

Bill No. 36-10
Concerning: Finance – Revenue
Stabilization Fund – Amendments
Revised: June 28, 2010 Draft No. 4
Introduced: May 27, 2010
Enacted: June 29, 2010
Executive: July 7, 2010
Effective: October 4, 2010
Sunset Date: None
Ch. 33, Laws of Mont. Co. 2010

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) repeal the limit on the size of the Revenue Stabilization Fund;
- (2) modify the requirement for mandatory County contributions to the Revenue Stabilization Fund; and
- (3) generally amend the law governing the Revenue Stabilization Fund.

By amending

Montgomery County Code
Chapter 20, Finance
Article XII
Sections 20-65, 20-66, 20-68, 20-69, 20-70, 20-71 and 20-72

By repealing

Montgomery County Code
Chapter 20, Finance
Article XII
Section 20-67

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

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

1 **Sec. 1. Sections 20-65, 20-66, 20-68, 20-69, 20-70, 20-71 and 20-72 are**
 2 **amended and Section 20-67 is repealed as follows:**

3 **20-65. Definitions.**

4 In this Article the following terms have the following meanings, unless the
 5 context clearly indicates a different meaning:

6 [(a)] *Actual total revenues* means the combined total of income tax, real
 7 property transfer tax, recordation tax, and investment income, as
 8 reported in the County's annual financial report.

9 *Adjusted Governmental Revenues* means tax-supported County
 10 *Governmental Funds revenues, plus revenues of the:*

11 (1) *County Grants Fund;*

12 (2) *County Capital Projects Fund;*

13 (3) *tax supported funds of the Montgomery County Public Schools,*
 14 *not including the County's local contribution;*

15 (4) *tax supported funds of Montgomery College, not including the*
 16 *County's local contribution; and*

17 (5) *tax supported funds of the Montgomery County portion of the*
 18 *Maryland-National Capital Park and Planning Commission.*

19 [(b)] *Certified revenues* means revenues derived each fiscal year from the
 20 income tax, real property transfer tax, recordation tax, and investment
 21 income of the General Fund as certified by the Director on or before
 22 June 15.]

23 [(c)] *Debt Service Fund* means the fund used to accumulate funds to pay
 24 general long-term debt principal, interest and related costs.]

25 [(d)] *Director* means the Director of the Department of Finance.

26 *Excess revenue* means the amount, if positive, by which actual total
 27 *revenues from the income tax, real property transfer tax, recordation*

28 tax, and investment income of the General Fund for the fiscal year
 29 exceed the original projections for these amounts.

30 [(e)] *Fund* means the Revenue Stabilization Fund created under this
 31 Article.

32 [(f)] *General Fund* means the general operating fund of the County which
 33 is used to account for all revenues and expenditures, except revenues
 34 and expenditures required to be accounted for in another fund.

35 [(g)] *Income tax* means the County income tax imposed under state law.

36 [(h)] *Investment income of the General Fund* means income from the
 37 investment of revenues that is reported in the General Fund.

38 [(i)] *Original projection* means the projection of total General Fund
 39 revenues for the next fiscal year approved by the County Council in
 40 the “Schedule of Revenue Estimates and Appropriations” resolution
 41 or any similar resolution.

42 [(j)] *Real property transfer tax* means the tax imposed under Sections 51-
 43 19 et. seq.

44 [(k)] *Recordation tax* means the tax imposed under Sections 12-101 et.
 45 seq., Tax-Property Article, [Annotated Code of] Maryland Code.

46 [(l)] *Revised forecast* means any revised projection of total General Fund
 47 revenues for the next fiscal year prepared by the Department of
 48 Finance.

49 Total reserve means the sum of the reserve in the Fund plus the
 50 Unrestricted General Fund Balance.

51 Unrestricted General Fund Balance means the residual portion of the
 52 General Fund fund balance that has not been reserved, restricted, or
 53 encumbered for later years’ expenditures.

54 **20-66. Revenue Stabilization Fund.**

55 (a) The Director may establish a Revenue Stabilization Fund to support
56 appropriations which have become unfunded.

57 (b) The Fund is continuing and non-lapsing.

58 (c) The Fund is in addition to any surplus that is accumulated under
59 Section 310 of the County Charter.

60 **20-67. [Fund sources and maximum size.] Reserved.**

61 [(a) The Fund must not exceed 10 percent of the average aggregate annual
62 revenue derived from the income tax, real property transfer tax,
63 recordation tax, and investment income of the General Fund in the 3
64 preceding fiscal years.

65 (b) The Director must compute the maximum amount of the Fund
66 annually and report that amount to the County Council not later than
67 June 15.

68 (c) The Fund is in addition to any surplus that may be accumulated under
69 Section 310 of the County Charter.]

