**ANNE ARUNDEL COUNTY**
**OFFICE OF THE COUNTY AUDITOR**

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| **To:** | Councilmembers, Anne Arundel County Council |
| **From:** | Michelle Bohlayer, County Auditor |
| **Date:** | July 13, 2023 |
| **Subject:** | Auditor's Review of Legislation for the July 17, 2023 Council Meeting |

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| **Bill 51-23:**<br>**The Issuance, Sale and Delivery of Anne Arundel County General Obligation Bonds and Bond Anticipation Notes (As Amended)** | **Summary of Legislation**<br><br>This bill authorizes the sale and issuance of bonds, bond anticipation notes, and Maryland Water Quality Revolving Loan Fund bonds.<br><br>We commented on this bill in our letter dated June 30, 2023. At the July 3, 2023 Council meeting, this bill was amended to make it consistent with the Fiscal Year 2024 (FY24) Approved Capital Budget. We reviewed the bill and supporting documentation and agree with the information presented. |
| **Bill 53-23:**<br>**Zoning – Solar Energy Generating Facilities (As Amended)** | **Summary of Legislation**<br><br>This bill adds rooftop-mounted only solar generating facilities as conditional uses in additional commercial zoning districts (C1, C2, C3). The bill also exempts solar generating facilities on County-owned or leased property, sanitary landfills, reclamation areas, and rooftops from specified lot coverage limitations. The bill exempts rooftop-mounted only facilities from certain conditional use requirements, modifies solar energy generating facility special exceptions related to property coverage and location, and creates exemptions for County-owned or leased properties. The bill clarifies that facilities that require a specified certificate from the state Public Service Commission are not required to comply with certain County special exception and conditional use requirements.<br><br>We commented on this bill in our letter dated June 30, 2023. At the July 3, 2023 Council meeting, this bill was amended to strike the provisions modifying "solar generating facility – community" and "solar energy generating facility – utility scale" uses in a W1 industrial zoning district. We have no further comments on this bill. |

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| **Bill 54-23:<br>Finance, Taxation, and Budget – Real Property Taxes – Credits – High Performance Buildings (As Amended)** | **Summary of Legislation**<br><br>This bill establishes a high performance building real property tax credit for commercial use properties and amends the definition of high performance dwelling. This bill also modifies existing residential high performance building tax credit calculations to allow application on a per building basis and eliminates the requirement for a specified external review of high performance buildings tax credit applications.<br><br>We commented on this bill in our letter dated June 30, 2023. At the July 3, 2023 Council meeting, this bill was amended to repeal the requirement that a building that qualifies as a high performance building under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Green Building Rating System do so under "the current version" of the System. This bill was also amended to increase the maximum amount of the property tax credit for commercial buildings rated LEED Gold or National Green Building Standard (NGBS) Gold and rated LEED Platinum or NGBS Emerald.<br><br>The Office of Finance provided additional support that was not previously available regarding the potential impact of this tax credit for qualifying properties. There are 20 commercial properties that would qualify for $850,000 in annual tax credits. |
| **Bill 55-23:<br>Construction and Property Maintenance Codes – Codes and Supplements – Fire Prevention Code – Zoning – Recovery Residences, Group Homes, and Community-Based Assisted Living Facilities (As Amended)** | **Summary of Legislation**<br><br>This bill establishes fire prevention code requirements for recovery residences, group homes, or community-based assisted living facilities established in a single-family detached dwelling under certain conditions. The bill defines recovery residence and modifies the definitions of group home I and group home II. The bill requires proposed group homes and community-based assisted living facilities with six or more occupants and recovery residences with seven or more occupants to comply with change in occupancy provisions. This bill also permits existing recovery residences to be classified as single-family detached dwelling under certain conditions. Recovery residence are added as a permitted use in all residential districts and authorized to have a specified number of onsite parking spaces. This bill also subjects group home II facilities to new and modified requirements for conditional uses and requires recovery residences with certain square footages to comply with the 2018 International Residential Code. This bill will take effect on January 1, 2024.<br><br>We commented on this bill in our letter dated June 30, 2023. At the July 3, 2023 Council meeting, this bill was amended to clarify the type of treatment that is provided at a group home or recover residence and to authorize a person with a disability or handicap to request that the County grant a reasonable accommodation as necessary to afford the person equal opportunity to use a dwelling. This bill was also amended to require a recovery residence that provides residents with at least 50 square feet per bed per sleeping room to comply with the 2018 International Residential Code and to delay the bill's effective date. |

