

## **Open Work Session**

### **Proposed Legislation for Property Tax Credit for Disabled Law Enforcement Officers, Rescue Workers, and the Surviving Spouse of a Fallen Law Enforcement Officer or Rescue Worker**

**March 15, 2022**

Mr. Paul Wilber, County Attorney; Ms. Erica Witt, Esquire; and Mr. Tim Arnett came before Council.

Ms. Acle explained, she worked with a citizen group last year and they proposed this State enabling Legislation that allows the County to enable these tax credits. She said she asked Mr. Cannon to put it on the agenda in December, and when she saw the brief book, it was changed significantly. She said she had some conversations with Mr. Mitchell and then this morning she got another opinion from Mr. Wilber, so she is hoping today they can refocus to the original proposed Legislation and work from there. She said she thinks that it is almost like a cricket in the microwave and this has popcorned all over the place. She clarified, they have gone from a one-paragraph Bill to six pages, so she does not know if it is proper to ask that they go back to the original that the citizens proposed and work from there, and then they can give their attorneys some guidance on what they would like to see.

Mr. Cannon said they talked in December, and he thinks Ms. Acle is aware of the discussions he has had with Mr. Arnett. He explained, he was trying to get a fiscal note from the Executive regarding this, and they were trying to review it very carefully through Finance to find out exactly what the impact might be. He clarified, whether it is \$5,000 or \$500,000, he thought it was Council's responsibility to make sure they did not just pass Legislation that committed this County to an unknown number, so that is the reason for what he would consider the delay. He said they finally got a response from the Executive and the Finance Director a couple weeks ago and they came to the conclusion that there is nothing conclusive about what the financial impact might be. He said he realized also that Calvert County or Carroll County also said in their documentation that they could not come up with a true fiscal note on this. He explained, at that time, he realized they were going to greenlight this and get it on the second meeting in March, so those were the reasons for allowing enough time for everyone to vet this properly.

Mr. Cannon said, on another note, the original Bill that was drafted referenced a particular Section of the Maryland Public Safety Article that mentioned the fact that, as he interpreted it, a firefighter from Pennsylvania, West Virginia, Delaware, or Virginia would qualify, and he had concerns about that as this is for the firefighters in Wicomico County and these are Wicomico County citizens footing this bill, and he wanted to make sure they had a Bill that was geared towards Wicomico County. He said, in understanding the State law, those Maryland Counties border Pennsylvania, West Virginia, Virginia, or Delaware, and he thinks that is why the State created such a broad allowance in its definitions. He said he simply talked to Mr. Mitchell and asked him to make sure they try to isolate this to Wicomico County, being it is a Wicomico County Bill.

Mr. Cannon said the second concern where he may have taken too much of a liberty was to put a property tax credit maximum limit of \$1,500 knowing that this would come before the Council. He said he has had individual conversations with Councilmembers, so if they want to make it unlimited no matter the value of the house, so be it, and that individual would receive the benefits from property tax. He said this Bill is coming before the Council as-is, and that is where they are today.

Mr. Dodd asked what Mr. Cannon means by his statement that it is coming before the Council "as-is," to which Mr. Cannon responded, what they have in the brief book represents the \$1,500, but Council will

certainly be at liberty to amend that any way they choose. Mr. Dodd asked if it would have been more appropriate to have the original Bill and hash that out in a Work Session, to which Mr. Cannon responded, he thinks in retrospect it may have helped, but his concern was that he wanted their legal people to give their best evaluation of what was going to work in Wicomico County and what would legally fit for this Body and the County as a whole. He clarified, there were no other intentions beyond that except for allowing legal to take over.

Mr. Mitchell said the citations to the Public Safety Section do not include that information, so that is a misunderstanding. He said it is only picking up the language used for the police officers, and the correctional officers is basically workman's compensation language, and it is the same with the fulltime paid firemen and EMTs. He clarified, with the volunteers it is a little bit different because they are not fulltime and they do not come under some of those things and they have a different Section in the Public Safety Article, so that is what the difference is. He said initially it was drafted so it just said those Sections of the Public Safety Article, but it just said going to the fire, coming from the fire, and those kinds of things, not the whole Section. He said then there was a question about that citation, so it was just changed to pick up that wording from the Public Safety Article to set forth the activities that were covered. He clarified, that was no subterfuge or anything, that was just to show a clear definition as the State law is pretty darn vague over what is covered and what is not.

