

**MEMORANDUM**

April 13, 2012

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Action:** Bill 6-12, Economic Development – Small Business Assistance

**Planning, Housing and Economic Development Committee recommendation (3-0): approve the Bill with amendments.**

Bill 6-12, Economic Development – Small Business Assistance, sponsored by Council Vice President Navarro, Councilmembers Ervin, Floreen, Leventhal, Council President Berliner and Councilmember Riemer, was introduced on February 7, 2012. A public hearing was held on February 28 and a Planning, Housing and Economic Development Committee worksession was held on March 19.

**Background**

Bill 6-12 would establish a program to assist small businesses located in either an enterprise zone<sup>1</sup> or an urban renewal area<sup>2</sup> of the County who are adversely impacted by a County redevelopment project or a redevelopment project located on County property. The Bill would require the Director of the Department of Economic Development (DED Director) to create and operate the program. Subject to Council appropriation, the Director may award a grant or loan from the Economic Development Fund (EDF) to an eligible small business and provide technical assistance and training to a small business receiving financial assistance under the program. In the Bill as introduced, the Council must approve an award that exceeds \$100,000 cumulatively.

The Bill would also require the Executive to adopt method 2 regulations to implement this program. The regulations must:

- (1) require the Director to compile and maintain a list of approved technical training courses on the appropriate website;
- (2) specify the application procedures and eligibility criteria for a grant or loan to a small business under the Program;
- (3) specify conditions that the Director may impose on a small business in order to receive financial assistance from the Fund under the Program;
- (4) define what constitutes an adverse impact on a small business;
- (5) define what constitutes financial health of a small business; and

<sup>1</sup> An enterprise zone must be designated by the Maryland Department of Business and Economic Development.

<sup>2</sup> An urban renewal area must be designated by the Council.

- (6) identify outreach methods and marketing strategies to inform local small businesses of the program.

The Department of Economic Development operated the Impact Assistance Program (IAP) as part of the EDF beginning in FY05. The IAP was established by a Council appropriation of \$100,000 to the EDF in FY05 to assist small businesses adversely impacted by County development or redevelopment projects. Since inception, the IAP has provided assistance from the EDF to 26 different small businesses. A list of the recipients is included in the EDF Annual Report dated March 15, 2011 at ©7.

The Council did not appropriate funds for the IAP in FY10, FY11, and FY12. The Bill would establish a similar assistance program in the EDF law with a similar, but not identical, group of potential eligible businesses. The Bill would also permit the DED Director to require an applicant for assistance to complete approved technical training as a condition of receiving financial assistance from the program.

### **Public Hearing**

All 12 speakers at the February 28 public hearing supported the Bill. DED Director Steve Silverman, speaking on behalf of the Executive, supported the Bill (©14). Sanita Alrey-Debose, representing the Wheaton Redevelopment Advisory Committee (©15), Ash Kosiewicz, representing the Coalition for Fair Redevelopment of Wheaton (©16), and Manuel Ochoa, representing the Latino Economic Development Corporation (©17), each supported the Bill as a necessary expenditure to assist small businesses during the redevelopment project planned for Wheaton. Jorge Sactic, representing La Union Mall Tenant Association (©18-19), Maria Zelaya (©20), Omar Lazo (©21), Alex Compagnet, Sylvia Cezar, Maria Peredo, Carlos Cezar, and Alejandro Mendoza are small business owners in the County who supported the Bill. We also received written testimony from Bob Schilke (©22), an owner of a small business in Wheaton, supporting the Bill.

### **PHED Worksession**

Council Vice President Nancy Navarro attended the worksession along with the Committee members. DED Director Steve Silverman, Peter Bang, DED, and Katie Knowlin, DED, represented the Executive Branch. The Committee reviewed the Bill and the March 12 legal review memorandum from the County Attorney. The Committee recommended (3-0) to keep the narrow focus of the Bill on small businesses adversely impacted by County redevelopment projects located in an enterprise zone or an urban renewal area. The Committee also recommended (3-0) amending the Bill to reduce the time to apply for assistance from 24 months to 12 months before project construction and to delete the sentence requiring Council approval of all loans or grants over \$100,000.

The Committee recommended (3-0) approval of the Bill with these amendments.

## Issues

### **1. Does the Bill violate the separation of powers in the County Charter by requiring Council approval of grants over \$100,000?**

The County Attorney issued an opinion that the provision of the Bill requiring Council approval of EDF grants greater than \$100,000 violated the separation of powers contained in the County Charter (©26-27). The County Attorney argued that the expenditure of funds already appropriated is an executive function that the Charter delegates to the Executive. A Council reservation of the right to approve the expenditure of funds that the Council has already appropriated for that purpose in the EDF would therefore be a legislative veto. Council staff agrees with this general statement of the law. As the County Attorney pointed out, the Council can accomplish the same purpose in other ways. The Council could control grants over \$100,000 by: 1) prohibiting grants over \$100,000 in the Bill; 2) placing a condition on the appropriation to the EDF in the budget resolution that prohibits grants over \$100,000; 3) requiring the Executive to provide the Council with notice and a right to comment on grants over \$100,000; or 4) amending the Bill to prohibit grants over \$100,000 unless approved by the Council in a special or supplemental appropriation. **Committee recommendation (3-0):** amend the Bill by deleting the sentence requiring Council approval of grants over \$100,000 (see lines 45-47 of the Bill at ©3) and condition the appropriation to the EDF in the budget resolution prohibiting grants or loans greater than \$100,000. Therefore, a grant or loan greater than \$100,000 could only be made if it was approved in a special or supplemental appropriation by the Council.

### **2. What is the fiscal and economic impact of the Bill?**

OMB was unable to estimate the complete fiscal impact of the Bill due to uncertainty as to the number of small businesses that would be eligible for assistance and the amount of funding for the program. (©8-13) However, OMB estimated that DED would need to hire a new Senior Business Development Specialist, grade 27, at an estimated total cost of \$111,490 per year and a new Office Services Coordinator, grade 16, at an estimated total cost of \$50,473 to plan and administer the program. OMB also estimated an additional expense of \$50,000 to \$80,000 per year for occasional contractor support to evaluate loan applications during high-volume periods.

In light of DED's operation of a similar Impact Assistance Program between 2005 and 2010, Council staff questioned the estimate of the need for 2 new staff positions for this program. Peter Bang of DED responded by email at ©23. Mr. Bang pointed out that DED had between 42 and 54 work years during the active operation of the Impact Assistance Program and currently has only 27.3 work years. DED believes that they are unable to start and operate a new program with their current staff levels.

Finance provided an Economic Impact Statement at ©8-13, but was unable to quantify the impact of the Bill on employment, property values, or other economic activity due to uncertainty as to the number of eligible businesses and the type of assistance provided. The purpose of the Bill is to increase or prevent decreases in employment, property values, and other

economic activity in areas impacted by County redevelopment projects. The positive effect depends on the success of the program.

