

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2009, Legislative Day No. 30

Bill No. 63-09

Introduced by Ms. Vitale, Chairman
(by request of the County Executive)

By the County Council, July 6, 2009

Introduced and first read on July 6, 2009
Public Hearing set for and held on August 3, 2009
Public Hearing on AMENDED BILL set for and held on September 8, 2009
Public Hearing on SECOND AMENDED BILL set for September 21, 2009
Bill Expires October 9, 2009

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: County Funds to Non-Profit Organizations

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3 FOR the purpose of defining certain terms; requiring qualifying non-profit organizations
4 receiving certain amounts of County funds to provide certain information; requiring
5 qualifying non-profit organizations to submit to and produce copies of an annual
6 independent audit; providing a remedy for non-compliance; requiring certain information
7 to be sent to the County Auditor; prohibiting payment of County funds as matching
8 funds under certain circumstances; requiring qualifying non-profit organizations to allow
9 site visits and reviews of certain records; requiring organizations receiving certain
10 amounts of County funds or revenues to execute grant agreements; authorizing the
11 Controller to promulgate regulations; and generally relating to funds to non-profit
12 organizations receiving County funds or revenues.

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14 BY adding: § 4-12-107
15 Anne Arundel County Code (2005, as amended)

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17 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
18 That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.
Underlining indicates amendments to bill.
~~Strikeover~~ indicates matter stricken from bill by amendment.

TITLE 12. MISCELLANEOUS PROVISIONS

4-12-107. Grant Funding Accounting.

(A) **Definitions.** IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(1)-(1)~~ “QUALIFYING NON-PROFIT ORGANIZATION” MEANS AN ORGANIZATION EXEMPT FROM TAXATION PURSUANT TO § 501 OF THE INTERNAL REVENUE CODE THAT RECEIVES COUNTY FUNDS TOTALING MORE THAN \$100,000 IN ANY FISCAL YEAR OR IS ENTITLED TO RECEIVE A SHARE OF COUNTY REVENUES TOTALING MORE THAN \$100,000 IN ANY FISCAL YEAR.

~~(H)~~ “QUALIFYING NON-PROFIT ORGANIZATION” DOES NOT MEAN ANY AGENCY, OFFICE, BOARD, OR COMMISSION ESTABLISHED BY COUNTY LAW: OR

~~(H)~~ “QUALIFYING NON-PROFIT ORGANIZATION” DOES NOT MEAN AN ORGANIZATION THAT RECEIVES COUNTY FUNDS OR REVENUES BY VIRTUE OF A COUNTY PROCUREMENT.

~~(2)-(1)~~ “BONUS PAYMENT” MEANS ANY RETENTION PAYMENT, INCENTIVE PAYMENT, OR OTHER BONUS WHICH IS IN ADDITION TO ANY AMOUNT PAYABLE TO AN INDIVIDUAL FOR SERVICE PERFORMED BY SUCH INDIVIDUAL AT A REGULAR HOURLY, DAILY, WEEKLY, MONTHLY, OR SIMILAR PERIODIC RATE.

~~(H)~~ “BONUS PAYMENT” DOES NOT INCLUDE COMMISSIONS, WELFARE OR FRINGE BENEFITS, OR EXPENSE REIMBURSEMENTS.

(B) **Required submissions.** ~~ON OR BEFORE JUNE 1 OF EACH FISCAL YEAR~~ NO LATER THAN SIXTY DAYS AFTER THE BEGINNING OF THE COUNTY'S FISCAL YEAR DURING WHICH THE ORGANIZATION IS TO RECEIVE COUNTY FUNDS OR A SHARE OF COUNTY REVENUE, A QUALIFYING NON-PROFIT ORGANIZATION SHALL PROVIDE TO THE CONTROLLER UNDER OATH OR AFFIRMATION BY A PERSON AUTHORIZED TO DO SO BY THE BOARD OF DIRECTORS OF THE QUALIFYING NON-PROFIT ORGANIZATION:

~~(1) A LIST OF THE FIVE HIGHEST COMPENSATED PERSONS EMPLOYED BY THE ORGANIZATION DURING THE FISCAL YEAR, TOGETHER WITH THE AMOUNTS OF ALL MONETARY AND NON-MONETARY COMPENSATION, INCLUDING ANY BONUS PAYMENTS, MADE TO EACH PERSON;~~

~~(2) A COPY OF ANY CONTRACT OF EMPLOYMENT OR AGREEMENT FOR THE PERFORMANCE OF SERVICES IN EXCHANGE FOR COMPENSATION, IN EFFECT DURING THE FISCAL YEAR, WITH THE PRESIDENT, CHIEF EXECUTIVE OFFICER, EXECUTIVE DIRECTOR, CHAIRMAN OF THE BOARD OF DIRECTORS, CHIEF FINANCIAL OFFICER, AND TREASURER OF THE ORGANIZATION;~~

