

## Zawitoski, John

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**From:** Criss, Jeremy  
**Sent:** Friday, May 15, 2015 3:35 PM  
**To:** Zawitoski, John  
**Cc:** Miller, Sarah K  
**Subject:** RE: Introduced Bill

John,  
Thank you for helping me on the legislation.  
Please see my revisions below regarding your conclusion.  
Thanks J

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**From:** Zawitoski, John  
**Sent:** Friday, May 15, 2015 1:59 PM  
**To:** Criss, Jeremy  
**Cc:** 'Doug Tregoning' ([dwt@umd.edu](mailto:dwt@umd.edu)); [cfs@umd.edu](mailto:cfs@umd.edu); Plummer, David C.  
**Subject:** Introduced Bill

Gentleman

I have been reading through the Bill. From my read thus far I can conclude the following

Under Chapter 1A-203 – An office of Agriculture will be established

**1A-203. Establishing other offices.**

- (a) Executive Branch. These are the offices of the Executive Branch that are not part of a department or principal office:

Office of Agriculture [section 2B-1A]

Under Chapter 2B-1A – the Office of Agriculture will do the following:

**2B-1A. Office of Agriculture.**

The Office:

- (a) administers this Chapter and the regulations issued under it;
- (b) fosters agricultural preservation;
- (c) administers programs associated with the Soil Conservation District and the Cooperative Extension Service; and
- (d) performs other duties as assigned by the County Executive.

Chapter 2B is generally amended to replace any reference to the Department and replace it with the word Office

Impact on AAC under Chapter 2B-21 (amendments)

**2B-21. Agricultural Advisory Committee.**

- (e) Duties.
  - (1) The Committee must:
    - (A) after conferring with the Montgomery County Economic Development Corporation on matters relating to agricultural business, advise the Executive and Council on all matters affecting agriculture in the County;
    - (B) bring matters of particular importance to the attention of the Executive and Council; and
    - (C) comment on matters referred to it by the Executive and Council.

Under 30B -4 – References strategic plan and that is must include components to enhance Ag Economy

**30B-4. Status; incorporation; bylaws.**

- (a) To qualify as the County's Economic [Business] Development Corporation, [a corporation's] the Corporation's articles of incorporation must provide for the appointment of the members of its board of directors as set forth in this Chapter. The articles of incorporation must also provide that the [corporation] Corporation is:
- (1) a [tax-exempt] Maryland nonprofit, non-stock corporation the purposes and activities of which are limited to those that are permitted to be promoted or performed by a corporation that is recognized as exempt from federal income tax under 26 U.S.C. § 501;
  - (2) not an instrumentality of the County;[ and]
  - (3) incorporated for the [sole] purpose of serving as the County's [Business] Economic Development Corporation and implementing the County's economic development strategic

plan, adopted under Section 20-76, and related programs. These programs must include:

- (A) attracting and retaining businesses;
- (B) facilitating economic, industrial, and commercial development in the County;
- (C) enhancing the agricultural economy;
- (D) encouraging investment in commerce, industries, and businesses in the County;
- (E) promoting job growth and talent attraction, in coordination with the Montgomery County Workforce Development Board;
- (F) advising and informing County officials on economic development matters;
- (G) providing services to resident businesses in the County, including business retention, counseling, business planning, and other services to maintain and grow the existing economic base;
- (H) stimulating and nurturing the development of new business; and
- (I) promoting the development of a vital and balanced economy.

**40-12B. Real property sold in Agricultural Zones.**

- (a) If any real property is located in, adjoins, or confronts an area zoned agricultural, as defined in Section 59-C-9.1, the seller must disclose to each prospective buyer, before the buyer signs a contract for the sale of the property, that existing County and State law is intended to discourage owners of real property adjacent to agricultural-zoned land



from filing certain lawsuits against an owner or operator of an agricultural use in those areas. The following text must be substantially included in the disclosure:

As required under Montgomery County Code § 40-12B, you are hereby notified that the state of Maryland and Montgomery County have enacted laws that establish agriculture as the preferred use on land zoned Rural Density Transfer and as a permitted use in other agricultural zones, as defined in Section 59-C-9.1 of the County Code. The property subject to this contract is located in, adjoins, or confronts an area zoned agricultural. Residents and other occupants of property near land in agricultural zones should be prepared to accept effects of usual and customary agricultural operations, facilities, and practices, including noise, odors, dust, smoke, insects, operation of machinery, storage and disposal of manure, unusual hours of operation, and other agricultural activities.

Under Maryland law, an agricultural operation is not a nuisance, and a lawsuit may not be successful alleging that an agricultural operation interferes with the use or enjoyment of other property, if the agricultural operation:

- (1) has continued for at least 1 year;
- (2) complies with applicable health, environmental, zoning, and permit requirements; and
- (3) is not conducted negligently.

County law may provide additional protections for agricultural uses on agricultural-zoned land. For further information, contact the Montgomery County [Department of Economic Development] Office of Agriculture.

- (b) A prospective buyer must indicate, by signing an addendum to the contract or a separate section of the contract printed in boldface type in a clearly demarcated box, that:
- (1) the seller has provided the information required by subsection (a); and
  - (2) the buyer understands that:
    - (A) adjacent property may be the source of agricultural-related nuisances; and
    - (B) the buyer may obtain more information about these nuisances from the Montgomery County [Department of Economic Development] Office of Agriculture.

I saw reference to our Executive Regs For AG Easement purchases and Fee schedule for Food Service Facilities. I did not find anywhere in the Bill the work we do for the Ag Fuel Energy Program. See Below the regulatory references in Reg. In Chapter 59 of zoning, I know the SCD is referenced, but is DED referenced anywhere? I am not sure but seem to remember when it comes to partial BLT payments either the County Executive or DED was referenced in zoning

Reference to the Department of Economic Development in COMCOR 02B.00.01 (Agricultural Land Preservation Districts and Easement Purchases) is a reference to the Office of Agriculture.

Reference to the Department of Economic Development in COMCOR 15.12.01 (Fee Schedule for Food Service Facilities) is a reference to the Office of Agriculture.

The Office of Agriculture will be responsible for work associated with agricultural preservation, the MSCD, and the UM-Extension.

The enhancement of the agricultural economy will be shifted to the Authority.

The AAC will confer with the Authority before they can advise the County Executive or the County Council.

John

John P. Zawitoski  
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OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
*County Executive*

MEMORANDUM

May 15, 2015

TO: George Leventhal, President  
County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Economic Development Reorganization—Montgomery County Economic  
Development Corporation

I am attaching for Council introduction legislation to replace the Department of Economic Development (DED) and the Montgomery Business Development Corporation with a new nonprofit corporation, the Montgomery County Economic Development Corporation. The legislation would also transfer certain duties of DED to other County agencies, including a new Office of Agriculture within the Executive branch.

I made a decision to privatize the Department of Economic Development based on business community input, the neighboring jurisdictions' economic development organizational models, and most importantly, the profound changes in our economy. This is part of a larger effort to improve Montgomery County's economic competitiveness and better align our resources with the market dynamics and community needs for job growth. Other efforts underway include completion of a comprehensive economic strategy as a blueprint for future economic success and restructuring workforce development to create a central coordinating organization for all workforce strategies and programs for both employers and employees.

My staff stands ready to work with the Council on this important legislation, which I urge the Council to enact in the near future.

Attachments

c: Timothy L. Firestine, Chief Administrative Officer  
Jennifer Hughes, Director, Office of Management and Budget  
Bonnie Kirkland, Assistant Chief Administrative Officer  
Lily Qi, Special Projects Director, Office of the County Executive  
Sally Sternbach, Acting Director, Department of Economic Development  
Marc Hansen, County Attorney

Bill No. xx-15  
Concerning: Economic Development –  
Reorganization – Montgomery  
County Economic Development  
Corporation  
Revised: May 13, 2015 Draft No. 1  
Introduced: \_\_\_\_\_  
Expires: \_\_\_\_\_  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Lead Sponsor: Council President at the request of the County Executive

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**AN ACT** to:

- (1) eliminate the Department of Economic Development as a principal department of the Executive Branch;
- (2) create an Office of Agriculture;
- (3) transfer certain duties of the Department of Economic Development to other County agencies;
- (4) provide for the designation of a non-profit corporation as the Montgomery County Economic Development Corporation;
- (5) assign certain duties to the Montgomery County Economic Development Corporation and exempt this assignment from a certain procurement law;
- (6) provide a certain notice under the collective bargaining law;
- (7) remove the designation of the County's Business Development Corporation; and
- (8) generally amend County laws, regulations, and certain contracts governing economic development and agricultural preservation.

