Agenda Item 23C
May 21, 2015
Introduction

MEMORANDUM

May 19, 2015

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: **Introduction:** Bill 25-15, Economic Development – Reorganization – Montgomery County Economic Development Corporation

Bill 25-15, Economic Development – Reorganization – Montgomery County Economic Development Corporation, sponsored by Lead Sponsor Council President at the request of the County Executive, is scheduled to be introduced on May 21, 2015. A public hearing is tentatively scheduled for June 9 at 1:30 p.m.

Bill 25-15 would:

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

Background

The Bill would privatize some of the functions currently performed by the Department of Economic Development (DED). These duties would be delegated to a non-profit corporation designated as the Montgomery County Economic Development Corporation by the Council. Each of the 11 members of the Board of Directors of the Corporation would be appointed by the Executive and confirmed by the Council, but the Corporation would not be an agency of the County government. Certain duties now performed by DED would be transferred to the Department of Finance and a new Office of Agriculture. The Executive briefly explained why he is recommending the privatization of some of the duties now performed by DED in his transmittal memo at ©31 and the Frequently Asked Questions at ©32-35.

This packet contains:

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Bill 25-15	1
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Bill No. 25-15
Concerning: Economic Development – Reorganization – Montgomery County Economic Development Corporation
Revised: May 15, 2015 Draft No. 3
Introduced:
Expires:
Enacted:
Executive:
Effective:
Sunset Date: None
Ch. _____, Laws of Mont. Co. ________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

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

AN ACT to:

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

By amending

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

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

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

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

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

Chapter 30B, Business Development Corporation
Sections 30B-1, 30B-2, 30B-3, 30B-4, 30B-5, 30B-6, and 30B-7

Chapter 40, Real Property
Section 40-12B

Chapter 44, Schools and Camps
Section 44-47

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

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

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

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

1A-201. Establishing departments and principal offices.

(a) Executive Branch.

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

County Executive [Charter, § 201 et seq.]

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

Consumer Protection (Section 11-2)

Correction and Rehabilitation [Section 2-28]

County Attorney [Charter § 213]

[Economic Development [Section 2-64L]]

Environmental Protection [Section 2-29]

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

Fire and Rescue Services [Section 2-39A]

General Services [Section 2-30]

Health and Human Services [Section 2-42A]

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

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

Intergovernmental Relations [Section 2-64J]

Liquor Control

Management and Budget [Section 2-64K]

Permitting Services [Section 2-42B]

Police [Section 2-43; ch. 35]

Public Information

Public Libraries [Section 2-45 et seq.]
Recreation [Section 2-58]
Technology Services [Section 2-58D]
Transportation [Section 2-55 et seq.]

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

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

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

* * *

1A-203. Establishing other offices.

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

Office of Agriculture [section 2B-1A]
Office of the Commission for Women [section 27-28 et seq.]
Office of Community Use of Public Facilities [section 44-4]
Office of Emergency Management and Homeland Security [section 2-64O]
Office of Human Rights [section 27-4]

* * *

2-27. Functions and organization.

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

(1) Affordable housing programs.

(2) Community development programs.

(A) Urban renewal and community development projects.

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

(3) Housing standards enforcement, and related activities.

(4) Landlord-tenant relations.

(5) Common ownership community relations.

(6) [Technical assistance to the Department of Economic Development and the Department of Environmental Protection in the area of human resources, budget, technology, and procurement.

(7)] Other functions designated by law.

Division 18. [Department of Economic Development] Reserved.

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

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

(1) industrial and commercial development in the County, including the technology and hospitality industries;

(2) agricultural preservation and enhancement in the County, including programs associated with the Soil Conservation District and the Cooperative Extension Service;

(3) other economic development in the County, including coordination of employment and work force training; and

(4) services to resident businesses in the County, including business retention, counseling, business planning, and other services to maintain the existing economic base.

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

2B-1. Definitions.

*   *   *

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

*   *   *

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

*   *   *

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

Office means the Office of Agriculture.