**3. Which businesses should be eligible for assistance under the Bill?**

The Bill limits eligibility to a small business as defined in Executive regulations adopted to implement the County Local Small Business Reserve Program. The size and sales criteria for different types of small businesses is established in COMCOR §11B.65.01.03. See ©24-25. A business must also be located near a County redevelopment project in either an enterprise zone or an urban renewal zone. The Maryland Department of Business and Economic Development has designated 3 areas in Montgomery County as an enterprise zone – 1) Long Branch/Takoma Park; 2) Wheaton; and 3) Old Towne Gaithersburg. The Silver Spring Central Business District was designated by the County as an urban renewal area.

The Executive's Recommended FY13 to FY18 CIP includes \$42 million for the Wheaton Redevelopment Program over the 6-year period. Although this Council tentatively voted to make significant changes to the scope of the project recommended by the Executive on April 10, the Council reaffirmed the County's commitment to undertake a significant redevelopment project in Wheaton. The Wheaton Redevelopment Project is likely to impact many small businesses in the immediate area. The owners of some of these businesses testified at the public hearing. If the Bill is enacted and the program is funded, eligibility for assistance will be further defined in future Executive regulations. **Committee recommendation (3-0):** retain the application of the Bill to small businesses adversely impacted by County redevelopment projects located in an enterprise zone or an urban renewal area.

**4. Should the Bill permit an application for assistance up to 24 months before construction is scheduled to begin?**

The purpose of the Bill is to help a small business that is likely to be adversely impacted by construction related to a County redevelopment project. However, the Bill would permit a small business to apply for assistance up to 24 months before construction is scheduled to begin. It is difficult to predict whether any small business is likely to continue as a viable business in the same location over the next 24 months. Providing financial assistance that far in advance of construction can result in the County helping a business that does not survive until construction actually begins. Using limited resources in this way would frustrate the purpose of the Bill. **Committee recommendation (3-0):** amend the Bill to reduce the time from 24 months to 12 months before construction is scheduled to begin. See line 34 of the Bill at ©3.

**5. Is an assistance program for small businesses impacted by a County redevelopment project a worthwhile expenditure of limited County resources?**

The need for impact assistance for small businesses can be illustrated by looking at the proposed \$42 million Wheaton Redevelopment project. The amended project tentatively approved by the Council on April 10 would result in significant adverse impact to existing local small businesses in Wheaton. The project would result in a loss of existing public parking in Lot 13 on Triangle Avenue for several years. One of the advantages of the Council's amended project over the Executive's recommended project is that it would reduce the time period for this temporary loss of parking from 5-6 years to 2-3 years. The amended project also includes the construction of an office building for M-NCPPC employees. Mitigation of the adverse impacts

of a County redevelopment project in Wheaton is a reasonable use of County resources. Absent a successful mitigation program, the redevelopment project may result in seriously damaging some of the businesses that the project is designed to enhance.

One of the dangers of providing impact assistance to small businesses is that the government will expend scarce resources to unsuccessfully keep a small business operating during a construction project that is not likely to survive without the project or after the assistance is finished. The Bill contains 2 provisions to help avoid this result. First, the Bill would require a finding that the potential recipient is financially healthy and likely to continue operating for the foreseeable future.<sup>3</sup> Second, the Bill would permit the DED Director to condition assistance on a recipient's completion of technical assistance.

The remaining question is whether an appropriation of funds for this program is merited when the Council compares it to other potential uses of scarce County resources. Although funding is necessary in the operating budget, it can be considered a necessary part of each County redevelopment capital project. The amount of funding for this program in FY13 and beyond is a budget decision that must be made by the Council on an annual basis. This Bill would not mandate an appropriation of funds in the FY13 operating budget. The Bill would only set up the machinery necessary to implement the program subject to annual appropriation by the Council. However, it appears that the Council would need to appropriate funding for additional staffing in DED in addition to incremental funding for the Economic Development Fund in order to implement this program. **Committee recommendation (3-0):** approve the Bill with amendments.

| This packet contains:                            | <u>Circle #</u> |
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| Legislative Request Report                       | 5               |
| Excerpt – EDF Annual Report dated March 15, 2011 | 6               |
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<sup>3</sup> The PHED Committee further reduced the possibility of assisting a business that would not survive until construction by reducing the time period for applying for assistance before construction is planned to begin.

Bill No. 6-12  
Concerning: Economic Development –  
Small Business Assistance  
Revised: April 11, 2012 Draft No. 6  
Introduced: February 7, 2012  
Expires: August 7, 2013  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**AN ACT** to:

- (1) establish a program to assist certain small businesses located in the County who are adversely impacted by a County redevelopment project or a redevelopment project located on County property;
- (2) provide technical assistance and training to a small business who receives financial assistance from the Economic Development Fund;
- (3) authorize financial assistance to certain small businesses from the Economic Development Fund; and
- (4) generally amend the economic development laws.

By adding  
Montgomery County Code  
Chapter 20. Finance  
Section 20-76B

|                              |                                                            |
|------------------------------|------------------------------------------------------------|
| <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. Sections 20-76B is added as follows:**

2        **20-76B.        Small Business Assistance Program.**

3        (a)    Definitions. As used in this Section:

4        Adverse impact means a loss of revenue resulting from a redevelopment

5        project.

6        Director means the Director of the Department of Economic

7        Development.

8        Enterprise zone means an area designated under Maryland Code,

9        Economic Development Article, Section 5-704 or any successor

10       provision.

11       Fund means the Economic Development Fund established in Section

12       20-73.

13       Program means the Small Business Assistance Program.

14       Redevelopment project means any construction, alteration, or

15       improvement in an urban renewal area or enterprise zone where the

16       existing land use is commercial or industrial and is:

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

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

19       Small business means a privately owned business that meets the

20       requirements of Section 11B-65(a).

21       Technical assistance means training directly related to operating a small

22       business provided by an educational institution or a non-profit

23       organization approved by the Director.

24       Urban renewal area means an area of the County as defined in Section

25       56-9(f).

26       (b)    Establishment of Program. Subject to appropriation, the Director must

27       create and administer a Small Business Assistance Program to assist

small businesses who are adversely impacted by a redevelopment project.

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

(1) the applicant is the owner of an existing small business located near an ongoing or future redevelopment project that is planned to begin construction in less than ~~[[24]]~~ 12 months after the application;

(2) the applicant's small business is currently or is likely to be adversely impacted by the redevelopment project; and

(3) the applicant's small business is financially healthy and likely to continue operating for the foreseeable future.

(d) Conditions. The Director may impose reasonable conditions on a small business, including the successful completion of approved technical assistance training, in order to receive financial assistance from the Fund under the Program.

(e) Financial assistance. The Director may award a grant or loan from the Fund to an eligible small business under the Program. ~~[[A loan or grant to a small business that exceeds \$100,000 cumulatively must be approved by the Council.]]~~

(f) Regulations. The Executive must adopt method 2 regulations to implement this Section. The regulations must:

(1) require the Director to compile and maintain a list of approved technical training courses on the appropriate website;

(2) specify the application procedures and eligibility criteria for a grant or loan to a small business under the Program;

(3) specify conditions that the Director may impose on a small business in order to receive financial assistance from the Fund under the Program;

(4) define what constitutes an adverse impact on a small business;

(5) define what constitutes financial health of a small business; and

(6) identify outreach methods and marketing strategies to inform local small businesses of the program.

