

MEMORANDUM

TO: Planning, Housing and Economic Development Committee

FROM:  Michael Faden, Senior Legislative Attorney

SUBJECT: **Worksession:** Bill 28-10, Economic Development – Business Development Corporation - Establishment

Bill 28-10, Economic Development – Business Development Corporation - Establishment, sponsored by Council President Floreen, Councilmember Trachtenberg, Council Vice President Ervin and Councilmembers Navarro, Knapp, Leventhal and Berliner, was introduced on April 27, 2010. A public hearing was held on June 22 (see testimony, ©10-14).

As introduced, Bill 28-10 (see ©1-6) would authorize and encourage County government to support a Montgomery Business Development Corporation (MBDC) and specify the members of, and the process to appoint and confirm members of, the Corporation Board of Directors.

Redraft Responding to issues raised by the County Attorney's Office about the legal status of and extent of County control over the proposed Corporation, Council President Floreen, the Bill's primary sponsor, directed Council staff to prepare a redraft (see ©15-23) that -- rather than directly creating a Business Development Corporation (BDC) whose Board of Directors is appointed by the County Executive, as the original Bill did -- would require the Council to designate a private corporation as the County's Business Development Corporation to perform certain specified functions. The County Attorney informed Council staff that this redraft satisfies his Office's concerns.

The redraft's approach is modeled on the current County law (County Code §2-117) that authorizes the Council to "designate a quasi-public, nonprofit corporation that is not an instrumentality of the County to act as the County's local management board" to "ensure the implementation of a local, interagency service delivery system for children, youth, and families." In Council staff's view, this model allows greater flexibility in the Corporation's organizational structure and more independence in its actions, while preserving basic County oversight.

The major feature of the proposed Corporation, as modified in this redraft, are:

Objectives, activities These are broadly spelled out on ©16-17, lines 5-34. They include strategic planning and advice, legislative and regulatory advocacy, and evaluation of County government's economic development performance. Presumably the Board of Directors,

as business leaders in the County, could also join the County Executive and Department of Economic Development (DED) in attempting to persuade specific businesses to move to or stay in the County.

Designation process This is outlined on ©17-18, lines 36-61. The Council, with the Executive's concurrence, by resolution would designate a nonprofit corporation which complies with the law's criteria as the County's Business Development Corporation for a 5-year term. The Council would have to notify the Corporation by the end of the 4th year if it intends to reopen the process for the next term, although the Council could suspend or revoke the designation at any time. As indicated by the timetable on ©23, lines 197-201, Council President Floreen hopes to have a BDC designated in time for the next state legislative session.

Board of Directors The designated Corporation's Board, which is not appointed by the County, would have to meet standards set in the Bill (see ©18-19, lines 66-89). It would be limited to 11 voting members, including a Chamber of Commerce representative, a small business owner, an owner or manager of a medium sized business, and up to 8 senior managers of major companies in the County. The Board should also include, as non-voting ex-officio members, the Director of DED, the Superintendent of Montgomery County Public Schools, the President of Montgomery College, and either the Planning Board Chair or the Planning Director.

Members of the Board would not be County officials or employees and would not be subject to the County Ethics law, but the Corporation's bylaws would regulate conflicts of interest by Board members and staff. (This provision is similar to the law governing the Bethesda Urban District Corporation, County Code §68A-10(g)(2).) The Board's meetings also would be required to comply with the state Open Meetings Law (again, similar to the Bethesda Urban District Corporation).

The County government and Planning Board could provide administrative and research support for the Corporation (see ©22, lines 176-186).

Issues

Any element or detail of the redrafted Bill, summarized above, is subject to discussion and amendment. The two cross-cutting issues raised so far with respect to this concept are:

1) Why is a County Business Development Corporation needed?

Testimony from the County Executive and business representatives uniformly supported creation of a County Business Development Corporation (see hearing testimony, ©10-14). No one at the hearing opposed the concept.

One alternative could be an economic advisory body, similar to the County's other advisory boards and commissions. (The current Economic Advisory Council was created informally, without any amendment to County law.) However, the Business Development Corporation model arguably could add a certain level of independence and status as well as allowing Board members to do more fund-raising on its behalf. Unlike an Economic

Development Authority, initially discussed by Council President Floreen, the BDC would not directly administer County economic development loans or grants, operate other economic development programs, or otherwise exercise any governmental authority. Rather it is intended to be a high-level catalyst for public action.

2) What level of transparency is appropriate?

