



Committee: TE
Committee Review: At a future date
Staff: Khandikile Mvunga Sokoni, Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #ClimateChange #GreenBank
#ResilienceAuthority

AGENDA ITEM#4A
January 31, 2023
Introduction

SUBJECT

Bill 3-23, Environmental Sustainability – Montgomery County Green Bank
Lead Sponsor: Council President at the request of the County Executive

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION:

N/A

DESCRIPTION/ISSUE

Bill 3-23 will amend Montgomery County Code Chapter 18A, Environmental Sustainability Sections 18A-44, 18A-45, and 18A-49.

SUMMARY OF KEY DISCUSSION POINTS

- This bill will modify the enabling language in Article 7, Section 18A of the Montgomery County Code to allow the Montgomery County Green Bank to engage in activities related to climate resilience in the same manner as energy efficiency and renewable energy.
- In 2020, the Maryland General Assembly adopted legislation authorizing a local government to create a “Resilience Authority” to mitigate the impacts of climate risk. Title 22 of the Local Government Article prescribes the operating parameters of a Resilience Authority.
- The County Executive has requested this legislation as an alternative to creating a Resilience Authority and takes the position that creating a Resilience Authority in Montgomery County at this time would not provide any benefits to the County that could not be achieved by expanding the authority of the already existing Green Bank.
- According to the Executive this bill does not commit the Green Bank to engage in any specific resilience activities, nor does it require the County to commit any resources to the Green Bank in support of resilience activities. It simply authorizes the Green Bank to engage in resilience-related activities should it be advantageous to the County.

This report contains:

| | |
|-----------------------------|-----------|
| Staff Report | pages 1-3 |
| Bill 3-23 | © 1 |
| County Executive Memorandum | © 9 |
| Legislative Request Report | © 19 |
| Fiscal Impact Statement | © 21 |

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M E M O R A N D U M

January 26, 2023

TO: County Council

FROM: Khandikile Mvunga Sokoni, Legislative Attorney

SUBJECT: Bill 3-23, Environmental Sustainability – Montgomery County Green Bank

PURPOSE: Introduction – No vote expected

Bill 3-23, Environmental Sustainability – Montgomery County Green Bank, sponsored by Council President Glass at the request of the County Executive is scheduled for introduction on January 31, 2023. A public hearing is tentatively scheduled for February 14, 2023, and the committee worksession before the Transportation and Environment (TE) Committee is tentatively scheduled for March 6, 2023.

The bill would:

- (1) make climate change mitigation and adaptation a prominent focus of the Montgomery County Green Bank’s mission; and
- (2) generally revise County law regarding environmental sustainability.

BACKGROUND AND BILL SPECIFICS

In 2020, the Maryland General Assembly enacted legislation that authorized a local governing body to create a Resilience Authority by local law in accordance with Title 22. (at © 23). This law set out a detailed process for setting up such a body as well as authorized a local government to in its sole discretion, by local law:

- (i) set or change the powers, structure, organization, procedures, programs, or activities of the Resilience Authority;
- (ii) determine the revenue sources of the Resilience Authority, including the use of general fund revenue and general obligation bonds;
- (iii) establish the budgetary and financial procedures of the Resilience Authority; and
- (iv) terminate the Resilience Authority.

28): The State enabling legislation also sets out the authority of a Resilience Authority (at ©

“A Resilience Authority has and may exercise all powers necessary or convenient to undertake, finance, manage, acquire, own, convey, or support resilience infrastructure projects, including the power to:

(1) acquire by purchase, lease, or other legal means, but not by eminent domain, property for resilience infrastructure;

(2) establish, construct, alter, improve, equip, repair, maintain, operate, and regulate resilience infrastructure owned by the incorporating local government or the Resilience Authority;

(3) receive money from its incorporating local government, the State, other governmental units, or private organizations;

(4) charge and collect fees for its services;

(5) subject to the approval of the local governing body, charge and collect fees to back its bond issuances;

(6) have employees and consultants as it considers necessary;

(7) use the services of other governmental units; and

(8) act as necessary or convenient to carry out the powers granted to it by law.”

The State law defines “resilience infrastructure” as infrastructure that mitigates the effects of climate change and includes flood barriers, green spaces, building elevation, and stormwater infrastructure.

The Council enacted a Bill No. 18-15 in June, 2015 establishing a Green Bank to leverage private investment in clean energy. Therefore, the County’s Green Bank pre-dates the State’s adoption in 2020 of legislation on Resilience Authorities.

