or inability to perform. **Committee recommendation (3-0):** remove the special provisions on removal in the Bill and rely on the general provisions of §2-148. See lines 241-246 of the Bill.

**5. Should a non-expedited Bill be invalid without a racial equity and social justice impact statement?**

Council Bill 10-19, Legislative Branch – Economic Impact Statements – Amendments, moved the duty to prepare an economic impact statement from the Executive to the Director of the Office of Legislative Oversight (OLO). Along with that change, Bill 10-19 made the failure of OLO to submit an economic impact statement fatal to a non-expedited Bill. The County Attorney pointed out that Bill 27-19 does not invalidate a Bill because the Executive failed to submit a racial equity and social justice impact statement and some speakers requested an amendment to make this defect fatal to a Bill. However, there is a substantive difference between the provision in Bill 10-19 and Bill 27-19. OLO is in the Legislative Branch subject to direct Council control. If Bill 27-19 is amended to invalidate a Bill due to lack of a racial equity and social justice impact statement, the Executive would have the power to prevent legislation by failing to submit a statement. Council staff does not recommend creating a procedural bar to the validity of any bill due to failure to receive an impact statement.

**Committee recommendation (3-0):** amend the Bill to require OLO to submit the racial equity and social justice impact statement for Bills and continue to require the Executive to submit the impact statement for each management initiative or program funded in the operating budget. The amendment also mirrors Bill 10-19 by prohibiting the enactment of a non-expedited bill without an impact statement. The Executive agrees that OLO should be responsible for submitting the impact statement for bills. See lines 148-149 and 194-196 of the Bill.

## **6. What is the fiscal and economic impact of the Bill?**

The Fiscal and Economic Impact Statement is at ©19-26. OMB assumed the Office of Racial Equity and Social Justice would require a non-merit Director and one additional professional staff person. Since the Council already approved a non-merit Chief Equity Officer position that the Bill would eliminate, the additional cost to staff the office with 2 professional employees is estimated at \$213,910 for the first year. This would be a recurring cost. The Committee recognized that this is a rough estimate and that OLO may need additional resources to prepare racial equity and social justice impact statements for bills. Also, the mandatory training will have a fiscal impact. The Economic Impact Statement indicates that a successful racial equity and social justice program could boost the incomes of disadvantaged groups and lead to a positive effect on the County's economy.

## **7. Should the term "social justice" as a defined term be modified?**

Some speakers suggested that the defined term of social justice be modified to more accurately describe the problem. The Bill defines "social justice" as follows:

*Social justice means a social construct that artificially divides people into distinct groups based on age, gender, sexual orientation, gender identification, religion, or disability.*

The definition of social justice is really describing social injustice. However, as used elsewhere in the Bill social justice is equated with racial equity. This could be resolved by modifying the defined term as follows:

*Social justice issues means [[a]] one or more social [[construct]] constructs that artificially [[divides]] divide people into distinct groups based on age, gender, sexual orientation, gender identification, religion, or disability.*

The Executive suggested the following definitions for racial equity and social justice.

*Racial Equity means changes in policy, practice and allocation of County resources so that race and racial constructs do not predict one's success.*

*Social Justice means that everyone deserves to benefit from the same economic, political and social rights and opportunities, regardless of race, socioeconomic status, gender, sexual preference, religion, disability or other characteristics.*

**Committee recommendation (3-0):** use the Executive’s suggested definition of social justice with modifications. See lines 62-66 and 162-166 of the Bill.

**8. Does the Bill weaken the requirement for the Planning Board to consider environmental issues as part of a proposed master plan?**

Surprisingly, most of the correspondence received to date about Bill 27-19 opposes a provision in the Bill that these correspondents mistakenly allege weakens the Planning Board’s need to assess environmental issues as part of a proposed master plan. **The Bill does not change the Planning Board’s requirement to assess the plan’s potential impact on greenhouse gas conditions.** The Bill adds a new requirement for the Planning Board to consider the impact of a proposed master plan on racial equity and social justice in the County. The amendments to this section update the references to State law and change the style of the language to accommodate the addition of the new racial equity and social justice requirement. The Bill does not change the standard for evaluating the Planning Board’s compliance with the environmental review.

However, in order to clarify the intent of Bill 27-19 and eliminate any confusion about a possible change in the requirement for the Planning Board to consider environmental issues when adopting a proposed master plan, Councilmember Friedson introduced a clarifying amendment. **Committee recommendation (3-0):** adopt Friedson Amendment 1. See lines 280-293 of the Bill.

**9. Should the Bill focus on racial equity only?**

Some of the speakers were concerned that the addition of social justice issues based on age, gender, sexual orientation, gender identification, religion, and disability reduces the focus of the Bill on creating racial equity. The original OLO study focused on racial equity only. While it is important to eliminate discrimination based on age, gender, sexual orientation, gender identification, religion, and disability, are we moving away from the original purpose of this effort to remedy systemic inequities due to race? Race is defined as follows in the Bill as introduced:

Race means a social construct that artificially divides people into distinct groups based on characteristics such as physical appearance (including color), ancestral heritage, cultural affiliation, cultural history, ethnic classification, and the social, economic and political needs of a society at a given period.

This is a comprehensive definition of race that includes more than physical characteristics. However, any discrimination based on age, gender, sexual orientation, gender identification, religion, or disability is a significant bar to permitting all County residents from reaching their full potential. **Committee recommendation (3-0):** no change.

**10. Should the composition of the Advisory Committee be modified?**

Many of the speakers suggested expanding the Advisory Committee to include a total of 9 public members from the community. The Bill would establish a 9 member committee with 3 public members and 6 members who represent different County departments or independent County agencies. Adding 6 more public members would provide a majority of public members and expand



the Committee to 15 members. Section 2-146 provides that a committee should consist of between 5 and 15 members. Planning Board Chair Anderson suggested that one member should be from the Maryland-National Capital Park and Planning Commission. Fifteen members may be difficult to work with, but not impossible. The composition of the members is a policy issue for the Committee.