At the hearing on this Bill, Councilmember Andrews questioned whether the new Corporation would be subject to the County Ethics law or the state Open Meetings Law and asked Council staff to compare similar County bodies on those points. As a private corporation, the Business Development Corporation’s Board members normally would not have to comply with County ethics standards, as members of all County advisory boards and commissions must in their official capacity.

The requirements for similar quasi-public County-designated bodies vary quite a bit. The most comparable bodies, and the County Code provisions which authorized them, are the Bethesda Urban District Corporation (Bethesda Urban Partnership or BUP, §§68A-9, 68A-10), the Arts and Humanities Council (AHC, §§5A-1 – 5A-7), the designated local management board (LMB, §§2-117 – 2-123), and Montgomery Community Television (MCT, a “community access organization” which receives a County contract under §8A-32). Before comparing these somewhat disparate organizations, we should note that all 4 administer significant County funds, which the Business Development Corporation, at least initially, is not expected to receive.

County law requires BUP, the LMB, and the AHC to comply with the state *Open Meetings Law*. BUP’s bylaws must specify how it will comply with the state *Public Information Act*. Only the LMB’s meeting minutes must be made public. None of the 4 organizations are directly covered by the *County ethics law*. The AHC must comply with the ethics law’s conflict of interest standards, and the LMB and BUP’s bylaws must impose their own conflict of interest standards. AHC and MCT board members are subject to limited *financial disclosure* requirements, applying only to activities and interests directly related to the organization’s scope.

Under the Council President’s redraft, the Business Development Corporation would be subject to the state Open Meetings Law and would not be covered by the County ethics law but would have to adopt and follow its own conflict of interest standards. In Council staff’s view, this midway position strikes a reasonable balance, especially because the BDC is not expected to administer significant County funding as the other quasi-public bodies do.

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Bill No. 28-10
Concerning: Economic Development -
Business Development Corporation -
Establishment
Revised: 4-16-10 Draft No. 7
Introduced: April 27, 2010
Expires: October 27, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Floreen, Councilmember Trachtenberg, Council Vice President Ervin and
Councilmembers Navarro and Knapp

AN ACT to:

- (1) authorize and encourage County government to support a Montgomery Business Development Corporation;
- (2) specify the members of, and the process to appoint and confirm members of, the Corporation Board of Directors;
- (3) define the nature and powers of the Corporation; and
- (4) generally amend County laws relating to economic development.

By adding

Montgomery County Code
Chapter 30B, Montgomery Business Development Corporation

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. Chapter 30B, Montgomery Business Development Corporation, is**
 2 **added as follows:**

3 **Chapter 30B, [Reserved] Montgomery Business Development Corporation.**

4 **30B-1. Policy objectives; Corporation activities.**

5 Recognizing that (1) the future success of Montgomery County related to
 6 education, infrastructure, public safety, public welfare, and quality of life is built
 7 on a vibrant and growing economy, (2) successful businesses are the key to
 8 creating this economy, and (3) government must create a legislative and regulatory
 9 environment which encourages business success, the County Government supports
 10 the formation of a Montgomery Business Development Corporation.

11 The mission of the Montgomery Business Development Corporation is to
 12 develop the vision for the County’s economic future and to recommend and
 13 advocate for legislative and regulatory changes that move the culture and
 14 regulatory environment so that business success can create that vibrant and
 15 growing economy.

16 The Corporation must:

- 17 (a) establish a vision of the economic future of the County founded on
 18 sound financial and economic condition and policies;
- 19 (b) develop and articulate strategies designed to achieve that vision,
 20 advocate for legislative and regulatory changes necessary to
 21 accomplish that vision, set measurements, and regularly report on the
 22 County’s success in meeting its objectives and goals;
- 23 (c) provide leadership on economic issues at both the County and State
 24 levels;
- 25 (d) engage business leaders and other key stakeholders in developing and
 26 implementing economic development strategies;

(e) maintain close liaison with government agencies and elected representatives at both the County and State levels to achieve the goals of the Corporation; and

(f) undertake any other activities deemed by the Board of Directors to support the mission of the Corporation.

30B-2. Definition.

In this Chapter "Corporation" means the Montgomery Business Development Corporation.

30B-3. Board of Directors.

(a) The Board of Directors of the Corporation must have no more than 11 members. In addition, the Director of the Department of Economic Development, the Superintendent of the County Public Schools or a Deputy Superintendent assigned by the Superintendent, and the chair of the County Planning Board or the Planning Director assigned by the chair, serve as ex-officio non-voting members.