In the transmittal memorandum the County Executive (at © 9) states that after reviewing Title 22 of the Local Government Article, the County Executive has determined that creating a Resilience Authority in Montgomery County at this time would not provide any benefits to the County that could not be achieved by expanding the authority of the Green Bank. Hence this bill to amend the scope of the types of activities the existing Green Bank would be able to undertake, making climate change mitigation and adaptation a prominent focus of the Green Bank. The Executive emphasizes that this is merely an enabling bill that does not commit the Green Bank to engage in any specific resilience activities, nor does it require the County to commit any resources to the Green Bank to engage in resilience related activities should it be advantageous to the County.

WHAT ARE OTHER JURISDICTIONS DOING?

Charles County and Anne Arundel County have both since created Resilience Authorities. Information on the Charles County Resilience Authority can be found at <https://www.charlescountymd.gov/government/boards-commissions/resilience-authority>. Information on the Anne Arundel County Resilience Authority can be found at <https://resilienceauthority.org/>.

This packet contains:

Circle #

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|---|------|
| Bill 3-23 | © 1 |
| Memorandum of the County Executive | © 9 |
| Legislative Request Report | © 19 |
| Fiscal Impact Statement | © 21 |
| Copy of Md. Local Government Code Ann. Title 22 (Resilience Authorities) | © 23 |

Bill No. 03-23
Concerning: Environmental Sustainability
– Montgomery County Green Bank
Revised: [date] Draft No. 1
Introduced: January 31, 2023
Expires: July 31, 2023
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: [date expires]
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: County President at the request of the County Executive

AN ACT to:

- (1) make climate change mitigation and adaptation a prominent focus of the Montgomery County Green Bank’s mission; and
- (2) generally revise County law regarding environmental sustainability.

By amending

Montgomery County Code
Chapter 18A, Environmental Sustainability
Sections 18A-44, 18A-45, and 18A-49.

| | |
|------------------------------|--|
| 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:

Sec. 1. Sections 18A-44, 18A-45, and 18A-49 are amended as follows:

18A-44. Purpose.

The County Government [should support] supports the formation of a Montgomery County Green Bank to promote and support [the] investment in climate change mitigation and adaptation activities and provide financing for climate change mitigation and adaptation activities in the County. These activities include clean energy technologies [in the County] and resiliency, sustainability, or climate adaptive projects.

The Green Bank must be able to:

- (a) serve and support [the deployment of clean energy technologies in any sector] climate change mitigation and adaptation activities in all sectors, including residential single-family homes and multifamily, commercial, industrial, non-profit, municipal governments, universities and colleges, schools, and hospitals;
- (b) offer a range of financing structures, forms and techniques, such as senior loans, subordinate loans, credit enhancements, guarantees, warehousing, securitization, and other techniques that can both lower the cost of financing and increase private investment in [clean energy technologies] climate change mitigation and adaptation activities;
- (c) leverage private investment in [energy projects] climate change mitigation and adaptation activities through financing mechanisms that support, enhance, or complement private investment.
- (d) consider [the inclusion of any non-energy or supporting] improvements ancillary to the primary [energy efficiency or renewable energy] climate change mitigation and adaptation project[, up] or related to [a stated limit in scope] environmental health or building safety or [amount, in each program or mechanisms it offers] durability;

- (e) accept capital from the county, the state, the federal government, [from] non-profits, [from] foundations, and any other capital source that the Green Bank governance deems to be attractive and useful;
 - (f) recapitalize its funds through market means, including by selling whole or portions of assets (loans) through private placement or other securitization;
 - (g) stimulate the demand for [clean energy and the deployment of clean energy technologies] climate change mitigation and adaptation activities that serve end-use customers;
 - (h) before making a loan, loan guarantee, or other form of financing support for [clean energy technologies] climate change mitigation and adaptation activities, develop rules, policies, and procedures to specify borrower eligibility and any other term or condition of financial support;
 - (i) provide by resolution for the issuance of revenue bonds to finance [clean energy technologies] climate change mitigation and adaptation activities;
 - (j) provide information regarding best practices for overseeing [energy] climate change mitigation and adaptation activity projects and other appropriate consumer [protection information] education;
- * * *
- (l) assess reasonable fees and charges on its financing activities to cover its reasonable costs and expenses, as determined by the Board of Directors appointed under Section 18A-47;
 - (m) make information regarding rates, terms, and conditions for all of its financing support transactions available to the public for inspection, including any formal annual reviews by both a private auditor and the Director of Finance, and provide details to the public on the Internet

unless such disclosure includes a trade secret, confidential commercial information, or confidential financial information;

* * *

18A-45. Definitions.