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

(1) the number of small businesses participating in the Program;

(2) the number and dollar amount of grants and loans made; and

(3) an evaluation of the impact of each grant or loan on the operation of the small business.

*Approved:*

---

Roger Berliner, President, County Council

Date

*Approved:*

---

Isiah Leggett, County Executive

Date

*This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date

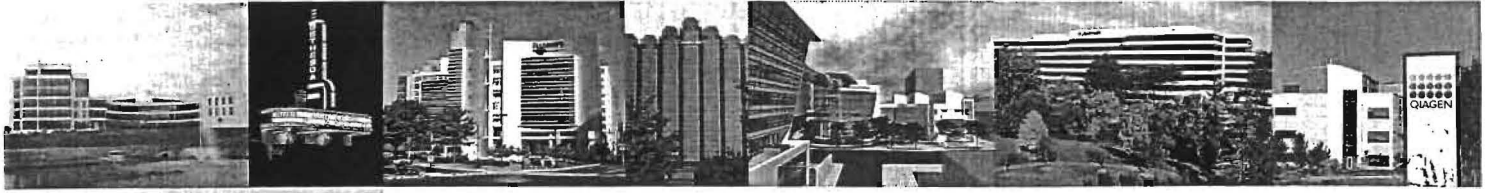
## LEGISLATIVE REQUEST REPORT

Bill 6-12

### *Economic Development – Small Business Assistance*

|                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DESCRIPTION:</b>                       | This bill would establish a program to assist small businesses located in an enterprise zone or urban renewal area of the County who are adversely impacted by a County redevelopment project or a redevelopment project located on County property. The Bill would permit the DED Director to require a recipient to complete approved technical training as a condition of receiving financial assistance from the Economic Development Fund. |
| <b>PROBLEM:</b>                           | A County redevelopment project may adversely affect small businesses located near the project. With appropriate assistance, many small businesses may be able to operate successfully during the project.                                                                                                                                                                                                                                       |
| <b>GOALS AND OBJECTIVES:</b>              | To assist small businesses who are adversely impacted by a redevelopment project.                                                                                                                                                                                                                                                                                                                                                               |
| <b>COORDINATION:</b>                      | DED Director, DGS Director                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>FISCAL IMPACT:</b>                     | To be requested.                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>ECONOMIC IMPACT:</b>                   | To be requested.                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>EVALUATION:</b>                        | To be requested.                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>EXPERIENCE ELSEWHERE:</b>              | To be researched.                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>SOURCE OF INFORMATION:</b>             | Robert H. Drummer, Senior Legislative Attorney, 240-777-7895                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>APPLICATION WITHIN MUNICIPALITIES:</b> | To be researched.                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>PENALTIES:</b>                         | Not applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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March 15, 2011

# Montgomery County Economic Development Fund Annual Report

**Isiah Leggett**  
County Executive

**Timothy Firestine**  
Chief Administrative Officer

**Valerie Ervin**  
Council President

Prepared by the  
Department of Economic Development

#### **D. Impact Assistance Program**

In FY05, the Impact Assistance Program was approved by the County Council and \$100,000 was appropriated for seed funding. The purpose of this Program is to mitigate, as much as possible, any adverse impact that small businesses might be experiencing due to County-initiated development, re-development, or renovation projects. The County Council appropriated a total of \$650,000 to support increasing activities under this Program.

Since the inception of the Program, the following businesses have received impact assistance funding totaling \$477,521:

| <b>NO</b> | <b>COMPANY</b>                                         | <b>FUNDING<br/>RECEIVED</b> | <b>LOCATION</b> |
|-----------|--------------------------------------------------------|-----------------------------|-----------------|
| 1         | ITB Eight, LLC D/B/A Black's Bar and Kitchen           | \$8,400                     | Bethesda        |
| 2         | Moren Inc.                                             | \$ 20,000                   | Silver Spring   |
| 3         | Vicky Snead T/A Eurokids Fashion                       | \$8,000                     | Silver Spring   |
| 4         | Olympic Carpet & Rug, Inc (Carpet Bazaar)              | \$15,000                    | Silver Spring   |
| 5         | Interior Accents, Inc.                                 | \$4,000                     | Silver Spring   |
| 6         | Bach Hue Nguyen T/A Bethesda Nail Spa by On            | \$3,700                     | Bethesda        |
| 7         | BH&R Associates (Quarry House Tavern)                  | \$4,000                     | Silver Spring   |
| 8         | Kefa Café                                              | \$10,000                    | Silver Spring   |
| 9         | ITB Eight                                              | \$2,800                     | Bethesda        |
| 10        | Universal Artificial Limb Co.                          | \$3,000                     | Silver Spring   |
| 11        | K.O. Inc. T/A Presence                                 | \$10,000                    | Bethesda        |
| 12        | Italia Gourmet                                         | \$15,000                    | Silver Spring   |
| 13        | Mayorga Coffee                                         | \$20,000                    | Silver Spring   |
| 14        | The Finkhauser Group, Inc. T/A The French Quarter Café | \$20,000                    | Germantown      |
| 15        | KCD Nguyen, LLC T/A Passion Nail Spa                   | \$15,000                    | Germantown      |
| 16        | Yamo, LLC                                              | \$20,000                    | Germantown      |
| 17        | Grand Crew Enterprises                                 | \$20,000                    | Germantown      |
| 18        | Barry's Magic Shop                                     | \$63,100                    | Wheaton         |
| 19        | Sacred Mountain LLC T/A Moorenko's Ice Cream Cafe      | \$20,000                    | Silver Spring   |
| 21        | Dale Music Company, Inc.                               | \$20,000                    | Silver Spring   |
| 22        | BDMS                                                   | \$20,000                    | Clarksburg      |
| 23        | Apollo                                                 | \$20,000                    | Clarksburg      |
| 24        | Green Earth Goods                                      | \$20,000                    | Clarksburg      |
| 25        | Mayorga Coffee                                         | \$20,000                    | Clarksburg      |
| 26        | Roadhouse Oldies                                       | \$5,000                     | Silver Spring   |
| 27        | CCLW, D/B/A Executive Shell                            | \$8,000                     | Rockville       |

#### **E. Export Montgomery Program**

The Export Montgomery Grant Program was established in 2001 under the Economic Development Fund. The purpose of this Program was to assist Montgomery County exporters that contribute to the economic strength and stability of the local economy, and to provide indirect marketing for the County. This Program operated with a \$30,000 set-aside from the Economic Development Fund and provided grants of up to \$5,000 to qualified companies with export related projects. Receipt of an Export Montgomery grant was contingent upon participation in the State's Export Maryland Program. Due to lack of activities, this Program was



ROCKVILLE, MARYLAND

MEMORANDUM

March 8, 2012

TO: Roger Berliner, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget  
Joseph F. Beach, Director, Department of Finance

SUBJECT: Bill 6-12 – Economic Development – Small Business Assistance

Attached please find the fiscal and economic impact statements for the above-referenced legislation.