By amending

Montgomery County Code  
Chapter 1A, Structure of County Government  
Sections 1A-201 and 1A-203

Chapter 2, Administration  
Sections 2-27 and 2-64L

Chapter 2B, Agricultural Land Preservation  
Sections 2B-1, 2B-3, 2B-7, 2B-10, 2B-14, 2B-17, 2B-19, 2B-20, and 2B-21

Chapter 20, Finance  
Sections 20-76, 20-76B, 20-76C, and 20-76D

Chapter 27, Human Rights and Civil Liberties  
Section 27-26B

Chapter 30B, Business Development Corporation

Sections 30B-1, 30B-2, 30B-3, 30B-4, 30B-5, 30B-6, and 30B-7

Chapter 40, Real Property  
Section 40-12B

Chapter 44, Schools and Camps  
Section 44-47

By adding

Chapter 2B, Agricultural Land Preservation  
Section 2B-1A

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

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

1           **Sec. 1. Section 2B-1A is added and Sections 1A-201, 1A-203, 2-27, 2-**  
2 **64L, 2B-1, 2B-3, 2B-7, 2B-10, 2B-14, 2B-17, 2B-19, 2B-20, 2B-21, 20-76, 20-**  
3 **76B, 2-076C, 20-76D, 27-26B, 30B-1, 30B-2, 30B-3, 30B-4, 30B-5, 30B-6, 30B-**  
4 **7, 40-12B, and 44-47 are amended as follows:**

5 **1A-201. Establishing departments and principal offices.**

6           (a) Executive Branch.

7           (1) These are the departments and principal offices of the  
8 Executive Branch.

9 County Executive [Charter, § 201 et seq.]

10 Chief Administrative Officer [Charter, § 210 et seq.]

11 Consumer Protection (Section 11-2)

12 Correction and Rehabilitation [Section 2-28]

13 County Attorney [Charter § 213]

14 [Economic Development [Section 2-64L]]

15 Environmental Protection [Section 2-29]

16 Finance [Charter § 214; Section 20-38 et seq.]

17 Fire and Rescue Services [Section 2-39A]

18 General Services [Section 2-30]

19 Health and Human Services [Section 2-42A]

20 Housing and Community Affairs [Section 2-27 et seq.]

21 Human Resources [Section 2-64I; ch. 33]

22 Intergovernmental Relations [Section 2-64J]

23 Liquor Control

24 Management and Budget [Section 2-64K]

25 Permitting Services [Section 2-42B]

26 Police [Section 2-43; ch. 35]

27 Public Information

28 Public Libraries [Section 2-45 et seq.]

29 Recreation [Section 2-58]

30 Technology Services [Section 2-58D]

31 Transportation [Section 2-55 et seq.]

32 (2) The County Executive determines whether an entity is a  
33 department or a principal office.

34 [a] (A) Entities that directly serve the public are  
35 departments.

36 [b] (B) Entities that provide internal support to other parts  
37 of County government are principal offices.

38 \* \* \*

39 **1A-203. Establishing other offices.**

40 (a) Executive Branch. These are the offices of the Executive Branch that  
41 are not part of a department or principal office:

42 Office of Agriculture [section 2B-1A]

43 Office of the Commission for Women [section 27-28 et seq.]

44 Office of Community Use of Public Facilities [section 44-4]

45 Office of Emergency Management and Homeland Security [section 2-64O]

46 Office of Human Rights [section 27-4]

47 **2-27. Functions and organization.**

48 The Department of Housing and Community Affairs has the following  
49 functions:

50 (1) Affordable housing programs.

51 (2) Community development programs.

52 (A) Urban renewal and community development projects.

53 (B) Relocation services for families and businesses displaced  
54 by governmental actions.

- (3) Housing standards enforcement, and related activities.
- (4) Landlord-tenant relations.
- (5) Common ownership community relations.
- (6) [Technical assistance to the Department of Economic Development and the Department of Environmental Protection in the area of human resources, budget, technology, and procurement.
- (7)] Other functions designated by law.

**Division 18. [Department of Economic Development] Reserved.**

**2-64L. [Functions and organization] Reserved.**

[(a) The Department of Economic Development is responsible for promoting and supporting:

- (1) industrial and commercial development in the County, including the technology and hospitality industries;
- (2) agricultural preservation and enhancement in the County, including programs associated with the Soil Conservation District and the Cooperative Extension Service;
- (3) other economic development in the County, including coordination of employment and work force training; and
- (4) services to resident businesses in the County, including business retention, counseling, business planning, and other services to maintain the existing economic base.

(b) In addition to the Director, the Department of Economic Development has two non-merit system positions for a marketing and business development manager and minority business affairs manager.]

**2B-1. Definitions.**

\* \* \*

82 (a) In this Chapter, the following words and phrases shall have the  
83 meanings indicated:

84 \* \* \*

85 [*Department* means, unless otherwise specified, the Department of  
86 Economic Development.]

87 \* \* \*

88 *Landowner* means a fee simple owner of land located in the County on  
89 which a landowner proposes to sell or has sold an agricultural easement to  
90 the State or the County.

91 Office means the Office of Agriculture.

92 \* \* \*

93 *Significant Agricultural Resource* or *Significant Agricultural Capability*  
94 means land which, if properly agronomically managed and under normal  
95 growing conditions, the [Department] Office, after consulting local  
96 agricultural support agencies, finds can sustain a profitable farm enterprise.

97 **2B-1A. Office of Agriculture.**

98 The Office:

- 99 (a) administers this Chapter and the regulations issued under it;
- 100 (b) fosters agricultural preservation;
- 101 (c) administers programs associated with the Soil Conservation District  
102 and the Cooperative Extension Service; and
- 103 (d) performs other duties as assigned by the County Executive.

104 \* \* \*

105 **2B-3. State Easement Application and Purchase.**

106 \* \* \*

107 (d) If either the APAB or the Planning Board recommends approval, the  
108 County Council must hold a public hearing on the proposed easement.

109 The [Department] Office must give adequate notice of the hearing to  
 110 the owner of any land adjacent to the proposed agricultural easement.

111 \* \* \*

112 (i) The [Department] Office must work with the State to record each  
 113 State agricultural easement in the County land records. The  
 114 recordation of a State agricultural easement is not subject to any  
 115 County recordation or transfer tax.

116 **2B-7. County Easement Application and Purchase.**

117 (a) A landowner seeking to place land under an agricultural easement  
 118 must submit an easement sales application to the [Department of  
 119 Economic Development] Office. The application must include a  
 120 completed property description and specify the landowner's asking  
 121 price.

122 \* \* \*

123 (e) If any land does not meet all requirements of subsection (d), the  
 124 County must not buy a County agricultural easement on that land  
 125 unless:

126 (A) the [Department] Office finds that placing an agricultural  
 127 easement on that land is in the public interest; and

128 (B) the [Department] Office concludes, after consulting local  
 129 agricultural support agencies, that the land has significant  
 130 agricultural resources.

131 \* \* \*

132 **2B-10. Termination and repurchase of agricultural easements.**

133 (a) Process to Terminate and Repurchase an Easement.

134 \* \* \*

135 (4) The APAB must determine if profitable farming is feasible on the  
 136 land and issue a written recommendation to the [Department] Office.  
 137 In determining whether farming is profitable, the APAB must  
 138 consider:

139 \* \* \*

140 (5) After the APAB issues its recommendation, the [Department] Office  
 141 must advise the landowner that the [Department] Office must order an  
 142 appraisal of the land at the landowner's expense. The appraisal must  
 143 consider the current fair market value of land and the current fair  
 144 market value of the land encumbered by an agricultural easement. The  
 145 difference between these values must represent the present value of  
 146 the agricultural easement.

