


MEMORANDUM

April 6, 2012

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 14-12, Economic Development Fund – Amendments

Bill 14-12, Economic Development Fund – Amendments, sponsored by Council President Berliner, and Councilmembers Riemer, Ervin, Elrich, Leventhal and Navarro, was introduced on March 20, 2012. A Planning, Housing and Economic Development Committee worksession will be scheduled at a later date.

Bill 14-12 would require the Executive to propose and update an economic development strategic plan, subject to approval by the Council. The success or progress of the strategic plan must be measurable and include measures to address:

- (1) job creation;
- (2) private sector compensation and benefits;
- (3) target industries;
- (4) target geographic areas;
- (5) workforce education and training;
- (6) growth in tax base;
- (7) economic opportunity for residents;
- (8) encouragement of entrepreneurs and small business;
- (9) land use; and
- (10) other actions necessary to promote economic development in the County.

The Bill would also amend the Economic Development Fund (EDF) law by establishing criteria for offers of assistance from the EDF, modify the time and content of the notice the Executive must give to the Council before making a tentative offer of more than \$100,000, and require Council approval of a tentative offer of more than \$500,000.

| This packet contains: | <u>Circle #</u> |
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Bill No. 14 -12
Concerning: Economic Development
Fund – Amendments
Revised: March 13, 2012 Draft No. 5
Introduced: March 20, 2012
Expires: September 20, 2013
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Berliner and Councilmembers Riemer, Ervin, and Elrich

AN ACT to:

- (1) require the Executive to propose and update an economic development strategic plan for the County, subject to Council approval;
- (2) establish criteria for offers of financial assistance from the Economic Development Fund that promote the County’s approved economic development strategic plan;
- (3) require the Council to approve certain offers of assistance from the Economic Development Fund; and
- (4) generally amend the County economic development laws.

By amending

Montgomery County Code
Chapter 20, Finance
Sections 20-75 and 20-76

| | |
|------------------------------|--|
| 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 20-75 and 20-76 are amended as follows:**

2 **20-75. Use of Fund.**

3 (a) The Director may spend or allocate funds from this Fund consistent
4 with the economic development strategic plan approved under Section
5 20-76 and on the basis of criteria defined in a Regulation adopted under
6 method (1), including the following criteria:

7 (1) the proposed assistance will materially improve the County's
8 economy and advance County economic development objectives
9 and strategies; or

10 (2) the assistance is necessary to:

11 (A) bring a significant number of new jobs to the County;

12 (B) add a significant number of new jobs to an existing
13 operation in the County;

14 (C) retain a significant number of jobs at an existing operation
15 in the County or

16 (D) respond to other economic development objectives.

17 (b) The Director must provide the Council with all fiscal analyses and other
18 supporting documents for any proposed offer of assistance to a private
19 employer valued at more than \$100,000. The supporting documents
20 must include:

21 (1) the name, industry, location, employee compensation profile, and
22 estimated current and future taxes paid by the prospective
23 recipient;

24 (2) the estimated employment and tax revenue gains resulting from
25 the proposed assistance;

26 (3) each assumption, variable, and model used to generate estimates
27 of employment and tax revenue gains;

- 28 (4) the number of new residents estimated to move into the County
 29 resulting from gains in employment by the proposed recipient;
 30 (5) the number and cost of new students estimated to enroll in
 31 County public schools;
 32 (6) an analysis of how the proposed assistance supports the overall
 33 goals of the economic development strategy; and
 34 (7) offers, if any, made by or expected from other competing
 35 jurisdictions.

36 (c) The Executive must notify the Council at least [2] 5 working days
 37 before the Executive tentatively offers assistance valued at more than
 38 \$100,000 to a private employer, including all fiscal analyses and other
 39 supporting documents described in subsection (b). During a Council
 40 recess of one week or longer, the Executive must notify the Council at
 41 least [5] 10 working days before the Executive tentatively offers
 42 assistance valued at more than \$100,000 to a private employer. If
 43 during either notice period the Council President notifies the Executive
 44 that more time is necessary for the Council to [comment] review the
 45 tentative offer, the Executive must wait an additional [2] 5 working days
 46 (or [5] 10 working days during a Council recess) before [offering]
 47 making a tentative offer of assistance to the private employer.

