



ANNE ARUNDEL COUNTY
OFFICE OF THE COUNTY AUDITOR

To: Members of the County Council
From: Susan L. Smith, County Auditor
Date: February 10, 2021
Subject: Legislation to be heard on February 16, 2021: Bill Nos. 5-21, 6-21, 7-21, 8-21, and 9-21.

Bill No. 5-21: Current Expense Budget – Board of Education – Supplementary Appropriation and Transfer of Funds

This bill appropriates an additional \$7,359,900 in the Board of Education's (BOE) fiscal year 2021 (FY2021) Current Expense Budget in its Grants Fund. Of these additional appropriations, \$4,539,700 represents carryover funding from fiscal year 2020 (FY2020) appropriated grants that could not be spent due to the shutdown of schools on March 13, 2020, and the remaining \$2,820,200 represents FY2021 grant award increases and new grants. Additionally, this bill also transfers appropriations within State categories in the Grant Fund for multiple grants. The combination of new and increased grants and the transfers within State categories results in a net decrease in the State category of Special Education totaling \$1,277,300 as shown in Section 2 of the bill, and net increases in the other State categories totaling \$8,637,200 as shown in Section 3 of the bill.

The primary reason for the decrease in the Special Education category is due to a transfer of \$1,043,000 from the Special Education category to other categories for the Individuals with Disabilities Act Special Education grant from the U. S. Department of Education (DOE). This grant requires funds to be used to prevent children from entering Special Education and these expenses fall into other State categories. The remaining decrease of \$234,200 is the result of a transfer in the Coronavirus Relief Fund Grant funds for tutoring due to less than anticipated expenditures in the Special Education category of the grant. The specific grants with additional appropriations either from new grants or appropriations of funding that was appropriated in the FY2020 Approved Budget but not spent, are as follows:

- \$213,300 is for the Vocational Education Basic Grant from the U.S. DOE under the Strengthening Career and Technical Education for the 21st Century Act for improving career and technical educational programs.
- \$3,527,600 is for the Local Educational Agencies Title I formula grant from the U.S. DOE for improving the academic achievement of the disadvantaged.
- \$2,134,600 is for the Individuals with Disabilities Education Act Special Education Entitlement Grant from the U.S. DOE Office of Special Education Program to ensure eligible students with disabilities receive a free and appropriate public education that includes special education and related services designed to meet their individual needs in the least restrictive environment.
- \$30,000 is for the Science, Technology, Engineering, and Mathematics (STEM) Department of Defense Education Activity Grant from the U.S. Department of Defense to enhance student achievements in STEM fields for military-dependent students.

- \$144,900 is for the Title III formula grant to help ensure English learners attain English language proficiency and meet State academic standards.
- \$160,000 is for the Judy Center Grant from the Maryland State Department of Education (MSDE) for early care and education enhancements. Additionally, \$250,000 in Judy Center Grants were shifted from federal funding to state funding.
- \$134,100 is for the Striving Readers Grant from the U.S. DOE to create a comprehensive literacy program to advance literacy skills.
- \$200,000 for a new Elementary and Secondary School Education Relief Fund Reopening Schools Grant from MSDE. Anne Arundel County Public Schools was awarded additional CARES Act funding from MSDE to help facilitate the transition to hybrid learning.
- \$399,800 for a new Prekindergarten Expansion Grant from MSDE. This is a competitive grant award and was not included in the FY2021 Approved Budget.
- \$116,000 for a new State Career and Technical Education Grant. This is a new competitive grant and was not included in the FY2021 Approved Budget.
- \$242,600 is for carryover funding from a FY2020 appropriated Local Development Council (LDC) grant for the Meade Cyber Lab.
- \$57,000 is for carryover funding from a FY2020 appropriated LDC grant for a Trauma Sensitive Schools Grant.

The following table shows the appropriations by fund and State categories:

	Total Grant Fund
Additional Revenue:	
Federal Grant Funds	\$ 6,134,500
State Grant Funds	\$925,800
Local Grant Funds	\$299,600
Total:	\$ 7,359,900
Net Appropriation Decreases:	
Special Education	(\$ 1,277,300)
Net Appropriation Increases:	
Administration	102,800
Mid-Level Administration	199,200
Instructional Salaries & Wages	559,600
Textbooks & Classroom Supplies	3,393,900
Other Instructional Costs	2,617,700
Pupil Transportation	144,500
Operation of Plant	1,171,400
Fixed Charges	288,100
Community Services	160,000
Total:	\$ 7,359,900

Bill No. 6-21: Mil-Bur Special Community Benefit District – Approval of Loan and Assignment Agreement

This bill obligates the County to levy a special tax on the property owners in the Mil-Bur Special Community Benefit District (Mil-Bur SCBD) to cover the repayment of a loan in the amount of \$117,000 to be obtained by The Mil-Bur Club, Inc. (Association) from Sandy Spring Bank for a term of five years. The bill also authorizes the County Executive to enter into agreements with the Association and the Sandy Spring Bank as necessary to disburse Mil-Bur SCBD assessments sufficient to cover the loan payments. The Association has not yet entered into a loan agreement. However, the Association has signed a loan commitment letter provided by Sandy Spring Bank that will expire unless the loan is closed on or before March 12, 2021.