(b) Each voting member must be either a resident of the County or employed in the senior management of a major company which has a significant presence in the County. The County Executive must appoint the remaining members, subject to confirmation by the County Council, as follows:

(1) one volunteer officer of a Chamber of Commerce in the County who is recommended by the Chambers of Commerce;

(2) one owner of a small business in the County;

(3) one owner or officer of the senior management of a medium-sized business located in the County; and

(4) up to 8 officers from the senior management of major companies which have a significant presence in the County.

- 54 (c) The Board must recommend one or more persons to the Executive to
 55 fill any vacancy on the Board. The Executive may reject any person
 56 recommended to serve on the Board and in that case must request
 57 additional recommendations from the Board.
- 58 (d) Of the members initially appointed to the Board, 4 must be appointed
 59 to 1-year terms, 4 must be appointed to 2-year terms, and 3 must be
 60 appointed to 3-year terms. Thereafter each voting member serves a 3-
 61 year term. At the end of a term, a member continues to serve until a
 62 successor is confirmed. A member who is appointed to complete an
 63 unexpired term serves only for the rest of that term or until a
 64 successor is confirmed.
- 65 (e) The Executive may reappoint a member for one additional term who
 66 is recommended by the Board to serve an additional term, but a
 67 member must not serve more than 2 consecutive full terms.
- 68 (f) The Executive may remove a member for malfeasance, misfeasance,
 69 or nonfeasance, or another reason specified in the Corporation bylaws.
- 70 (g) The Board must periodically select a chair and vice-chair, and may
 71 select from among its members any other officer to perform duties it
 72 finds necessary.
- 73 (h) A member must not be paid for service on the Board but may be
 74 reimbursed for necessary travel expenses.
- 75 (i) A member is not subject to Chapter 19A because of serving on the
 76 Board.
- 77 (j) The Board must direct the program, management, and finances of the
 78 Corporation.

79 **30B-4. Status; incorporation; bylaws.**

- 80 (a) The Corporation is a quasi-public corporation organized under the
 81 laws of Maryland. It is not an instrumentality of County government.

82 It may exercise all powers and is subject to all requirements which
 83 apply to non-stock corporations under the Corporations and
 84 Associations Article of the Maryland Code.

85 (b) The Executive, or any person designated by the Executive, must
 86 execute and file Corporation articles of incorporation, approved by
 87 resolution by the Council, for recording with the State Department of
 88 Assessments and Taxation. When the articles of incorporation are
 89 accepted for recording by the Department of Assessments and
 90 Taxation, the Corporation becomes a body corporate, lawfully and
 91 properly created.

92 (c) The Council may amend the articles of incorporation by adopting a
 93 resolution submitted by the Board of Directors and approved by the
 94 Executive or, if the resolution is disapproved by the Executive,
 95 readopting it by a vote of 6 Councilmembers. Any amendment must
 96 be filed and recorded with the State Department of Assessments and
 97 Taxation.

98 (d) The Board must adopt bylaws for the Corporation, subject to approval
 99 by the Council. Those bylaws must include provisions regulating
 100 conflicts of interest by Board members and by Corporation staff, if
 101 any. The public must be given at least 15 days to comment on the
 102 proposed by-laws, or any amendment to the bylaws, before the
 103 Council approves them.

104 **30B-5. Work program.**

105 (a) The Corporation must adopt a work program each year to advance the
 106 policy objectives and perform the activities listed in Section 30B-1.

107 (b) In its work program, the Corporation should complement the strategic
 108 economic development activities of the Department of Economic
 109 Development.

110 (c) The Corporation's work program may include a plan for sponsorship
 111 of private investment, marketing, and advocacy initiatives.

112 (d) The Board must meet with the Executive and Council at least semi-
 113 annually, and must advise the Executive and Council on economic
 114 development and related matters.

115 **30B-6. Staff; support from County Government.**

116 (a) The County Government must provide administrative and financial
 117 support for the Corporation, including contracts, grants, or services in
 118 kind, subject to appropriation.

119 (b) The Office of Management and Budget, the Department of Finance
 120 and other departments of County government and County-funded
 121 agencies, if requested, must provide relevant economic data to the
 122 Corporation. The research division of the Planning Board must
 123 provide research support to the Corporation.

124 (c) The Corporation should review and comment on data furnished under
 125 subsection (b).

126 (d) The Corporation may also raise private funds and may accept services
 127 from any source consistent with its purposes.

128 **30B-7. Report.**

129 The Board of Directors must report annually on the activities and finances of
 130 the Corporation to the Executive and Council.