*   *   *

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

2B-1A. Office of Agriculture.

The Office must:

(a) administer this Chapter and the regulations issued under it;

(b) foster agricultural preservation;

(c) administer programs associated with the Soil Conservation District and the Cooperative Extension Service; and

(d) perform other duties as assigned by the County Executive.

2B-3. State Easement Application and Purchase.

*   *   *

(d) If either the APAB or the Planning Board recommends approval, the County Council must hold a public hearing on the proposed easement. The [Department] <u>Office</u> must give adequate notice of the hearing to the owner of any land adjacent to the proposed agricultural easement.

* * *

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

2B-7. County Easement Application and Purchase.

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

* * *

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

(A) the [Department] <u>Office</u> finds that placing an agricultural easement on that land is in the public interest; and

(B) the [Department] <u>Office</u> concludes, after consulting local agricultural support agencies, that the land has significant agricultural resources.

* * *

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

(a) Process to Terminate and Repurchase an Easement.

* * *

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

* * *

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

(6) The landowner must pay the [Department] <u>Office</u> for the cost of an appraisal. The [Department] <u>Office</u> must order the appraisal after receiving the funds from the landowner.

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

* * *

(10) The landowner must pay the required payment to the County within 180 days after the Executive agrees to terminate the easement. After receiving the required payment, the [Department] <u>Office</u> must prepare, execute, and deliver to the

landowner for recording, a Deed of Termination and Release from Easement.

* * *

2B-14. Recordation.

(a) The County Attorney must record each agricultural easement in the County land records. The recordation of an agricultural easement is not subject to any County transfer or recordation tax.

(b) Each agricultural easement must:

(1) be recorded in the form required by the [Department] <u>Office</u>;

(2) run with the land and bind the landowner and each assignee, transferee, mortgagee, and any other party who obtains title to the property; and

(3) be recorded so that the easement is senior in priority to all liens, including any instrument securing permanent financing.

* * *

2B-17. BLT Account.

(a) The [Department] <u>Office</u> must create a separate account under the Fund, entitled the BLT Account.

(b) The BLT Account must contain payments made to comply with conditions of approval which the Planning Board has imposed for certain development plans, and may also contain funds received through donation, appropriation, bond proceeds, or any other source.

(c) Funds in the BLT Account must be spent only on BLT easements. Funds in the BLT Account may be used in conjunction with other funds to buy BLT easements.

2B-19. Administration.

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

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

(c)] The [Department] <u>Office</u> must issue an annual report that identifies the:

(1) number and types of agricultural easements bought;

(2) number of acres preserved by those easements; and

(3) price of each easement.

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

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

(b) The [Director of Economic Development] <u>Office</u> may take legal action, including seeking injunctive or declaratory relief, to prevent any:

(1) subdivision of land under an agricultural easement that violates this Chapter or an agricultural easement; or

(2) transfer of land, including the transfer of lots to or for the landowner or the landowner's children, that violates this Chapter or an agricultural easement.

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

* * *

2B-21. Agricultural Advisory Committee.

* * *

(e) Duties.

(1) The Committee must:

(A) after conferring with the Montgomery County Economic Development Corporation, advise the Executive and Council on all matters affecting agriculture in the County;

(B) bring matters of particular importance to the attention of the Executive and Council; and

(C) comment on matters referred to it by the Executive and Council.

* * *

20-76. Economic Development Strategic Plan, Administration.

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

* * *

20-76B. Small Business Assistance Program.

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

Adverse impact means a loss of revenue resulting from a redevelopment project.

Director means the Director of the Department of [Economic Development] Finance.

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

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

Program means the Small Business Assistance Program.

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

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

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

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

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

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

* * *

20-76C. Green Investor Incentive Program.

* * *

(c) *Eligibility standards*. A qualified investor, who need not be a County resident, is eligible to receive the incentive payment if the qualified investor[:] invests in a qualified green company that:

(1) has its headquarters and base of operations in the County; or

(2) has signed a lease for at least 5 years to open a qualified green company with its headquarters and base of operations in the County; and

(3) has been in business for less than 10 years and employs less than 50 people and does not have its securities publicly traded on any exchange.