The Executive submitted the following comments about the composition of the Committee at ©27:

- *The Executive suggests that the Advisory Committee be increased to a number that would accommodate the number of public members to be equal to or greater than that of county employees.*
- *The Executive requests that the Executive be given discretion to choose the departments from which the employee members will be appointed.*
- *The Executive suggests deleting the qualification that "each member should have some experience in redressing disparate impacts based on race" as it disqualifies a large portion of potential members who may not have "experience" but would bring valuable insights to the board.*

**Committee recommendation (3-0):** amend the Bill to add the Chair of the Planning Board or the Chair's designee as a member of the Committee and add 5 additional public members. Change the HOC employee to the Chair of the HOC or the Chair's designee and change an employee of MCPS to a designee of a public educational system in the County. The amendment would also require the employee from the Police Department to be a sworn officer. See lines 200-230 of the Bill.

#### **11. Should public members of the Advisory Committee be paid for service?**

The Bill, as introduced, would not provide compensation for public members. This is consistent with almost every other group established by law or resolution. The only exceptions are standing commissions that perform quasi-judicial functions, such as the Board of Appeals, the Merit System Protection Board, and the Planning Board. Many speakers suggested that public members be paid to make it possible for low income resident to serve. The Advisory Committee is a volunteer board that provides advice to the Executive and the Council and would not provide quasi-judicial functions. If the Council provides compensation for public members of the Advisory Committee, it would be difficult to deny similar compensation to other volunteer public members of groups established by law or resolution. **Committee recommendation (3-0):** amend the Bill to authorize a \$2,000.00 annual stipend for each public member. See lines 236-240 of the Bill.

#### **12. Should the Advisory Committee have additional duties?**

Some of the speakers requested amendments to enhance the role of the Advisory Committee. Some speakers requested amendments to authorize the Advisory Committee to prevent legislation or budget decisions that the Committee determines are not promoting racial equity and social justice. An amendment of this nature would be an unlawful delegation of legislative authority by the Council. **Committee recommendation (3-0):** amend the Bill to enhance the Committee's role by requiring

the Committee to periodically meet with the racial equity and social justice lead for each department and office. See lines 273-274 of the Bill.

**13. Should the Bill require funding to implement this program?**

Many speakers requested an amendment to require full funding for the new Office of Racial Equity and Social Justice and full funding to implement the Racial Equity and Social Justice Action Plan. However, any legislation requiring an appropriation of funds can be overridden by 5 Councilmembers each year during the Council's budget deliberations. While recognizing this, Council President Navarro introduced an amendment to require the Council to ensure adequate funding to implement this program. **Committee recommendation (3-0):** amend the Bill to require the Council to ensure sufficient funding. See lines 140-144 of the Bill.

**14. Should the description of the mandatory components of the racial equity and social justice action plan be modified?**

The Executive requested some modifications to the existing language describing the components of the racial equity and social justice action plan.

The Bill, as introduced, read:

- (C) the use of a racial and social justice equity lens in establishing new programs and evaluating existing programs;
- (D) a requirement for the Executive to submit a racial equity and social justice impact statement to the Council for each management initiative or program that would be funded in the Executive's annual recommended operating and capital budgets;
- (E) short term and long-term goals for redressing inequity;

*The Executive suggests the following changes:*

- (C) *the use of explicit racial equity and social considerations in establishing new programs and evaluating existing programs;*
- (D) *a requirement for the Executive to explain how management initiatives and programs that would be funded in the Executive's annual recommended operating and capital budgets promote racial equity and social justice;*
- (E) *short term and long-term goals for promoting racial equity and social justice;*

**Committee recommendation (3-0):** amend the Bill to use the Executive's suggested language. See lines 97-107 of the Bill.

**15. What should be the effective date of the Bill?**

Without amendment, the Bill would take effect 91 days after it is signed into law. However, staffing the new Office of Racial Equity and Social Justice and providing sufficient resources for OLO to prepare racial equity and social justice impact statements for each bill is going to take

more than 90 days. **Committee recommendation (3-0):** amend the Bill to delay the effective date of the provision (§2-81C) requiring impact statements for bills until August 1, 2020. The remaining provisions of the Bill would take effect 91 days after the date the Bill is signed into law pursuant to Charter §112. See lines 294-299 of the Bill.

This packet contains:

	<u>Circle #</u>
Bill 27-19	1
County Attorney Bill Review memorandum	15
Fiscal and Economic Impact statement	19
Executive's comments and suggested amendments	27

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Bill No. 27-19  
Concerning: Administration - Human Rights - Office of Racial Equity and Social Justice - Racial Equity and Social Justice Advisory Committee - Established  
Revised: November 14, 2019 Draft No. 9  
Introduced: September 17, 2019  
Expires: March 17, 2021  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Council President Navarro  
Co-Sponsors: Councilmembers Jawando, Rice, Huckler, Riemer, Vice President Katz,  
Councilmembers Alborno, Friedson and Glass

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**AN ACT** to:

- (1) establish a racial equity and social justice program;
- (2) establish an Office of Racial Equity and Social Justice in the Executive Branch;
- (3) remove the Chief Equity Officer position in the Office of the Executive as a non-merit position;
- (4) require the Executive to adopt, by Method 2 regulation, a racial equity and social justice action plan for the County;
- (5) require each Department and Office to develop a racial equity and social justice action plan;
- (6) require the ~~[[Executive]]~~ Director of the Office of Legislative Oversight to submit a racial equity and social justice impact statement to the Council for each Bill;
- (7) require the Executive to explain how ~~[[and for]]~~ each management initiative or program in the recommended budget would promote racial equity and social justice;
- (8) ~~[[7]]~~ establish a Racial Equity and Social Justice Advisory Committee and set forth the composition, compensation, and duties of the Committee;
- (9) ~~[[8]]~~ require the Planning Board to consider racial equity and social justice impact when preparing a Master Plan; and
- (10) ~~[[9]]~~ generally amend the law governing racial equity and social justice.