JAH:nm

c: Kathleen Boucher, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Alex Espinosa, Office of Management and Budget  
Angela Dizelos, Office of Management and Budget  
Mary Oneda-Brown, Office of Management and Budget  
Nacem Mia, Office of Management and Budget  
Peter Bang, Department of Economic Development

**Fiscal Impact Statement**  
**Bill 6-12 – Economic Development – Small Business Assistance**

**1. Legislative Summary.**

Bill 6-12 would establish a program, to be created and operated by the Department of Economic Development (DED), to assist small businesses located in either an enterprise zone or an urban renewal area of the County who are adversely impacted by a County redevelopment project or a redevelopment project located on County property. The Bill requires the County Executive to adopt method 2 regulations to implement this program.

This program is envisioned to consist of: analyzing the economic health and needs of small businesses; administering a grant/loan program (including all operational and legal aspects); maintaining an up-to-date compilation of approved technical training courses; and marketing the program.

**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.**

Changes in County revenues and expenditures cannot be determined at this time due to the unknown variables as outlined below:

- The number of County projects and/or projects on County-owned property that have either been approved, are in the pipeline, or are in the planning stages;
- The definition of the term “near” in the Executive Regulations, which will determine the number of businesses eligible for assistance;<sup>1</sup>
- The Bill requires the mode of business assistance to be either in the form of a loan or a grant; depending on which type of assistance is given, this will affect expenditures significantly (i.e., loans will be paid back with interest, whereas grants will not).

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

Not available at this time due to the unknown variables listed in question 2.

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

Not applicable.

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

Modification to the program criteria (either through Executive Regulations or future bills) and definitions of criteria, such as the size of the small business, could affect future expenditures. A broader definition or criteria can increase the pool of eligible applicants, thereby increasing expenditures (in the absence of a spending cap for the program).

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<sup>1</sup> The Bill requires the County to “assist small businesses located near on ongoing or future redevelopment project...”

Conversely, the use of interest-bearing loans may increase revenues for the County if the pool of applicants is expanded.

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

The Bill allows the applicant small businesses to submit an application as early as 24 months prior to any redevelopment project scheduled to go into construction. As such, assigned staff for this program can begin application review as soon as any redevelopment plan is made public (rather than wait until construction begins).

To carry out the duties as required by this bill, the following functions are anticipated:

- Coordination with the Department of General Services (DGS) on redevelopment project and its impact on business conditions in the redevelopment area;
- Assess the types of businesses that could be impacted, and the nature and extent of the impact;
- Market the program and conduct business visitations;
- Assist in the application process, review applications, audit/monitor the business for financial health, and underwrite the loan package;
- Conduct performance monitoring and loan servicing; and
- Gather, evaluate and monitor various technical training programs that can assist the businesses.

It is anticipated that at least one additional full-time professional staff (Senior Business Development Specialist, grade 27), and one additional full-time administrative aide staff (Office Services Coordinator, grade 16) will be required to manage the program.

Considering that the work volume will come in peaks and surges (depending on the level of redevelopment activity), some operating budget increase (\$50,000-\$80,000/year) will be necessary for staff capacity at periods of high-volume with contractor support to evaluate loan applications.

**7. An explanation of how the addition of new staff responsibilities would affect other duties.**

As DED does not have the current staff levels to plan or administer this program, new staff will be necessary. During times of low activity, the additional staff can assist with other EDF duties such as the Small Business Revolving Loan program and other small business-related work programs.

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

DED would need 1.0 FTE for a new Senior Business Development Specialist position, grade 27, to administer a loan program. Assuming mid-point of pay grade and mid-range health insurance coverage, the cost of salaries and benefits would be approximately \$111,490 per year.

DED would also need 1.0 FTE for a new Office Services Coordinator, grade 16, to help manage the program. Assuming the minimum point of pay grade and mid-range health insurance coverage, the cost of salaries and benefits would be approximately \$50,473 per year.

An operating budget increase of \$50,000-\$80,000 per year will be necessary for staff capacity at periods of high-volume with contractor support to evaluate loan applications.

The costs for the actual assistance to businesses through either a loan or grant program will be determined by how the program is structured. This is a significant fiscal impact of Bill 6-12, the structure of the program is not specified in the Bill and therefore the costs cannot be estimated.

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

The use of loans or grants to provide assistance will determine the level of cost estimates. Broadening the pool of applicants by adopting looser eligibility criteria may increase expenditures (in the absence of any caps).

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

All revenue or expenditures are difficult to project at this time due to the variables described in question 2.

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

Not applicable.

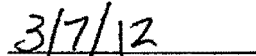
**12. Other fiscal impacts or comments.**

None.

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

Peter Bang, Chief Operating Officer, Department of Economic Development  
Mary Oneda-Brown, Office of Management and Budget  
Naeem Mia, Office of Management and Budget  
Angela Dizelos, Office of Management and Budget

  
Jennifer A. Hughes, Director  
Office of Management and Budget

  
Date

**Economic Impact Statement**  
**Bill 6-12 – Economic Development – Small Business Assistance**

**Background:**

Bill 6-12 would establish a program, to be created and operated by the Department of Economic Development (DED), to assist small businesses located in either an enterprise zone or an urban renewal area of the County who are adversely impacted by a County redevelopment project or a redevelopment project located on County property. The Bill requires the County Executive to adopt method 2 regulations to implement this program.

This program is envisioned to consist of: analyzing the economic health and needs of small businesses; administering a grant/loan program (including all operational and legal aspects); maintaining an up-to-date compilation of approved technical training courses; and marketing the program.

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

Montgomery County Economic Development Fund Annual Report (2011)

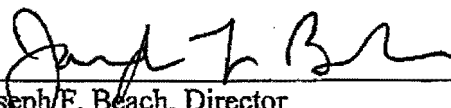
2. A description of any variable that could affect the economic impact estimates.
  - A. The size, scope and location of County-funded redevelopment projects.
  - B. The size, scope and location of redevelopment projects on County-owned property.
  - C. The number, type and financial wherewithal of small businesses that are near the redevelopment projects in A and B.
  - D. The total amount of economic assistance provided to affected small businesses.
3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

Since the legislation seeks to mitigate the adverse impact of future County fostered redevelopment projects on nearby small businesses, that are otherwise financially stable, it is not possible to quantify the impact on employment, property values, or other economic activity as a result of this bill since it would be dependent on the number of businesses affected and receiving aid, the total amount of aid deployed, and the number of employees affected and the type of industry that they work in. The analysis would also have to consider whether the aid was necessary to retain the entire business or would address revenue shortfalls during implementation of the redevelopment project.

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

Not applicable.

5. The following contributed to and concurred with this analysis: David Platt and Mike Coveyou, Finance

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

3/7/12  
Date



DEPARTMENT OF ECONOMIC DEVELOPMENT

Isiah Leggett  
County Executive

Steven A. Silverman  
Director

**Bill 6-12**  
**Economic Development – Small Business Assistance**

*Public Hearing – February 28, 2012*

**Testimony of Steven A. Silverman, Director,  
Department of Economic Development  
On behalf of County Executive Isiah Leggett**

For the record, my name is Steve Silverman, and I am the Director of the Montgomery County Department of Economic Development. I am here tonight to speak on behalf of the County Executive in support of Bill 6-12 – Economic Development – Small Business Assistance.