* * *

(g) In order to calculate the amount of the incentive payment to be made to a qualified investor under Subsection (f), the Director of the Department of [Economic Development] <u>Finance</u> must, by January 15 of each calendar year, compile a list of each qualified investor making an investment in a qualified green company and the amount of that investment during the preceding calendar year. This list must be determined using the applications and any supporting documents qualified investors submit. The Director may take any other action necessary to administer the incentive payment. The Executive may issue regulations under Method (2) to implement this Section.

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

* * *

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

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

* * *

(e) The Director of [Economic Development] <u>Finance</u> must request from the Comptroller of the Treasury and Department of Business and Economic Development, by April 30 of each year, a list of each Cybersecurity Company, headquartered and based in Montgomery County that was issued a final credit certificate by the State during the preceding calendar year. The Executive may issue regulations under Method (1) to implement this Section.

* * *

27-26B. Interagency fair housing coordinating group.

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

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

(1) Office of Community Outreach in the Office of the Chief Administrative Officer;

(2) Human Rights Commission;

(3) Housing Opportunities Commission;

(4) [Department of Economic Development;

(5)] Department of Housing and Community Affairs;

[(6)] <u>(5)</u> Community service centers;

[(7)] (6) Department of Health and Human Services;

[(8)] (7) Commission for Women; and

[(9)] (8) Commission on People with Disabilities.

(c) The Executive also may designate, subject to confirmation by the County Council, one or more members of the Executive's staff, and employees of any other County department or office, to serve on the coordinating group. The Executive must also invite the County Council, the Montgomery County public schools, the Montgomery County Economic Development Corporation, and the Maryland-National Capital Park and Planning Commission to designate one or more staff members to serve as full members of the group.

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

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

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

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

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

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

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

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

Chapter 30B [Business] Economic Development Corporation.

30B-1. Policy objectives.

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

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

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

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

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

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

The Corporation must be able to:

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

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

(c) provide leadership on economic issues at both the County and State levels;

(d) engage business leaders and other key stakeholders in developing and 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. Designation.

(a) [In this Chapter "Corporation" means the Business Development Corporation that the County has designated to study, evaluate, enhance, and supplement the County's economic development programs and activities.

(b)] The County Council must designate, by resolution approved by the County Executive, a single nonprofit corporation which complies with all requirements and criteria of this Chapter as the [County's Business] Montgomery County Economic Development Corporation. If the Executive disapproves the resolution within 10 days after receiving it, the Council may readopt the resolution with at least 6 affirmative votes.

[(c) (1) Any designation under this Section expires at the end of the fifth full fiscal year after the resolution is adopted unless the Council extends the designation by adopting another resolution under this Section.

(2) However, if the Council President does not notify the Chair of the designated Corporation's Board of Directors, not later than June 30 of the fourth full fiscal year of the designation term, that the Council may allow the current designation to expire, the designation is automatically extended for another 5-year term.

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

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

30B-3. Board of Directors.

(a) To qualify as the [County's Business] Montgomery County Economic Development Corporation, [a corporation's] the Corporation's Board of Directors must have [no more than] 11 voting members appointed by the County Executive and confirmed by the County Council. The County Executive should appoint a member of the Workforce Development Board as one of the members of the Corporation's Board of Directors. The Corporation's Board of Directors must also include one officio non-voting member appointed by the County Executive; and one non-voting member appointed by the County Council; and should have one non-voting member appointed by the Secretary of the Maryland Department of Business and Economic Development. [The corporation's bylaws should also allow the Director of the Department of Economic Development, the Superintendent of the County Public Schools, the President of Montgomery College, and the chair of the County Planning Board or the Planning Director, to serve as ex-officio non-voting members along with any other nonvoting members authorized under the bylaws.]