147 (6) The landowner must pay the [Department] Office for the cost of an  
 148 appraisal. The [Department] Office must order the appraisal after  
 149 receiving the funds from the landowner.

150 (7) After receiving the completed appraisal and APAB's  
 151 recommendation, the County Council must hold a public hearing on  
 152 the request to terminate the agricultural easement. The [Department]  
 153 Office must notify each [owner] owner of land adjacent to the land  
 154 where the easement is located of the public hearing.

155 \* \* \*

156 (10) The landowner must pay the required payment to the County within  
 157 180 days after the Executive agrees to terminate the easement. After  
 158 receiving the required payment, the [Department] Office must  
 159 prepare, execute, and deliver to the landowner for recording, a Deed  
 160 of Termination and Release from Easement.

161 **2B-14. Recordation.**

- 162 (a) The County Attorney must record each agricultural easement in the  
 163 County land records. The recordation of an agricultural easement is  
 164 not subject to any County transfer or recordation tax.
- 165 (b) Each agricultural easement must:
- 166 (1) be recorded in the form required by the [Department] Office;
- 167 (2) run with the land and bind the landowner and each assignee,  
 168 transferee, mortgagee, and any other party who obtains title to  
 169 the property; and
- 170 (3) be recorded so that the easement is senior in priority to all liens,  
 171 including any instrument securing permanent financing.

172 \* \* \*

173 **2B-17. BLT Account.**

- 174 (a) The [Department] Office must create a separate account under the  
 175 Fund, entitled the BLT Account.
- 176 (b) The BLT Account must contain payments made to comply with  
 177 conditions of approval which the Planning Board has imposed for  
 178 certain development plans, and may also contain funds received  
 179 through donation, appropriation, bond proceeds, or any other source.
- 180 (c) Funds in the BLT Account must be spent only on BLT easements.  
 181 Funds in the BLT Account may be used in conjunction with other  
 182 funds to buy BLT easements.

183 \* \* \*

184 **2B-19. Administration.**

- 185 (a) The costs of any agricultural land preservation program, including the  
 186 purchase of any agricultural easement, may be paid from the Fund and  
 187 any other appropriated funds.

188 (b) [The Department must administer this Chapter and the regulations  
189 issued under it.

190 (c)] The [Department] Office must issue an annual report that identifies  
191 the:

- 192 (1) number and types of agricultural easements bought;
- 193 (2) number of acres preserved by those easements; and
- 194 (3) price of each easement.

195 **2B-20. Enforcement of State and County Agricultural Easements.**

196 (a) Any violation of this Chapter or regulations issued under it is a Class  
197 A violation. The Department of Permitting Services may issue a  
198 citation for any violation of this Chapter or the terms of any  
199 agricultural easement.

200 (b) The [Director of Economic Development] Office may take legal  
201 action, including seeking injunctive or declaratory relief, to prevent  
202 any:

- 203 (1) subdivision of land under an agricultural easement that violates  
204 this Chapter or an agricultural easement; or
- 205 (2) transfer of land, including the transfer of lots to or for the  
206 landowner or the landowner's children, that violates this  
207 Chapter or an agricultural easement.

208 (c) The [Director] Office may also take legal action to recover any funds  
209 obtained from any subdivision or land transfer that violates this  
210 Chapter or an agricultural easement, plus costs and a reasonable  
211 attorney's fee

212 \* \* \*

213 **2B-21. Agricultural Advisory Committee.**

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(e) Duties.

(1) The Committee must:

- (A) after conferring with the Montgomery County Economic Development Corporation on matters relating to agricultural business, advise the Executive and Council on all matters affecting agriculture in the County;
- (B) bring matters of particular importance to the attention of the Executive and Council; and
- (C) comment on matters referred to it by the Executive and Council.

\* \* \*

**20-76. Economic Development Strategic Plan, Administration.**

(a) The Executive must submit, by method 1 regulation, an economic development strategic plan for the County to the Council for approval on or before [July 1, 2015] October 1, 2015] and each fourth year thereafter]. The Montgomery County Economic Development Corporation must adopt an economic development strategic plan beginning October 1, 2019, and each fourth year thereafter. The success or progress of the strategic plan must be measurable and the plan must include measures to address:

\* \* \*

**20-76B. Small Business Assistance Program.**

(a) *Definitions.* As used in this Section:  
*Adverse impact* means a loss of revenue resulting from a redevelopment project.  
*Director* means the Director of the Department of [Economic Development] Finance.

242 *Enterprise zone* means an area designated under Maryland Code,  
243 *Economic Development* Article, Section 5-704 or any successor  
244 provision.

245 *Fund* means the Economic Development Fund established in Section  
246 20-73.

247 *Program* means the Small Business Assistance Program.

248 *Redevelopment project* means any construction, alteration, or  
249 improvement in an urban renewal area or enterprise zone where the  
250 existing land use is commercial or industrial and is:

251 (1) located on property owned by the County; or

252 (2) financed in whole or part by the County.

253 *Small business* means a privately owned business that meets the  
254 requirements of Section 11B-65(a).

255 *Technical assistance* means training directly related to operating a  
256 small business provided by an educational institution or a non-profit  
257 organization approved by the Director.

258 *Urban renewal area* means an area of the County as defined in  
259 Section 56-9(f).

260 (b) *Establishment of Program.* Subject to appropriation, the Director must  
261 create and administer a Small Business Assistance Program to assist  
262 small businesses who are adversely impacted by a redevelopment  
263 project.

264 (c) *Eligibility.* The Director, based upon information submitted by the  
265 applicant for assistance, must find that:

266 (1) the applicant is the owner of an existing small business located  
267 near an ongoing or future redevelopment project that is planned

- 268 to begin construction in less than 12 months after the  
269 application;
- 270 (2) the applicant's small business is currently or is likely to be  
271 adversely impacted by the redevelopment project; and
- 272 (3) the applicant's small business is financially healthy and likely  
273 to continue operating for the foreseeable future.
- 274 (d) *Conditions.* The Director may impose reasonable conditions on a  
275 small business, including the successful completion of approved  
276 technical assistance training, in order to receive financial assistance  
277 from the Fund under the Program.
- 278 (e) *Financial assistance.* The Director may award a grant or loan from the  
279 Fund to an eligible small business under the Program.
- 280 (f) *Regulations.* The Executive must adopt method 2 regulations to  
281 implement this Section. The regulations must:
- 282 (1) require the Director to compile and maintain a list of approved  
283 technical training courses on the appropriate website;
- 284 (2) specify the application procedures and eligibility criteria for a  
285 grant or loan to a small business under the Program;
- 286 (3) specify conditions that the Director may impose on a small  
287 business in order to receive financial assistance from the Fund  
288 under the Program;
- 289 (4) define what constitutes an adverse impact on a small business;
- 290 (5) define what constitutes financial health of a small business; and
- 291 (6) identify outreach methods and marketing strategies to inform  
292 local small businesses of the program.

293 (g) *Reports.* On or before March 31 of each year, the Executive must  
294 report to the Council on the activities of the Program. The report must  
295 include:

- 296 (1) the number of small businesses participating in the Program;  
297 (2) the number and dollar amount of grants and loans made; and  
298 (3) an evaluation of the impact of each grant or loan on the  
299 operation of the small business.

300 **20-76C. Green Investor Incentive Program.**

301 (a) *Definitions.* In this Section, the following words have the meanings  
302 indicated:

303 *Green product or service* means a product or service that measures,  
304 prevents, limits, minimizes, or corrects environmental damage to  
305 water, air, or soil, as well as problems related to waste, ecosystems,  
306 biodiversity, habitat or natural resource depletion. All claims related  
307 to environmental attributes, as applicable, for a product or service,  
308 must conform to guidelines published by the Federal Trade  
309 Commission or other appropriate entity designated by the Director of  
310 Environmental Protection.