This bill would direct our Department to establish a program to assist small businesses that are located in either an enterprise zone or an urban renewal area of the County, and who are adversely impacted by a County redevelopment project or a redevelopment project located on County property.

Bill 6-12 reflects the County's responsibility to help mitigate any unintended consequences that may occur due to our desire to see progress in geographic areas of the County or on specific parcels that are in need of redevelopment. Bill 6-12 and the program that will ensue from this piece of legislation are critical to maintaining the ongoing health of our small business community, a goal clearly shared by the County Executive and the County Council.

The program being recommended in Bill 6-12 is very similar to the Department of Economic Development's Impact Assistance Program. Established in FY05, the Impact Assistance Program was designed to mitigate, as much as possible, any adverse impact that small businesses might experience due to County-initiated development, redevelopment or renovation projects. Some 27 businesses have received grants totaling approximately \$475,000 since the program's inception. Bill 6-12 takes this financial assistance component one step further by also addressing the technical assistance needs of the small businesses that are being impacted, a programmatic component that we applaud.

On behalf of County Executive Leggett, I encourage the County Council to support Bill 6-12, legislation that will aid an important component of the County's economy – our small business community.



**WHEATON REDEVELOPMENT ADVISORY COMMITTEE**

February 28, 2012

Councilmember Nancy Navarro  
100 Maryland Avenue  
Rockville, MD 20850

Dear Councilmember Navarro,

I am writing to you as Chair of the Wheaton Redevelopment Advisory Committee (WRAC). We have reviewed Bill (6-12) to support small businesses in Montgomery County. We believe this bill will assist small businesses in surviving the negative effects of the proposed Wheaton Redevelopment by B.F. Saul. Because small business assistance is crucial to the redevelopment for all of Wheaton, the WRAC supports the small business assistance bill.

Many businesses are concerned and excited about the potential changes and improvements to Wheaton. While there are many healthy and viable businesses, others will require assistance to make the transition perhaps to new locations. Change can be positive for a commercial district but some of the effects of construction can have a short-term negative effect. Small business assistance can make a real difference to businesses that may need technical advice in marketing, operations, and business expansion.

WRAC members are interested in small business issues and unanimously support this bill. Additionally, we will continue to work with small businesses and interested members of the public to gather comments and advice that we can pass to you and your staff. We believe this bill will have a positive impact on Wheaton businesses that are directly affected by the redevelopment. Therefore, the WRAC encourages passage of the Small Business Assistance Act. Thank you for your consideration in this matter.

Sincerely,

Jonathan Fink  
Chair, Wheaton Redevelopment Advisory  
Committee

Department of General Services

2424 Reddie Drive • Wheaton, Maryland 20902-4669  
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[www.montgomerycountymd.gov/midcounty](http://www.montgomerycountymd.gov/midcounty) [midcty.citizen@montgomerycountymd.gov](mailto:midcty.citizen@montgomerycountymd.gov)

February 28, 2012

Montgomery County Council

100 Maryland Avenue

Rockville, MD 20850

Re: Bill 6-12 Economic Development - Small Business Assistance

**Testimony: Ash Kosiewicz**

**Lead Organizer, Coalition for the Fair Redevelopment of Wheaton**

Good evening. My name is Ash Kosiewicz, lead organizer of the Coalition for the Fair Redevelopment of Wheaton. The Coalition is made up of County residents, Wheaton small businesses, and nonprofits that want the existing community to benefit from the Wheaton redevelopment project. I am here to express our Coalition's support for Bill 6-12 as a critical step in the right direction as the County demonstrates its commitment to small businesses that are adversely impacted by publicly subsidized redevelopment projects.

For over a year, the Coalition has fought for shared prosperity and redevelopment in Wheaton. Aware of challenges that faced small businesses during the redevelopment of Silver Spring, we outlined - what would it take - to position small businesses so that they would be part of a revitalized Wheaton. Business owners recognized the potential of a day time crowd in new offices, more people living in the Central Business District to patronize their businesses, and an attractive new downtown where families could spend time together on the weekends. That vision and promise, however, contrasted with the concerns about the transition period that has many of our members wondering - will they eventually suffer the same fate as their peers in Silver Spring? A 2005 University of Maryland study found that many small business owners during the redevelopment of Silver Spring said County assistance programs, including Impact Assistance funds, were inaccessible and insufficient to meet their needs.

Thankfully, Bill 6-12 is an important piece of legislation that gives our Coalition hope that we can work with the County to realize our mutual goals of creating opportunities to help retain and grow small businesses in Wheaton. If adequately funded and supported by regulations that allow for broad participation, this new program would play a critical role in helping small business owners tackle the challenging transition of Wheaton's redevelopment. By removing the \$20,000 cap under the County's existing programs and marrying financial resources with technical assistance, this bill should be one piece of a comprehensive approach to help small businesses in Wheaton benefit from the redevelopment project.

I want to end my three minutes by encouraging this Council to read the testimony I am submitting today on behalf of small business owner Bob Schilke of Wheaton's beloved Little Bitts Shop, a one-of-a-kind business in Montgomery County. For more than three decades, Bob has opened his small business three nights a week to students who want to learn how to make and decorate cakes and candy. Tonight, he's doing just that. Though he really wanted to be here tonight, he wants to join me in thanking Council Vice President Nancy Navarro for introducing this bill and Council members Ervin, Floreen, Leventhal, and Council President Berliner for co-sponsoring.

Thank you.

February 28, 2012

Montgomery County Council

100 Maryland Avenue

Rockville, MD 20850

Re: Bill 6-12 Economic Development - Small Business Assistance

**Testimony: Manuel Ochoa**

**Latino Economic Development Corporation (LEDC)**

Good evening. My name is Manuel Ochoa, regional director of Homeownership for the Latino Economic Development Corporation and a member of the Wheaton Redevelopment Advisory Committee. LEDC equips Latinos and other DC-area residents with the skills and financial tools to create a better future for their families and communities. Participants in our programs learn how to buy and stay in their homes, take control of the decisions affecting their apartment buildings, and start or expand small businesses. I am here tonight to express LEDC's support for Bill 6-12 as an important protection for small businesses impacted by redevelopment.

In 2006, Montgomery County asked LEDC to come to Wheaton to help prevent the displacement of Latino small businesses due to redevelopment. LEDC has supported small businesses with microloans, technical assistance, and training. Today, we are more active than ever! From July to December 2011 we have assisted 131 business owners with 234 sessions of technical assistance related to record keeping, marketing, personal finance, and business planning. In the Central Business District and in neighboring Census tracts, we have closed 21 loans to help small business owners expand and strengthen their businesses.

Unfortunately, the very potential we see in small businesses is put to the ultimate test during redevelopment. For a small business owner, the prospect of years of construction, partial and/or complete loss of parking, and a drop in sales can create confusion and anxiety. Small business owners know they will need adequate financial and technical assistance to cope with the challenging transition to ultimately position themselves for the changing markets and opportunities that come with redevelopment.

For this reason, we strongly support Bill 6-12 given it recognizes the County's responsibility in helping small businesses to weather the transition phase of publicly subsidized redevelopment projects. Small businesses need security and concrete protections in place to benefit from redevelopment in areas like Wheaton and beyond. By removing the \$20,000 cap and allowing small businesses to apply for this assistance well in advance of redevelopment, this bill improves upon the County's existing programs and represents one important piece of a comprehensive approach to help small businesses benefit from redevelopment.