By amending

Montgomery County Code  
Chapter 1A, Structure of County Government  
Section 1A-201

Chapter 2, Administration  
Sections 2-26 and 2-64A

Chapter 33A, Planning Procedures  
Section 33A-14

By adding

Montgomery County Code  
Chapter 2, Administration  
Section 2-81C

Article XIV.  
Chapter 27, Human Rights and Civil Liberties  
Section 27-83

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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 1A-201, 2-26, 2-64A, and 33A-14 are amended and**  
2           **Sections 2-81C and 27-83 are added as follows:**

3           **1A-201. Establishing departments and principal offices.**

4           (a)   Executive Branch.

5                   (1)   These are the departments and principal offices of the Executive  
6                               Branch.

7   \*               \*               \*

8   Public Libraries (Section 2-45 et seq.)

9   Racial Equity and Social Justice (Section 2-64A)

10    Recreation (Section 2-58)

11    \*               \*               \*

12           **2-26. Non-merit positions.**

13           The following positions in the Office of the County Executive are non-merit  
14           positions:

- 15           (a)   5 Directors of the Regional Services Centers;
- 16           (b)   Director, Office of Community Partnerships;
- 17           (c)   Director, Criminal Justice Coordinating Commission;
- 18           (d)   4 Assistant Chief Administrative Officers;
- 19           (e)   Special Projects Manager;
- 20           (f)   Chief Labor Relations Officer; and
- 21           (g)   Chief Digital Officer [; and
- 22           (h)   Chief Equity Officer].

23           **Division 13. [Reserved] Office of Racial Equity and Social Justice.**

24           **2-64A. [Reserved] Office of Racial Equity and Social Justice.**

25           (a)   Findings.

26                   (1)   Although not unique to the County, many County residents suffer  
27                               from stark disparities linked to race and social justice issues.

- 28           (2)    These disparate outcomes among County residents include wealth,  
 29                           housing, criminal justice, education, and health.
- 30           (3)    Inequitable outcomes linked to race and social justice issues will  
 31                           persist in the County without intentional intervention.
- 32           (4)    The work to dismantle racial and social justice inequity must occur  
 33                           on an individual, institutional, and structural basis.

34   (b)    Definitions. As used in this Division:

35           Director means the Director of the Office of Racial Equity and Social  
 36           Justice or the Director’s designee.

37           Equity means fair and just opportunities and outcomes for all people.

38           Equity assessment means a systematic process of identifying policies and  
 39           practices that may be implemented to identify and redress disparate  
 40           outcomes on the basis of race or social justice issues.

41           Individual racism means explicit or implicit pre-judgment bias or  
 42           discrimination by an individual based on race.

43           Inequity means systematic and patterned differences in well-being that  
 44           disadvantage one group in favor of another caused by past and current  
 45           decisions, systems of power and privilege, and policies.

46           Institutional racism means policies, practices, and procedures that work  
 47           better for some members of a community than others based on race.

48           Office means the Office of Racial Equity and Social Justice.

49           Race means a social construct that artificially divides people into distinct  
 50           groups based on characteristics such as physical appearance (including  
 51           color), ancestral heritage, cultural affiliation, cultural history, ethnic  
 52           classification, and the social, economic and political needs of a society at  
 53           a given period.

54 Racial equity and social justice means changes in policy, practice and  
 55 allocation of County resources so that race or social justice constructs do  
 56 [[does]] not predict one's success, while also improving opportunities and  
 57 outcomes for all people.

58 Racial equity and social justice action plan means a comprehensive plan  
 59 to incorporate and embed racial equity and social justice principles and  
 60 strategies into operations, programs, service policies, and community  
 61 engagement.

62 Social justice means [[a social construct that artificially divides people  
 63 into distinct groups based on]] that everyone deserves to benefit from the  
 64 same economic, political and social rights and opportunities, regardless  
 65 of race, socioeconomic status, age, gender, sexual orientation, gender  
 66 identification, religion, [[or]] disability or other characteristics.

67 Structural racism means the history and current reality of institutional  
 68 racism across public and private institutions which combine to create a  
 69 system that negatively impacts certain groups based on race.

70 (c) Functions. After consulting with each department and office, the Office  
 71 must:

72 (1) perform an equity assessment to identify County policies and  
 73 practices that must be modified to redress disparate outcomes  
 74 based on race or social justice;

75 (2) develop metrics to measure progress in redressing disparate  
 76 outcomes based on race or social justice;

77 (3) work with each County department and office to develop a racial  
 78 equity and social justice [[equity]] action plan designed to remedy  
 79 individual, institutional, and structural racism or social justice  
 80 issues adversely impacting County residents;



- 81           (4) provide racial equity and social justice [[equity]] training to
- 82                     County employees;
- 83           (5) develop short term and long term goals for success in redressing
- 84                     disparate outcomes based on race or social justice issues;
- 85           (6) measure progress in meeting both short term and long term goals;
- 86                     and
- 87           (7) provide staff support for the Racial Equity and Social Justice
- 88                     [[Equity]] Advisory Committee.

89    (d) Racial Equity and Social Justice [[Equity]] Action Plan.

- 90           (1) The Executive must adopt, by Method 2 regulation, a racial equity
- 91                     and social justice [[equity]] action plan.
- 92           (2) The racial equity and social justice [[equity]] action plan must
- 93                     include:
  - 94                     (A) a community engagement process;
  - 95                     (B) mandatory racial equity and social justice training for
  - 96                             [[managers and supervisors]] all County employees;
  - 97                     (C) the use of [[a]] explicit racial equity and social [[justice
  - 98                             equity lens]] considerations in establishing new programs
  - 99                             and evaluating existing programs;
  - 100                    (D) a requirement for the Executive to [[submit a racial equity
  - 101                             and social justice impact statement to the Council for]]
  - 102                             explain how each management initiative or program that
  - 103                             would be funded in the Executive’s annual recommended
  - 104                             operating and capital budgets promotes racial equity and
  - 105                             social justice;
  - 106                    (E) short term and long term goals for [[redressing inequity]]
  - 107                             promoting racial equity and social justice;

