

MEMORANDUM

TO: County Council

FROM: ~~MT~~ Michael Faden, Senior Legislative Attorney

SUBJECT: **Public Hearing:** 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 Planning, Housing and Economic Development Committee worksession is tentatively scheduled for July 12 at 2:00 p.m.

Bill 28-10 would authorize and encourage County government to support a Montgomery Business Development Corporation and specify the members of, and the process to appoint and confirm members of, the Corporation Board of Directors.

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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.

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

30B-4. Status; incorporation; bylaws.

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

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

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

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

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

30B-5. Work program.

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

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

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

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

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

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

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

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

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

30B-7. Report.

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

Approved:

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

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

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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