The loan commitment states the interest rate is 4.38% over a five-year term, the loan amount is \$117,000, plus the Association will be responsible for closing costs. The loan commitment requires the Mil-Bur SCBD special assessments to be pledged as collateral, the loan payments to be paid annually by the County with proceeds from the Mil-Bur SCBD and states that the loan payments will consist of annual principal and interest payments totaling \$26,137.04, until the maturity of the loan, at which time the entire remaining principal balance and accrued but unpaid interest shall be due and payable. The loan commitment also states that if the Association defaults on any other loans, this loan will be deemed in default. According to the Association, they do not have any other loans at this time.

The Association intends to use the proceeds to assist in the funding of the replacement of the bulkhead and pier on community property. The purposes of this SCBD include acquiring, operating, maintaining, and improving community real and personal property and facilities, including the repayment of loans. The total cost of the project based on a contractor's quote is estimated at \$181,400, and the Association intends to use non-SCBD Association funds to pay the remaining cost.

Any costs associated with administering the collection and distribution of special tax will be offset by the administrative fee charged by the County at a rate of 5% of all collected assessments. This bill has no fiscal impact to the County. The County does not commit its full faith and credit to the repayment of the loan.

Bill No. 7-21: Zoning – Housing for the Elderly of Moderate Means – Live-in Caretakers

This bill allows housing for the elderly of moderate means to include a live-in caretaker who is under the age of 62 for a resident with a disability. Currently, housing for the elderly of moderate means consists of rental dwelling units only and requires the property to be encumbered by a recorded deed restriction that requires the units to be occupied by individuals who are 62 years of age or older with 60% of the units occupied by individuals with income that does not exceed 60%, with the remaining not exceeding 80%, of the median income adjusted for household size for the Baltimore Primary Metropolitan Statistical Area, as published by the U.S. Housing and Urban Development.

According to the Department of Aging and Disabilities, the 2019 Genworth Cost of Care Study determined the median cost of an assisted living or a semi-private room in a skilled nursing facility can range from \$50,000 to \$100,000, while privately funded home care averages more than \$48,000 per year. An individual of moderate means could not sustain this cost. The Department of Aging and Disabilities stated that according to the American Association of Retired Persons (AARP) unpaid assistance provided by family caregivers in Maryland averages \$9.3 billion dollars per year of in-kind contribution, and that this bill provides the ability to "age in place" and reduce the burden on federal dollars to supplement this care in an institutional setting.

The Office of Planning and Zoning does not anticipate any additional workload due to this change. This bill has no fiscal impact to the County.

Bill No. 8-21: Construction and Property Maintenance Codes Supplement – Permits – Residential Piers and Riparian Rights

This bill amends the Construction and Property Maintenance Codes Supplement to require an application for construction of a residential pier to include certification related to the ownership of riparian rights and copies of any recorded instruments supporting the certification. Specifically, the certification must state that the applicant owns riparian rights and that the community in which the property is located does not own riparian rights for the subject lot, or any land, lots, or parcels abutting the subject lot.

Md. Code Ann. Environmental Article § 16-201 states a person who is the owner of land bounding on navigable water is entitled to any natural accretion to the person's land, to reclaim fast land lost by erosion or avulsion during the person's ownership to the extent of provable existing boundaries. It further provides that the person may make improvements into the water in front of the land to preserve access to navigable waters or improvements to protect a person's property against erosion. Riparian rights are a type of water rights awarded to landowners whose property is located along certain bodies of water and are dependent on where the shoreline is located, which can change due to sea-level rise, erosion, and other changes over time. As such, riparian rights are often the subject of litigation.

This bill is in response to a situation that occurred between two property owners and an Association. The Association owned a strip of waterfront property and a portion of that strip was eroded entirely in front of two property owners' parcels. As a result, the two property owners' parcels abutted the water and thus they were able to assert they had riparian rights and applied for and were approved for permits to construct piers in front of their properties. The Association was in the process of obtaining a permit for a living shore erosion project to restore their strip of waterfront property. According to the Department of Inspections and Permits (I&P), had the lot owner been required to provide certification of their riparian rights and that the Association did not own riparian rights on the land next to them (for the portion of the parcel that had not eroded), then I&P could have pulled or denied the building permits allowing the parties to first resolve the riparian rights issue before either of them moved forward on their projects.

Maryland House Bill 160 (HB 160), which pertains to the riparian rights of a community association, was recently introduced. HB 160 states that riparian rights of a community association or entity that possesses riparian rights, including through an express reservation of rights to control access to the water in a recorded instrument, may not be terminated or impaired as a result of erosion or sea-level rise, or the issuance of an approval by the Maryland Department of the Environment (MDE), a County, or the Board to a waterfront property owner, including the issuance of wetlands and waterways or a building permit, license, or other approval. It further requires MDE to establish and maintain a publicly accessible repository on their website of existing community associations and other entities that possess riparian rights. If passed, HB 160 will take effect on October 1, 2021.


This bill has no fiscal impact to the County.

Bill No. 9-21: Civil Emergencies – Duration

Currently, the County Executive can proclaim a civil emergency and issue executive orders, but the proclamation and the executive orders may not be effective for more than seven days unless

authorized by ordinance enacted by the County Council. This bill limits the duration of the initial extension of the civil emergency by ordinance to a maximum of 45 days and allows for additional extensions at a periods not to exceed 45 days.

Limiting the length of any one extension while providing for multiple extensions, in itself, has no fiscal impact. The fiscal impact, if any, of not extending a civil emergency is not readily determined and would depend on the civil emergency proclamation and the related executive orders issued.


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