In this Article, the following words have the meanings indicated:

Clean energy technologies means measures addressing energy resources and emerging [technologies that do not involve the combustion of coal, petroleum or petroleum products, municipal solid waste, or nuclear fission. Clean] energy technologies [includes], including renewable energy systems and sources, renewable energy projects, energy efficiency projects, alternative fuels used for electricity generation, alternative fuel vehicles and related infrastructure such as electric vehicle charging station infrastructure, smart grid, and battery storage.

Climate change mitigation and adaptation activities means activities that include clean energy technologies or resiliency, sustainability, or climate adaptive projects.

Energy efficiency project means [a] an [permanent] improvement made to an existing property that reduces consumption of energy.

[*Energy efficiency and/or renewable energy improvement or improvement* means any equipment, device, or material that:

- (1) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available, and
- (2) is intended to decrease energy consumption or expand use of renewable energy sources, including:
 - (A) heating, ventilation, and cooling and distribution system modification or replacement, such as:
 - (i) replacing existing equipment with a high efficiency model;

- (ii) installing a device or retrofit to existing equipment that increase energy efficiency and conservation;
- (iii) any electrical or mechanical furnace ignition system which replaces a standing gas pilot;
- (iv) any tune-up or maintenance activity that increases the operating efficiency;

(B) a programmable thermostat;

(C) ceiling, attic, wall, roof, foundation, or floor insulation;

(D) whole house air sealing;

(E) water heater tune-up, water heater insulation, pipe insulation, or change out to an ENERGY STAR qualified water heater;

(F) storm windows or doors or ENERGY STAR-qualified window or door replacement;

(G) caulking and weather-stripping doors and windows;

(H) air distribution system improvements, including duct insulation and air sealing;

(I) any device or energy management system which controls demand of appliances or equipment and aides load management manually, remotely, and/or automatically;

(J) a measure that reduces the usage of water or increases the efficiency of water usage;

(K) an energy recovery system;

(L) electric vehicle infrastructure, such as installation of electric vehicle charging station(s) and any necessary installation or upgrades to electrical wiring or outlets;

(M) commercial-scale lighting upgrades or daylighting system;

- (N) any measure or system that makes use of or expands a renewable source of energy, including solar thermal and solar electric, wind turbine, biomass, hydroelectric, geothermal electric, geothermal heat pumps, anaerobic digestion, tidal or wave produced energy, fuel cells using renewable fuels and geothermal direct-use; or
- (O) any other installation or modification of equipment, device, infrastructure, structure, or other material necessary to:
- (i) install, operate, or maintain the improvement being installed; or
 - (ii) resolve any structural, mechanical, electrical, or other issue that directly jeopardizes the well-being or safety of the building occupants, quality of the indoor environment, or the durability or longevity of the structure on which the project is being installed.]

Green Bank means the Green Bank that the County has designated to promote and support [the] investment in climate change mitigation and adaptation activities in the County, including clean energy technologies [and provide financing for clean energy technologies, including renewable energy and energy efficiency projects]; resiliency, sustainability, and climate adaptive projects; and other related risk reduction activities.

* * *

[Renewable energy source means a source of energy that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar power, water power, or wind power.

Renewable energy source does not include petroleum, nuclear, natural gas, or coal. A renewable energy source comes from the sun or from thermal inertia of

the earth and minimizes the output of toxic material in the conversion of the energy and includes:

- (1) non-hazardous, organic biomass material;
- (2) solar electric and solar thermal energy;
- (3) wind energy;
- (4) geothermal energy; and
- (5) methane gas captured from a landfill.]

Resiliency, sustainability, or climate adaptive projects mean measures designed to support property or community resilience, reliability, and environmental sustainability; property or community environmental health and environmental safety; property or community water conservation and on-site management; sustainable waste treatment; sustainable agricultural activities; and adaption of systems to manage changes to the climate, such as activities responding to extreme weather events.

18A-49. Work program; staff; support from County Government.

* * *

- (c) The Board must meet with the Executive and the President of the Council at least [semi-annually] annually.

* * *

- (e) Funding sources for the Green Bank may include:

* * *

- (2) charitable gifts, grants, or contributions, investments, and loans from individuals, corporations, university endowments, and philanthropic foundations; and
- (3) earnings and interest derived from its investments and financing support for climate change mitigation and adaptation activities [for clean energy technologies] backed by the Green Bank.