Mr. Mitchell said one other issue that came up was wanting it to be in Wicomico County, and he thinks it is still in the current version, but it was set up that no matter where someone lived, if they were working for a Wicomico agency when they were injured or died, they would be covered. He said they have to keep in mind that only Wicomico County is the one giving the tax credit, so they have to have a house in Wicomico County or there is no credit to be given. He said some of the language in there might look like that, but that is because as it was originally drafted it said the fact that the person is injured outside of the County does not bar them from recovering. He clarified, if they work for a County agency, they might be in a mutual aid situation and they are going outside of the County, but as long as they are working for a County agency, it would cover them the way it has been drafted.

Mr. Mitchell said, regarding the other issue that was raised by the woman who spoke during public comments, he guesses it could be set up that if the person was living in Wicomico County and working for an agency in the surrounding area that Wicomico may say it is covered, but that is an option for the Council. Ms. Acle responded, they do not need to include that, and it can just be that Wicomico County is offering this tax credit regardless of where the person has been injured. Mr. Mitchell said that could be, but there is another thing to keep in mind. He explained, the State Legislation says it is where the person is domiciled at the time they die, but, as to a person who is disabled, it is the time they are adjudicated to be disabled. He clarified, someone could be living in any County in the State, have an accident and be injured on the job, move to Wicomico, and then 18 months later they are adjudicated to have been disabled, and then they are living in Wicomico at the time they were adjudicated as opposed to the time the event occurred. He clarified, he does not think they can change that because that is in the State Legislation, but that has sort of created some of the drafting issues to keep this in Wicomico.

Mr. Dodd said, as for the concern about working in another County, they have a lot of volunteers in Wicomico County who have taken a job and drive to other Counties about nine times a month for 24-hour shifts, and if they get injured on the job in another County, Wicomico County has lost a volunteer firefighter, so he thinks that is what the intent of that was. Mr. Cannon asked if that would be the

responsibility of the County in which the firefighter was injured to pass similar Legislation, to which Mr. Dodd responded, it is a tax credit for their home, and if they do not live in that County, they are not going to get that. Ms. Acle clarified, they are a volunteer in Wicomico, but get paid to work in another County, so she sees what Mr. Dodd is saying, so Wicomico has then lost a volunteer.

Mr. Mitchell suggested they keep in mind that the Public Safety Article that was cited is used to give benefits to the person who is disabled or the family of the one who dies, and this is different. He clarified, this is just a tax credit, so this is just something on top of that. He explained, if someone is injured in another County, they are probably covered under worker's comp, but this is a different thing, it is an additional benefit.

Mr. Arnett said he will fill in some of the gaps. He said, in response to the issue of Wicomico County versus outside of Wicomico County, one of the ways that was addressed in Carroll County was to make it reciprocal. He explained, the way they did that was the County in which the person was injured had to have this benefit in order to get the benefit in the County in which the person was living. He said, for example, if someone was injured who lives in Wicomico County and works in Anne Arundel, who has this benefit, they would benefit from that. He said, if the person worked in Howard County, who does not have this benefit, and the person lives in Wicomico County, they would not benefit from that. He said the numbers are so small, infinitesimal, that he does not think they are gaining anything other than an argument for changing one versus the other. He said they are talking about the difference between probably less than 100 people down to a dozen people. He said the FOP gave him numbers, and since 2000, five people would be eligible under this draft for this Legislation. He clarified, five people in 22 years, which is an astounding number. He said, if they add up FOP and a few from IAFF, which they were not even able to put a single number on, under his draft there are about five. He said it was almost impossible to find a number on corrections, but they are talking about a very small number of people. He said they should give the most benefit to the most people knowing that the number is so small rather than trying to carve out such a small number of things.

Mr. Arnett asked that Council remember that they have to apply each time, so the County has the ability to look at each individual circumstance and give them the benefit or not give them the benefit based on their situation, to which Mr. Mitchell responded, he does not think it is discretionary. He clarified, if they fit the bill they get it, if they do not, they do not. He said it is not a case-by-case evaluation.

Ms. Acle said, if someone applies for it and this suddenly becomes a huge burden fiscally because they have all of these people who qualify, they could modify the Bill, to which Mr. Mitchell responded, by passing another Bill.