70 **20-68. Mandatory contribution to Fund.**

71 [(a) Subject to the limit set in Section 20-67(a), the] The mandatory annual
72 contribution to the Fund must equal the greater of:

73 (a) [50 percent of the product of the certified revenues estimated for the
74 current fiscal year times the difference between:

75 (1) the annual percentage increase in the certified revenues
76 projected for the next fiscal year, and

77 (2) the average annual percentage increase in the certified revenues
78 collected in the 6 fiscal years immediately preceding the next
79 fiscal year.] 50 percent of [[the]] any excess revenue [[amount

80 by which actual total revenues from the income tax, real
 81 property transfer tax, recordation tax, and investment income of
 82 the General Fund for the next fiscal year exceed the original
 83 projections for these amounts]]; or

84 (b) an annual amount [[that does not exceed]] equal to the lesser of 0.5
 85 percent of the Adjusted Governmental Revenues [[for the current
 86 year, but which does not result in the sum of the current year-end
 87 projected Unrestricted General Fund Balance and the Fund to
 88 exceed]] or the amount needed to obtain a total reserve of 10 percent
 89 of the Adjusted Governmental Revenues.

90 [(b) A growth or decline in certified revenues which results from either an
 91 increase or decrease in County tax rates must be:

- 92 (1) excluded from revenues projected for the next fiscal year, and
 93 (2) phased in in the average annual percentage increase calculation
 94 in the third, fourth, fifth and sixth years.

95 (c) If actual total revenues from the income tax, real property transfer tax,
 96 recordation tax, and investment income of the General Fund for the
 97 next fiscal year exceed the original projection, then 50 percent of the
 98 excess must be transferred to the Fund if doing so will not result in the
 99 10 percent limit in Section 20-67(a) being exceeded.]

100 **20-69. Discretionary contributions to Fund.**

101 The County Executive may recommend and the County Council may by
 102 resolution approve additional contributions to the Fund [if doing so will not result
 103 in the 10 percent limit in Section 20-67(a) being exceeded].

104 **20-70. Transfer of contributions.**

105 The Director must transfer the mandatory contributions required by Section
106 20-68 and any discretionary contributions under Section 20-69 from the General
107 [fund] Fund to the Fund at the end of each fiscal year.

108 **20-71. Interest.**

109 All interest earned on the Fund must be added to the Fund. [However, the
110 Director must transfer interest earned on the Fund when the Fund exceeds 50
111 percent of the maximum Fund size authorized by Section 20-67(a) to the Debt
112 Service Fund as an offset to the approved issuance of general obligation debt.]

113 **20-72. Use of Fund.**

114 [[a) After holding a public hearing and seeking the recommendation of the
115 Executive, and if the Council finds that reasonable reductions in
116 expenditures are not sufficient to offset the shortfall in revenue, the
117 Council may by resolution approved by the Executive transfer an
118 amount from the Fund to compensate for no more than half of the
119 difference between the original projection of total General [fund]
120 Fund revenues for that fiscal year and a revised forecast of the
121 General Fund revenues projected for the same fiscal year. If the
122 Executive disapproves a resolution within 10 days after it is
123 transmitted and the Council readopts it by a vote of 6
124 Councilmembers, or if the Executive does not act within 10 days after
125 it is transmitted, the resolution takes effect.]]

126 [[b) However, a transfer must not be approved unless 2 of the following
127 conditions are met:

128 (1) The Director estimates that total General Fund revenues will
129 fall more than 2 percent below the original projected revenues.

- 130 (2) Resident employment in the County has declined for 6
131 consecutive months compared to the same month in the
132 previous year.
- 133 (3) The ~~[local]~~ most recent regional index of leading economic
134 indicators, published by the Center for Regional Analysis,
135 George Mason University, or a successor index determined by
136 the Department of Finance, has declined for 3 consecutive
137 months.]]
- 138 ~~[[c)]~~ The cumulative transfers from the Fund in any single fiscal year must
139 not exceed half of the balance in the Fund at the start of that fiscal
140 year.]]
- 141 ~~[[d)]~~ The funds transferred may only be used to support appropriations
142 which have become unfunded.]]
- 143 ~~[[e)]~~ By an affirmative vote of 6 Councilmembers, the Council, after
144 holding a public hearing, reviewing relevant economic indicators, and
145 seeking the recommendation of the Executive, may transfer
146 ~~[[amounts]]~~ any amount from the Fund to the General Fund ~~[[without~~
147 regard to the limits and conditions in subsections (a)-(c)]] to support
148 appropriations which have become unfunded.

149 *Approved:*

150

151 *Nancy Floreen* *6/30/10*
152 Nancy M. Floreen, President, County Council Date

153 *Approved:*

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155 *Isiah Leggett* *July 2, 2010*
156 Isiah Leggett, County Executive Date

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

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159 *Linda M. Lauer* *July 12, 2010*
160 Linda M. Lauer, Clerk of the Council Date