48 [(c)] (d) The Council must approve each offer of assistance to a private
 49 employer valued at more than \$500,000. The amount of any discount
 50 from market value in the sale of County property offered as part of the
 51 assistance must be included in the value of the assistance. The
 52 Executive must submit an economic development agreement to the
 53 Council within 60 days after all parties to the agreement execute it.

54 (e) The notice required under subsection [(b)] (c) must also specify the
 55 proposed terms of any assistance offered, including any repayment
 56 provisions.

57 [(d)] (f) Unless expressly inconsistent with any other federal, state, or County
 58 law, the terms of any assistance from the Fund must require the
 59 recipient to meet certain performance criteria specified in the offer of
 60 assistance, including a repayment agreement unless the Executive
 61 [describes] justifies why repayment of assistance is not required.

62 [(e)] (g) * * *

63 **20-76. Economic Development Strategic Plan, Administration.**

64 (a) The Executive must submit a proposed economic development strategic
 65 plan for the County to the Council for approval on or before July 1 of
 66 each even numbered year. The Council may amend the proposed
 67 strategic plan and must approve a final strategic plan by resolution. The
 68 success or progress of the strategic plan must be measurable and include
 69 measures to address:

- 70 (1) job creation;
- 71 (2) private sector compensation and benefits;
- 72 (3) target industries;
- 73 (4) target geographic areas;
- 74 (5) workforce education and training;
- 75 (6) growth in tax base;
- 76 (7) economic opportunity for residents;
- 77 (8) encouragement of entrepreneurs and small business;
- 78 (9) land use; and
- 79 (10) other actions necessary to promote economic development in the
 80 County.

81 (b) The Executive may adopt Regulations under method (1) to administer
82 this Fund.

83 [(b)] (c) The Executive must report by March 15 each year on the status and
84 use of the Fund. This report can be included in the Executive's
85 proposed operating budget. The annual report must:

86 (1) describe the success of each award of financial assistance in
87 satisfying the economic development goals supporting the
88 assistance;

89 (2) identify any assistance agreement where the recipient did not
90 satisfy the performance criteria in the agreement; and

91 (3) track the progress of the Fund in satisfying the overall goals of
92 the approved economic development strategic plan.

93 **Sec. 2. Transition.**

94 The County Executive must submit the initial proposed economic
95 development strategic plan to the Council for approval not later than 180 days after
96 this Act becomes law. In addition to the requirements of 20-76(a), the initial
97 proposed economic development strategic plan must:

98 (a) analyze the County's economic development structure;

99 (b) compare the County's structure with peer jurisdictions;

100 (c) identify and analyze different alternative government and non-
101 government entities that could perform each core function of economic
102 development;

103 (d) determine the total amount of public and private money spent in each
104 peer jurisdiction to achieve current levels of service; and

105 (e) recommend changes, if appropriate, to the County's structure.

LEGISLATIVE REQUEST REPORT

Bill 14 -12

Economic Development Fund – Amendments

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| DESCRIPTION: | This Bill would require the Executive to propose and update an economic development strategic plan, subject to approval by the Council. The Bill would also amend the Economic Development Fund (EDF) law by establishing criteria for offers of assistance from the EDF, modify the time and content of the notice the Executive must give to the Council before making a tentative offer of more than \$100,000, and require Council approval of a tentative offer of more than \$500,000. |
| PROBLEM: | The County needs to establish an economic development strategic plan and follow it. |
| GOALS AND OBJECTIVES: | To establish an economic development strategic plan and ensure that the plan is followed. |
| COORDINATION: | CAO, DED Director |
| FISCAL IMPACT: | To be requested. |
| ECONOMIC IMPACT: | To be requested. |
| EVALUATION: | To be requested. |
| EXPERIENCE ELSEWHERE: | To be researched. |
| SOURCE OF INFORMATION: | Robert H. Drummer, Senior Legislative Attorney, 240-777-7895 |
| APPLICATION WITHIN MUNICIPALITIES: | To be researched. |
| PENALTIES: | Not applicable. |