131 *Approved:*

132 _____
 Nancy Floreen, President, County Council Date

LEGISLATIVE REQUEST REPORT

Bill 28-10

Economic Development – Business Development Corporation - Establishment

DESCRIPTION: Authorize and encourage County government to support a Montgomery Business Development Corporation. Specify the membership of and process to select the Corporation's Board of Directors.

PROBLEM: The County's economic development efforts would benefit from support and advice from a high-level private business organization

GOALS AND OBJECTIVES: To advance the economic development and prosperity of the County

COORDINATION: County Executive, Department of Economic Development

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Michael Faden, Senior Legislative Attorney, 240-777-7905

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Not applicable

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BILL 28-10



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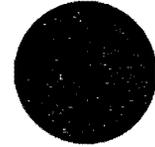
OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

May 10, 2010



MAY 11 AM 9:05
RECEIVED
MONTGOMERY COUNTY
COUNCIL

TO: Nancy Floreen, President, County Council
FROM: Joseph F. Beach, Director, Office of Management and Budget
SUBJECT: Bill 28-10, Economic Development – Business Development Corporation - Establishment

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

This legislation allows the County to further its economic mission through the formation of a Montgomery Business Development Corporation (MBDC). The legislation authorizes and requires the County government to support a MBDC and specify the members of, and the process to appoint and confirm members of, the Corporation Board of Directors.

FISCAL AND ECONOMIC SUMMARY

This legislation requires the County Government to provide administrative and financial support for the MBDC and the assumption is that the Department of Economic Development (DED) will be the administering agency responsible for recommendations set forth by the County Executive and County Council. The proposed legislation contains specific provisions on reimbursing the costs of travel to the Board Members. Travel expenses to other regions to either study, evaluate, and monitor the economic development strategies and outcomes of other regions is difficult to gauge at this time but DED anticipates it to be minimal.

Based on DED's experience with supporting similarly chartered entities such as the Workforce Investment Board, the Bioscience Task Force, the Green Economy Task Force, DED estimates the staff support requirement to be intensive. DED anticipates that at least a .5 work year will be needed assuming the allocation of an existing mid-level professional staff to support the MBDC.

DED assumes they are to absorb these costs and a breakdown of projected direct and indirect costs is provided.

Office of the Director

8

Projected Direct Costs:

- Non-Local Travel – Members may choose to participate in conferences and trade shows, or to visit other locations in the country. Costs per person range from \$1,000-\$1,500 depending upon location, number attending, and length of stay. The estimated direct costs related to the travel reimbursement could range from \$4,000 to \$6,000 per fiscal year.
- Local Travel – Local travel expenses covers the cost of mileage and parking reimbursement requests for participating members. DED estimates that each member will request reimbursement for at least 100 miles of local travel per year at the current mileage rate of \$.50/mile. Total projected cost for travel and parking for the fourteen members is approximately \$1,000.00.
- Printing costs - The copies and supplies needed for committee meetings as well as potential for copies of a report that may be generated could range from \$300 to \$1,000.

Projected Indirect Costs:

- The predominant cost associated with the County's participation in the MBDC is the time of the Director of the Department of Economic Development, but also assignment of duties to a DED Business Development Specialist. Based on the relationship between the mission of DED and the MBDC, DED anticipates that at least a .5 work year will be needed at approximately \$55,000. Responsibilities will most likely include but not be limited to: necessary research, monitoring of the budget, meeting planner, event organizer, responsible for meeting minutes, distribution of information, point of contact, and the drafting of the by-laws.

Under the broad mission defined within the bill, the County recognizes that the MBDC will need to establish a detailed action plan and sub-committee structure. The scope of the plan and time required to develop the committees will likely result in the County's need to provide direct financial support until the MBDC is able to raise adequate funding to support activities. Furthermore, if and when the County accepts and implements recommendations made by the MBDC, there will be larger financial resource requirements that will need to be considered during the annual budget process.

The following contributed to and concurred with this analysis: Peter Bang, Department of Economic Development, and Alison Dollar, Office of Management and Budget.

jfb:ad

cc: Kathleen Boucher, Assistant Chief Administrative Officer
Dee Gonzalez, Offices of the County Executive
Steve Silverman, Director, Department of Economic Development
Alison Dollar, Office of Management and Budget

1

Bill 28-10

**Economic Development -Business Development Corporation -Establishment
Public Hearing, June 22, 2010**

**Testimony of Steve Silverman, Director, Department of Economic
Development, on behalf of County Executive Isiah Leggett**

For the record, my name is Steve Silverman. I am director of the Montgomery County Department of Economic Development, and I am here today to speak on behalf of the County Executive in support of Bill 28-10 - Economic Development -Business Development Corporation –Establishment.