311 *Investment* means the contribution of money in cash or cash  
312 equivalents expressed in United States dollars, at a risk of loss, to a  
313 qualified green company in exchange for stock, a partnership or  
314 membership interest, or other ownership interest in the equity of the  
315 qualified green company, title to which ownership interest vests in the  
316 qualified investor but does not include debt.

317 *Qualified green company* means any entity of any form duly  
318 organized and existing under the laws of any jurisdiction for the

319 purpose of conducting business for profit, excluding a sole  
320 proprietorship, that:

- 321 (1) develops an innovative, new to the market, technology, or a  
322 unique combination of technologies, available only from that  
323 company, which adds significant value to a green product or  
324 service or is engaged in research or development of a such  
325 technology or technologies; and
- 326 (2) implements a sustainable operation as verified by a third party.

327 *Qualified investor* means any individual or entity that invests at least  
328 \$25,000 in a qualified green company and that is required to file an  
329 income tax return in any jurisdiction. Qualified investor does not  
330 include:

- 331 (1) a qualified pension plan, individual retirement account, or other  
332 qualified retirement plan under the Employee Retirement  
333 Income Security Act of 1974, as amended, or fiduciaries or  
334 custodians under such plans, or similar tax-favored plans or  
335 entities under the laws of other countries;
- 336 (2) an individual or entity that has an ownership interest in the  
337 qualified green company other than from a previous investment,  
338 which previous investment by itself or with the additional  
339 investment does not create a 25% or greater equity holding by  
340 the qualified investor in the qualified green company; or
- 341 (3) an individual or entity deriving any financial benefit, including  
342 salary or other compensation, from the qualified green company  
343 in which the qualified investor makes an investment.

344 *Sustainable operation* means an organization validated by a third  
345 party under one of the following:

- 346 (1) Montgomery County Green Business Certification Program, as  
347 certified by the Department of Environmental Protection;
- 348 (2) B Corp Certification from B Lab;
- 349 (3) Green America Gold Certification;
- 350 (4) Green Seal Certification;
- 351 (5) International Organization for Standardization ISO 14001  
352 Certification; or
- 353 (6) any other third party validation approved by the Department of  
354 Environmental Protection.
- 355 (b) *Incentive Payment.* The Director of Finance must pay, subject to the  
356 amount of the annual appropriation in that fiscal year, an incentive  
357 payment to each qualified investor who meets certain eligibility  
358 standards.
- 359 (c) *Eligibility standards.* A qualified investor, who need not be a County  
360 resident, is eligible to receive the incentive payment if the qualified  
361 investor[:] invests in a qualified green company that:
- 362 (1) has its headquarters and base of operations in the County; or
- 363 (2) has signed a lease for at least 5 years to open a qualified green  
364 company with its headquarters and base of operations in the  
365 County; and
- 366 (3) has been in business for less than 10 years and employs less  
367 than 50 people and does not have its securities publicly traded  
368 on any exchange.
- 369 (d) *Additional eligibility standards.* The County Executive, by Method 2  
370 regulation, may impose other eligibility standards. However, those  
371 standards must not make any person ineligible to receive the incentive  
372 payment who would be eligible under subsection (c).

- 373 (e) *Ineligible investments.* An investor must not receive an incentive  
374 payment for:
- 375 (1) the installation of any geothermal, or solar photovoltaic, or  
376 similar system; or
- 377 (2) any building green or energy efficiency improvement.
- 378 (f) *Amount of incentive payment.* The incentive payment made, subject to  
379 the amount of the annual appropriation in that fiscal year, to each  
380 qualified investor must equal the amount of the investment made by  
381 the qualified investor, divided by the total amount of investments  
382 made by all qualified investors in the same calendar year, multiplied  
383 by the total amount of funds appropriated for the green investor  
384 incentive program in that year. The incentive program made to any  
385 qualified investor in any single fiscal year must not exceed the lesser  
386 of:
- 387 (1) 50% of the investment made by the qualified investor in that  
388 fiscal year;
- 389 (2) 15% of the total annual and supplement appropriation for the  
390 green investor incentive program in that fiscal year; or
- 391 (3) \$50,000.
- 392 (g) In order to calculate the amount of the incentive payment to be made  
393 to a qualified investor under Subsection (f), the Director of the  
394 Department of [Economic Development] Finance must, by January 15  
395 of each calendar year, compile a list of each qualified investor making  
396 an investment in a qualified green company and the amount of that  
397 investment during the preceding calendar year. This list must be  
398 determined using the applications and any supporting documents  
399 qualified investors submit. The Director may take any other action

400 necessary to administer the incentive payment. The Executive may  
401 issue regulations under Method (2) to implement this Section.

402 (h) *Application required.* The Director of the Department of [Economic  
403 Development] Finance must require each qualified investor to submit  
404 an application for the incentive payment and may take any other  
405 action necessary to administer the incentive payment. The Executive  
406 may issue regulations under Method (2) to specify an application  
407 process and otherwise implement this Section.

408 (i) *Fraudulent applications.* A person who submits a false or fraudulent  
409 application, or withholds material information, to obtain an incentive  
410 payment under this Section has committed a Class A violation. In  
411 addition, the person must repay the County for all amounts improperly  
412 paid and all accrued interest and penalties that would apply to those  
413 amounts as if they were overdue taxes. A person who violates this  
414 Section is liable for all court costs and expenses and reasonable  
415 attorney's fees of the County incurred in any civil action brought by  
416 the County to recover any payment, interest, or penalty. The County  
417 may collect any amount due, and otherwise enforce this Section, by  
418 any other appropriate legal action.

419 **20-76D. Cybersecurity Investment Incentive Tax Credit Supplement.**

420 (a) The Director of Finance must pay, subject to appropriation, a  
421 Cybersecurity Investment Incentive Tax Credit Supplement to each  
422 Cybersecurity Company who meets certain eligibility standards.

423 (b) A Cybersecurity Company is eligible to receive the Supplement if:  
424 (1) the Company has been designated as a qualified Cybersecurity  
425 Company under state law and has received a final tax credit

- 426 certificate for the Maryland cybersecurity investment incentive  
427 tax credit for the preceding calendar year; and
- 428 (2) the tax credit received by the Cybersecurity Company was  
429 generated by an investment in a qualified Maryland  
430 cybersecurity company, as defined in state law, that has its  
431 headquarters and base of operations in the County.
- 432 (c) The County Executive, by regulations issued under Method (1), may  
433 impose other eligibility standards. However, those standards must not  
434 make any Cybersecurity Company ineligible to receive the  
435 Supplement who would be eligible under subsection (b).
- 436 (d) (1) The Supplement paid to each eligible Cybersecurity Company  
437 must equal the product of:
- 438 (A) the amount of the credit the Company received under the  
439 State Cybersecurity Investment Tax Credit Program,  
440 divided by the total amount of credits all Montgomery  
441 County cybersecurity companies received under the State  
442 Cybersecurity Investment Tax Credit Program during the  
443 preceding calendar year; and
- 444 (B) the total amount of funds appropriated to the Supplement  
445 Program for that fiscal year.
- 446 (2) The Supplement paid to any Cybersecurity Company must not  
447 exceed:
- 448 (A) 50% of the State tax credit that the Company receives  
449 from the Maryland Cybersecurity Investment Tax Credit  
450 Program in the preceding calendar year; or
- 451 (B) 15% of the total annual appropriation for the Supplement  
452 program.