- 108 (F) metrics for measuring progress in meeting these goals;
- 109 (G) guidelines for each department and office to develop its own
- 110 equity action plan;
- 111 (H) recommended racial equity and social justice [[equity]]
- 112 tools and strategies for a department or office to use in
- 113 redressing disparities based on race or social justice issues;
- 114 and
- 115 (I) priority areas for additional County efforts.
- 116 (e) Reports. The Director must submit an annual report on the activities of
- 117 the Office to the Executive and the Council on or before each September
- 118 30. The report must include:
- 119 (1) the metrics used to measure the success of each short term and long
- 120 term goal of the approved racial equity and social justice [[equity]]
- 121 action plan;
- 122 (2) the progress toward meeting the goals of the approved racial equity
- 123 and social justice [[equity]] action plan; and
- 124 (3) any recommendations for changes in law, regulation, or operating
- 125 budget resources to assist in meeting the goals of the racial equity
- 126 and social justice [[equity]] action plan.
- 127 (f) Responsibilities of each department and office. Each Executive and
- 128 Legislative Branch department and office must:
- 129 (1) designate an employee to serve as the racial equity and social
- 130 justice [[equity]] lead for the department or office to coordinate
- 131 work with the Office;
- 132 (2) develop a department or office racial equity and social justice
- 133 [[equity]] action plan in coordination with the Office; and
- 134 (3) provide information to the Office as needed.

- 135 (g) Responsibility of the Council. The Council must:  
 136 (1) establish a structure to provide oversight of the County’s progress  
 137 in meeting its racial equity and social justice goals. The Council  
 138 may retain experts from academic and scientific organizations to  
 139 assist the Council with this oversight responsibility; and  
 140 (2) ensure that the operating budget is sufficient:  
 141 (A) for the Office of Racial Equity and Social Justice to provide  
 142 the services required by this Section; and  
 143 (B) to implement the Racial Equity and Social Justice Action  
 144 Plan.

145 **2-81C. Racial Equity and Social Justice [[Equity]] Impact Statements.**

- 146 (a) Definitions. In this Section, the following words and phrases have the  
 147 following meanings:

148 Director means the Director of the Office of [[Racial Equity and Social  
 149 Justice]] Legislative Oversight or the Director’s designee.

150 Race means a social construct that artificially divides people into distinct  
 151 groups based on characteristics such as physical appearance (including  
 152 color), ancestral heritage, cultural affiliation, cultural history, ethnic  
 153 classification, and the social, economic and political needs of a society at  
 154 a given period.

155 Racial equity and social justice means changes in policy, practice and  
 156 allocation of County resources so that race or social justice constructs do  
 157 [[does]] not predict one’s success, while also improving opportunities and  
 158 outcomes for all people.

159 Racial equity and social justice impact means an estimate of changes in  
 160 racial equity and social justice in the County attributable to a change in  
 161 the law.

162 Social justice means [[a social construct that artificially divides people  
 163 into distinct groups based on]] that everyone deserves to benefit from the  
 164 same economic, political and social rights and opportunities, regardless  
 165 of race, socioeconomic status, age, gender, sexual orientation, gender  
 166 identification, religion, [[or]] disability or other characteristics.

167 (b) Racial Equity and Social Justice [[Equity]] impact statement. The  
 168 Director must submit a statement to the Council describing the racial  
 169 equity and social justice [[equity]] impact, if any, of each bill under  
 170 consideration by the Council. The Director must submit a separate  
 171 statement for each bill.

172 (c) Time for submission. A racial equity and social justice impact statement  
 173 should be submitted to the Council:

174 (1) no later than 7 days before the public hearing on each bill  
 175 introduced by the Council President at the request of the County  
 176 Executive; and

177 (2) no more than 21 days after a bill sponsored by a Councilmember  
 178 is introduced.

179 If the Director is unable to submit the statement within the time required  
 180 by paragraph (2), the Director must notify the Council President in  
 181 writing of the delay, the reason for the delay, and the revised delivery  
 182 date. If the Council President finds that the revised delivery date is  
 183 unreasonable, the Council President may set a different delivery deadline.

184 (d) Content of racial equity and social justice impact statement. Each racial  
 185 equity and social justice impact statement must include:

186 (1) the sources of information, assumptions, and methodologies used;

- 187           (2)    an estimate of both positive and negative changes in racial equity
- 188                   and social justice [[equity]] in the County as a result of the
- 189                   implementation of the bill;
- 190           (3)    recommended amendments that may promote racial equity and
- 191                   social justice [[equity]]; and
- 192           (4)    if a bill is likely to have no racial equity or social justice [[equity]]
- 193                   impact, why that is the case.
- 194           (e)    Compliance. Council action on [[a]] an expedited bill that is otherwise
- 195                   valid is not invalid because of any failure to follow the requirements of
- 196                   this Section.

**ARTICLE XIV. RACIAL EQUITY AND SOCIAL JUSTICE ADVISORY**  
**COMMITTEE.**

**27-83. Racial Equity and Social Justice Advisory Committee.**

- 200           (a)    Members. The Executive must appoint, subject to confirmation by the
- 201                   Council, a Racial Equity and Social Justice Advisory Committee. The
- 202                   Committee must have [[9]] 15 voting members. At least 6 of the voting
- 203                   members must, when appointed, either reside in or be an employee of the
- 204                   County.
- 205           (1)    Voting members. The members must reflect a range of ethnicities,
- 206                   professional backgrounds, socioeconomic status, and places of
- 207                   origin to reflect the racial, [[and]] economic, and linguistic
- 208                   diversity of the County’s communities, with an emphasis on those
- 209                   most [[proportionately]] disproportionately impacted by
- 210                   inequities. Each member should have some experience in
- 211                   redressing disparate impacts based on race and social justice
- 212                   issues.