This bill would authorize County government to support a Montgomery Business Development Corporation (MBDC). The MBDC board, comprised of 11 County business leaders, will have a mission to “develop the vision for the County's economic future and to recommend and advocate for legislative and regulatory changes that move the culture and regulatory environment so that business success can create that vibrant and growing economy.”

The MBDC will work in close concert with the Department of Economic Development to engage Montgomery County’s business community in crafting strategies to achieve this vision. It will also develop performance measures to track and report on how the County is meeting its economic development objectives.

County Executive Leggett and I have worked with Council President Floreen and local business leaders to shape this bill. The MBDC will bring a valuable private sector perspective to the County’s efforts to enhance the success and growth of our existing business community, and to identify actions the County can take to create a more enabling environment for the attraction and creation of new companies.

The County Attorney has raised a number of issues regarding the legal status of the MBDC. We will work with Council to address those issues during upcoming work sessions.

We are competing regionally, nationally and globally to retain and attract 21st century, knowledge-based jobs and grow the County’s tax base. It is critically important that County government have a robust mechanism to regularly take the pulse of the business community and solicit private sector input in order to identify how County policies, programs and regulations can foster a supportive business climate. On behalf of County Executive Leggett, I urge the County Council to support this bill.



Marriott International, Inc.
Corporate Headquarters

Marriott Drive
Washington, D.C. 20058

Testimony for the Montgomery County Council June 22, 2010
Deborah Marriott Harrison
SVP Government Affairs for Marriott International

Deborah Marriott Harrison
Senior Vice President
Government Affairs
301/380-4392 Phone
301/380-8957 Fax

Good afternoon and thank you for the opportunity to testify on behalf of this important bill.

Those of us who live and work in Montgomery County already know what a great location this is. Now, with the proposed Montgomery Business Development Corporation we, the business community, will be in a better position to help the County roll out the welcome mat for other companies to locate here. By maintaining and recruiting other head quartered companies to come to the County, we will see benefits not only in increasing the tax base and in creating more jobs, but the community will also benefit from philanthropy that will enhance our lives.

In representing Marriott International, I fully support the establishment of this group and the unique and independent voice it will have. I applaud the County in reaching out to harness the experience of the business community. It shows that the County values our input. We care a lot about the County's economic future, so we are happy to be able to assist in developing a vision for it.

The Montgomery Business Development Corporation will connect various economic initiatives in green business, biotech, workforce development, information technology, and large and small businesses. The MBDC will create a strategic forum where employers can speak to fellow business leaders and policy makers about the current and future business needs that go beyond the borders of the County and that also need to be addressed at the State level.

It will prioritize the re-establishment of Montgomery County as a premier business location by implementing strategies that set Montgomery County apart as a thriving center of technology, entrepreneurship, and business. Currently there is a perception that the County and the state of MD are not business friendly. These perceptions will take time to change and the MBDC is a great vehicle to start moving the dialog.

Speaking on behalf of Marriott International, I am glad to be a part of this new organization. To me, it says, 'We're open for business,' which is a vital message during these fragile economic times. Business is the economic engine of the County and State. Now is the window of opportunity to make business, job creation, and innovation, a priority.

Thank you.



Gaithersburg-Germantown Chamber of Commerce, Inc.

Marilyn Balcombe, President/CEO
4 Professional Drive, Suite 132, Gaithersburg, MD 20879
301-840-1400 x15 / mbalcombe@ggchamber.org

**Montgomery County Council
Public Hearing – June 22, 2010**

**BILL 28-10
BUSINESS DEVELOPMENT CORPORATION**

My name is Marilyn Balcombe, I am the Executive Director of the Gaithersburg-Germantown Chamber of Commerce. Thank you for the opportunity to speak with you today.

The Gaithersburg-Germantown Chamber supports Bill 28-10 and the establishment of the Business Development Corporation. Economic development has always been a priority for the Chamber and our members. As we strongly supported the approval of the Germantown and the Great Seneca Science Corridor Master Plans, we are anxious to bring new jobs to those areas.

We support the mission of the Business Development Corporation to develop the vision for the County's economic future and to move the County to a more business friendly culture. More specifically we support the establishment of a comprehensive strategic economic development plan for the County.

Once a strategic plan is in place, the County Executive and the County Council must support the plan. Throughout the budget process, I've heard most everyone on the Council talk about growing the County's tax base, to do so the Council must invest in making that happen. By working with the business community, the Business Development Corporation can hopefully come up with a concrete plan for moving forward.