- 453 (e) The Director of [Economic Development] Finance must request from  
454 the Comptroller of the Treasury and Department of Business and  
455 Economic Development, by April 30 of each year, a list of each  
456 Cybersecurity Company, headquartered and based in Montgomery  
457 County that was issued a final credit certificate by the State during the  
458 preceding calendar year. The Executive may issue regulations under  
459 Method (1) to implement this Section.
- 460 (f) If the Comptroller of the Treasury agrees, the Director of Finance may  
461 arrange for the Comptroller to pay the Supplement on behalf of the  
462 County. To the extent that the Comptroller does not pay the  
463 supplement, the Director must pay the supplement within 60 days  
464 after receiving this list to each qualified Cybersecurity Company that  
465 was issued a final credit certificate from the State.
- 466 (g) A Cybersecurity Company who submits a false or fraudulent  
467 application, or withholds material information, to obtain a payment  
468 under this Section has committed a Class A violation. In addition, the  
469 Cybersecurity Company must repay the County for all amounts  
470 improperly paid and all accrued interest and penalties that would  
471 apply to those amounts as if they were overdue taxes. A Cybersecurity  
472 Company who violates this Section is liable for all court costs and  
473 expenses of the County in any civil action brought by the County to  
474 recover any payment, interest, or penalty. The County may collect any  
475 amount due, and otherwise enforce this Section, by any appropriate  
476 legal action.
- 477 (h) If all or part of the allowed state tax credit is recaptured under the  
478 applicable state law, the Cybersecurity Company must repay the

479 County within 60 days the portion of any Supplement paid by the  
 480 County that was based on the recaptured credit.

481 **27-26B. Interagency fair housing coordinating group.**

482 (a) The County Executive must designate an interagency fair housing  
 483 coordinating group. The purpose of the coordinating group is to  
 484 facilitate and promote the County's efforts to prevent discrimination in  
 485 housing.

486 (b) The County Executive appoints the members of the coordinating  
 487 group, subject to confirmation by the County Council. The  
 488 coordinating group consists of one or more employees of each of the  
 489 following agencies:

- 490 (1) Office of Community Outreach in the Office of the Chief  
 491 Administrative Officer;
- 492 (2) Human Rights Commission;
- 493 (3) Housing Opportunities Commission;
- 494 (4) [Department of Economic Development;
- 495 (5)] Department of Housing and Community Affairs;
- 496 [(6)] (5) Community service centers;
- 497 [(7)] (6) Department of Health and Human Services;
- 498 [(8)] (7) Commission for Women; and
- 499 [(9)] (8) Commission on People with Disabilities.

500 (c) The Executive also may designate, subject to confirmation by the  
 501 County Council, one or more members of the Executive's staff, and  
 502 employees of any other County department or office, to serve on the  
 503 coordinating group. The Executive must also invite the County  
 504 Council, the Montgomery County public schools, the Montgomery  
 505 County Economic Development Corporation, and the Maryland-

506 National Capital Park and Planning Commission to designate one or  
507 more staff members to serve as full members of the group.

508 (d) The Executive must designate a chair of the coordinating group,  
509 subject to confirmation by the County Council. The chair or the  
510 Executive may call meetings. The group may form its own  
511 subcommittees.

512 (e) Meetings of the coordinating group and its subcommittees are [open]  
513 subject to [the public under] the [State] Maryland Open Meetings law  
514 [on public meetings]. In order to create a public forum and encourage  
515 diverse participation, the Executive must invite representatives of the  
516 housing industry and active community groups to participate in  
517 meetings. The group [is] must not be governed by Chapter 2 or  
518 Chapter 2A.

519 (f) With staff support from the Fair Housing Coordinator, the  
520 coordinating group must submit to the County Council and County  
521 Executive an annual report on housing discrimination in the County.  
522 This report must:

523 (1) assess County, State and Federal laws prohibiting  
524 discrimination in housing, and evaluate their enforcement in the  
525 County;

526 (2) recommend changes in law, policy, programs or priorities  
527 needed to reduce discrimination in housing;

528 (3) include a work program for the coming year;

529 (4) include a progress report on the previous year's work program;  
530 and

531 (5) include the views of the Fair Housing Coordinator and any  
532 member whose views differ from those of the report.

533 **Chapter 30B [Business] Economic Development Corporation.**

534 **30B-1. Policy objectives.**

535 (a) [Recognizing that (1) the] The future success of Montgomery County  
536 related to education, infrastructure, public safety, public welfare, and  
537 quality of life is:

538 (1) built on a vibrant and growing economy[,];

539 (2) successful businesses [are the key to] creating this economy[,];  
540 and

541 (3) government [must foster] fostering a legislative and regulatory  
542 environment which encourages business success.[, to]

543 (b) To achieve these goals, the County Government [must] may designate  
544 a nonprofit corporation as the [County's Business] Montgomery  
545 County Economic Development Corporation (Corporation) to  
546 [enhance and supplement] implement the County's economic  
547 development programs and activities.

548 [The mission of the Business Development Corporation is to develop the  
549 vision for the County's economic future and to recommend and advocate for  
550 legislative and regulatory changes that move the culture and regulatory  
551 environment so that business success can create that vibrant and growing  
552 economy.

553 The Corporation must be able to:

554 (a) establish a vision of the economic future of the County founded on  
555 sound financial and economic condition and policies;

556 (b) develop and articulate strategies designed to achieve that vision,  
557 advocate for legislative and regulatory changes necessary to  
558 accomplish that vision, set measurements, and regularly report on the  
559 County's success in meeting its objectives and goals;

- 560 (c) provide leadership on economic issues at both the County and State  
561 levels;
- 562 (d) engage business leaders and other key stakeholders in developing and  
563 implementing economic development strategies;
- 564 (e) maintain close liaison with government agencies and elected  
565 representatives at both the County and State levels to achieve the  
566 goals of the Corporation; and
- 567 (f) undertake any other activities deemed by the Board of Directors to  
568 support the mission of the Corporation.]

569 **30B-2. Designation.**

- 570 (a) [In this Chapter “Corporation” means the Business Development  
571 Corporation that the County has designated to study, evaluate,  
572 enhance, and supplement the County’s economic development  
573 programs and activities.
- 574 (b)] The County Council must designate, by resolution approved by the  
575 County Executive, a single nonprofit corporation which complies with  
576 all requirements and criteria of this Chapter as the [County’s  
577 Business] Montgomery County Economic Development Corporation.  
578 If the Executive disapproves the resolution within 10 days after  
579 receiving it, the Council may readopt the resolution with at least 6  
580 affirmative votes.
- 581 [(c) (1) Any designation under this Section expires at the end of the  
582 fifth full fiscal year after the resolution is adopted unless the  
583 Council extends the designation by adopting another resolution  
584 under this Section.
- 585 (2) However, if the Council President does not notify the Chair of  
586 the designated Corporation’s Board of Directors, not later than

587 June 30 of the fourth full fiscal year of the designation term,  
588 that the Council may allow the current designation to expire,  
589 the designation is automatically extended for another 5-year  
590 term.

591 (d) The Council at any time may suspend or revoke the designation of a  
592 corporation as the County's Business Development Corporation by  
593 resolution, adopted after at least 15 days public notice, that is  
594 approved by the Executive, or, if the Executive disapproves the  
595 resolution within 10 days after receiving it, is readopted by a vote of  
596 at least 6 Councilmembers.]

597 [(e)] (b) To continue to qualify as the County's [Business] Economic  
598 Development Corporation, [a corporation's] the Corporation's articles  
599 of incorporation and bylaws must comply with all requirements of this  
600 Chapter.

### 601 **30B-3. Board of Directors.**

602 (a) To qualify as the [County's Business] Montgomery County Economic  
603 Development Corporation, [a corporation's] the Corporation's Board  
604 of Directors must have [no more than] 11 voting members appointed  
605 by the County Executive and confirmed by the County Council. The  
606 County Executive should appoint a member of the Workforce  
607 Development Board as one of the members of the Corporation's  
608 Board of Directors. The Corporation's Board of Directors must also  
609 include one officio non-voting member appointed by the County  
610 Executive; and one non-voting member appointed by the County  
611 Council; and should have one non-voting member appointed by the  
612 Secretary of the Maryland Department of Business and Economic  
613 Development. [The corporation's bylaws should also allow the

614 Director of the Department of Economic Development, the  
 615 Superintendent of the County Public Schools, the President of  
 616 Montgomery College, and the chair of the County Planning Board or  
 617 the Planning Director, to serve as ex-officio non-voting members  
 618 along with any other nonvoting members authorized under the  
 619 bylaws.]