Mr. Davis said Mr. Arnett said he talked to the FOP and they said there are only about five people, and they gave that number, so what would be the number if they opened it for all disabled people in the County regardless of where they come from? He then asked if they know that number, to which Ms. Acle responded, that is everyone currently living in Wicomico County. Mr. Davis clarified, he is not talking about just the people who work here, he is talking about people who are living here who came from other States that they do not know about. He then asked, if they pass this Bill, what are those numbers, to which Ms. Acle responded, she does not have the numbers from other States. Mr. Davis again clarified, he wants to know the numbers of people who live here who are from another State, to which Ms. Acle responded, she does not have the ones from other States, but she has the ones from other Counties in Maryland, and it was five. Mr. Davis further asked, as it was said, the number of

people in the County is minimal, and they know that, but what is the number of other people from other States who live here now who could benefit from this if they pass it? He said they have the numbers from the Sheriff's Department, and he would like to know the numbers of anybody else, to which Mr. Arnett responded, it is not the Sheriff's Department, there are two different things. He said they should leave the States out of it because the Council can amend it, but from other Counties in this State it is five. Mr. Davis asked if Mr. Arnett's Legislation covers anyone in the country who lives here now, or is it just anyone who got injured in the County, to which Mr. Mitchell responded, the State law says they have to be domiciled in the State at the time it happens. He clarified, it does not say Wicomico County, it could be another County, and under State law they could be injured in another State. Mr. Davis asked if they know that number, to which Mr. Arnett responded, they do not. Mr. Davis clarified, then they cannot say it is going to be minimal because they do not know that number.

Mr. Dodd asked if the intent is to give the tax credit to anybody who was injured? He said, for example, if someone retires in New York and moves to Wicomico County, would they be eligible for the tax credit, to which Ms. Acle responded, when she talked to the FOP, she asked for all of the disabled law enforcement who are currently living here. She said they did not break it down by State or County, but all of them, and it was five.

Mr. Holloway said he does not understand how the FOP would know that information. He said, if somebody gets injured in another State and moves to Wicomico County just as a resident, they do not join the FOP, to which Ms. Acle responded, this was a best assessment. She then asked how else would they get the information?

Mr. Mitchell said, under State law, which they cannot change, if it is a death they have to be domicile in the State when the event happened, and, to him, that is the screwy thing. He said, if it is disability, it is not real clear because it is when it is adjudicated, so he thinks it still would have to be here.

Mr. Dodd said, from what he has heard from other Councilmembers, he thinks some of the concern is that people from New York will retire here and expect to get the tax credit. He then asked if that was the intent, to which Mr. Arnett responded, that was discussed and there are two ways to look at that. He said, number one, they are retiring on a medical disability from a typical salary of a firefighter or rescue worker of \$60-70,000, so they are not talking about \$100,000 or millionaires. He said, if they come here, they are not buying million dollar homes, they are buying homes that are \$350,000, so small property tax numbers. He said the other way to look at that is they are also coming here and spending their money at other places, so there is transfer tax. He said they are buying homes, they are shopping here and buying things here, so they are bringing tax revenue here in other ways, and that is an important thing not to forget. He said bringing people here is a good thing, and that is something this Council has worked to do for a long time. He said, just because they bring them here for a different reason does not necessarily make it a bad thing. He said he does not think anybody intends to put up billboards to bring disabled rescue workers to Wicomico County, they are going to have to know this exists, and very few people even know this exists in the State. He said he was disabled almost three years ago and he had no idea this existed, so nobody is telling anybody about this, and he does not think they are going to have hundreds and hundreds of people driving to Wicomico County to try to get this benefit.

Mr. Dodd said all of the firefighters he knows want to stay on the job as long as they can because they love it and they enjoy it.

Mr. McCain said to him the issue is not minimizing the amount of money or the impact, but addressing the concern about someone coming from another State and then trying to receive this benefit, and he thinks that can easily be addressed in the language. He said, getting back to what Mr. Mitchell said, they have to be domiciled in either the State or the County at the time the incident occurred that resulted in the disability, to which Mr. Mitchell responded, that is the problem. He clarified, the dwelling has to be owned by the fallen officer at the time it happens, but, if the person is disabled, it is the time they were adjudicated, so they would have time to buy a house. He said he believes the language says they have to be a resident at the time it happens, but resident and owning a house is not the same thing, so they have ten years to buy a house with the way the Bill has been amended.

Mr. Dodd said that language sounds vague because they mentioned officer, but it could be a firefighter, EMT, or paramedic, to which Mr. Mitchell clarified, it says law enforcement officer or rescue worker.

Mrs. Hurley said, as a point of clarification, the original draft that was sent to Council is something she drafted at the request of Ms. Acle, and then they forwarded it to Mr. Mitchell. She said she has not seen Mr. Arnett's version of this Bill. Mr. Cannon said he assumed the one Mrs. Hurley received was the same as Mr. Arnett's, to which Ms. Acle responded, she emailed Mrs. Hurley Mr. Arnett's edited version of the Bill.