~~(2)~~ (1) A LIST OF OFFICERS, DIRECTORS, TRUSTEES, KEY EMPLOYEES, AND THE FIVE HIGHEST COMPENSATED EMPLOYEES OF THE ORGANIZATION, AS DEFINED FOR PURPOSES OF THE INTERNAL REVENUE SERVICE FORM 990, DURING THE ORGANIZATION'S MOST RECENT TAX YEAR, TOGETHER WITH THE AMOUNT OF COMPENSATION REPORTED ON FORM W-2, BOX 5 OR FORM 1099-MISC. BOX 7, FILED WITH THE INTERNAL REVENUE SERVICE FOR THE CALENDAR YEAR ENDING WITH OR WITHIN THE ORGANIZATION'S TAX YEAR BY THE ORGANIZATION AND ANY RELATED ORGANIZATION, AS DEFINED FOR PURPOSES OF THE INTERNAL REVENUE SERVICE FORM 990; ;

(2) A COPY OF ANY CONTRACT OF EMPLOYMENT OR AGREEMENT FOR THE

1 PERFORMANCE OF SERVICES IN EXCHANGE FOR COMPENSATION FOR ANY PERSON LISTED IN
 2 SUBSECTION (B)(1):

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 4 (3) A COPY OF ANY CONTRACT OF EMPLOYMENT OR AGREEMENT FOR THE
 5 PERFORMANCE OF SERVICES IN EXCHANGE FOR COMPENSATION IN EFFECT DURING THE
 6 FISCAL YEAR WITH ANY PERSON OR ENTITY WHO IS REGULATED AS A LOBBYIST UNDER THE
 7 STATE GOVERNMENT ARTICLE, § 15-701 (A), (1), (2), (3), OR (4), OF THE STATE CODE, OR § 7-7-
 8 102 OF THIS CODE;

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 10 (4) A COPY OF ANY RESOLUTION OF THE BOARD OF DIRECTORS APPROVING THE
 11 CONTRACTS OR AGREEMENTS REFERRED TO IN SUBSECTIONS (B)(2) AND (B)(3);

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 13 ~~(5) A COPY OF THE ORGANIZATION'S MOST RECENT ANNUAL AUDITED FINANCIAL~~
 14 ~~STATEMENTS WHICH SHALL BE PREPARED BY A CERTIFIED PUBLIC ACCOUNTANT;~~

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 16 ~~(6)~~ (6) A COPY OF ANY WRITTEN POLICIES AND PROCEDURES IN EFFECT DURING THE
 17 FISCAL YEAR, FOR DISCLOSURE OF CONFLICTS OF INTEREST, AS DEFINED FOR PURPOSES OF
 18 COMPLIANCE WITH THE INTERNAL REVENUE CODE, THAT IDENTIFY THE CLASSES OF
 19 INDIVIDUALS WITHIN THE ORGANIZATION COVERED BY THE POLICY, FACILITATE
 20 DISCLOSURE OF INFORMATION THAT MAY HELP IDENTIFY CONFLICTS OF INTEREST, AND
 21 SPECIFY PROCEDURES TO BE FOLLOWED IN MANAGING CONFLICTS OF INTEREST; AND

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 23 ~~(7)~~ (6) A COPY OF ANY WRITTEN POLICIES AND PROCEDURES IN EFFECT DURING THE
 24 FISCAL YEAR FOR MONITORING PROPOSED OR ONGOING TRANSACTIONS FOR CONFLICTS OF
 25 INTEREST, AS DEFINED FOR PURPOSES OF COMPLIANCE WITH THE INTERNAL REVENUE
 26 CODE, AND DEALING WITH POTENTIAL OR ACTUAL CONFLICTS, WHETHER DISCOVERED
 27 BEFORE OR AFTER THE TRANSACTION HAS OCCURRED, AND ADDRESSING FINANCIAL OR
 28 BUSINESS TRANSACTIONS BETWEEN THE ORGANIZATION'S OFFICERS AND DIRECTORS AND
 29 THE ORGANIZATION.

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 31 (C) Annual audit. EACH QUALIFYING NON-PROFIT ORGANIZATION SHALL PREPARE
 32 FINANCIAL STATEMENTS FOR EACH FISCAL YEAR, WHICH SHALL BE PREPARED IN
 33 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, AND SHALL HAVE
 34 THE ANNUAL FINANCIAL STATEMENTS AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC
 35 ACCOUNTANT. WITHIN 180 DAYS OF THE END OF THE ORGANIZATION'S FISCAL YEAR, THE
 36 ORGANIZATION SHALL PROVIDE COPIES OF THE AUDIT TO THE CONTROLLER AND THE
 37 COUNTY AUDITOR, AS WELL AS COPIES OF ANY MANAGEMENT LETTER AND ANY
 38 INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
 39 AND COMPLIANCE ISSUED BY THE INDEPENDENT AUDITOR.