620 (b) Each voting member serves a 3-year term. The individual terms of the  
 621 voting members must be staggered. Of the voting members first  
 622 appointed, four must be appointed for a 1-year term, four must be  
 623 appointed for a 2-year term, and three must be appointed for a 3-year  
 624 term. A voting member appointed to fill a vacancy serves the rest of  
 625 the unexpired term. Voting members continue in office until their  
 626 successors are appointed and confirmed.

627 [(b)] (c) Each voting member must be either a resident of the County or  
 628 [employed in the senior management of a company which] a senior  
 629 manager in a for-profit or nonprofit entity that has a significant  
 630 presence in the County[The voting members of the Board of Directors  
 631 should include:

- 632 (1) one volunteer representative of a Chamber of Commerce in the  
 633 County who is recommended by the Chamber of Commerce;
- 634 (2) one owner of a small business in the County;
- 635 (3) one owner or officer of the senior management of a medium-  
 636 sized business located in the County; and
- 637 (4) up to 8 officers from the senior management of major  
 638 companies which have a significant presence in the County].

639 [(c)] (d) A member must not be paid for service on the Board but may  
 640 be reimbursed for necessary travel expenses.

641 [(d)] (e) A member is not subject to Chapter 19A because of serving on  
 642 the Board. The Corporation's bylaws must include provisions defining  
 643 and regulating conflicts of interest by Board members and  
 644 Corporation staff.

645 [(e)] (f) Notwithstanding any inconsistent provision of County Code  
 646 Section 19A-21, a member of the Board of Directors or a staff  
 647 member of the Corporation who engages in legislative, [or]  
 648 administrative, or executive advocacy as part of that [member's]  
 649 person's duties [on the Board] is not required to register as a lobbyist  
 650 under Article V of Chapter 19A because of that advocacy.

651 [(f)] (g) The Board must direct the program, management, and finances  
 652 of the [corporation] Corporation.

653 **30B-4. Status; incorporation; bylaws.**

654 (a) To qualify as the County's Economic [Business] Development  
 655 Corporation, [a corporation's] the Corporation's articles of  
 656 incorporation must provide for the appointment of the members of its  
 657 board of directors as set forth in this Chapter. The articles of  
 658 incorporation must also provide that the [corporation] Corporation is:

- 659 (1) a [tax-exempt] Maryland nonprofit, non-stock corporation the  
 660 purposes and activities of which are limited to those that are  
 661 permitted to be promoted or performed by a corporation that is  
 662 recognized as exempt from federal income tax under 26 U.S.C.  
 663 § 501;
- 664 (2) not an instrumentality of the County; [ and]
- 665 (3) incorporated for the [sole] purpose of serving as the County's  
 666 [Business] Economic Development Corporation and  
 667 implementing the County's economic development strategic

668 plan, adopted under Section 20-76, and related programs. These  
 669 programs must include:

- 670 (A) attracting and retaining businesses;
- 671 (B) facilitating economic, industrial, and commercial  
 672 development in the County;
- 673 (C) enhancing the agricultural economy;
- 674 (D) encouraging investment in commerce, industries, and  
 675 businesses in the County;
- 676 (E) promoting job growth and talent attraction, in  
 677 coordination with the Montgomery County Workforce  
 678 Development Board;
- 679 (F) advising and informing County officials on economic  
 680 development matters;
- 681 (G) providing services to resident businesses in the County,  
 682 including business retention, counseling, business  
 683 planning, and other services to maintain and grow the  
 684 existing economic base;
- 685 (H) stimulating and nurturing the development of new  
 686 business; and
- 687 (I) promoting the development of a vital and balanced  
 688 economy.

689 (4) organized and operated under the laws of the State of Maryland;  
 690 and

691 (5) headquartered in Montgomery County, Maryland.

692 (b) The Corporation's bylaws may contain any provision[, not  
 693 inconsistent with law or the articles of incorporation,] necessary to  
 694 govern and manage the Corporation, if the provision is not

695 inconsistent with this Chapter. The Corporation may exercise all  
 696 powers and is subject to all requirements which apply to non-stock  
 697 corporations under the Corporations and Associations Article of the  
 698 Maryland Code.

699 (c) [The Board must adopt and may amend the Corporations's bylaws,  
 700 subject to approval by the Council. The public must be given at least  
 701 15 days to comment on the proposed bylaws, or any amendment to the  
 702 bylaws, before the Council approves them.

703 (d)] The bylaws must require the Corporation to comply with the [state]  
 704 Maryland [o]Open [m]Meetings law and [provide that all meetings of  
 705 the Board of Directors must be open to the public except when closed  
 706 on a recorded vote of the Board for a reason expressly listed in the  
 707 state law or the bylaws] the Maryland Public Information Act.

708 **30B-5. [Work] Economic development program.**

709 (a) The Board of Directors must [adopt a work] recommend economic  
 710 development [program] programs to the Executive and Council each  
 711 year to advance the policy objectives and perform the activities listed  
 712 in Section 30B-1.

713 (b) In its [work] economic development [program] programs, the  
 714 Corporation should collaborate with [complement the strategic  
 715 economic development activities of] the [Department of Economic  
 716 Development] Montgomery County Workforce Development Board  
 717 to advance the County's economic development strategic plan under  
 718 Section 20-76.

719 (c) The Corporation's [work] economic development [program] programs  
 720 may include a plan for sponsorship of private investment, marketing,  
 721 and advocacy initiatives.

722 (d) The Board must meet with the Executive and the Council at least  
 723 [semi-]annually. [The Board must advise the Executive and Council  
 724 on economic development and related matters.]

725 **30B-6. Staff; support from County Government.**

726 (a) [The Department of Economic Development should, if the Board of  
 727 Directors requests, provide administrative support for the Corporation,  
 728 including contracts, grants, or services in kind, subject to  
 729 appropriation.]

730 (b) The Office of Management and Budget, the Department of Finance,  
 731 and other departments of County government and County-funded  
 732 agencies, if the Board of Directors requests, should provide relevant  
 733 economic data to the Corporation. The research division of the  
 734 Planning Board must provide research support to the Corporation to  
 735 the extent assigned by the Planning Board's work program, as  
 736 approved by the Council.

737 [(c)] (b) The Corporation may also raise public and private funds and  
 738 may accept services from any source consistent with its purposes.

739 **30B-7. Report.**

740 The Board of Directors must report annually on the activities and [finances]  
 741 provide an audited financial statement of the Corporation to the Executive and  
 742 Council by November 1 of each year.

743 **40-12B. Real property sold in Agricultural Zones.**

744 (a) If any real property is located in, adjoins, or confronts an area zoned  
 745 agricultural, as defined in Section 59-C-9.1, the seller must disclose to  
 746 each prospective buyer, before the buyer signs a contract for the sale  
 747 of the property, that existing County and State law is intended to  
 748 discourage owners of real property adjacent to agricultural-zoned land

749 from filing certain lawsuits against an owner or operator of an  
750 agricultural use in those areas. The following text must be  
751 substantially included in the disclosure:

752 As required under Montgomery County Code § 40-12B, you are  
753 hereby notified that the state of Maryland and Montgomery County  
754 have enacted laws that establish agriculture as the preferred use on  
755 land zoned Rural Density Transfer and as a permitted use in other  
756 agricultural zones, as defined in Section 59-C-9.1 of the County Code.  
757 The property subject to this contract is located in, adjoins, or  
758 confronts an area zoned agricultural. Residents and other occupants of  
759 property near land in agricultural zones should be prepared to accept  
760 effects of usual and customary agricultural operations, facilities, and  
761 practices, including noise, odors, dust, smoke, insects, operation of  
762 machinery, storage and disposal of manure, unusual hours of  
763 operation, and other agricultural activities.

764 Under Maryland law, an agricultural operation is not a nuisance, and a  
765 lawsuit may not be successful alleging that an agricultural operation  
766 interferes with the use or enjoyment of other property, if the  
767 agricultural operation:

- 768 (1) has continued for at least 1 year;
- 769 (2) complies with applicable health, environmental, zoning, and  
770 permit requirements; and
- 771 (3) is not conducted negligently.