- 213                   (A) One member should be [[an employee]] a designee of [[the  
 214                                   Montgomery County Public Schools]] a public education  
 215                                   system in the County.
- 216                   (B) One member should be [[an employee]] the Chair of the  
 217                                   Housing Opportunities Commission or the Chair's  
 218                                   designee.
- 219                   (C) One member should be a designee of the County Council.
- 220                   (D) One member should be an employee of the County  
 221                                   Department of Health and Human Services.
- 222                   (E) One member should be an employee of the County  
 223                                   Department of Correction and Rehabilitation.
- 224                   (F) One member should be [[an employee]] a sworn officer of  
 225                                   the County Police Department.
- 226                   (G) One member should be the Chair of the Montgomery  
 227                                   County Planning Board or the Chair's designee.
- 228                   (H) [[Three]] Eight members should be a public member with  
 229                                   experience in redressing disparate impacts based on race  
 230                                   and social justice issues.
- 231                   (2) Term. Each member serves a 3-year term. A member must not  
 232                                   serve more than 2 consecutive full terms. A member appointed to  
 233                                   fill a vacancy serves the rest of the unexpired term. Members  
 234                                   continue in office until their successors are appointed and  
 235                                   qualified.
- 236                   (3) Compensation. [[Members]] Except for the 8 public members,  
 237                                   members must receive no compensation for their services. [[A]]  
 238                                   Each of the 8 public [[member]] members may receive an annual

239 stipend of \$2,000.00 and reimbursement for expenses incurred in  
 240 servicing.

241 [(4) Removal. The Executive, with the consent of the Council, may  
 242 remove a member for neglect or inability to perform the duties of  
 243 the office, misconduct in office, or a serious violation of law.  
 244 Before the Executive removes a member, the Executive must give  
 245 the member notice of the reason for removal and a reasonable  
 246 opportunity to reply.]]

247 (b) Chair and Vice Chair. The Committee must annually elect one member  
 248 as chair and another as vice chair and may elect other officers.

249 (c) Meetings. The Committee may meet at the call of the chair as often as  
 250 required to perform its duties, but at least 6 times each year. The  
 251 Committee must also meet if a majority of the members submit a written  
 252 request for a meeting to the chair at least 7 days before the proposed  
 253 meeting. A majority of the members are a quorum for the transaction of  
 254 business, and a majority of members present at any meeting with a  
 255 quorum may take an action.

256 (d) Staff. The Office of Racial Equity and Social Justice must provide the  
 257 Committee with staff, offices, and supplies as are appropriate.

258 (e) Duties. The Committee must:

- 259 (1) adopt rules and procedures as necessary to perform its functions;
- 260 (2) keep a record of its activities and minutes of all meetings, which  
 261 must be kept on file and open to the public during business hours  
 262 upon request;
- 263 (3) develop and distribute information about racial equity and social  
 264 justice in the County;

- 265 (4) promote educational activities that increase the understanding of
- 266 racial equity and social justice in the County;
- 267 (5) recommend coordinated strategies for reducing racial and social
- 268 justice inequity in the County;
- 269 (6) advise the Council, the Executive, and County agencies about
- 270 racial equity and social justice in the County, and recommend
- 271 policies, programs, legislation, or regulations necessary to reduce
- 272 racial and social justice inequity; [[and]]
- 273 (7) meet periodically with the racial equity and social justice lead for
- 274 each department and office; and
- 275 (8) submit an annual report by December 1 of each year to the
- 276 Executive and Council on the activities of the Committee.
- 277 (f) Advocacy. The Committee must not engage in any advocacy activity at
- 278 the State or federal levels unless that activity is approved by the Office of
- 279 Intergovernmental Relations.

280 **33A-14. Greenhouse Gas Emissions and Racial Equity and Social Justice.**

281 As part of the factors and conditions outlined in [§7-108] Section 21-204 of the

282 Regional District Act and [§ 1.01 and § 1.03 of Article 66B,] Section 1-201 of the Land

283 Use Article of the Maryland Code in preparing the Plan, the Planning Board must:

- 284 (a) [[consider the environmental impact of the plan by:]]
- 285 [[(1) [assess] assessing]] assess the Plan’s potential impact on
- 286 greenhouse gas emissions in the County, including a carbon
- 287 footprint analysis;
- 288 (b) [[(2) [(b) consider] considering]] consider ways to reduce vehicle
- 289 miles traveled in the County; [[and]]
- 290 (c) [[(3) [(c) consider] considering]] consider options that would
- 291 minimize greenhouse gas emissions; and



292 (d) ~~[(b)]~~ consider the impact of the plan on racial equity and social justice  
293 in the County, as defined in Section 2-64A.

294 **Sec. 2. Transition and Effective Date.**

295 The first report of the Office of Racial Equity and Social Justice required in  
296 Section 1 must be submitted to the Council on or before September 30, 2020 and the  
297 first report of the Racial Equity and Social Justice Committee required in Section 1  
298 must be submitted to the Executive and the Council on or before December 1, 2020.  
299 Section 2-81C of this Act added in Section 1 takes effect on August 1, 2020.

300 *Approved:*

301

\_\_\_\_\_  
Nancy Navarro, President, County Council

Date

302 *Approved:*

303

\_\_\_\_\_  
Marc Elrich, County Executive

Date

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

305

\_\_\_\_\_  
Mary Anne Paradise, Acting Clerk of the Council

Date



OFFICE OF THE COUNTY ATTORNEY

Marc Elrich  
County Executive

Marc P. Hansen  
County Attorney

MEMORANDUM

TO: BB Otero, Special Assistant  
Office of the County Executive

VIA: Marc P. Hansen *MAH/ERJ*  
County Attorney

FROM: Edward B. Lattner, Chief *EBL*  
Division of Government Operations

DATE: October 7, 2019

RE: **Bill 27-19, Administration - Human Rights - Office of Racial Equity and Social Justice - Racial Equity and Social Justice Committee - Established**

Bill 27-19 calls upon the County to employ an “equity lens” to identify and analyze class-based discrimination experienced by its residents with the ultimate goal of eliminating disparate and inequitable outcomes through a variety of remedial interventions (*e.g.*, action plans, impact statements, training, education). We believe the Bill is legally valid, as the County has broad discretion in identifying and analyzing class-based discrimination. Because the Bill does not impose any remedial interventions based upon suspect (*e.g.*, race) or quasi-suspect (*e.g.*, gender) classes, the Bill is not subject to strict or even heightened legal scrutiny.