We implore this Council to support this legislation and ensure that related regulations allow for broad participation of businesses that will make wise use of County funds. We are ready and willing to be the County's partner in the challenging times ahead, and we want to do everything we can to help realize the County's goals of retaining and creating new opportunities for small businesses within our revitalized communities.

Thank you for the opportunity.

Testimony of Jorge Sactic  
For Montgomery County Council Public Hearing on Bill 5-12 and Bill 6-12

February 28, 2012

I am Jorge Sactic; I live in Germantown, Montgomery County, Maryland. I am the owner of Chapina Bakery at La Union Mall and a leader of the Asociacion Guatemalteca Unida (AGUA) an umbrella entity the unified the Guatemalan groups of the Washington DC Area. Also, a Board member of the Crossroads Farmer's Market in Takoma Park in addition to be the president of the La Union Mall Tenants Association and the organizer of the Langley Park Small Business Association a board composed of many small business from the whole International corridor.

I am her to ask the Council for the approval of:

**Bill 5-12: Small Business Navigator:** This bill creates a new position. The Navigator will be the contact person between a small business and the County. Helps small business comply with County requirements and regulations.

**Bill 6-12: Small Business Assistance:** This bill establishes program to assist small businesses that are located in an area of redevelopment (like the Purple Line). The small businesses can be awarded a grant or loan and it will receive technical assistance and training. The small business can apply 2 years prior to construction.

We the Small Business owners of the Langley Park area respectfully ask the Council the approval of these provisions due to the fact that we feel and according to our projections the sales and revenues of our business will be affected tremendously by two events:

- Being the first one, the inconvenience and the laps that the construction of the Purple Metro Line will create
- The second one, the modernization stage of the areas (especially around the metro stations) that will increase the cost of living.

Langley Park has become the biggest concentration of Latinos in the whole Washington Metropolitan Area and the home of many other minority groups from Asia, Africa and Middle East as well. Consequently, this international corridor has created a cluster of business that renders products

and services to serve not only minority groups who live in the area, but also to those who live far away and can find those sentimental products that have special meaning for them where they live. For instance, my company sells bread and anyone can go to the Giant or Safeway to buy these products but the difference is that those products in there have no meaning for minority groups.

In contrast, our business has created products both in shape and taste that remain special moments back home, also, has reassembled the little corner store where they used to hang out and talk about the crops, children, loves and many other things from the life they used to have. Therefore, a high percentage of our clientele living far away always come to the area to get those special products they want.

However, during construction many of them will hesitate to come due to the inconvenience that this type of projects creates and an important flow of our income will be lost in the process.

On the other hand, the proposal for development of the Purple Line, commercial rents in the area are already rising. Landlords do not want to enter into the customary long-term leases that give small businesses security. The threat to the diverse culture of the International Corridor is obvious. Commercial interest in the areas around Purple Line stops will drive up rents and prices.

Unless government steps in with concrete protections for current residents and existing local small businesses, such as the approval of Bill 5-12 and Bill 6-12, national chains will be pushing us out of the market. The loss of small businesses catering to the ethnic communities will accelerate displacement of those communities altogether.

To me, it is important that Council allow this Law Project to pass that in turn will help to retain the existing small businesses or help them being relocated without the loss of their investment. Creating new opportunities is good, but retaining the current diversity of small businesses is essential to preserve the unique character of the International Corridor. Please approve Bill 5-12: Small Business Navigator and Bill 6-12: Small Business Assistance.

Thank you.

Jorge Sactic

(202) 702-4416

[jsactic@hotmail.com](mailto:jsactic@hotmail.com)

February 28, 2012

Montgomery County Council  
100 Maryland Avenue  
Rockville, MD 20850

Re: Bill 6-12 Economic Development - Small Business Assistance

**Testimony: Maria Zelaya**  
**Los Taxes**

Good Evening. My name is Maria Zelaya and I am the owner of small business Los Taxes in Wheaton on Triangle Lane. I am here tonight as a member of the Coalition for the Fair Redevelopment of Wheaton to express my support for Bill 6-12 as an important protection for small business owners like myself in Wheaton.

I have been a small business owner in Wheaton since 2008. I started my business on Georgia Avenue and my business has thrived and expanded in the five years that I've been here, due primarily to the diverse population in Wheaton and the valuable service we provide. At Los Taxes, we help people understand the tax system and assist them in paying their income taxes. We also help small businesses with their accounting and we also do corporate income taxes.

I moved to my current location on Triangle Lane after deciding that I wanted to stay in Wheaton because of its culture and because of the Latino population which is my primary clientele. Given my location, where I just signed a new 5-year lease, I'm concerned about how to prepare for the changes that will take place due to redevelopment. My business will face significant challenges due to loss of parking and customers having reduced access to my business, and I'm also concerned that many of my fellow small business owners will also be affected. We all are committed to the Wheaton community and offering assistance to its members.

For this reason, I am here today to ask the Council to support Bill 6-12 as a member of the Wheaton small business community who hopes to expand as a result of the redevelopment project. This bill will provide much needed financial assistance to small business owners in Wheaton and will help us to stay in business through construction in order to benefit from redevelopment and the new clientele it will bring to Wheaton. I also support the Bill because business owners would be able to apply for assistance before redevelopment starts, which is key for allowing us to plan and prepare for any decrease in business and to help us cover our monthly fixed costs.

While I'm worried about being able to stay open during the redevelopment process, I'm also excited about the economic prospects that redevelopment could bring to Wheaton and hope that my business will flourish as a result. We hope to expand our business to introduce health, life, auto insurance and also offer small business development trainings. This bill provides an important protection to help us to weather the difficult transition during the redevelopment.

Thank you.

Omar Lazo, Owner  
 Los Chorros Restaurant  
 2420 Blueridge Ave  
 Wheaton, MD 20902  
 (301) 933-1066  
[www.LosChorrosRestaurant.com](http://www.LosChorrosRestaurant.com)



## Testimony for Small Business Assistance Program Bill 6-12

I would like to first start off by introducing myself. My name is Omar Lazo. I am one of the owners of Los Chorros Restaurant in Wheaton, MD and currently the Co-Chair of the Wheaton Jewish/Latino Small Business Alliance. I am the son of two immigrants from El Salvador; my father Pedro, and my mother Reina. My parents left their town in El Salvador and came to this country in the early 70's in search of the American dream. Through hard work and dedication, their dream came to full fruition on February 1st, 1989. That was the day that my parents put every single penny that they had saved and opened Los Chorros Restaurant in Wheaton, Maryland. My brother Jason and I helped out my parents in the family business doing anything that was asked of us. We washed dishes, served up soft drinks, bussed tables, etc. My father waited tables while my mother cooked food in the kitchen. At the time we were the only Latino restaurant in the entire Wheaton area. My mother prided herself on the home cooked Salvadoran and Mexican food that we were providing to the community. The community responded well and after 6 years we decided to expand our business into the adjacent space. Again, my parents took a gamble and invested over \$100,000.00 dollars into the restaurant. We went from a 1,600 sq./ft. 60 person carryout/restaurant, to a full fledge 4,600 sq./ft 167 person restaurant. We have become a staple in the Wheaton community and have been gratefully serving Wheaton for over 23 years now. We have seen generations of customers coming to our establishment. The kids that used to come with their parents to eat at Los Chorros are now grown up and bringing their own children. My brother and I have taken over the day to day management of the business for over 7 years now and plan on continuing this great tradition in the Wheaton community.