160 The Green Bank may also raise private funds and may accept services
161 from any source consistent with its purpose.




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

M E M O R A N D U M

December 6, 2022

TO: Evan Glass, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Introduction of Bill XX-22, Environmental Sustainability – Montgomery County Green Bank

I am transmitting Bill XX-22, Environmental Sustainability – Montgomery County Green Bank, to the County Council for introduction. This bill will modify the enabling language in Article 7, Section 18A of the Montgomery County Code to allow the Montgomery County Green Bank engage in activities related to climate resiliency in the same manner as energy efficiency and renewable energy.

As highlighted in the April 2021 report from the Office of Legislative Oversight entitled [Measuring Climate Resilience](#) and the County's [Climate Action Plan](#), critical infrastructure faces increased risks due to extreme weather events precipitated by climate change. This trend is expected to worsen over time. Identifying and implementing solutions to minimize these risks will be costly, and the County and private sector will bear these costs.

In 2020, the Maryland General Assembly adopted legislation authorizing a local government to create a “Resilience Authority” to mitigate the impacts of climate risk. Title 22 of the Local Government Article prescribes the operating parameters of a Resilience Authority, including the steps required to create such a body, its structure, and the activities which it can engage in. After reviewing the details of Article 22 with the County Attorney, it was determined that creating a Resilience Authority in Montgomery County at this time would not provide any benefits to the County that could not be achieved by expanding the authority of the Green Bank.

It is important to note that this bill does not commit the Green Bank to engage in any specific resilience activities, nor does it require the County to commit any resources to the Green Bank in support of resilience activities. It simply authorizes the Green Bank to engage in resilience related activities should it be advantageous to the County.

Introduction of XX-22, Environmental Sustainability – Montgomery County Green Bank

December 6, 2022

Page 2 of 2

If you have any questions, please contact Stan Edwards, Division Chief, Environmental Climate and Compliance Division in the Department of Environmental Protection, at stan.edwards@montgomerycountymd.gov.

ME:ah

Enclosures

cc: Yaakov “Jake” Weissmann, Assistant Chief Administrative Officer, Office of the County Executive
Adriana Hochberg, Acting Director, Department of Environmental Protection
Stan Edwards, Division Chief, Environmental Climate and Compliance Division, Department of Environmental Protection
Jason Mathias, Policy/Legislative Analyst, Department of Environmental Protection

Bill No. XX-22
Concerning: Environmental Sustainability
 – Montgomery County Green Bank
Revised: [date] Draft No. 1
Introduced: [date]
Expires: [18 mos. after intro]
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: [date expires]
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Transportation & Environment Committee

AN ACT to:

- (1) make climate change mitigation and adaptation a prominent focus of the Montgomery County Green Bank’s mission; and
- (2) generally revise County law regarding environmental sustainability.

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The Green Bank must be able to:

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- (b) offer a range of financing structures, forms and techniques, such as senior loans, subordinate loans, credit enhancements, guarantees, warehousing, securitization, and other techniques that can both lower the cost of financing and increase private investment in [clean energy technologies] climate change mitigation and adaptation activities;
- (c) leverage private investment in [energy projects] climate change mitigation and adaptation activities through financing mechanisms that support, enhance, or complement private investment.
- (d) consider [the inclusion of any non-energy or supporting] improvements ancillary to the primary [energy efficiency or renewable energy] climate change mitigation and adaptation project[, up] or related to [a stated limit in scope] environmental health or building safety or [amount, in each program or mechanisms it offers] durability;

- (e) accept capital from the county, the state, the federal government, [from] non-profits, [from] foundations, and any other capital source that the Green Bank governance deems to be attractive and useful;
- (f) recapitalize its funds through market means, including by selling whole or portions of assets (loans) through private placement or other securitization;
- (g) stimulate the demand for [clean energy and the deployment of clean energy technologies] climate change mitigation and adaptation activities that serve end-use customers;
- (h) before making a loan, loan guarantee, or other form of financing support for [clean energy technologies] climate change mitigation and adaptation activities, develop rules, policies, and procedures to specify borrower eligibility and any other term or condition of financial support;
- (i) provide by resolution for the issuance of revenue bonds to finance [clean energy technologies] climate change mitigation and adaptation activities;
- (j) provide information regarding best practices for overseeing [energy] climate change mitigation and adaptation activity projects and other appropriate consumer [protection information] education;
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- (l) assess reasonable fees and charges on its financing activities to cover its reasonable costs and expenses, as determined by the Board of Directors appointed under Section 18A-47;
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(F) storm windows or doors or ENERGY STAR-qualified window or door replacement;

