





June 12, 2023

FISCAL AND POLICY NOTE

TO: Jennifer A. Jenkins
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Roger G. Banegas 
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-061-2023 County Real Property as Surplus Property

CB-061-2023 (*Proposed by:* Council Members Dernoga and Burroughs)

Assigned to the Government Operations and Fiscal Policy Committee

AN ACT CONCERNING COUNTY REAL PROPERTY AS SURPLUS PROPERTY for the purpose of amending provisions of the Code regulating the procedure to declare County Real Property as Surplus Property; methods of disposition of surplus property; approval by Council; and execution of disposition.

Fiscal Summary

Direct Impact

Expenditures: Minimal additional expenditures may be required due to administrative costs.

Revenues: No revenue impact likely.

Indirect Impact

None likely.

Legislative Summary:

CB-061-2023, proposed and sponsored by Councilmembers Dernoga and Burroughs was presented on May 16, 2023, and referred to the Government Operations and Fiscal Policy (GOFP) Committee. This bill would amend the provisions of the Prince George’s County Code that regulate the procedure to declare and dispose of County Real Property as Surplus Property.

Background/Current Law:

Section 2-111.01 of the County Code provides that:

The County Executive shall be authorized to sell, lease, or otherwise dispose of any County-owned real property, when such property is no longer needed for County use or when the proposed disposition is in furtherance of a public purpose, including a sale/leaseback or a lease/leaseback...

Under the current law, the County Council must approve the inventory of all real property established and presented by the County Executive before a sale/leaseback or a lease/leaseback can occur. The inventory comprises properties acquired through tax sales, grants, purchases, eminent domain, or by operation of law. The County Executive gives priority to the purchase of any property to be offered for sale to any municipality in which the property lies, in whole or in part, the Maryland-National Park and Planning Commission, Washington Suburban Sanitary Commission, and the State. The County Executive may propose a plan for the disposition of County property through sale, lease, or other conveyance and propose it to the County Council. Approval of the proposed disposition by resolution of the County Council will authorize the County Executive to act within two (2) years of the date of the resolution.

Relevant legislation from Other Jurisdictions

In Montgomery County, the disposition of real property falls under Section 11B-45¹ which states that the “County Executive must adopt regulations to establish a process for the disposition of any real property owned or controlled by the County, other than surplus school facilities and property of nominal value identified in the regulation.” These regulations include but are not limited to (1) coordination among County departments and outside agencies, including the municipality in which the real property is located, (2) the opportunity to reserve the property for alternative public use,

¹ [Sec. 11B-45 of the Montgomery County, MD Code](#)

(3) comparative analysis of reuse proposals from County departments and outside agencies before any disposition actions, and (4) public notice and hearing on possible dispositions before a final decision on disposition.

Resource Personnel

- Amanda Denison, Chief Legislative Officer
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Discussion/Policy Analysis

CB-061-2023 would amend Subtitle 2. *Administration. Division 2. County Executive. Section 2-111.01. County Executive; Powers; qualifications*, to add additional language to multiple subsections and create additional Subsection 2-111.01(h)(1) through 2-111.01(h)(7). These amendments are primarily clarifying in nature, and the key amendments to §2-111.01 are as follows:

- **§2-111.01(b) Inventory List and Surplus Property Disposal List.** Along with the County Executive presenting the inventory list of all properties to be leased, offered for sale, or otherwise disposed of to the County Council by the first day of May each year, the County Council will have to approve the list by **legislative act** (page 2, line 17).
- **§2-111.01(c) Surplus List Description.** Along with paragraphs 1-3 of this subsection, when the surplus property is proposed for private sale, the description must also include the proposed sale price, the name of the proposed purchaser, and a list of the type and value of any waiver, abatement, adjustment, or deferral of County fees, charges, or taxes pertaining to the property (page 2, line 28 to page 3, line 3). This is a clarification of the existing provision.
- **§2-111.01(d) Final Disposition of Surplus Property.** This subsection expressly prohibits the disposition of any surplus property unless the property is declared surplus by the County Council by legislative act *and* approves, **by resolution**, any contract negotiated and accepted by the County Executive (page 3, lines 4 to 9).
- **§2-111.01(e) Right of First Refusal for Purchase.** The Revenue Authority, the Redevelopment Authority, any municipality in which the property lies, the Maryland-National Capital Park and Planning Commission, the Washington Suburban Sanitary Commission, and the State of Maryland shall be given first right of refusal to purchase any surplus property by the County Executive.² Also, a preferred governmental entity shall issue a letter of intent to purchase a surplus property to the County Executive within sixty (60) days (previously thirty (30) days). After a timely notice of intention to purchase is

² The Revenue Authority and Redevelopment Authority are not expressly identified under the existing law governing first priority to purchase surplus property.

given to the County Executive, the preferred government entity will have ninety (90) days to submit a proposed plan for the use of the property and any improvements along with proof of financial ability to operate and maintain any existing structures. If more than one preferred governmental entities issue a letter of intent to purchase, the County Executive may dispose of the property where it is deemed to serve the County best pending the approval **by resolution** of the County Council (page 3, line 10, to page 4, line 22).

- **§2-111.01(f) Public or Private Party Purchasers.** Subsection 2-111.01(f)(3) is added to state that the County Executive may propose a plan for the disposition of County property through sale, lease, or other conveyance to the *Revenue Authority* or the *Redevelopment Authority* for economic revitalization *subject to approval by the County Council by resolution with forty-five (45) days* (page 6, lines 8 through 12).
- **§2-111.01(h) Exemption.** Subsection 2-111.01(h) is created with the same language as the current subsection 2-111.01(g) but with the intent of breaking the language down into additional subsections. This subsection states that the County Executive shall be authorized to sell, lease, or otherwise dispose of any County-owned property, and to enter into a leaseback of the same County in furtherance of a public purpose, without complying with any of the other provisions of §2-111.01 or §2-112 of the County Code as long as the County Council has approved the sale, lease, or other disposition, and leaseback of such property by resolution.
- **§2-111.01(l) Approval Expiration.** This subsection states that the approval by resolution of the County Council of the sale, lease, or other disposition of County-owned property, shall be an authorization to the County Executive to act within two (2) years of the resolution date. If the County Executive fails to act within two (2) years from the date of resolution, the County Council's approval to the County Executive of the sale, lease, or other disposition of County-owned property shall be deemed a disapproval.
- **§2-111.01(q) Public Hearing.** This subsection expressly clarifies that a published notice and a *public hearing shall be required prior to the adoption of each resolution* pertaining to §2-111.01. Within five (5) days following the introduction of the resolution, the Clerk of the Council shall schedule and give public notice of a hearing on the resolution, and it shall not be less than fourteen (14) after the resolution is introduced.

Fiscal Impact

Direct Impact

The enactment of CB-061-2023 may have a direct adverse fiscal impact on the County due to the possibility of additional administrative costs if additional legislative approvals are required for surplus property disposition. Any additional administrative demands can likely be absorbed by the existing staff complement. For expenditures, additional advertisement expenses may be incurred

if additional public hearings are required. Any impact is likely to be minimal, and the number of properties disposed of is not likely to be impacted.

Indirect Impact

The enactment of CB-061-2023 is not likely to have an indirect fiscal impact.

Appropriated in the Current Fiscal Year Budget

No.

Effective Date of Proposed Legislation:

The Act shall take effect forty-five (45) days after it becomes law.

If you require additional information or have questions about this fiscal impact statement, please contact me via phone or email.