We have a few suggested amendments to clarify, and in some cases strengthen, the Council’s stated desire to address racial equity and social justice issues in Montgomery County.

**Defined Terms.**

The largest group of suggested amendments seek to ensure that terms used throughout the Bill consistently match the defined terms. The key phrase in the bill is “**racial equity and social justice.**” To that end, the Bill creates an “Office of Racial Equity and Social Justice” and a “Racial Equity and Social Justice Advisory Committee.” But that phrase is not used consistently throughout the Bill. Also, while the Bill tasks these bodies with addressing racial equity and social justice issues,<sup>1</sup> it often does so though the use of defined terms that are limited to racial

<sup>1</sup> The Bill defines social justice as “a social construct that artificially divides people into distinct groups based on age, gender, sexual orientation, gender identification, religion, or disability.” The County’s human rights

equity issues and do not include social justice issues. For example:

- In several places (e.g., lines 73-74, 86-87, 112, 114, 117, 121, and 124), the Bill speaks of the need to develop a “racial and social justice equity action plan,” but that term is not defined. The closest defined term, “racial equity action plan” (line 57), excludes social justice considerations. To achieve consistency, we suggest the following:
  - change the text in lines 73-74, 86-87, 112, 114, 117, 121, 124, and elsewhere to “racial equity and social justice [equity] action plan”
  - change the defined term “racial equity action plan” (line 57) to “racial equity and social justice action plan”
  - change the definition of “racial equity and social justice action plan” (line 58) to “a comprehensive plan to incorporate and embed racial equity and social justice principles . . .” to be consistent with the proposed text used elsewhere in the Bill.
- Line 77 speaks of the need to implement “racial and social justice equity” training, but again that term is not defined. The closest defined term, “racial equity” (lines 54 and 142), excludes social justice considerations. To achieve consistency, we suggest the following:
  - change the text in line 77 to “racial equity and social justice [equity] training”
  - change the defined term “racial equity” (lines 54 and 142) to “racial equity and social justice”
  - change the definition of “racial equity and social justice” to “changes in policy, practice and allocation of County resources so that race and social justice constructs do [does] not predict . . .” to be consistent with the proposed text used elsewhere in the Bill.
- Lines 132 and 151-52 require the Director to submit a “racial and social justice equity impact” statement for each bill the Council considers,<sup>2</sup> but that term is not defined. The closest defined term, “racial equity impact” (line 145), excludes

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law identifies additional groups whose status is protected from discrimination, including national origin, marital status, genetic status, source of income, family responsibilities, and presence of children. It is unclear why the definition of social justice does encompass these other groups.

<sup>2</sup> Other variations include “racial equity and social justice impact statement” (line 95) “racial impact statement” (line 154), and “Racial and social justice impact statement” (line 166).

social justice considerations. We suggest the term “racial equity and social justice” (impact statement) be used throughout the Bill for consistency. The definition should be amended to include social justice considerations.

- Line 68 requires the performance of an “equity assessment” based on race or social justice [issues]” but the defined term “equity assessment” (line 38) is limited to racial impacts and does not include social justice issues. This is particularly confusing given that the companion terms “equity” (defined in line 37) and “inequity” (defined in line 43) broadly include racial and social justice issues. We suggest the defined term “equity assessment” be amended to read “. . . to identify and redress disparate outcomes on the basis of race or social justice” to be consistent with the proposed text used elsewhere in the Bill.

### **Legislative Findings.**

Consistent with the defined terms’ focus on racial equity issues, the Council’s legislative findings (particularly findings nos. 1 and 3) are limited to racial equity issues. If the Bill is to address racial equity and social justice, the findings should include support for legislating social justice issues. This could be achieved by adding “and social justice issues” after the term “race” in lines 27 and 30.

### **Racial Equity and Social Justice Advisory Committee.**

Similarly, although the newly created Committee is to address racial equity and social justice issues, the Bill requires that members have experience in redressing disparate impacts based solely on race. The term “social justice issues” should be added.

### **Other Suggestions.**

- Clarify whether the newly created Office is to work solely within the executive branch or whether its work includes legislative branch offices. If the latter, the Bill should also clarify that the Council will adopt a resolution for the legislative branch mirroring the executive regulation, which adopts the racial and social justice equity plan (line 86).
- It seems inconsistent for the Office to provide “racial equity and social justice [equity]” training to all County employees (line 77) but training under the County-wide executive regulation is limited to managers and supervisors (line 90).
- While the Council can certainly provide a specific mechanism for removing the members of the Committee (lines 213-8), the Council might want to rely upon the procedures already existing in § 2-148 for removing committee members.
- The proposed amendment to § 33A-14 should include the definitions of race and social justice (or adopt the definition of those terms found elsewhere in the Bill).

BB Otero  
October 7, 2019  
Page 4

Finally, we note that the Bill's treatment of the Office's failure to submit a timely racial and social justice impact statement to the Council on proposed legislation differs from recently-enacted Bill 10-19's treatment of the Office of Legislative Oversight's failure to submit a timely economic impact statement to the Council on proposed legislation. Specifically, the Bill provides (lines 176-77) that Council action on proposed legislation that is otherwise valid is not invalid because of any failure of the Office to submit a timely racial and social justice impact statement. Bill 10-19, enacted on July 30, provides that council action on **an expedited bill** that is otherwise valid is not invalid because of the Office of Legislative Oversight's failure to submit an economic impact statement. This differing treatment is permissible, but we simply wanted to bring the issue to the Council's attention.

cc: Robert H. Drummer, Senior Legislative Attorney  
Dale Tibbitts, Special Assistant to the County Executive  
Tammy Seymour, OCA