(G) caulking and weather-stripping doors and windows;

(H) air distribution system improvements, including duct insulation and air sealing;

(I) any device or energy management system which controls demand of appliances or equipment and aides load management manually, remotely, and/or automatically;

(J) a measure that reduces the usage of water or increases the efficiency of water usage;

(K) an energy recovery system;

(L) electric vehicle infrastructure, such as installation of electric vehicle charging station(s) and any necessary installation or upgrades to electrical wiring or outlets;

(M) commercial-scale lighting upgrades or daylighting system;

- (N) any measure or system that makes use of or expands a renewable source of energy, including solar thermal and solar electric, wind turbine, biomass, hydroelectric, geothermal electric, geothermal heat pumps, anaerobic digestion, tidal or wave produced energy, fuel cells using renewable fuels and geothermal direct-use; or
- (O) any other installation or modification of equipment, device, infrastructure, structure, or other material necessary to:
- (i) install, operate, or maintain the improvement being installed; or
 - (ii) resolve any structural, mechanical, electrical, or other issue that directly jeopardizes the well-being or safety of the building occupants, quality of the indoor environment, or the durability or longevity of the structure on which the project is being installed.]

Green Bank means the Green Bank that the County has designated to promote and support [the] investment in climate change mitigation and adaptation activities in the County, including clean energy technologies [and provide financing for clean energy technologies, including renewable energy and energy efficiency projects]; resiliency, sustainability, and climate adaptive projects; and other related risk reduction activities.

* * *

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the earth and minimizes the output of toxic material in the conversion of the energy and includes:

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18A-49. Work program; staff; support from County Government.

* * *

- (c) The Board must meet with the Executive and the President of the Council at least [semi-annually] annually.

* * *

- (e) Funding sources for the Green Bank may include:

* * *

- (2) charitable gifts, grants, or contributions, investments, and loans from individuals, corporations, university endowments, and philanthropic foundations; and

- (3) earnings and interest derived from its investments and financing support for climate change mitigation and adaptation activities [for clean energy technologies] backed by the Green Bank.

162 The Green Bank may also raise private funds and may accept services
 163 from any source consistent with its purpose.

164 *Approved:*

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|---------------------------------------|------|
| Evan Glass, President, County Council | Date |
|---------------------------------------|------|

166 *Approved:*

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| Marc Elrich, County Executive | Date |
|-------------------------------|------|

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

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| Judy Rupp, Clerk of the Council | Date |
|---------------------------------|------|

LEGISLATIVE REQUEST REPORT

BILL: XX-22, Environment Sustainability – Montgomery County Green Bank

DESCRIPTION: Bill XX-22 grants the Montgomery County Green Bank the ability to act as a Resilience Authority.

PROBLEM: The Montgomery County Green Bank is limited in scope, being unable to engage in resilience related activities should they be advantageous to the County. Climate change has caused and will continue to cause extreme weather events resulting in risks for critical infrastructure in the County. In 2020, the Maryland General Assembly adopted legislation authorizing a local government to create a “Resilience Authority” to assist in mitigating these risks. Title 22 of the Local Government Article prescribes the operating parameters of a Resilience Authority, including the steps required to create such a body, its structure, and the activities which it can engage in. After reviewing the details of Article 22 with the County Attorney, it was determined that creating a Resilience Authority in Montgomery County at this time would not provide any benefits to the County that could not be achieved by expanding the authority of the Green Bank.

GOALS AND OBJECTIVES: Bill XX-22 grants the Green Bank authority to engage in resilience related activities should it be advantageous to the County. It will allow the Montgomery County Green Bank to engage in resiliency authority activities related to property or community resilience, reliability, and environmental sustainability, property or community environmental health and environmental safety, property or community water conservation and on-site management, sustainable water treatment, sustainable agricultural activities, and adaptation of systems to manage changes to the climate, such as activities responding to extreme weather events.

COORDINATION: Department of Environmental Protection

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Office of Legislative Oversight

EVALUATION: To be researched

EXPERIENCE ELSEWHERE: To be researched

SOURCE OF INFORMATION: Jason Mathias, Policy and Legislative Manager, Department of Environmental Protection, (240)-405-6499

APPLICATION: Not applicable
WITHIN
MUNICIPALITIES

PENALTIES: Not applicable

Fiscal Impact Statement
Bill XX-22, Environmental Sustainability – Montgomery County Green Bank

1. Legislative Summary.

Bill XX-22 revises the potential activities in which the Montgomery County Green Bank (MCGB) could engage to include:

- property or community resilience, reliability, and environmental sustainability;
- property or community environmental health and environmental safety;
- property or community water conservation and on-site management;
- sustainable waste treatment;
- sustainable agricultural activities; and
- adaption of systems to manage changes to the climate, such as activities responding to extreme weather events.