Mr. Holloway said he thinks they have two Bills here and obviously there is some disagreement between those, so he suggests they postpone this until they can have a little further coming together with the parties involved in drafting the Bills. He said they need to keep in mind that they are going to be talking in the near future about tax credits for their volunteers, which he thinks is something that is going to need to move forward, so they will have to see what the fiscal impact of that is going to be also, but that is not on the table now. He clarified, this is a different thing, but he thinks these parties are interested in both of those things.

Mr. Dodd asked if it would be possible to have Mr. Arnett and Ms. Bragg come back and at least be in the audience if they have any answers to questions Council may have, to which Mr. Cannon responded, without question, and that is why he asked Mr. Arnett to be here today. He clarified, he also said that Mr. Arnett could bring anyone he wanted to bring with him, but he is not sure how that was exchanged between Mrs. Hurley and Mr. Arnett. He said it is up to the Council, but he would not have a problem if Mr. Arnett wants to have discussions with Mr. Wilber's office or with Mr. Mitchell because the last thing they want at this table is to try to sort through all the legalese because that could take them a year.

Mr. Holloway said they have two Bills, Mr. Cannon's version, and Ms. Acle's version, so he thinks they both need to get together with Mr. Mitchell and have this settled before the Council spends hours sitting here not agreeing and talking about it.

Mr. Cannon responded, his input was very simple, and he only had two concerns. He said one is, in reference to what Mr. Arnett said about there being so few people involved, the last thing he wants to do is go to a fire meeting in the future and be told that the Bill Council passed is a really good Bill, but they are paying for everybody up in Anne Arundel County, or for everybody in Pennsylvania, and he could understand that frustration. He said he wants to make sure this is a Wicomico Bill because this is Wicomico County. He said that was the one issue because the original Bill referenced Section 7-202 of the Maryland Public Safety Article, and that literally says it does not matter where the person is domiciled, and that it should be acceptable for the person to have the benefits. He then asked Mr.

Wilber if that is correct, to which Mr. Wilber responded, one of the big issues is the scope of who is going to be covered by this. Mr. Mitchell said that is where he thinks the language saying that they have to be domiciled in Maryland is, but then it says they could be hurt somewhere else, but that was not part of the citation. He said the citation was strictly to the activities they were performing at the time it happened, so he thinks it would be helpful if the Council gave direction on what it is that is important, whether it is the cap, whether it is that they have to be working for Wicomico County even if they are injured elsewhere, or maybe, as Mr. Dodd mentioned, they could be working elsewhere but be a resident of Wicomico County. He said he could then make the Bill fit that and then Council could discuss whether that really meets what Council is looking for. Mr. Dodd said he believes that is why Council should have seen the original before any changes were made.

Mr. Holloway asked if Mr. Mitchell is suggesting Council furnish input to him, Mr. Cannon, and Ms. Acle, to which Ms. Acle responded, she thinks that might get a little confusing. She said she liked Mr. Dodd's suggestion of having Mr. Arnett submit the original draft and then they pick an attorney and go from there because she thinks right now they have three attorneys at the table and probably have three different opinions.

Mr. Mitchell responded, with all due respect, he does not think that really solves the problem. He clarified, the problem is not what Mr. Arnett wants, it is what the Council wants. He said, if Council wants to limit this to Wicomico County or limit the amount or the duration, that is what they need to put in the Bill for Council to discuss. He said, with Mr. Arnett and Ms. Bragg saying what they each want, they are still floating around because they are going to be drawing up several different Bills. Mr. Dodd said they still need a starting point. Ms. Acle added, they need a starter and then amend from there.

Mr. Holloway suggested also hearing from somebody from the Volunteer Fire Fighters Association and maybe someone from one of the police agencies to get some input from them. He said he thinks this is good, but he thinks it needs tuning up a little bit.

Mr. Cannon said, what Mr. Mitchell is trying to get at is whether or not the Council as a Body wants to see benefits going to individuals who were injured outside of Wicomico County, and whether Council is willing to accept that at this point. He clarified, that is the guidance Mr. Mitchell is looking for in order to bring anything back to the Council.

Ms. Acle said she would like to see it within the State because that would align with State law, but not throughout the country. She clarified, she thinks within the State is reasonable, to which Mr. Mitchell responded, he will address that because it says they must be domiciled in Maryland, so he does not think it is drafted to be broad, but to say they must be in Maryland.

Mr. Cannon said they do not want them domiciled in Montgomery County and then move here. Mr. Dodd said he agrees with that, but Mr. Arnett brought up some good points, which is why he thought he wanted to think about this longer, but right now he is leaning towards no. Mr. Cannon said he agrees that there were good points made, but, again, Mr. Mitchell needs clarification before he gets into any discussion.

