

Montgomery's big-box bill sends the wrong signal to retailers

By Editorial, Published: November 12

ABILL BEFORE THE Montgomery County Council would [force big-box retailers](#) such as Wal-Mart, Home Depot and Target to negotiate with neighborhood groups as a condition for getting their new stores approved. This is such a spectacularly bad idea, on so many levels, that it's hard to imagine how it came to be taken seriously in the first place.

Introduced by Council President [Valerie Ervin](#) (D-Silver Spring) at the behest of [a union](#) that represents workers at competing stores (including Safeway and Giant), the legislation is aimed mainly at Wal-Mart, which wants to build two stores in the county. Four other members of the nine-member County Council signed on as co-sponsors, which suggests that the bill stands a good chance of enactment — although lately some of the lawmakers have developed cold feet.

Leave aside that the stores proposed by Wal-Mart would create hundreds of jobs; that they'd be crammed from Day One with thousands of bargain-happy shoppers; and that any broad measure of public opinion would doubtless favor more Wal-Marts in Montgomery — there's currently just one. Wal-Mart didn't become the world's most successful retailer by being unpopular.

More to the point, the legislation would establish a system so starkly arbitrary, unfair and distorted that it would be an embarrassment to any jurisdiction in the United States that tried to implement it. It's no accident that none has.

The bill would require a big-box retailer to enter into a “community benefits agreement” with three neighborhood groups — no more, no fewer. The retailer would have to reach an agreement satisfying the groups' demands — More playgrounds? Better roads? A \$500,000 check? — or to show that it had made a good-faith effort to do so. If it failed to meet those tests, the county would deny approval for the new store.

How would three neighborhood groups be chosen out of the dozens that might assert a claim? What if one group's agenda conflicted with another's? Would the groups' demands have to be directly related to the proposed project — and who would decide? What would constitute a “good-faith effort” that fell short of a successful agreement? Perhaps harder to answer: How could requiring such negotiations with unelected citizens be legal or constitutional?

As it stands, any retailer hoping to build a big-box store in the county faces public hearings that afford neighborhood groups a chance to voice concerns. If a new store would create traffic problems, county officials can negotiate mitigation measures with a

retailer. That's reasonable; outsourcing planning decisions to unspecified groups guided by unspecified criteria is not.

For an array of reasons, Montgomery is rapidly developing a reputation as a poor place to do business, at an enormous cost to the county. In the decade ending in 2010, its job growth badly lagged Fairfax County's, as well as the region's.

One reason the county has fallen behind is that it has sent hostile signals to business, developers and employers. Witness the Council's recent resolution, also introduced by Ervin, [that endorsed major cuts in federal military spending](#) — this in a county where one of the largest private-sector employers, Lockheed Martin, relies heavily on such spending. In that instance, the council came to its senses and backed down. It would be wise to do so this time as well.