Currently, the MCGB is limited to offering financing for clean energy and energy efficiency projects, and the purchase of an infrastructure for alternative fuel vehicles.

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.

Bill XX-22 expands the allowable uses of MCGB financing and is not expected to impact County revenues or expenditures.

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

Bill XX-22 expands the allowable uses of MCGB financing and is not expected to impact County revenues or expenditures over the next six fiscal years.

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

Bill XX-22 does not impact retiree pensions or group insurance costs.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Bill XX-22 would not result in any IT-related expenditures.

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

Bill XX-22 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Bill XX-22 would not require additional Montgomery County staff time to implement.

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

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

Bill XX-22 does not require any additional appropriation.

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

See the response to Question 2.

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

Not applicable.

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

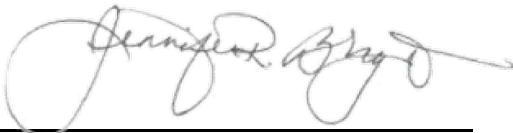
Bill XX-22 modifies the enabling legislation of the MCGB but does not commit the County to raise any additional revenue or incur any additional expenditures.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

- Stan Edwards, Department of Environmental Protection
- Richard H. Harris, Office of Management and Budget



**Jennifer R. Bryant, Director
Office of Management and Budget**

2-2-22

Date

Md. Local Government Code Ann. § 22-101

Current with all legislation from the 2022 Regular Session of the General Assembly; including legislation ratified by the voters at the November 2022 election.

Michie's™ Annotated Code of Maryland > Local Government (Divs. I — V) > Division IV. Local Finance. (Titles 16 — 22) > Title 22. Resilience Infrastructure. (§§ 22-101 — 22-113)

§ 22-101. Definitions.

- (a) In this title the following words have the meanings indicated.
- (b)
 - (1) “Bond” means an obligation for the payment of money, by whatever name known or source of funds secured, issued by a local government or Resilience Authority under State and local general or special statutory authority.
 - (2) “Bond” includes a refunding bond, a note, and any other obligation.
- (c) “Capital costs” means costs incurred for acquisition, planning, design, construction, repair, renovation, reconstruction, expansion, site improvement, and capital equipping.
- (d) “Chief executive” means the president, the chair, the mayor, the county executive, or any other chief executive officer or head of a local government.
- (e) “Climate change” includes sea level rise, nuisance flooding, increased rainfall events, erosion, and temperature rise.
- (f) “Local government” means a county or municipality.
- (g) “Resilience Authority” means an authority incorporated by one or more local governments in accordance with this title whose purpose is to undertake or support resilience infrastructure projects.
- (h)
 - (1) “Resilience infrastructure” means infrastructure that mitigates the effects of climate change.
 - (2) “Resilience infrastructure” includes flood barriers, green spaces, building elevation, and stormwater infrastructure.
- (i) “Resilience infrastructure project” means a project to finance or refinance the capital costs associated with resilience infrastructure.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

Annotations

Notes

Editor’s note. —

Md. Local Government Code Ann. § 22-102

Current with all legislation from the 2022 Regular Session of the General Assembly; including legislation ratified by the voters at the November 2022 election.

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§ 22-102. Resilience authority created by local government — Articles of incorporation — Structure and powers.

- (a) A local government may create a Resilience Authority by local law in accordance with this title.
- (b) A local law adopted under this section:
 - (1) is administrative in nature; and
 - (2) is not subject to referendum.
- (c) Notwithstanding any other provision of law or charter provision, subsection (a) of this section is self-executing and fully authorizes a local government to establish a Resilience Authority.
- (d) A local law adopted under subsection (a) of this section shall include proposed articles of incorporation of the Resilience Authority that state:
 - (1) the name of the Resilience Authority, which shall be “Resilience Authority of (name of the incorporating local government)”;
 - (2) that the Resilience Authority is formed under this title;
 - (3) the names, addresses, and terms of office of the initial members of the board of directors of the Resilience Authority;
 - (4) the address of the principal office of the Resilience Authority;
 - (5) the purposes for which the Resilience Authority is formed; and
 - (6) the powers of the Resilience Authority, subject to the limitations on the powers of a Resilience Authority under this title.
- (e)
 - (1) The chief executive of the incorporating local government, or any other official designated in the local law establishing the Resilience Authority, shall execute and file the articles of incorporation of the Resilience Authority for record with the State Department of Assessments and Taxation.
 - (2) When the State Department of Assessments and Taxation accepts the articles of incorporation for record:
 - (i) the Resilience Authority becomes a body politic and corporate and an instrumentality of the incorporating local government; and
 - (ii) the Chief Executive of the incorporating local government, or any other official designated in the local law establishing the Resilience Authority, shall submit the articles of incorporation, in accordance with [§ 2-1257 of the State Government Article](#), to:
 - 1. the Senate Budget and Taxation Committee and the Senate Education, Health, and Environmental Affairs Committee; and