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| **Bill 55-23 (continued)** | This bill was amended to provide that the use of a single-family detached dwelling as a recovery residence is not a change of occupancy classification or sub-classification if the recovery residence meets certain requirements. This bill was also amended to add external doors suitable for exit in all sleeping rooms as an element that exempts certain recovery residences, group homes, or community-based assisted living facilities from fire code. We have no further comments on this bill. |
| **Bill 56-23:**<br>**Zoning – License Dispensaries, Growers, and Processors of Cannabis** | **Summary of Legislation**<br><br>This bill amends the County Code's Zoning Article to reflect recent statewide approval of the possession and use of cannabis for adult use and new State laws establishing a licensing framework for the regulated growing, processing, and retail sale of cannabis. Existing uses set forth in residential, commercial, industrial and mixed-use zoning districts are amended to permit conditional uses by licensed growers, dispensaries, and/or processors of cannabis.<br><br>The bill eliminates certain conditional use requirements addressing signage, road access, and proximity to other specified property types (i.e. dwelling units, specified school properties, and dispensaries). Licensed dispensaries of cannabis are authorized in licensed dispensaries of medical cannabis operating on or before January 1, 2023.<br><br>**Review of Fiscal Impact**<br><br>The Office of Planning and Zoning (OPZ) does not anticipate a significant change in workload from this bill and advises no additional resources are required. |
| **Bill 57-23:**<br>**Boards, Commissions, and Similar Bodies – Anne Arundel County Community Reinvestment and Repair Commission – Finance, Taxation, and Budget – Community Reinvestment and Repair Special Revenue Fund** | **Summary of Legislation**<br><br>This bill establishes the Anne Arundel County Community Reinvestment and Repair Commission (Commission) and the Community Reinvestment and Repair Special Revenue Fund (Fund) for the purpose of receiving new state revenue associated with the establishment of an adult-use cannabis industry.<br><br>The Commission consists of no more than 13 voting members and 8 non-voting ex-officio members and must develop and administer a state-funded grant program for qualifying community-based initiatives. The Commission must develop an annual report and provide grant recommendations to the County Executive.<br><br>A technical amendment will be introduced to correct the names of certain organizations and to correct a punctuation error. |

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| **Bill 57-23 (continued)** | **Review of Fiscal Impact**<br><br>This bill has no fiscal impact on County funds. The revenue for the Fund is provided by the state and the County will use a portion of the Fund revenue to meet the administrative costs of operating the Commission.<br><br>The state will allocate community reinvestment grants, funded by sales tax revenue from adult-use cannabis, to counties through fiscal year 2033. While Anne Arundel County's share of this grant funding cannot be reliably estimated at this time, the total state grant allocation is estimated to be $12.5 million in FY24, $22.0 million in fiscal year 2025, $35.4 million in fiscal year 2026, and $47.5 million in fiscal year 2027. |
| **Bill 58-23:<br>Pensions – Deferred Retirement Option Program – Term of Participation Period – Withdrawal or Disability** | **Summary of Legislation**<br><br>This bill authorizes certain members of the Police Service Retirement Plan to extend participation in the County's Deferred Retirement Option Program (DROP) to a seventh year, subject to appointing authority approval. The bill permits all DROP participants who withdraw due to specified conditions to repay the missed employee pension contributions during their DROP participation period to avoid a reduction in pension benefits. This bill implements commitments the County made in a recent Memorandum of Agreement with the Fraternal Order of Police.<br><br>This bill applies retroactively to July 1, 2023.<br><br>**Review of Fiscal Impact**<br><br>The Office of Personnel does not anticipate a significant change in workload from this bill and no additional resources are anticipated to be required.<br><br>An actuarial study evaluated adding a seventh year of DROP for specified Police Service Retirement Plan members and concluded it would not have a significant impact on the Plan's overall funding or current FY24 employer costs. The study concluded that amending DROP withdrawal and disability provisions did not impact County funding. The County may benefit from minimal interest earnings, but the amount would vary based on age, salary, and length of DROP participation period. |

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| **Bill 59-23: Approval of the Ground Lease Between Anne Arundel County and Woodland Beach Volunteer Fire Department, Inc.** | **Summary of Legislation**<br><br>This bill approves an agreement to lease 3.0275 acres of County-owned property located on Stepney Lane in Edgewater, northwest of Central Special School, to the Woodland Beach Volunteer Fire Department (WBVFD). This ground lease agreement is for a term of 99 years, with two ten-year options. The lease limits the use of the property to a fire station and related fire-fighting infrastructure.<br><br>Under the terms of the lease, WBVFD must pay an annual rent of $1 to the County as well as all costs relating to the premises during the lease term. Payments for any applicable real property taxes are also due and payable as additional rent.<br><br>Design was completed on May 1, 2023, and WBVFD expects to commence construction of the fire station in September 2023.<br><br>**Review of Fiscal Impact**<br><br>We agree with the Administration's fiscal note that the lease agreement states that WBVFD will pay the County $1 annually over the 99-year term of the lease. The County provided $1 million to WBVFD in the Fiscal Year 2023 Capital Budget for Project F573000 - Woodland Beach Vol FS Reloc to assist with construction costs for this project. |
| **Bill 60-23: Hollywood on the Severn Special Community Benefit District – Approval of Loan and Assignment Agreement** | **Summary of Legislation**<br><br>This bill obligates the County to levy a special tax on the property owners in the Hollywood on the Severn Special Community Benefit District (SCBD) in an amount sufficient to repay a loan for up to $120,000 from Sandy Spring Bank to the Hollywood-on-Severn Improvement Association, Inc. (Corporation). The loan commitment letter provided by the bank shows a fixed interest rate of 7.860% for a five year loan repayment period.<br><br>The Corporation intends to use the proceeds to replace a bulkhead and pier. The purpose of the SCBD includes maintaining, acquiring, constructing, and improving community real and personal property, including waterfront areas and pier. The Corporation's bylaws require a majority vote for matters brought before the Board of Directors. Documentation of this vote was provided indicating it was approved unanimously.<br><br>A FY24 budget request for Hollywood on the Severn SCBD submitted to the Office of Budget included $19,990 for repayment of the loan; however, the first annual loan payment of approximately $29,200, based on the terms and conditions provided by the Corporation, is not scheduled until November 2024. |