19-008231



ROCKVILLE, MARYLAND

MEMORANDUM

October 23, 2019

TO: Nancy Navarro, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*  
Michael Coveyou, Acting Director, Department of Finance *mc*

SUBJECT: FEIS for Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee - Established

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

c: Andrew Kleine, Chief Administrative Officer  
Fariba Kassiri, Deputy Chief Administrative Officer  
BB Otero, Special Assistant to the County Executive  
Debbie Spielberg, Special Assistant to the County Executive  
Dale Tibbitts, Special Assistant to the County Executive  
Lisa Austin, Office of the County Executive  
Barry Hudson, Director, Public Information Office  
David Platt, Department of Finance  
Dennis Hetman, Department of Finance  
Monika Coble, Office of Management and Budget  
Chrissy Mireles, Office of Management and Budget  
Philip Weeda, Office of Management and Budget

**Fiscal Impact Statement**  
**Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice –**  
**Racial Equity and Social Justice Committee - Established**

**1. Legislative Summary**

The purpose of the proposed legislation is to:

- (1) establish a racial equity and social justice program;
- (2) create an Office of Racial Equity and Social Justice in the Executive Branch;
- (3) eliminate the Chief Equity Officer position in the Office of the County Executive;
- (4) require the Executive to adopt, by Method 2 regulation, a racial equity and social justice action plan for the County;
- (5) require each Department and Office to develop a racial equity and social justice action plan;
- (6) require the Executive Branch to submit a racial equity and social justice impact statement to the Council for each bill and for each management initiative or program in the recommended budget;
- (7) establish a Racial Equity and Social Justice Committee and set forth the composition and duties of the Committee;
- (8) require the Planning Board to consider the equity and social justice impact when preparing a Master Plan;
- (9) require departments to designate an employee to be the racial equity and social justice lead to coordinate with the Office of Racial Equity and Social Justice; and
- (10) require the County Council to provide oversight of the County's progress in meeting its racial equity and social justice goals.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Include source of information, assumptions, and methodologies used.**

Assuming the Office of Racial Equity and Social Justice has two positions, OMB estimates the cost of a non-merit Director and a Senior Executive Administrative Assistant to be \$317,920. Adding \$57,940 to the budget for other operating expenses, furniture, equipment, and personal computers, will increase the cost of the office to \$375,860 as shown on the chart on the following page:

Office Director	\$203,380
Sr. Executive Administrative Assistant	\$114,540
Office Furniture & Equipment	\$6,000
Other Operating Expenses	\$50,000
Dell Desktop w/ 23 FP Monitor @ \$970	\$1,940
<b>Total:</b>	<b>\$375,860</b>

These costs would be partially offset by the elimination of the Chief Equity Officer position (-\$161,950) for a total net cost increase of \$213,910 as illustrated on the chart below.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Office Director	\$203,380	\$207,450	\$211,600	\$215,830	\$220,150	\$224,550
Sr. Executive Administrative Assistant	\$114,540	\$116,830	\$119,170	\$121,550	\$123,980	\$126,450
Furniture & Equipment	\$6,000	\$0	\$0	\$0	\$0	\$0
Other Operating Expenses	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
Dell Desktop w/ 23 FP Monitor	\$1,940	\$0	\$0	\$0	\$0	\$0
Chief Equity Officer	-\$161,950	-\$165,190	-\$168,490	-\$171,860	-\$175,300	-\$178,810
<b>Total:</b>	<b>\$213,910</b>	<b>\$209,090</b>	<b>\$212,280</b>	<b>\$215,520</b>	<b>\$218,830</b>	<b>\$222,200</b>

In the chart above, the Director and Senior Executive Administrative Assistant positions were provided with an annual, two percent cost-of-living adjustment. Other operating expenses of \$50,000 were straight lined in the outyears.

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable.

**5. An estimate of expenditures related to County's Information Technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

There may be other indeterminate costs across County government associated with the implementation of the bill's requirements.



**6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Not applicable.

**7. An estimate of the staff time needed to implement the bill.**

Two full-time staff are assumed for the proposed Office of Racial Equity and Social Justice.

**8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not applicable.

**9. An estimate of costs when an additional appropriation is needed.**

Not applicable.

**10. A description of any variable that could affect revenue and cost estimates.**

Not applicable.

**11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable.

**12. If a bill is likely to have no fiscal impact, why that is the case.**

Not applicable.

**13. Other fiscal impacts or comments.**

Not applicable.

**14. The following contributed to and concurred with this analysis:**


Cynthia Brenneman, Department of General Services

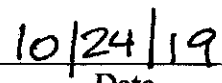
Helen Ni, Department of Technology Services

Kimberly Williams, Office of Human Resources

Sonetta Neufville, County Executive's Office

Philip Weeda, Office of Management and Budget

  
\_\_\_\_\_  
Richard S. Madaleno, Director  
Office of Management and Budget

  
\_\_\_\_\_  
Date

**Economic Impact Statement**  
**Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee - Established**

**Background:**

This legislation would establish a formal process to address racial equity issues in Montgomery County. Bill 27-19 would:

- establish a racial equity and social justice program;
- establish an Office of Racial Equity and Social Justice in the Executive Branch;
- remove the Chief Equity Officer position in the Office of the Executive as a non-merit position;
- require the Executive to adopt by Method 2 regulation, a racial equity and social justice action plan for the County;
- require each Department and Office to develop a racial equity and social justice action plan;
- require the Executive to submit a racial equity and social justice impact statement to the Council for each Bill and for each management initiative or program in the recommended budget;
- establish a Racial Equity and Social Justice Committee and set forth the composition and duties of the Committee; and
- require the Planning Board to consider racial equity and social justice impact when preparing a Master Plan.