That being said, I come before you to give my testimony regarding the Business Assistance Program Bill 6-12 sponsored by Council Vice President Nancy Navarro and Council members Roger Berliner, Valerie Ervin, Nancy Floreen, George Leventhal and Hans Riemer. The economy as we all know has affected us all greatly. The Wheaton community has not been spared at all. It saddens me to see so many businesses in the Wheaton community that have been forced to close their doors due to the economy and other factors. I have witnessed the closing of Ferdinands, The Royal Mile Pub, the Long and Foster offices (which had been there for at over 25 years), Dejabel Café, Mama Lucia's, Two Mattress stores, Wheaton Flowers, Wheaton Shopping Center Jewelers, Island Hut, Sandry's Hair Salon, El Boqueron, and several others that have changed ownership in order to avoid closing. Aside from the economy, small business owners have to also contend with the uncertainty that the planned redevelopment will add to their stress. We have seen what has happened to small business in Downtown Silver Spring and most of us feel that this redevelopment will drive a lot of us out, as it has done in Downtown Silver Spring. I personally feel that I will need to spruce up my business and make it more aesthetically appealing to compete with some of the newer businesses that redevelopment will attract to the area. My neighbors and I are concerned that once redevelopment occurs, we will see a hike in all of our rents. Currently, our average per square foot price for Wheaton area is in the \$24 range which a lot of us already feel is too high. We have all witnessed what happened in the downtown Silver Spring redevelopment that now has hiked the price per square foot to around \$33. If the redevelopment increases to these levels, my rent would see an increase of about \$3,450 per month. Bill 6-12 would give the small business owners in Wheaton the resources to prepare for the changes that we know are on the way. I am for the most part optimistic about the redevelopment as something good for our community, but am cautious about our ability to remain competitive and financially sound through all of these changes.

My restaurant has been greatly affected by the redevelopment even before it had begun because of the sale of the BB & T building at the corner of Georgia Ave and Blueridge Ave. This building was sold to Avalon with the plan to move the Safeway over to this location along with residential housing. In preparation, the leases were no longer being renewed past June 2012. As part of the planned redevelopment, three adjacent buildings have already been vacated. The BB&T building has only a handful of tenants still occupying the building. My business is directly across the street at 2420 Blueridge Ave. I have lost all of that lunch revenue that was once our bread and butter in the early days due to that building being stuck in limbo during this redevelopment. Wheaton Shopping Center, which I am a part of, has lost a lot of revenue due to the lack of development of the BB&T site. We lost Baskin Robbins, a jewelry store, a mattress store, a flower shop, Tailor John's, and Chicken Basket was close to closing before selling. As of today, the building is no longer taking long term leases and has no plans in the works. I believe that the small business owners of Wheaton would benefit greatly from the direct technical assistance, training, and capital from the County's Economic Development Fund to help us through this transition.

February 28, 2012

Montgomery County Council

100 Maryland Avenue

Rockville, MD 20850

Re: Bill 6-12 Economic Development - Small Business Assistance

**Testimony: Bob Schilke**

**The Little Bitts Shop**

Good Evening. My name is Robert Schilke and my wife and I own the Little Bitts Shop on Triangle Lane in Wheaton. I am here tonight as a member of the Coalition for the Fair Redevelopment of Wheaton to express my support for Bill 6-12 as an encouraging step to help small businesses benefit from the proposed redevelopment of Wheaton.

Our shop sells cake decorating and candy making supplies. We have been in business at this location since 1976 – 36 years. We are the only business like this in Montgomery County. Many people consider us a destination business for Wheaton, and we are very proud of this since the small business community is such an important part of what Wheaton is all about.

I have talked to many of the small business owners in the Wheaton Triangle Area. Our greatest concern is the construction proposed for Parking Lot 13 and the partial loss of parking that will take place during the construction of the bus bays area. There are approximately 55 small businesses in this area that will be adversely affected by these phases of the redevelopment, and our livelihoods are at stake. All we want to do is to continue to operate our businesses as we have been doing for many years and be part of a revitalized Wheaton.

Given these concerns, I am encouraged by the introduction of Bill 6-12 that creates a new Small Business Assistance Program. We know how many small businesses struggled and went out of business in Silver Spring, and we know the County Executive has said that adequate resources were not invested to help small businesses survive redevelopment. If adequately funded and accessible, this new program could play an important role in helping small business owners tackle the challenging transition of redevelopment. We want to thank Council Vice President Nancy Navarro for introducing this bill and Council members Ervin, Floreen, Leventhal, and Council President Berliner for co-sponsoring this bill. We applaud you.

I would like to invite you to come to Wheaton to see what this small business community means to Montgomery County. The residential and business communities are important and essential to the make-up of the County, and we hope to continue working with this Council to make sure small businesses have adequate protections during the proposed redevelopment of Wheaton.

Thank you.

**Drummer, Bob**


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**From:** Bang, Peter  
**Sent:** Wednesday, March 14, 2012 8:39 AM  
**To:** Drummer, Bob  
**Subject:** RE: Bill 6-12, Economic Development - Small Business Assistance , Bill 5-12, Small Business Navigator  
**Importance:** High

Peter Bang, Katie Knowlin (Division Chief of Business Empowerment), and Steve (unless other conflict arises) from DED will attend.

Bob, the Impact Assistance Program (IAP) processed 26 transactions over 5 years. The IAP did not require the full gamut of loan underwriting and monitoring like other programs within the EDF. By the mandate and the usage of the IAP, the IAP was created as very simple program to administer. We notified the Regional Service Centers (RSC) of the availability of the program, visited the impacted business site (when notified by the RSC staff) to visually verify that the County initiated project(s) indeed adversely impacted the business, compared the company's revenue before the County project and during the County project, and reimbursed the loss of income up to \$20,000. That was the end of transaction for a typical IAP. In terms of staff capacity, during the period when IAP was active, DED had anywhere from 42 - 54 workyears and had at least two full time professional and one OSC (adm.) positions fully devoted to the EDF program.

DED now has 27.3 workyears, with only one full time position responsible for the EDF program. With increased number of companies in EDF portfolio compared to when IAP was administered, we barely have the capacity to monitor the performance of the portfolio companies on time. Taking on a new program is virtually impossible with the current staff capacity of DED.

The new program will require that we market the program, we evaluate the County project for the number and type of the businesses that it might disturb and the extent of the impact, we review the business plans (probably have to assist on completing some of the loan applications), we underwrite the full loan package, we monitor the loan, we engage in collection and workout of the bad/delinquent loans, we provide business counseling and identify possible areas for relocation, we identify and recommend training programs, etc.

Most importantly, the case load will not come in at a steady manageable pace. For instance, if the program is announced, and if the Wheaton Revitalization Project is made public, we will be easily dealing with 60-80 businesses applying/inquiring for loan/assistance in a span of 1-2 months.