In terms of the specific aspects of the Bill:

- We request that the Corporation be required to establish metrics for determining the success of economic development in the County in terms of actual job growth.
- We support the requirement that the Corporation must engage business leaders and other key stakeholders in developing and implementing the strategic plan. I would suggest that the Chambers of Commerce have the infrastructure in place to facilitate that interaction.
- We support and appreciate having a Chamber representative on the Board, but would also like to have input in nominating other business owners / officers to the Board. As a note of clarification, line 47 references "one volunteer officer of a Chamber of Commerce" we think this is too restrictive and should state "one volunteer representative"
- We support the composition of the Board of Directors, although we would like to ensure some geographic diversity to ensure that the businesses in the Upcounty have some representation.

Thank you for your time. I look forward to working with the Business Development Corporation in bringing jobs to Montgomery County.

**THE GREATER BETHESDA-CHEVY CHASE CHAMBER OF COMMERCE
TESTIMONY ON REGARDING BILL 28-10, ECONOMIC DEVELOPMENT – BUSINESS
DEVELOPMENT CORPORATION - ESTABLISHMENT
BEFORE THE MONTGOMERY COUNTY COUNCIL – June 22, 2010**

Good afternoon. I am Andy Shulman with McShea & Company and Vice President of Economic Development for The Greater Bethesda-Chevy Chase Chamber of Commerce. On behalf of the Board of Directors and the more than 650 members of our Chamber, I am here today to lend support for Bill 28-10, which creates and defines the new Montgomery Business Development Corporation.

In order to ensure the economic security of Montgomery County and the means to provide the nationally recognized school system, social services and community amenities of which we are so proud, we must encourage our tax base to grow through the cultivation of existing and attraction of new businesses to the county.

At a time when our economy is suffering and the tax base is dwindling, the establishment of the MBDC will be an excellent vehicle to support and complement the Department of Economic Development and to ensure that the County remains focused on attracting new and retaining existing businesses in Montgomery County. Similar to other jurisdictions that have created successful economic development organizations throughout the region and country, Montgomery County needs to increase the engagement and involvement of the business community in determining the best direction for the future of economic development in our County.

We support the proposed composition of the leadership of the Corporation, including the Board member who will represent the chambers of commerce in our County as well as the small and medium sized business representation. We believe that the Chamber rep to the MBDC should meet with and report back to the chambers on a regular basis, bringing back to the Board the recommendations from the chambers of commerce and the thousands of businesses they represent.

We believe that after the creation of the mission and vision for the corporation, the first priority for the MBDC should be the development of a strategic plan for economic development, including the establishment of metrics for determining success for the County as it relates to job growth.

The Greater Bethesda-Chevy Chase Chamber of Commerce stands ready to work with the County Council, County Executive and members of the MBDC in support of the new direction of economic development for our County.

Thank you for the opportunity to present these comments.

Expedited Bill No. 28-10
 Concerning: Economic Development – Business Development Corporation –
[[Establishment]] Designation
 Revised: 7-8-10 Draft No. 11
 Introduced: April 27, 2010
 Expires: October 27, 2011
 Enacted: _____
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Floreen, Councilmember Trachtenberg, Council Vice President Ervin and
 Councilmembers Navarro, Knapp, Leventhal and Berliner

AN EXPEDITED ACT to:

- (1) authorize ~~[[and encourage]]~~ County government to ~~[[support]]~~ designate a
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- (2) specify ~~[[the members of, and]]~~ the process to ~~[[appoint and confirm members of,~~
~~the Corporation Board of Directors]]~~ designate a nonprofit corporation to function as
the County’s Business Development Corporation;
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The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Chapter 30B, [[Montgomery]] Business Development**
 2 **Corporation, is added as follows:**

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 24 accomplish that vision, set measurements, and regularly report on the
 25 County's success in meeting its objectives and goals;
- 26 (c) provide leadership on economic issues at both the County and State
 27 levels;

- 28 (d) engage business leaders and other key stakeholders in developing and
 29 implementing economic development strategies;
- 30 (e) maintain close liaison with government agencies and elected
 31 representatives at both the County and State levels to achieve the
 32 goals of the Corporation; and
- 33 (f) undertake any other activities deemed by the Board of Directors to
 34 support the mission of the Corporation.