(b) Each voting member serves a 3-year term. The individual terms of the voting members must be staggered. Of the voting members first appointed, four must be appointed for a 1-year term, four must be appointed for a 2-year term, and three must be appointed for a 3-year term. A voting member appointed to fill a vacancy serves the rest of the unexpired term. A voting member continues in office until his or her successor is appointed and confirmed.

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

(1) one volunteer representative of a Chamber of Commerce in the County who is recommended by the Chamber 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)] (d) A member must not be paid for service on the Board but may be reimbursed for necessary travel expenses.

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

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

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

30B-4. Status; incorporation; bylaws.

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

(1) a [tax-exempt] Maryland nonprofit, non-stock corporation the purposes and activities of which are limited to those that are permitted to be promoted or performed by a corporation that is recognized as exempt from federal income tax under 26 U.S.C. § 501;

(2) not an instrumentality of the County;[and]

(3) incorporated for the [sole] purpose of serving as the County's [Business] Economic Development Corporation and implementing the County's economic development strategic plan, adopted under Section 20-76, and related programs. These programs must include:

(A) attracting and retaining businesses;

(B) facilitating economic, industrial, and commercial development in the County;

(C) enhancing the agricultural economy;

(D) encouraging investment in commerce, industries, and businesses in the County;

(E) promoting job growth and talent attraction, in coordination with the Montgomery County Workforce Development Board;

(F) advising and informing County officials on economic development matters;

(G) providing services to resident businesses in the County, including business retention, counseling, business planning, and other services to maintain and grow the existing economic base;

(H) stimulating and nurturing the development of new business; and

(I) promoting the development of a vital and balanced economy.

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

(5) headquartered in the County.

(b) The Corporation's bylaws may contain any provision [, not inconsistent with law or the articles of incorporation,] necessary to govern and manage the Corporation that does not conflict with this Chapter. The Corporation 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.

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

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

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

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

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

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

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

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

(a) [The Department of Economic Development should, if the Board of Directors requests, provide administrative 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 the Board of Directors requests, should provide relevant economic data to the Corporation. The research division of the Planning Board must provide research support to the Corporation to the extent assigned by the Planning Board's work program, as approved by the Council.

[(c)] (b) The Corporation may also raise public and 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 of the Corporation and [finances] provide an audited financial statement of the Corporation to the Executive and Council by November 1 of each year.

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

(a) If any real property is located in, adjoins, or confronts an area zoned agricultural, as defined in Section 59-C-9.1, the seller must disclose to each prospective buyer, before the buyer signs a contract for the sale of the property, that existing County and State law is intended to discourage owners of real property adjacent to agricultural-zoned land from filing certain lawsuits against an owner or operator of an agricultural use in those areas. The following text must be substantially included in the disclosure:

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

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

(1) has continued for at least 1 year;

(2) complies with applicable health, environmental, zoning, and permit requirements; and

(3) is not conducted negligently.

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

(b) A prospective buyer must indicate, by signing an addendum to the contract or a separate section of the contract printed in boldface type in a clearly demarcated box, that:

(1) the seller has provided the information required by subsection (a); and

(2) the buyer understands that:

(A) adjacent property may be the source of agricultural-related nuisances; and

(B) the buyer may obtain more information about these nuisances from the Montgomery County [Department of Economic Development] Office of Agriculture.

* * *

44-47. Workforce Investment Scholarship Program.

(a) *Definitions.*

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

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

* * *

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

Any service contract, grant, or other agreement between the County and another person that encompasses any function that was performed by the Department of Economic Development is exempt from Chapter 11B, Article XVI ("Service Contracts") under Section 11B-72(d)(1).

Sec. 3. Collective bargaining notice.

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

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

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

Sec. 5. Montgomery Business Development Corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. Transition; effective dates.

