

MEMORANDUM

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney



SUBJECT: **Introduction:** Expedited Bill 7-15, Reorganization – Executive Branch – Procurement

Expedited Bill 7-15, Reorganization – Executive Branch – Procurement, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on February 3, 2015. A public hearing is tentatively scheduled for February 24, 2015 at 1:30 p.m.

Background

Bill 7-15 would establish the Office of Procurement as a principal Office of the Executive Branch and transfer procurement related functions to the Office of Procurement. Prior to July 1, 2008, the Office of Procurement was a principal Office of the Executive Branch. At the request of the Executive, the Council enacted Bill 4-08, Reorganization – Executive Branch, on April 15, 2008, effective July 1, 2008. Part of the reorganization accomplished in Bill 4-08 was to create a new Department of General Services (DGS) and transfer certain functions to the new Department, including Procurement. The Executive is now requesting to pull the Office of Procurement out of DGS and re-establish it as a principal Office of the Executive Branch. The Office would include the procurement function as well as the duties that have been handled by the Office of Business Relations and Compliance, which ensures that contractors meet the wage and minority-owned business provisions of the procurement law. The Executive explained why he requested this reorganization in his transmittal memorandum at ©7.

County Charter §217 provides that the Council “may prescribe by law the organization of the Executive Branch of County government.” Charter §217 also authorizes the Executive to submit a reorganization plan to the Council for approval. If the Council does not disapprove the plan within 90 days after it is presented to the Council, it becomes law. In addition to requesting Bill 7-15, the Executive submitted Reorganization Plan No. 1-15 establishing the Office of Procurement as a principal office of the Executive Branch under Charter §217 on January 22. See ©8-11. The Council does not have the authority to amend the reorganization plan. The Council must approve it, disapprove it, or let it become law without taking action. However, the Council can amend Bill 7-15 and disapprove the reorganization plan.

This packet contains:

Expedited Bill 7-15
Legislative Request Report
Executive’s Transmittal Memorandum
Reorganization Plan No. 1-15

Circle #

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Expedited Bill No. 7-15
Concerning: Reorganization – Executive
Branch - Procurement
Revised: January 23, 2015 Draft No. 1
Introduced: February 3, 2015
Expires: August 3, 2016
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) establish the Office of Procurement as a principal Office of the Executive Branch;
- (2) Transfer procurement related functions to the Office of Procurement; and
- (3) generally amend the law regarding procurement and related functions.

By amending

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

Chapter 2, Administration
Sections 2-30 and 2-64N

Chapter 11B, Contracts and Procurement
Section 11B-1

Chapter 19, Erosion, Sediment Control and Stormwater Management
Section 19-29A

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

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

1 **Sec. 1. Sections 1A-201, 2-30, 2-64N, 11B-1, and 19-29A are amended as**
2 **follows:**

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

4 (a) *Executive Branch.*

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

7 * * *

8 Procurement [Section 2-64N]

9 * * *

10 **Division 5. DEPARTMENT OF GENERAL SERVICES.**

11 **2-30. Department of General Services - Functions.**

12 The Department of General Services must:

13 [[a) administer, through the Office of Procurement, the procurement system
14 under Chapter 11B;]

15 [[b)] (a) acquire and dispose of real property, except real property used
16 (or intended to be used) for right-of-way governed under Chapter 49,
17 including roads, streets, highways, bridges, culverts, storm drainage
18 systems, pedestrian and bicycle pathways and walkway systems;

19 [[c)] (b) design and build County buildings, including public parking
20 facilities under Chapter 60;

21 [[d)] (c) maintain County vehicles, including heavy and light equipment
22 and transit equipment;

23 [[e)] (d) remodel and renovate County buildings, except public parking
24 facilities under Chapter 60, which remain open during the remodeling
25 or renovation;

26 [[f)] (e) repair and maintain County buildings, except public parking
27 facilities under Chapter 60;

28 [(g)] (f) manage County property and identify and acquire real property
29 needed for the operation of County government;

30 [(h)] (g) plan and implement the use of space in County buildings; and

31 [(i)] (h) operate mail, printing, duplication, and archiving services.

32 **Division 20. OFFICE OF PROCUREMENT.**

33 **2-64N. Functions.**

34 [The Office of Procurement is part of the Department of General Services.]

35 The Office of Procurement must:

36 * * *

37 **11B-1. Definitions**

38 * * *

39 *Director* means the Director of the Office of Procurement [Department of
40 General Services] or the Director's designee.

41 * * *

42 **19-29A. Watershed restoration grants program.**

43 * * *

44 (b) To identify non-profit organizations to perform water quality protection
45 or improvement activities, the Director of the [Department of General
46 Services] Office of Procurement may issue a competitive solicitation
47 under Chapter 11B that is limited to non-profit organizations.

48 * * *

49 **Sec. 2. Transition.** Any regulation in effect when this Act takes effect that
50 implements a function transferred to the Office of Procurement by this Act continues
51 in effect, but any reference in any regulation to the Department of General Services,
52 from which the function was transferred, must be treated as referring to the Office
53 of Procurement, to which the function is transferred. The transfer of a function under

54 this Act does not affect any right of a party to any legal proceeding begun before this
55 Act took effect.