35 **30B-2. [[Definition]] Designation.**

- 36 (a) In this Chapter "Corporation" means the [[Montgomery]] Business
 37 Development Corporation that the County has designated to study,
 38 evaluate, enhance, and supplement the County's economic
 39 development programs and activities.
- 40 (b) The County Council must designate, by resolution approved by the
 41 County Executive, a single nonprofit corporation which complies with
 42 all requirements and criteria of this Chapter as the County's Business
 43 Development Corporation. If the Executive disapproves the
 44 resolution within 10 days after receiving it, the Council may readopt
 45 the resolution with at least 6 affirmative votes.
- 46 (c) (1) Any designation under this Section expires at the end of the
 47 fifth full fiscal year after the resolution is adopted unless the
 48 Council extends the designation by adopting another resolution
 49 under this Section.
- 50 (2) However, if the Council President does not notify the Chair of
 51 the designated Corporation's Board of Directors, not later than
 52 June 30 of the fourth full fiscal year of the designation term,
 53 that the Council may allow the current designation to expire,

54 the designation is automatically extended for another 5-year
 55 term.

56 (d) The Council at any time may suspend or revoke the designation of a
 57 corporation as the County's Business Development Corporation by
 58 resolution, adopted after at least 15 days public notice, that is
 59 approved by the Executive, or, if the Executive disapproves the
 60 resolution within 10 days after receiving it, is readopted by a vote of
 61 at least 6 Councilmembers.

62 (e) To continue to qualify as the County's Business Development
 63 Corporation, a corporation's articles of incorporation and bylaws must
 64 comply with all requirements of this Chapter.

65 **30B-3. Board of Directors.**

66 (a) [[The]] To qualify as the County's Business Development
 67 Corporation, a corporation's Board of Directors [[of the Corporation]]
 68 must have no more than 11 voting members. [[In addition,]] The
 69 corporation's bylaws should also allow the Director of the Department
 70 of Economic Development, the Superintendent of the County Public
 71 Schools [[or a Deputy Superintendent assigned by the
 72 Superintendent]], the President of Montgomery College, and the chair
 73 of the County Planning Board or the Planning Director [[assigned by
 74 the chair]], to serve as ex-officio non-voting members along with any
 75 other nonvoting members authorized under the bylaws.

76 (b) Each voting member must be either a resident of the County or
 77 employed in the senior management of a [[major]] company which
 78 has a significant presence in the County. The [[County Executive
 79 must appoint the remaining members, subject to confirmation by the

80 County Council, as follows]] voting members of the Board of

81 Directors should include:

82 (1) one volunteer [[officer]] representative of a Chamber of

83 Commerce in the County who is recommended by the

84 Chambers of Commerce;

85 (2) one owner of a small business in the County;

86 (3) one owner or officer of the senior management of a medium-

87 sized business located in the County; and

88 (4) up to 8 officers from the senior management of major

89 companies which have a significant presence in the County.

90 [[c) The Board must recommend one or more persons to the Executive to

91 fill any vacancy on the Board. The Executive may reject any person

92 recommended to serve on the Board and in that case must request

93 additional recommendations from the Board.]]

94 [[d) Of the members initially appointed to the Board, 4 must be appointed

95 to 1-year terms, 4 must be appointed to 2-year terms, and 3 must be

96 appointed to 3-year terms. Thereafter each voting member serves a 3-

97 year term. At the end of a term, a member continues to serve until a

98 successor is confirmed. A member who is appointed to complete an

99 unexpired term serves only for the rest of that term or until a

100 successor is confirmed.]]

101 [[e) The Executive may reappoint a member for one additional term who

102 is recommended by the Board to serve an additional term, but a

103 member must not serve more than 2 consecutive full terms.]]

104 [[f) The Executive may remove a member for malfeasance, misfeasance,

105 or nonfeasance, or another reason specified in the Corporation

106 bylaws.]]

107 [(g)] The Board must periodically select a chair and vice-chair, and may
 108 select from among its members any other officer to perform duties it
 109 finds necessary.]]

110 [(h)](c) A member must not be paid for service on the Board but may be
 111 reimbursed for necessary travel expenses.

112 [(i)](d) A member is not subject to Chapter 19A because of serving on the
 113 Board. The Corporation's bylaws must include provisions defining
 114 and regulating conflicts of interest by Board members and
 115 Corporation staff.

116 (e) Notwithstanding any inconsistent provision of County Code Section
 117 19A-21, a member of the Board of Directors who engages in
 118 legislative or administrative advocacy as part of that member's duties
 119 on the Board is not required to register as a lobbyist under Article V
 120 of Chapter 19A because of that advocacy.

121 [(i)] (f) The Board must direct the program, management, and finances of
 122 the [[Corporation]] corporation.