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

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

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

Approved:

George Leventhal, President, County Council Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 25-15

Economic Development - Reorganization -
Montgomery County Economic Development Corporation

DESCRIPTION: This Bill privatizes the County's economic development functions by (1) removing the designation of the County's Business Development Corporation and providing for the designation of a new non-profit corporation as the Montgomery County Economic Development Corporation; (2) eliminating the Department of Economic Development; and (3) transferring its functions to a newly created Office of Agriculture, the Department of Finance, and the Economic Development Corporation.

PROBLEM: There is a need to ensure greater alignment of resources with community needs and improve the County's competitiveness.

GOALS AND OBJECTIVES: Ensure greater alignment of resources with community needs and improve the County's competitiveness.

COORDINATION: Office of the County Executive, County Attorney.

FISCAL IMPACT: Requested.

ECONOMIC IMPACT: Requested.

EVALUATION: Subject to the general oversight of the County Executive and the County Council.

EXPERIENCE ELSEWHERE: In the national capital region, there are many examples of privatized economic development organizations acting as their jurisdictions' lead or primary point of contact for businesses, including Fairfax County, Washington, DC, Prince George's, Baltimore City, Howard County, and Anne Arundel County.

SOURCES OF INFORMATION: Edward B. Lattner, Chief
Division of Government Operations
Office of the County Attorney

Lily Qi
Special Projects Director
Office of the County Executive

APPLICATION WITHIN MUNICIPALITIES: n/a

PENALTIES: n/a

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

RECEIVED
MONTGOMERY COUNTY
COUNCIL

May 15, 2015

TO: George Leventhal, President
County Council

FROM: Isiah Leggett, County Executive

SUBJECT: Economic Development Reorganization—Montgomery County Economic Development Corporation

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

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

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

Attachments

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

Frequently Asked Questions on Restructuring Economic Development in Montgomery County

County Executive Ike Leggett has decided to privatize the core functions of the Department of Economic Development by establishing a nonprofit public-private partnership as Montgomery County's lead economic development organization. Below are the most frequently asked questions about this move.

1. **Why does Montgomery County want to privatize economic development functions?**

   The County Executive made a decision to privatize the Department of Economic Development based on community input, the neighboring jurisdictions' models, and most importantly, the profound changes in the region's economy and the competitive landscape. This is part of a larger effort to increase Montgomery County's economic competitiveness. Other similar moves include completion of a comprehensive economic strategy as a blueprint for future economic success and restructuring workforce development to create a central coordinating organization for all workforce strategies and programs for both employers and employees.

2. **What does it mean to have a "private economic development organization?"**
   A new nonprofit 501c3 will be established as a public-private partnership to replace both the Department of Economic Development and the Montgomery Business Development Corporation (MBDC) as the lead economic development organization (EDO) for Montgomery County. The organization will have its own board and is not part of the Montgomery County government structure.

3. **What are other examples of privatized economic development organizations?**
   In the National Capital Region, there are many examples of privatized economic development organizations acting as their jurisdictions' lead or primary point of contact for businesses, including the Fairfax County Economic Development Authority, the Washington, DC Economic Partnership, the Prince George's County Economic Development Corporation, the Baltimore Development Corporation, the Howard County Economic Development Authority, and the Anne Arundel Economic Development Corporation.

4. **What does Montgomery County hope to achieve through this new economic development organization that it cannot achieve with the current structure?**
By restructuring economic development functions, Montgomery County seeks to strengthen private-sector involvement in economic development, to be more nimble and adaptive to market changes and community needs, and to improve operational efficiency and effectiveness. Business operates at a much faster pace than most government services and, in order to be effective, the new organization needs to be responsive to businesses in their timeframe.

5. **What is the estimated timeline?**
It is the goal of Montgomery County government to have the new nonprofit incorporated and board members appointed and approved by January 2016. The organization is expected to be operational by late spring of 2016.

6. **Would Montgomery County fund this new organization?**
Yes. The Montgomery County government intends to fund the core functions of the new EDO. However, being a nonprofit corporation also enables the organization to raise or receive funds through grants, gifts, donations, fee for services, and other revenue sources.