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| **Bill 60-23 (continued)** | **Review of Fiscal Impact**<br><br>The Corporation is responsible and the County does not commit its full faith and credit to the repayment of the loan, therefore, this bill has no direct fiscal impact on the County. |
| **Bill 61-23: Construction and Property Maintenance Codes – Fire Prevention Code – Codes and Supplements – Zoning – Recovery Residences** | **Summary of Legislation**<br><br>This bill establishes fire prevention code requirements for recovery residences established in a single-family detached dwelling under certain conditions. The bill requires recovery residences with seven or more occupants to comply with change in occupancy provisions. The bill defines recovery residence, adds recovery residences as a permitted use in all residential districts, and authorizes recovery residences to have a specified number of onsite parking spaces. This bill also requires recovery residences with six or fewer occupants to comply with the 2018 International Residential Code.<br><br>**Review of Fiscal Impact**<br><br>The Department of Inspections and Permits and OPZ do not anticipate a significant change in workload from this bill and no additional resources are anticipated to be required.<br><br>This bill requires completion of an estimated 200-300 annual inspections of dwellings operating as recovery residences that are not currently subject to mandatory annual inspections. The Fire Department advises it cannot absorb this additional workload and a new Fire Inspector position is required to complete the inspections. Annual salary costs for one Fire Inspector ranges from approximately $83,000 to $125,000. There is an anticipated ancillary cost of $60,000 in the first year for a vehicle, computer, cellular phone and radio and then $6,600 annually for vehicle repair and maintenance. The total fiscal impact of this position will depend on the hiring date, negotiated salary, and associated benefits. |
| **Resolution 28-23: Approving Estimates of the Annual Costs of Providing Health Insurance Benefits** | **Summary of Legislation**<br><br>This resolution approves the estimates of the annual cost of providing health insurance benefits and employer subsidies used to determine the rates for certain participants in the County's Employee and Retiree Health Benefits Program.<br><br>County Code § 6-1-308(h)(1) requires the Personnel Officer to prepare an estimate of the annual costs to provide health benefits under the County's health insurance plans for the County Council's approval by resolution. Code § 6-1-308(i)(5) requires the Personnel Officer to propose the employer subsidy for non-represented employees and survivors of employees and retirees for the Council's approval by resolution, and it requires the resolution to include the proposed rates |

**Resolution 28-23 (continued)**

for part-time employees and any monetary credits given to non-represented employees who opt out of coverage.

Exhibit A, page 1 of this proposed resolution sets forth the estimated annual costs and proposes the employer subsidies for non-represented employees. Page 2 establishes the proposed rates for part-time employees, employer subsidies for retirees by hire date, survivors of retirees and employees, and monetary credits for non-represented employees who opt out of coverage.

**Review of Fiscal Impact**

The County will continue to offer the same health benefit options in calendar year 2024 as those that were available in calendar year 2023. The Administration proposed rates for the EPO/HMO and National PPO insurance plans increase by 3% for calendar year 2024. The per plan increases from the Administration for these plans are not consistent with the 6.6% rate projection estimated by the County's consultant due to the County proposing to redirect $3.5 million from the recurring Other Post Employment Benefit (OPEB) contributions from the Health Insurance Fund to partially offset the rate increase. This funding is available due to an actuarial determination of a reduction in the Health Insurance Fund's annual contribution required to fund the County's OPEB liability. The County's recurring OPEB contribution from the Health Insurance Fund was $7.5 million in FY23 and $4 million in FY24. The Office of Law has advised that utilizing the OPEB cost savings to offset rate increases is not inconsistent with the subsidy percentages required by County Code.

Medicare Advantage proposed rates increase by 2.5% for calendar year 2024 due to higher pharmacy rates offset by the guaranteed medical rates for calendar years 2022 through 2026.

The rates on Exhibit A, page 1 reflect no change in the rates for the Dental HMO, Dental PPO, and Dental PPO Buy-Up options. The County's consultant projected a rate increase of 0.4% for the Dental PPO and Dental PPO Buy-Up options; however, the Administration has decided to keep these rates the same as calendar year 2023 because it would only result in a nominal increase in the rates. The County consultant's rate projections do not include the Dental HMO option as it is a fully-insured plan.

In addition, the Administration has a proposed increase of approximately 2.2% for the County's EyeMed vision plan. The rate increase for the vision plan is consistent with the County consultant's projections.