123 **30B-4. Status; incorporation; bylaws.**

124 (a) [[The Corporation is a quasi-public corporation organized under the
 125 laws of Maryland. It is not an instrumentality of County
 126 government.]] To qualify as the County's Business Development
 127 Corporation, a corporation's articles of incorporation must provide
 128 that the corporation is:

- 129 (1) a tax-exempt nonprofit corporation;
- 130 (2) not an instrumentality of the County; and
- 131 (3) incorporated for the sole purpose of serving as the County's
 132 Business Development Corporation.

133 (b) The Corporation's bylaws may contain any provision, not inconsistent
134 with law or the articles of incorporation, necessary to govern and
135 manage the Corporation. [[It] The Corporation may exercise all
136 powers and is subject to all requirements which apply to non-stock
137 corporations under the Corporations and Associations Article of the
138 Maryland Code.

139 ~~[[b]~~ The Executive, or any person designated by the Executive, must
140 execute and file Corporation articles of incorporation, approved by
141 resolution by the Council, for recording with the State Department of
142 Assessments and Taxation. When the articles of incorporation are
143 accepted for recording by the Department of Assessments and
144 Taxation, the Corporation becomes a body corporate, lawfully and
145 properly created.]]

146 ~~[[c]~~ The Council may amend the articles of incorporation by adopting a
147 resolution submitted by the Board of Directors and approved by the
148 Executive or, if the resolution is disapproved by the Executive,
149 readopting it by a vote of 6 Councilmembers. Any amendment must
150 be filed and recorded with the State Department of Assessments and
151 Taxation.]]

152 ~~[[d]]~~~~(c)~~ The Board must adopt and may amend the Corporation's bylaws
153 [[for the Corporation]], subject to approval by the Council. [[Those
154 bylaws must include provisions regulating conflicts of interest by
155 Board members and by Corporation staff, if any.]] The public must
156 be given at least 15 days to comment on the proposed by-laws, or any
157 amendment to the bylaws, before the Council approves them.

158 (d) The bylaws must require the Corporation to comply with the state
159 open meetings law and provide that all meetings of the Board of

160 Directors must be open to the public except when closed on a
161 recorded vote of the Board for a reason expressly listed in the state
162 law or the bylaws.

163 **30B-5. Work program.**

164 (a) The [[Corporation]] Board of Directors must adopt a work program
165 each year to advance the policy objectives and perform the activities
166 listed in Section 30B-1.

167 (b) In its work program, the Corporation should complement the strategic
168 economic development activities of the Department of Economic
169 Development.

170 (c) The Corporation's work program may include a plan for sponsorship
171 of private investment, marketing, and advocacy initiatives.

172 (d) The Board must meet with the Executive and the Council at least
173 semi-annually. [[, and]] The Board must advise the Executive and
174 Council on economic development and related matters.

175 **30B-6. Staff; support from County Government.**

176 (a) The [[County Government must]] Department of Economic
177 Development should, if the Board of Directors requests, provide
178 administrative [[and financial]] support for the Corporation, including
179 contracts, grants, or services in kind, subject to appropriation.

180 (b) The Office of Management and Budget, the Department of Finance,
181 and other departments of County government and County-funded
182 agencies, if [[requested]] the Board of Directors requests, [[must]]
183 should provide relevant economic data to the Corporation. The
184 research division of the Planning Board must provide research support
185 to the Corporation to the extent assigned by the Planning Board's
186 work program, as approved by the Council.

187 (c) [[The Corporation should review and comment on data furnished
188 under subsection (b).]]

189 [[~~(d)~~]The Corporation may also raise private funds and may accept services
190 from any source consistent with its purposes.

191 **30B-7. Report.**

192 The Board of Directors must report annually on the activities and finances of
193 the Corporation to the Executive and Council.

194 **Sec. 2. Expedited Effective Date.**

195 The Council declares that this Act is necessary for the immediate protection of
196 the public interest. This Act takes effect on the date when it becomes law.

197 **Sec. 3. Timetable.** The first resolution adopted under Section 30B-2, inserted
198 by Section 1 of this Act, must take effect on October 1, 2010. Any corporation that
199 seeks to be designated as the County's Business Development Corporation must
200 submit proposed articles of incorporation and bylaws to the County Executive and
201 County Council by September 1, 2010.

202 *Approved:*

203

Nancy Floreen, President, County Council Date

204 *Approved:*

205

Isiah Leggett, County Executive Date

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

207

Linda M. Lauer, Clerk of the Council Date