772 County law may provide additional protections for agricultural uses  
773 on agricultural-zoned land. For further information, contact the  
774 Montgomery County [Department of Economic Development] Office  
775 of Agriculture.

- 776 (b) A prospective buyer must indicate, by signing an addendum to the  
 777 contract or a separate section of the contract printed in boldface type  
 778 in a clearly demarcated box, that:
- 779 (1) the seller has provided the information required by subsection  
 780 (a); and
- 781 (2) the buyer understands that:
- 782 (A) adjacent property may be the source of agricultural-  
 783 related nuisances; and
- 784 (B) the buyer may obtain more information about these  
 785 nuisances from the Montgomery County [Department of  
 786 Economic Development] Office of Agriculture.

787 \* \* \*

788 **44-47. Workforce Investment Scholarship Program.**

789 (a) *Definitions.*

790 *Board* means the Workforce Investment Scholarship Board created in  
 791 Section 44-48.

792 *Director* means the Director of the Department of [Economic  
 793 Development] Finance or the Director's designee.

794 (b) The Director must administer a workforce investment scholarship  
 795 program that:

- 796 (1) awards workforce investment scholarships to students in an  
 797 undergraduate degree program which prepares students for:
- 798 (A) one of the County's 10 most needed occupations;
- 799 (B) certification by the State Department of Education to  
 800 teach mathematics or science in a Maryland public  
 801 school;

802 (C) a degree in engineering, mathematics, or a natural  
 803 science; or

804 (D) a degree in early childhood education or early childhood  
 805 special education.

806 (2) requires a student who receives a workforce investment  
 807 scholarship to agree to work in the County as a mathematics or  
 808 science teacher, as an engineer, or in one of the County's 10  
 809 most needed occupations for at least the number of years the  
 810 student receives the scholarship; and

811 (3) requires the repayment of the scholarship by a student who does  
 812 not complete a degree or who does not satisfy other conditions  
 813 of the scholarship.

814 (c) The Executive must adopt regulations under Method 2 implementing  
 815 the scholarship program after considering the Board's  
 816 recommendations. The regulations must govern the award of  
 817 workforce investment scholarships covering tuition, books, fees, and  
 818 related expenses to attend an undergraduate degree program at:

- 819 1. Montgomery College for the first 2 years; and
- 820 2. the Universities at Shady Grove for the last 2 years; or
- 821 3. any campus for one of the participating Universities at Shady  
 822 Grove for the last 2 years if the degree program is not offered at  
 823 Shady Grove.

824 \* \* \*

825 **Sec. 2. Applicability of Chapter 11B, Article XVI ("Service Contracts").**

826 Any service contract, grant, or other agreement between the County and  
 827 another person that encompasses any function that was performed by the

828 Department of Economic Development is exempt from Chapter 11B, Article XVI  
829 (“Service Contracts”) under Section 11B-72(d)(1).

830 **Sec. 3. Collective bargaining notice.**

831 This Act serves as any notice required under Section 33-107(c)(17).

832 **Sec. 4. 2003 L.M.C., ch. 12, § 3 is repealed.**

833 The following law (2003 L.M.C., ch. 12, § 3) is repealed: “Marketing  
834 Assistance. The Department of Economic Development must establish and  
835 administer a fund, subject to appropriation, to provide marketing assistance to  
836 County restaurants affected by the provisions of this law. The Department must  
837 develop criteria for use of these funds and report to the Council quarterly on  
838 expenditures from the fund.”

839 **Sec. 5. Montgomery Business Development Corporation.**

840 This Act revokes the designation of the Montgomery Business Development  
841 Corporation as the County’s business development corporation.

842 **Sec. 6. References to the Department of Economic Development in  
843 regulation.**

844 Reference to the Department of Economic Development in COMCOR  
845 02.64L.01 (Silver Spring Enterprise Zone), COMCOR 02.64L.02 (Wheaton  
846 Enterprise Zone), and COMCOR 02.64L.03 (Long Branch/Takoma Park  
847 Enterprise Zone) is a reference to the Department of Finance.

848 Reference to the Department of Economic Development in COMCOR  
849 02B.00.01 (Agricultural Land Preservation Districts and Easement Purchases) is a  
850 reference to the Office of Agriculture.

851 Reference to the Department of Economic Development in COMCOR  
852 15.12.01 (Fee Schedule for Food Service Facilities) is a reference to the Office of  
853 Agriculture.

854 Reference to the Department of Economic Development in COMCOR  
855 20.73.01.05(g) (Economic Development Fund - Award Process) is a reference to  
856 the Montgomery County Economic Development Corporation and reference to the  
857 Department of Economic Development in COMCOR 20.73.01.05(k) (Economic  
858 Development Fund - Award Process) is a reference to the Department of Finance.

859 Reference to the Department of Economic Development in COMCOR  
860 20.73.02 (Technology Growth Program) is a reference to the Department of  
861 Finance. Section 20.73.02.05.b.5 (Program Operations) is amended as follows:  
862 “The Director of the Department of Finance [must, upon request from the Director  
863 of the Department of Economic Development,] may fund eligible projects with  
864 monies from the Economic Development Fund designated for the Program.”

865 Reference to the Department of Economic Development in COMCOR  
866 20.76.01 (Strategic Plan) is a reference to the Montgomery County Economic  
867 Development Corporation except the reference to the small business navigator  
868 position in the Department of Economic Development in Section 20.76.01.02  
869 (Definitions - Small Business Navigator) is a reference to the small business  
870 navigator position in the Office of Procurement.

871 Reference to the Department of Economic Development in COMCOR  
872 52.14.01 (Fuel Energy Tax for Agricultural Producers) is a reference to the  
873 Department of Finance except that reference to the Department of Economic  
874 Development in Section 52.14.01.05.A (Verification that Agricultural Producers  
875 Meet the Eligibility Criteria) is a reference to the Office of Agriculture.

876 Reference to the Department of Economic Development in COMCOR  
877 56.01A.01 (Financial Assistance to Demolish Commercial Properties) is deleted.

878 Reference to the Department of Economic Development in COMCOR Misc.  
879 02 (Administration of the Glenmont Enterprise Zone) and COMCOR Misc. 03  
880 (Burtonsville Enterprise Zone) is a reference to the Department of Finance.

881 **Sec.7. References to the Department of Economic Development in**  
882 **contracts.**

883 All references to the Department of Economic Development in contracts,  
884 deeds, licenses, easements, and leases are references to an agent of the County as  
885 designated by the Chief Administrative Officer.

886 **Sec. 8. Transition; effective dates.**

887 Amendments to Chapter 30B made under Section 1 of this Act take effect as  
888 provided in Charter Section 112.

889 Section 5 of this act takes effect when the Montgomery County Economic  
890 Development Corporation is designated under Section 30B-2.

891 All other provision of this Act take effect 90 days after the Montgomery  
892 County Economic Development Corporation is designated under Section 30B-2.