**1. The sources of information, assumptions, and methodologies used.**

The Department of Finance (Finance) reviewed two documents in the preparation of the economic impact statement: *Racial Equity in Government Decision-Making: Lessons from the Field, Report Number 2018-8, Office of Legislative Oversight, September 25, 2018*, and *Racial Inequities in Montgomery County, Urban Institute, December 2017*. Finance did not make assumptions or develop and use methodologies in the preparation of the economic impact statement

The study from the Urban Institute (study) reviewed data from Districts 1, 2, 3, 4, and 5. The study's methodology determines equity gaps using a comparison of each demographic group to the countywide white rate. According to the study: "The demographic distribution in the five county districts varied widely. In Districts 2 and 3, the breakdown of race and ethnicity mirrored that of the county. Districts 4 and 5 had the highest proportion of blacks, Hispanics, and the lowest of whites."

**Educational Attainment**

**Economic Impact Statement**  
**Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee - Established**

The study first concluded: “In an equitable Montgomery County, 42,700 more immigrants, 31,800 more Hispanics, and 6,500 more Asians or Pacific Islanders, and 6,200 more black adults would have high school degrees. And 64,800 more immigrants, 46,500 more Hispanics, 17,500 more blacks, and 7,300 more Asian or Pacific Islanders would have some college education.”

**Income**

The study’s second conclusion: “In an equitable Montgomery County, an additional 16,000 Hispanic families, 14,000 black families, and 5,000 more Asian or Pacific Islander families would have incomes above \$75,000. And 17,500 more immigrants, 14,800 Hispanic, 13,100 more black and 3,500 more Asian or Pacific Islander residents would live above the poverty level.”

**Employment**

The study’s third conclusion: “In an equitable Montgomery County, 24,800 fewer Hispanics, 12,900 fewer blacks, and 5,600 fewer Asian or Pacific Islanders who are working full time would have earnings below \$35,000. And an additional 29,000 Hispanic residents, 19,900 black resident, and 7,500 Asian or Pacific Islanders working full time would earn a living wage.”

**Homeownership and Mobility**

The study’s conclusion: “In an equitable Montgomery County, 19,600 more blacks, 12,000 more Hispanics, and 800 more Asians or Pacific Islanders would be homeowners, and the most gains in homeownership would occur in District 5.”

The report by the Office of Legislative Oversight (OLO) provided fourteen recommendations for the County in the short-term to medium term (page iv). Those recommendations ranged from “leadership training on racial equity” to “develop process for evaluating equity efforts.” The report also provided seven long-term recommendations ranging from “mandate training for racial equity teams, managers, and supervisors” to “evaluate data and accountability.”

**2. A description of any variable that could affect the economic impact estimates.**

Based on the Urban Institute study, the variables that could affect the economic impacts from Bill 27-19 are educational attainment, income, employment and homeownership and mobility.

**3. The Bill’s positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

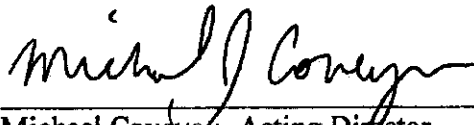
Bill 27-19 may have a positive economic effect on the County’s economy.

**Economic Impact Statement**  
**Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee - Established**

**4. If a Bill is likely to have no economic impact, why is that the case?**

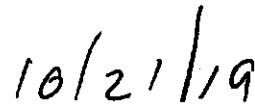
Please see paragraph 3.

**5. The following contributed to or concurred with this analysis: David Platt and Rob Hagedoorn, Finance.**



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Michael Coveyou, Acting Director  
Department of Finance



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Date

TO: County Council President Nancy Navarro

FROM: Dale Tibbitts on behalf of the County Executive

DATE: October 31, 2019

CONTACTS: BB Otero and Tiffany Ward

RE: **Bill 27-19 – Human Rights- Office of Racial Equity and Social Justice – Racial Equity and Social Justice Committee - Established**

The Executive has reviewed the memorandum submitted by County Attorney on October 7, 2019 and is in full agreement with the suggested amendments and legislative findings as presented.

The Executive makes the following additional suggested changes:

**2-64A. Office of Racial Equity and Social Justice**

**(b) Definitions**

Suggested Language for definition of Racial Equity and Social Justice:

*(line 57) Racial Equity means changes in policy, practice and allocation of County resources so that race and racial constructs do not predict one's success*

*(line 60) Social Justice means that everyone deserves to benefit from the same economic, political and social rights and opportunities, regardless of race, socioeconomic status, gender, sexual preference, religion, disability or other characteristics.*

Lines 92-102 currently read:

- (C) the use of a racial and social justice equity lens in establishing new programs and evaluating existing programs;
- (D) a requirement for the Executive to submit a racial equity and social justice impact statement to the Council for each management initiative or program that would be funded in the Executive's annual recommended operating and capital budgets;
- (E) short term and long-term goals for redressing inequity;

*The Executive suggests the following changes:*

- (C) *the use of explicit racial equity and social considerations in establishing new programs and evaluating existing programs;*
- (D) *a requirement for the Executive to explain how management initiative and programs that would be funded in the Executive's annual recommended operating and capital budgets promote racial equity and social justice;*

(E) *short term and long-term goals for promoting racial equity and social justice*

**2-81C. (b) Racial Equity and Social Justice Statements**

Lines 150 -153 currently reads:

(b)*Racial and Social Justice Equity impact statement.* The Director must submit a statement to the Council describing the racial and social justice equity impact, if any, of each bill under consideration by the Council. The Director must submit a separate statement for each bill.

*The Executive Branch suggests that the racial equity and social justice impact statement for each Council bill be written and submitted to Council by the Office of Legislative Oversight and NOT by the Director of the Office of Racial Equity and Social Justice.*

**Article XIV, Racial Equity and Social Justice Advisory Committee**

Lines 180-204

The Bill authorizes the Executive to appoint 9 members to The Racial Equity and Social Justice Advisory Committee, 6 members are specified as employees of the county.

- *The Executive suggests that the Advisory Committee be increased to a number that would accommodate the number of public members to be equal to or greater than that of county employees*
- *The Executive requests that the Executive be given discretion to choose the departments from which the employee members will be appointed.*
- *The Executive suggests deleting the qualification that “each member should have some experience in redressing disparate impacts based on race” as it disqualifies a large portion of potential members who may not have “experience” but would bring valuable insights to the board.*