56 Any responsibility or right granted by law, ordinance, regulation, delegation
57 of authority, contract, or other document to the Department General Services in
58 connection with the Procurement Law and Regulations is transferred to the Office
59 of Procurement.

60 **Sec. 3. Expedited Effective Date.** The Council declares that this legislation
61 is necessary for the immediate protection of the public interest. This Act takes effect
62 on the date it becomes law.

63 *Approved:*

64

George Leventhal, President, County Council

Date

65 *Approved:*

66

Isiah Leggett, County Executive

Date

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

68

Linda Lauer, CMC, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 7-15

Reorganization – Executive Branch - Procurement

DESCRIPTION: Bill 7-15 would create the Office of Procurement as a principal office within the Executive Branch of the County, rather than as a division within the Department of General Services (DGS).

PROBLEM: The inclusion of the procurement function within a department that itself procures major goods, services, and construction has raised perceived issues regarding the independence of the procurement function. For example, in FY2014, DGS spent \$855 million on procurement matters of the County's total \$3.66 billion, which amounts to 25% of the County's procurement expenditures. Moreover, DGS engages in some of the County's most complex and sophisticated procurements that involve construction of buildings and fleet management. In addition, several obligations have been placed on DGS since 2007 that increase the complexity of keeping the procurement function within DGS, namely, the expansion of the small business reserve program in 2009, the expansion of the prevailing wage law in 2009, and the whistleblowers statute in 2010. During the same period, DGS acquired responsibility for a more complex real property disposition process in 2012.

GOALS AND OBJECTIVES: As an independent principal office, the Office of Procurement will be less susceptible to pressures to defer to other priorities within the department, and can focus on the best interests of the County from an overall procurement perspective. By having the status of a cabinet level department, the separation of duties would remain intact without the blurred lines of authority that have occurred during the tenure of procurement as a division within DGS. The Office would include the procurement function as well as the duties that have been handled by the Office of Business Relations and Compliance, which ensures that contractors meet the wage and minority-owned business provisions of the procurement law.

COORDINATION: Department of General Services
Office of the County Attorney

FISCAL IMPACT: To be provided

ECONOMIC IMPACT: To be provided

EVALUATION: n/a

EXPERIENCE ELSEWHERE: Other large municipalities house their procurement functions in an independent office of procurement.

SOURCE OF INFORMATION: David E. Dise, Director, DGS
Marc P. Hansen, County Attorney

APPLICATION WITHIN MUNICIPALITIES: n/a

PENALTIES: n/a



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

January 22, 2015

TO: George Leventhal, President
County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Reorganization Plan and Expedited Bill Creating an Office of Procurement within
County Government

I am attaching for Council consideration Reorganization Plan No. 1-15 in accordance with Section 217 of the Montgomery County Charter. This Plan will create an Office of Procurement within County government, separate and apart from the Department of General Services (DGS). Because Section 217 contemplates an up or down vote on the Plan as submitted, I am also attaching an Expedited Bill to do the same in the event that Council wishes to make changes to the Plan.

The purpose of the Reorganization Plan is to establish as an independent principal office the Office of Procurement. As such, the Office will be less susceptible to pressures to defer to other priorities within DGS and will be able to focus on the best interests of the County from an overall procurement perspective. The Office will be able to focus on the various contracting needs generated across County government, and ensure compliance of all departments with best practices and laws, regulations and policies related to contracting.

Executive staff is available to assist the Council in its consideration of this Plan. Your assistance is appreciated.

Attachments

Reorganization Plan No. 1-15
Concerning: Office of Procurement –
Creation
Submitted to Council: January 22, 2015
Council: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY EXECUTIVE FOR MONTGOMERY COUNTY, MARYLAND

Charter Section 217 Plan of Reorganization

AN ACT to:

- (1) establish the Office of Procurement as a principal Office of the Executive Branch;
- (2) transfer procurement related functions to the Office of Procurement; and
- (3) provide for the orderly transfer of procurement related functions to the Office of Procurement.

By amending

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

Chapter 2, Administration
Sections 2-30 and 2-64N

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8 Procurement [Section 2-64N]

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43 * * *

44 (b) To identify non-profit organizations to perform water quality protection
45 or improvement activities, the Director of the [Department of General
46 Services] Office of Procurement may issue a competitive solicitation
47 under Chapter 11B that is limited to non-profit organizations.

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49 **Sec. 2. Transition.** Any regulation in effect when this Act takes effect that
50 implements a function transferred to the Office of Procurement by this Act continues
51 in effect, but any reference in any regulation to the Department of General Services,
52 from which the function was transferred, must be treated as referring to the Office
53 of Procurement, to which the function is transferred. The transfer of a function under

54 this Act does not affect any right of a party to any legal proceeding begun before this
55 Act took effect.

56 Any responsibility or right granted by law, ordinance, regulation, delegation
57 of authority, contract, or other document to the Department General Services in
58 connection with the Procurement Law and Regulations is transferred to the Office
59 of Procurement.

60

61 *Approved:*

62

Isiah Leggett, County Executive

Date