7. **How much does the County intend to fund the organization?**
The new organization will be funded according to its scope of responsibility and at a level competitive to other comparable jurisdictions.

8. **Would the new economic development organization have the exact same portfolio of responsibilities of the Department of Economic Development?**
A majority of the current DED responsibilities will be transferred to the new EDO, especially those related to marketing, business attraction, business retention and growth, entrepreneurship and innovation programs. The functions that will be kept within the County government include Finance, Special Projects, Small Business Navigation, marketing of the Local Small Business Reserve Program, and Agricultural Services.

9. **What would happen to the employees of the Department of Economic Development?**
DED employees have years or even decades of excellent service to Montgomery County and the business community. We hope the new organization's leadership will recognize their value so those who wish to work with the new organization will find employment there. However, it will be a decision by the leadership of the new organization. As the transition unfolds, it is

anticipated that many DED employees will continue their services within the County government in different capacities, either because their functions will remain in the government, or because they choose to stay on as a County employee. Montgomery County government will make every effort to make the transition as smooth as possible.

10. **What kind of board will this organization have and who appoints the board members?**
An 11-member board will be appointed by the County Executive and approved by the County Council. In addition, there will be non-voting ex-officio members representing the County Executive, the County Council and the State's Office of the Secretary of Commerce. The board will be made of primarily private sector representatives with consideration for various industry sectors, geographical regions, company size, etc. Members will serve staggered terms with a combination of 1-year, 2-year and 3-year terms appointments to the initial board.

11. **How can the County government ensure accountability of a private-sector-led economic development organization?**
Montgomery County government provides budgetary oversight through contractual agreements with performance metrics with the EDO.

12. **Who would manage the County's contractual relationship with this new organization?**
There will be a designated senior staff person or function within the Office of the County Executive that will oversee the County's contractual relationship with this new EDO and facilitate its interaction with the rest of County government functions.

13. **Who makes personnel and compensation decisions in the new organization?**
The board of directors makes hiring and firing decisions of the Chief Executive Officer, who has the authority on all other personnel matters.

14. **Does the County still have an active role in economic development with a privatized economic development organization?**
Yes, economic development takes a village and there are many functions related to economic development that a local government performs, including land use, community development, transportation, etc. So creating this new EDO does not take away the County government's need to be actively engaged in economic development or provide overall leadership and vision on economic development.

15. Is the new organization subject to open meeting laws?
Yes, the new EDO is subject to the Open Meeting Act and Maryland Public Information Act similar to other County boards, committees and commissions. However, there are times when the board and its committees may need to have closed-door sessions for sensitive discussions related to certain businesses and prospects during negotiations, as is the case today.

16. Would this new organization be the first point of contact for businesses about doing business in Montgomery County?
Yes, as Montgomery County's lead economic development organization, the new EDO will be the first point of contact for start-ups as well as resident and prospective businesses about moving to, starting or growing a business in Montgomery County.

17. Would the new organization be responsible for implementing the comprehensive economic strategy that is under development?
The new EDO will play a major role in implementing the recommendations, but will not be solely responsible for implementing the strategic plan, which is much broader in scope than the new EDO's functions and will require active participation of both non-governmental and governmental agencies. The Office of the County Executive, which has been leading the development of the Comprehensive Economic Strategy, will continue to oversee the overall implementation and reporting of the strategic plan. The new EDO will assume leadership responsibility in developing a strategic plan beginning 2018 as required by County law.

18. How will this new EDO work with other economic development organizations?
As the County's lead EDO, the new organization is expected to take a leadership role in coordinating and facilitating marketing and business development functions, and for collaborating with partner organizations such as BioHealth Innovation, the new workforce development organization, etc.

19. What do you call this new organization?
For the purpose of incorporation, the new organization is called the Montgomery County Economic Development Corporation. The board of directors can decide on a new name later if it so chooses.

20. Who is the point of contact if we have more questions or want to provide input?
Please contact Lily Qi, Office of the County Executive, at lily.qi@montgomerycountymd.gov or 240-777-2524.