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 41 ~~(C)~~ (D) Alternative compliance. A QUALIFYING NON-PROFIT ORGANIZATION MAY
 42 OTHERWISE COMPLY WITH THE REQUIREMENTS OF ~~SUBSECTION (B)~~ SUBSECTIONS (B) AND
 43 (C) BY:

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 45 ~~(1) PROVIDING A COPY OF ITS MOST RECENT INTERNAL REVENUE SERVICE FORM 990,~~
 46 ~~TOGETHER WITH ALL SCHEDULES FILED THEREWITH, TO THE CONTROLLER; OR~~

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 48 ~~(2)~~ (2) EXECUTING A GRANT FUNDING AGREEMENT WITH THE COUNTY CONTAINING
 49 SUCH PROVISIONS AS THE COUNTY ATTORNEY AND, THE CONTROLLER, AND THE DIRECTOR
 50 OF THE FINANCE DEPARTMENT OF THE CITY OF ANNAPOLIS SHALL REQUIRE TO ENSURE
 51 TRANSPARENCY AND ACCOUNTABILITY IN THE EXPENDITURE OF THOSE FUNDS OR
 52 REVENUES.

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 54 ~~(D)~~ (E) Remedy for non-compliance. ~~AFTER JUNE 1 OF ANY FISCAL YEAR,~~ THE
 55 CONTROLLER MAY WITHHOLD ANY AMOUNTS OTHERWISE DUE TO THE QUALIFYING NON-
 56 PROFIT ORGANIZATION UNTIL THE INFORMATION REQUIRED BY SUBSECTIONS (B) OR (C) HAS
 57 BEEN RECEIVED.

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~~(E)~~ **(F) Information to Auditor and City Finance Director.** THE CONTROLLER SHALL PROVIDE A COPY OF THE INFORMATION SUBMITTED PURSUANT TO SUBSECTION (B), ~~OR~~ (C), AND (D) TO THE COUNTY AUDITOR AND THE DIRECTOR OF THE FINANCE DEPARTMENT OF THE CITY OF ANNAPOLIS.

~~(F)~~ ~~(G)~~ **Prohibition of matching funds.** NO QUALIFYING NON PROFIT ORGANIZATION THAT IS ENTITLED TO RECEIVE A SHARE OF COUNTY REVENUES PURSUANT TO STATE LAW SHALL RECEIVE ANY ADDITIONAL AMOUNT OF COUNTY FUNDS OR REVENUES AS A MATCHING FUND FOR FUNDS PROVIDED BY THE STATE AS PART OF A LOAN TO THE ORGANIZATION AUTHORIZED BY THE GENERAL ASSEMBLY OF MARYLAND.

(G) Site visits and review of records. UPON REASONABLE NOTICE AND AT REASONABLE TIMES, THE CONTROLLER, ~~AND~~ THE COUNTY AUDITOR, AND THE DIRECTOR OF THE FINANCE DEPARTMENT OF THE CITY OF ANNAPOLIS. TOGETHER OR SEPARATELY, MAY CONDUCT PERIODIC SITE VISITS AT THE BUSINESS OFFICE OF A QUALIFYING NON-PROFIT ORGANIZATION AND SUCH VISITS MAY INCLUDE INSPECTION AND REVIEW OF RECORDS RELATED TO SERVICES AND FINANCIAL RECORDS.

(H) Organizations receiving less than \$100,000 or less. AN ORGANIZATION EXEMPT FROM TAXATION PURSUANT TO SECTION 501 OF THE INTERNAL REVENUE CODE THAT RECEIVES COUNTY FUNDS TOTALING ~~LESS THAN \$100,000 OR LESS~~ IN ANY FISCAL YEAR OR IS ENTITLED TO RECEIVE A SHARE OF COUNTY REVENUES TOTALING LESS THAN \$100,000 IN ANY FISCAL YEAR SHALL EXECUTE A GRANT FUNDING AGREEMENT WITH THE COUNTY CONTAINING SUCH PROVISIONS AS THE COUNTY ATTORNEY ~~AND~~, THE CONTROLLER, AND THE DIRECTOR OF THE FINANCE DEPARTMENT OF THE CITY OF ANNAPOLIS SHALL REQUIRE TO ENSURE TRANSPARENCY AND ACCOUNTABILITY IN THE EXPENDITURE OF THOSE FUNDS OR REVENUES.

(I) Regulations. THE CONTROLLER MAY PROMULGATE SUCH REGULATIONS AS MAY BE NECESSARY TO IMPLEMENT THIS SECTION.

SECTION 2. And be it further enacted, That this Ordinance shall take effect 45 days from the date it becomes law.