Hope this answers your question and let me know if you need additional info.

Peter Bang  
 Chief Operating Officer  
 Montgomery County  
 Department of Economic Development  
 111 Rockville Pike, Suite 800  
 Rockville, MD 20850, USA  
 (o) 240-777-2008 (f) 240-777-2001

-----Original Message-----

**From:** Drummer, Bob  
**Sent:** Tuesday, March 13, 2012 4:26 PM  
**To:** Silverman, Steve  
**Cc:** Hughes, Jennifer; Bang, Peter; Boucher, Kathleen

## COMCOR - Code of Montgomery County Regulations

### 11B.65.01.03 Size and Sales Criteria

To qualify as a "Local Small Business," a business must meet the definition in Section 2\* above and the following size or gross sales criteria:

**\*Editor's note**—see 11B.65.01.02

(a) The wholesale operations (sale of goods in large quantities usually for resale) of the business, if any, did not employ more than 30 persons, or the gross sales of these business operations did not exceed an average of \$5,000,000 in its most recently completed 3 fiscal years.

(b) The retail (sale of goods in small quantities directly to the ultimate consumer) operations of the business, if any, did not employ more than 30 persons, or the gross sales of these business operations did not exceed an average of \$5,000,000 in its most recently completed 3 fiscal years.

(c) The manufacturing (producing goods from raw materials by hand or by machinery) operations of the business, if any, did not employ more than 40 persons, or the gross sales of these business operations did not exceed an average of \$14,000,000 in its most recently completed 3 fiscal years.

(d) The services operations of the business, if any, did not employ more than 50 persons, or the gross sales of these business operations did not exceed an average of \$5,000,000 in its most recently completed 3 fiscal years.

(e) The construction operations of the business, if any, did not employ more than 50 persons, or the gross sales of these business operations did not exceed an average of \$14,000,000 in its most recently completed 3 fiscal years.

(f) Gross sales for a business that has been in operation long enough to file a Federal income tax statement, shall be determined by the average of gross sales amounts contained on the tax form(s) for the most recently completed 3 fiscal years. In the absence of a federal income tax statement, the business must provide verification that it meets the definition of a Local Small Business, including the above size and sales criteria, through audited financial statements. If a business has not existed for three years, the employment and gross sales average(s) shall be the average for each year or part of a year during which the business has been in existence. For a newly formed business, the determinations regarding size and sales criteria will be based upon then-current employment levels as of the time of the Local Small Business Reserve application, and projected gross sales for that fiscal year.

(g) If a business operates in more than one of the above-noted business operations classifications (i.e., wholesale, retail, manufacturing, service, and construction), its combined business operations must meet the above-stated limitation of the more liberal size and sales criteria. For instance, the gross annual sales limit for wholesale businesses is \$5 million;

## COMCOR - Code of Montgomery County Regulations

for retail goods, and non-construction services the limit is \$5 million; and for construction services and manufacturing the limit is \$14 million. Therefore, the combined operation cannot exceed \$5 million annually in average gross sales. Further, regarding size, the employment limit for wholesale and retail business operations is 30 persons versus 50 for a service operation. Accordingly, a business with both wholesale and service classifications can have up to 50 employees.



Isiah Leggett  
*County Executive*

OFFICE OF THE COUNTY ATTORNEY

Marc P. Hansen  
*County Attorney*

MEMORANDUM

TO: Steve Silverman  
Director, Department of Economic Development

VIA: Marc P. Hansen  
County Attorney

FROM: John J. Fisher  
Associate County Attorney

DATE: March 12, 2012

RE: Bill 6-12, Economic Development – Small Business Assistance

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Bill 6-12 establishes a program to assist small businesses located either in an enterprise zone or an urban renewal area of the County that are adversely impacted by a County redevelopment project or a redevelopment project located on County property. Among its provisions, the bill provides that “[a] loan or grant to a small business that exceeds \$100,000 cumulatively must be approved by the Council” (Lines 45-46). This requirement for Council approval creates an improper intrusion of the legislative body into an executive function, namely, the implementation of an enacted law. *See charter §201.*

The requirement of Council approval on assistance cumulatively exceeding \$100,000 to a particular business is effectively a legislative veto which violates the separation of powers provided for in the Charter. The Maryland Attorney General has addressed the issue of legislative veto. In a 2000 opinion, the Attorney General wrote:

“With apparent reference to the uncodified language in the 1998 capital budget, you ask whether the General Assembly has inadvertently usurped the prerogatives of the Executive Branch and its executive agencies to administratively direct the design and construction of capital projects by assigning oversight and approval authority to two of its standing committees.

As an initial matter, we note that §12 of the 1998 capital budget bill does not give the legislative committees authority to oversee or approve agreements between the Stadium Authority and other agencies. Rather, before beginning any work, the Stadium Authority must notify the budget committees of an agreement and allow the committees 30 days to review and comment on that agreement. While the Stadium Authority may wish to avoid

legislative displeasure or may find a committee comment persuasive in a particular instance, it is under no legal obligation to comply with those comments. Thus, the budget committees have authority to review and comment, but no authority to approve or disapprove a project.

Th[is] distinction [between the right to review and comment and the right to approve or disapprove an executive action] is critical. A provision that rendered the Stadium Authority's individual agreements subject to legislative approval would establish a legislative veto over executive action. Although this Office once concluded that a statute reserving to a legislative committee a veto over proposed regulations was not clearly unconstitutional, *63 Opinions of the Attorney General* 125, 127-28 and 150-51 (1978), there was little judicial authority on the subject at that time. Subsequently, most state courts that have considered the issue have held that legislative veto provisions violate the separation of powers provisions of their respective state constitutions. *See generally* Rossi, *Institutional Design and the Lingering Legacy of Anti-Federalist Separation of Powers Ideals in the States*, *52 Vand. L. Rev.* 1167, 1201-04 & nn. 186-90 (1999) (collecting cases and noting that, with one exception, legislative vetoes have been found unconstitutional by every state court to consider the question). Similarly, the United States Supreme Court has held that a provision giving Congress a legislative veto violated the federal constitution. *INS v. Chadha*, 462 U.S. 919 (1983).

Although the Court of Appeals of Maryland has not yet considered the issue, during the past decade this Office has repeatedly noted the questionable constitutionality of legislative veto provisions in light of the overwhelming weight of authority in other jurisdictions." *See, e.g., 75 Opinions of the Attorney General* 431, 437 n.6 (1990); Bill Review Letter of Attorney General to Governor on Senate Bill 302 (April 24, 1998) (citing prior letters and case law on legislative veto). *2000 Md. AG LEXIS* 19, 25-27.

In accord with the above rationale, the Council could: 1) prohibit loans or grants in excess of \$100,000; 2) require the Executive to make certain findings before making a loan or grant in excess of \$100,000; or 3) provide the Council with an opportunity to comment on any loan or grant in excess of \$100,000. The Council cannot, however, as Bill 6-12 proposes to do, make a loan or grant in excess of \$100,000 subject to Council approval.

If you have any concerns or questions regarding this memorandum please do not hesitate to contact our office.

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