893

894 *Approved:*

895

George Leventhal, President, County Council

Date

896 *Approved:*

897

Isiah Leggett, County Executive

Date

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

899

Linda M. Lauer, Clerk of the Council

Date

APPROVED AS TO FORM AND LEGALITY  
OFFICE OF THE COUNTY ATTORNEY

BY: Edward Katter

DATE: 5/13/15

## LEGISLATIVE REQUEST REPORT

Bill \_\_\_\_-15

### **Economic Development - Reorganization - Montgomery County Economic Development Corporation**

- DESCRIPTION:** This Bill privatizes the County's economic development functions by (1) removing the designation of the County's Business Development Corporation and providing for the designation of a new non-profit corporation as the Montgomery County Economic Development Corporation and (2) eliminating the Department of Economic Development and transferring some of its functions to a newly created Office of Agriculture and the Economic Development Corporation.
- PROBLEM:** There is a need to ensure greater alignment of resources with community needs and improve the County's competitiveness.
- GOALS AND OBJECTIVES:** Ensure greater alignment of resources with community needs and improve the County's competitiveness.
- COORDINATION:** Office of the County Executive.
- FISCAL IMPACT:** Requested.
- ECONOMIC IMPACT:** Requested.
- EVALUATION:** Subject to the general oversight of the County Executive and the County Council.
- EXPERIENCE ELSEWHERE:** In the national capital region, there are many examples of privatized economic development organizations acting as their jurisdictions' lead or primary point of contact for businesses, including Fairfax County, Washington, DC, Prince George's, Baltimore City, Howard County, and Anne Arundel County.
- SOURCES OF INFORMATION:** Edward B. Lattner, Chief  
Division of Government Operations  
Office of the County Attorney
- Lily Qi  
Special Projects Director  
Office of the County Executive

**APPLICATION** n/a  
**WITHIN**  
**MUNICIPALITIES:**

**PENALTIES:** n/a

15-000846  
legislative request report

**Fiscal Impact Statement  
Council Bill XX-XX  
Economic Development Reorganization**

**1. Legislative Summary.**

Bill XX-15 will eliminate the Department of Economic Development (“DED”) as a principal department of the Executive Branch, and transfer certain duties of the Department of Economic Development to other County agencies. The Bill will also provide for the designation of a non-profit corporation as the Montgomery County Economic Development Corporation (“MEDC”) and assign certain duties to the new corporation. At the same time, the Bill will remove the designation of the County’s Montgomery Business Development Corporation and generally amend the County law governing economic development.

**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. Includes source of information, assumptions, and methodologies used.**

The current assumption is that there will be no net fiscal impact due to the implementation of this legislation, since the current resources allocated to DED would be reallocated to either other entities within County Government, the MEDC or the new entity managing the County’s workforce programs. The resources that are currently appropriated to DED would follow the functions to their new entities.

While not impacting the overall dollars, the information below outlines how the County Executive envisions the allocation of resources.

The proposed legislation would designate DED functions related to marketing, outreach, business development and assistance to the new MEDC. It is estimated that approximately \$6.23M of personnel and operating costs associated with those functions would be transferred to MEDC. For those existing DED functions remaining in County Government, including agricultural services, special projects, some finance and administration services related to the Economic Development Fund (EDF), and incentives funded through the EDF, an estimate of \$6.82M in personnel and operating budget will be transferred to other County departments. The funds currently allocated to DED workforce services, approximately of \$835K in General Funds and \$3.57M in grants, will be transferred to a new non-profit entity.

<b>Reallocation of FY16 Approved DED and EDF Budgets to MEDC and Other County Agencies</b>				
	FTEs	PC	OE	Total
DED Budget – General Fund	32.4	\$4,214,975	\$7,073,036	<b>\$11,288,011</b>
DED Budget – Grants			\$3,572,311	<b>\$3,572,311</b>
EDF Budget	1.0	\$129,000	\$1,724,591	<b>\$1,853,591</b>
NDA-Lease for DED Office Rental			\$622,462	<b>\$622,462</b>
NDA-Conference Center	1.0	\$118,314		<b>\$118,314</b>
<b>Total</b>	<b>34.4</b>	<b>\$4,462,289</b>	<b>\$12,992,400</b>	<b>\$17,454,689</b>
<b>Transfer to MEDC</b>				
19 DED positions and associated OE, including incubator programming, MBDC, and DED current lease.	19.0	\$2,402,544	\$3,822,522	<b>\$6,225,066</b>

<b>Remain in other County departments</b>				
Remaining DED positions and associated OE, including Agricultural Services, Special Projects, some Finance and Administration services, Small Business Navigator, Incubator financing, and the EDF operations.	12.4	\$1,659,619	\$5,162,487	<b>\$6,822,106</b>
<b>Transfer Workforce Services to a new entity</b>				
Workforce Services – General Funds and Grants	3.0	\$400,126	\$4,007,391	<b>\$4,407,517</b>

A specific timeline for transferring existing DED functions to MEDC is currently being developed. During the transitional period in FY16, the potential savings generated from the ramp down of DED functions are assumed to be sufficient to cover any potential costs associated with the creation of MEDC. Once the transition is complete and DED is eliminated, actual expenditure needs for MEDC's operations will be reassessed and presented to the Council for approval.

The impact of the proposed legislation on County revenue cannot be estimated as MEDC's impact to the County's economy is unknown at this time.

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

Revenues and expenditures for the following five fiscal years will be re-evaluated once the transition from DED to MEDC is complete.

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

The retiree pension or group insurance costs are expected to be reduced because of the reduced position count. An actuarial analysis will be performed later once the reduction of position count is finalized.

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

No anticipated increase in expenditures will be associated with the transition. IT and ERP systems are already in place for those County agencies designated to absorb DED functions. The new MEDC will be a non-profit corporation setting up its IT systems without any connection to or support from the County's IT systems.

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

The success of MEDC in implementing the County's Economic Development Strategic Plan will impact future revenue and expenditures. It is too early to determine the fiscal impact.

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

A team of senior managers from the County Executive's Office, the Office of the County Attorney, the Office of Human Resources, the Office of Management and Budget, and the Department of Economic Development will coordinate the transition of DED to MEDC. It is estimated that each agency would contribute on average 4-5 hours per week of staff time until the transition is completed.

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

As explained in Question 2, no additional appropriation is anticipated for FY16 based on the assumption of potential savings generated from the ramp down of DED functions. Future expenditure needs for MEDC will be reassessed once the transition is completed.

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

The following are some factors which could affect revenue and cost estimates:

- Range of current DED duties to be transferred to MEDC – this could affect the MEDC’s staff size, budget, office space and infrastructure needs, space sharing arrangements with partner organizations, and the number of contracts and MOUs with existing DED partners to be assumed or executed.
- Duration of transition period from DED to MEDC – this would determine whether some core DED services should continue to be offered by the County until MEDC is ready to assume those services.

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

See response to Question 10.

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

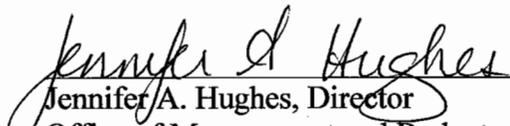
Not applicable. The proposed legislation would have no net fiscal impact. See Question 2.

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

None

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

Peter Bang, Chief Operating Officer, Department of Economic Development  
Pofen Salem, Office of Management and Budget

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

5/14/15  
\_\_\_\_\_  
Date

**Economic Impact Statement**  
**Bill #-15, Economic Development Reorganization**

**Background:**

This legislation would:

- Eliminate the Department of Economic Development (DED) as a principal department of the Executive Branch;
- Transfer certain duties of DED to other County agencies;
- Provide for the designation of a non-profit corporation as the Montgomery County Economic Development Corporation (MEDC);
- Assign certain duties to the MEDC; and
- Remove the designation of the County's Business Development Corporation.

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

The source of information is the Department of Economic Development.

The Department of Finance (Finance) assumes that the reorganization of the County's economic development program will have a positive impact on the County's economy as the Montgomery County Economic Development Corporation (MEDC) will be formed to implement the County's new Economic Strategic Plan. As a non-profit organization, MEDC will be able to forge a better partnership with the County's business communities. However, Finance assumes that there is no economic impact attributed to the transfer of some of DED programs and initiatives to other County Agencies. Those programs and initiatives that are transferred will not change and result in similar economic impacts even after the establishment of MEDC.

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

Not applicable

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

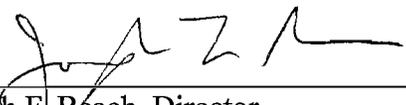
The transfer of duties and initiatives currently undertaken by DED and transferred to other County agencies will have no economic impact on employment, private spending, savings, investment, incomes, and property values in the County. However, the establishment of MEDC will have a positive impact on the County's economy.

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

See paragraph #3

**Economic Impact Statement**  
**Bill #-15, Economic Development Reorganization**

5. **The following contributed to or concurred with this analysis:** David Platt and Rob Hagedoorn, Finance; Peter Bang, Department of Economic Development.

  
\_\_\_\_\_  
Joseph F. Beach, Director  
Department of Finance

5/11/15  
\_\_\_\_\_  
Date