2. the House Appropriations Committee and the House Environment and Transportation Committee.

(3) Acceptance of the articles of incorporation for record by the State Department of Assessments and Taxation is conclusive evidence of the formation of the Resilience Authority.

(f)

(1) The local governing body shall approve any amendment to the articles of incorporation of the Resilience Authority.

(2) Articles of amendment may contain any provision that lawfully could be contained in articles of incorporation at the time of the amendment.

(3) The articles of amendment shall be filed for record with the State Department of Assessments and Taxation.

(4) The articles of amendment are effective as of the time the State Department of Assessments and Taxation accepts the articles for record.

(5) Acceptance of the articles of amendment for record by the State Department of Assessments and Taxation is conclusive evidence that the articles have been lawfully and properly adopted.

(g)

(1) Subject to the provisions of this title and any limitations imposed by law on the impairment of contracts, the incorporating local government, in its sole discretion, by local law may:

(i) set or change the powers, structure, organization, procedures, programs, or activities of the Resilience Authority;

(ii) determine the revenue sources of the Resilience Authority, including the use of general fund revenue and general obligation bonds;

(iii) establish the budgetary and financial procedures of the Resilience Authority; and

(iv) terminate the Resilience Authority.

(2) On termination of a Resilience Authority:

(i) title to all property of the Resilience Authority shall be transferred to and be vested in the incorporating local government; and

(ii) all obligations of the Resilience Authority shall be transferred to and assumed by the incorporating local government.

History

[2020, ch. 235, § 1](#); [ch. 236, § 1](#).

Annotations

Research References & Practice Aids

Hierarchy Notes:

[Md. Local Government Code Ann](#)

Md. Local Government Code Ann. § 22-103

Current with all legislation from the 2022 Regular Session of the General Assembly; including legislation ratified by the voters at the November 2022 election.

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§ 22-103. Appointment or hire of officers and employees — Personnel matters.

- (a) Officers governing the Resilience Authority and employees of a Resilience Authority shall be appointed or hired as provided by local law.
- (b) Except as otherwise provided in this title or the local law establishing the Resilience Authority, the procedures of the incorporating local government control any personnel matter relating to the internal administration of the Resilience Authority.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

Annotations

Research References & Practice Aids

Hierarchy Notes:

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§ 22-104. Use of net earnings.

Except as necessary to pay debt service or implement the public purposes or programs of the incorporating local government, the net earnings of a Resilience Authority may benefit only the incorporating local government and may not benefit any person.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

Annotations

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§ 22-105. Powers of resilience authority.

- (a) Except as limited by the local law establishing the Resilience Authority or its articles of incorporation, a Resilience Authority has all the powers under this title.
- (b) A Resilience Authority has and may exercise all powers necessary or convenient to undertake, finance, manage, acquire, own, convey, or support resilience infrastructure projects, including the power to:
- (1) acquire by purchase, lease, or other legal means, but not by eminent domain, property for resilience infrastructure;
 - (2) establish, construct, alter, improve, equip, repair, maintain, operate, and regulate resilience infrastructure owned by the incorporating local government or the Resilience Authority;
 - (3) receive money from its incorporating local government, the State, other governmental units, or private organizations;
 - (4) charge and collect fees for its services;
 - (5) subject to the approval of the local governing body, charge and collect fees to back its bond issuances;
 - (6) have employees and consultants as it considers necessary;
 - (7) use the services of other governmental units; and
 - (8) act as necessary or convenient to carry out the powers granted to it by law.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

Annotations

Research References & Practice Aids

Hierarchy Notes:

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Md. Local Government Code Ann. § 22-106

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§ 22-106. Issuance and sale of bonds by resilience authority.