Mr. Mitchell said they have three versions right now, the one that he and Laura tweaked, and then the second one where some changes were requested to be made, and then the third one that made changes to some of those. Mr. Dodd said he thought the suggestion was to start with the original and

then go from there because, with three things in front of them right now, it is confusing. Mr. Mitchell clarified, he is just saying that the other versions may be what Council is looking for, to which Mr. Dodd responded, that is why they are talking about it at the Work Session.

Mr. McCain said the concerns have been expressed, and there are a variety of them. He said, getting back to Mr. Holloway's point, a lot more work has to be done. He said he will be really frank that he is making notes with some questions he may have, but it might not even be relevant because he does not know which one is pertinent. He said it cannot get much more confusing than it is at the moment, so he thinks they need something, and Council is just looking at this for the first time, so there is a long way to go to get this figured out and somehow getting this narrowed down to make it a little more digestible.

Mr. Cannon said, again, trying to narrow this down for Mr. Mitchell, the original Bill references definitions of qualifications based on the Maryland Public Safety Section 7-202, and that specifically says while providing emergency or rescue assistance, and says "a benefit under this Section shall be paid regardless of the district in which the beneficiary was disabled or regardless of whether the beneficiary was disabled in this State, Delaware, the District of Columbia, Pennsylvania, Virginia or West Virginia." He said this particular Section does not reference where they are domiciled, and that was his concern, unless he misread it. He clarified, that was his first concern, which was the only reason he went to Mr. Mitchell and Mr. Wilber as he was concerned that this says someone in Pennsylvania can qualify.

Mr. Holloway said he thinks the powers that be need to sit down and work this out. He said the Councilmembers are all available by phone.

Mr. Wilber said one possibility is coming back with something that has a couple of different alternatives and Council would need to choose one.

Mr. Mitchell suggested maybe deciding what to call each of the drafts because, when he looks at the one he calls the original, that is after he tweaked Mrs. Hurley's, but he thinks there is another original out there. He said the language Mr. Cannon just raised is not in what he calls the original. He said it cites that same Section, but it only cites subpart A 1-5, which are the activities and would not cover the rest of that. He said, in the one he worked on, it covers the fact that they could be out of Wicomico County as long as they are doing it for Wicomico County. He said the chances of Wicomico County sending somebody to Pennsylvania are not real great, but maybe Virginia or Delaware.

Mr. Cannon said he thinks Council agrees that they want the individual to be domicile in Wicomico County, to which Mr. Wilber responded, they have to be if they are going to give a tax credit. Mr. Cannon said the only other concern is whether Council may want to have a maximum. He said the average house in Wicomico County from prior assessments was \$110,000, and he thinks that number is very low compared to what the assessments are going to be next year, so the question is whether Council wants to see any limitation. Mr. Holloway said he was looking at a percentage with a cap, to which Mr. Cannon responded, it could be a percentage.

Mr. McCain said he was thinking about a cap as well. He said the assumption by Mr. Arnett of the most likely scenario was someone buying a \$350,000 house or less, but that may not be the case. He said someone could have gotten a large settlement, or they also could have wealth or own other properties. He said it may be an outlier situation, but someone could be very wealthy even though they are disabled, so some kind of cap would prevent that.

Mr. Hastings said, to be clear, in Wicomico County, 35 percent of the folks over 21 do not even own a home, and he cannot imagine that folks who are on disability have a ton of cash, but you never know. He said they are automatically losing 35 percent of the people who could potentially apply. He said, to him, he thinks a cap of a certain amount and a given percentage would make a lot of sense.


Mr. Arnett said he agrees with a cap but thinks the percentage is dangerous only because, if they have a lower number person and a person who is struggling as a result of the disability, this could potentially not benefit them enough. He clarified, he has no disagreement with the cap. Mr. McCain clarified, he was solely talking about a cap.

Mr. Mitchell said right now it is 100 percent but not to exceed a total actual credit of \$1,500, to which Mr. Cannon responded, \$1,500 is strictly arbitrary at this point in time.

Mr. Wilber then introduced Ms. Witt and said she is with his firm. He said she was a prosecutor in Somerset County, she lives in Wicomico County, and she is going to be working on County projects.

Mr. Cannon asked if Council has any concerns if Mr. Arnett spent time with either Mr. Wilber or Mr. Mitchell, to which there were none. Mr. Cannon said they can come back with one final document.

There was no further discussion.

  
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John T. Cannon, President At Large  
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Ernest F. Davis, Vice President, District 1  
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William R. McCain, At-Large  
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Nicole Acle, District 2  
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Larry W. Dodd, District 3  
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Josh Hastings, District 4  
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Joe Holloway, District 5  
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Laura Hurley, Council Administrator