(a) Notwithstanding any other provision of law, a Resilience Authority may issue and sell bonds periodically:

- (1) for resilience infrastructure projects;
- (2) to refund outstanding bonds;
- (3) to pay the costs of preparing, printing, selling, and issuing the bonds;
- (4) to fund reserves; and
- (5) to pay the interest on the bonds in the amount and for the period the Resilience Authority considers reasonable.

(b) Bonds issued by a Resilience Authority are limited obligations and are not a pledge of the faith and credit or taxing power of an incorporating local government.

History

[2020, ch. 235, § 1](#); [ch. 236, § 1](#).

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Md. Local Government Code Ann. § 22-107

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§ 22-107. Resolution by resilience authority on bond issue.

- (a) For each issue of its bonds, a Resilience Authority shall adopt a resolution that:
 - (1) specifies and describes the resilience infrastructure;
 - (2) generally describes the public purpose to be served and the financing transaction;
 - (3) specifies the maximum principal amount of the bonds that may be issued; and
 - (4) imposes terms or conditions on the issuance and sale of bonds it considers appropriate.
- (b) A Resilience Authority, by resolution, may:
 - (1) specify, determine, prescribe, and approve matters, documents, and procedures that relate to the authorization, sale, security, issuance, delivery, and payment of and for the bonds;
 - (2) create security for the bonds;
 - (3) provide for the administration of bond issues through trust or other agreements with a bank or trust company that cover a countersignature on a bond, the delivery of a bond, or the security for a bond; and
 - (4) take other action it considers appropriate concerning the bonds.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

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§ 22-108. Exemption from state and local taxes — Payment in bonds.

- (a) The principal of and interest on bonds, the transfer of bonds, and any income derived from the bonds, including profits made in their sale or transfer, are forever exempt from State and local taxes.
- (b) A contract for a resilience infrastructure project may provide that payment shall be made in bonds.
- (c) A bond is not subject to the limitations of §§ 19-205 and 19-206 of this article.

History

[2020, ch. 235, § 1](#); [ch. 236, § 1](#).

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§ 22-109. Findings conclusive as to public purpose.

A finding by the local governing authority or the board of directors of a Resilience Authority as to the public purpose of an action taken under this title, and the appropriateness of that action to serve the public purpose, is conclusive in a proceeding involving the validity or enforceability of a bond, or security for a bond, issued under this title.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

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§ 22-110. Repayment of bonds and support of operations.

Notwithstanding any other provision of law or charter, the local governing body may dedicate any revenues of the local government for repayment of bonds and to support the operations or resilience infrastructure projects of a Resilience Authority.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

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§ 22-111. Authority established by multiple counties or municipalities.

If multiple counties or municipalities establish a Resilience Authority:

- (1) each shall be considered an incorporating local government; and
- (2) the counties or municipalities shall file jointly articles of incorporation or articles of amendment in accordance with § 22-102 of this subtitle.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

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§ 22-112. Authority established by multiple local governments — Tax levy authorized.

Nothing in this title may be construed to:

- (1) prohibit the local governments of multiple counties or municipalities from establishing through joint action a Resilience Authority in accordance with this title; or
- (2) authorize a Resilience Authority to levy a tax.

History

[2020, ch. 235, § 1; ch. 236, § 1.](#)

Annotations

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Md. Local Government Code Ann. § 22-113

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§ 22-113. Annual report by authority.

(a) On a date and in a format designated by the incorporating local government, a Resilience Authority shall, at least annually, report to the incorporating local government on the activities of the Resilience Authority.

(b)

(1) Subject to paragraph (2) of this subsection, on or before the January 1 after a Resilience Authority is established by a local government in accordance with this title, and on or before January 1 each year thereafter, the Resilience Authority shall submit a report in accordance with [§ 2-1257 of the State Government Article](#) to:

(i) the Senate Budget and Taxation Committee and the Senate Education, Health, and Environmental Affairs Committee; and

(ii) the House Appropriations Committee and the House Environment and Transportation Committee.

(2) The report required under paragraph (1) of this subsection shall include, at a minimum:

(i) a copy of the report required under subsection (a) of this section;

(ii) a description of the resilience infrastructure projects funded by the Resilience Authority; and

(iii) the sources of revenue for the resilience infrastructure projects undertaken by the Resilience Authority.

History

[2020, ch. 235, § 1](#); [ch. 236, § 1](#).

Annotations

Notes

Editor's note. —

See note to § 22-101 of this article.

Research References & Practice Aids