

HOUSE BILL 1226

C8

3lr2646

By: **Delegate Healey**

Introduced and read first time: February 10, 2023

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Nonprofit Sustainability Fund – Establishment**

3 FOR the purpose of establishing the Nonprofit Sustainability Fund in the Department of
4 Commerce to provide general operating support to nonprofit organizations in the
5 State; establishing the Nonprofit Sustainability Fund Evaluation Committee to
6 evaluate applications from certain nonprofit organizations in the State for grants
7 from the Fund; establishing criteria for eligibility for a certain grant from the Fund;
8 and generally relating to the Department of Commerce and the Nonprofit
9 Sustainability Fund.

10 BY repealing and reenacting, without amendments,
11 Article – Economic Development
12 Section 1–101(a), (c), and (e)
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2022 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Economic Development
17 Section 5–102
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2022 Supplement)

20 BY adding to
21 Article – Economic Development
22 Section 5–2301 through 5–2308 to be under the new subtitle “Subtitle 23. Nonprofit
23 Sustainability Fund”
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2022 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii) 170. and 171.
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii) 172.
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Economic Development

1–101.

(a) In this division the following words have the meanings indicated.

(c) “Department” means the Department of Commerce.

(e) “Secretary” means the Secretary of Commerce.

5–102.

The Department shall administer the State’s economic development and financial
assistance programs and funds including:

(1) the BRAC Revitalization and Incentive Zone Program, under Subtitle
13 of this title;

(2) the Enterprise Fund, under Subtitle 6 of this title;

(3) the Enterprise Zones Program, under Subtitle 7 of this title;

(4) the Make Office Vacancies Extinct Program, under Subtitle 15 of this
title;

(5) the Maryland Economic Adjustment Fund, under Subtitle 2 of this title;

(6) the Maryland Economic Development Assistance Authority and Fund, under Subtitle 3 of this title;

(7) the Maryland Industrial Development Financing Authority, under Subtitle 4 of this title;

(8) the Maryland Small Business Development Financing Authority, under Subtitle 5 of this title;

(9) **THE NONPROFIT SUSTAINABILITY FUND UNDER SUBTITLE 23 OF THIS TITLE;**

(10) the Appalachian Regional Development Program, under Title 13, Subtitle 1 of this article;

[(10)] (11) jointly with the Department of Housing and Community Development, the Community Development Block Grant for Economic Development;

[(11)] (12) the Regional Institution Strategic Enterprise Zone Program under Subtitle 14 of this title; and

[(12)] (13) any other programs or funds designated by statute, the Governor, or the Secretary.

SUBTITLE 23. NONPROFIT SUSTAINABILITY FUND.

5-2301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “EVALUATION COMMITTEE” MEANS THE NONPROFIT SUSTAINABILITY FUND EVALUATION COMMITTEE.

(C) “FUND” MEANS THE NONPROFIT SUSTAINABILITY FUND.

(D) “NONPROFIT ORGANIZATION” MEANS AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3), (C)(4), OR (C)(6) OF THE INTERNAL REVENUE CODE.

(E) “TOTAL REVENUE” MEANS THE AMOUNT OF REVENUE THAT A NONPROFIT ORGANIZATION MOST RECENTLY REPORTED TO THE INTERNAL REVENUE SERVICE ON PART 1 OF THE FEDERAL FORM 990 OR FORM 990EZ.

5-2302.

THE GENERAL ASSEMBLY OF MARYLAND FINDS THAT:

(1) NONPROFIT ORGANIZATIONS ARE ENGINES OF ECONOMIC OPPORTUNITY IN THE STATE;

(2) NONPROFIT ORGANIZATIONS PROVIDE SERVICES AND BENEFITS TO COMMUNITIES, FAMILIES, AND INDIVIDUALS IN THE STATE THAT ARE IN THE PUBLIC INTEREST;

(3) NONPROFIT ORGANIZATIONS ARE OFTEN ABLE TO PROVIDE BENEFITS AND SERVICES TO COMMUNITIES, FAMILIES, AND INDIVIDUALS WITH GREATER EFFICIENCY, EFFECTIVENESS, AND FLEXIBILITY THAN GOVERNMENTAL AGENCIES AND PROGRAMS;

(4) SMALL AND MID-SIZED NONPROFIT ORGANIZATIONS ARE MORE LIKELY TO:

(I) BE LED BY MEMBERS OF HISTORICALLY DISADVANTAGED MINORITIES; AND

(II) SERVE COMMUNITIES AND POPULATIONS THAT HAVE BEEN HISTORICALLY DISADVANTAGED;

(5) SMALL AND MID-SIZED NONPROFIT ORGANIZATIONS REQUIRE ADEQUATE GENERAL OPERATING SUPPORT TO BE ABLE TO PROVIDE BENEFITS AND SERVICES TO COMMUNITIES, FAMILIES, AND INDIVIDUALS IN A SUSTAINABLE MANNER; AND

(6) IT IS IN THE STATE'S INTEREST TO PROVIDE GENERAL OPERATING SUPPORT TO SMALL AND MID-SIZED NONPROFIT ORGANIZATIONS TO PROMOTE THE SUSTAINABILITY OF THE NONPROFIT ORGANIZATIONS.

5-2303.

(A) THERE IS A NONPROFIT SUSTAINABILITY FUND EVALUATION COMMITTEE.

(B) THE EVALUATION COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;

1 **(2) THE PRESIDENT AND CHIEF EXECUTIVE OFFICER OF MARYLAND**
2 **NONPROFITS, OR THE PRESIDENT AND CHIEF EXECUTIVE OFFICER'S DESIGNEE;**
3 **AND**

4 **(3) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:**

5 **(I) TWO MEMBERS WHO ARE EXPERIENCED NONPROFIT**
6 **ORGANIZATION MANAGERS OR CONSULTANTS;**

7 **(II) TWO MEMBERS WHO ARE CURRENT OR PAST BOARD**
8 **MEMBERS OF A NONPROFIT ORGANIZATION;**

9 **(III) TWO MEMBERS WHO ARE CURRENT OR PAST EMPLOYEES OF**
10 **A NONPROFIT ORGANIZATION;**

11 **(IV) THREE MEMBERS WHO ARE CURRENT OR PAST RECIPIENTS**
12 **OR CUSTOMERS OF THE SERVICES OF A NONPROFIT ORGANIZATION; AND**

13 **(V) TWO MEMBERS WHO ARE EXPERIENCED ECONOMIC**
14 **DEVELOPMENT PROFESSIONALS.**

15 **(C) (1) THE TERM OF A MEMBER IS 4 YEARS.**

16 **(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE**
17 **TERMS PROVIDED FOR MEMBERS OF THE EVALUATION COMMITTEE ON OCTOBER 1,**
18 **2023.**

19 **(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL**
20 **A SUCCESSOR IS APPOINTED AND QUALIFIES.**

21 **(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES**
22 **ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND**
23 **QUALIFIES.**

24 **(D) THE GOVERNOR SHALL APPOINT A CHAIR OF THE EVALUATION**
25 **COMMITTEE FROM AMONG ITS MEMBERS.**

26 **(E) A MAJORITY OF MEMBERS OF THE EVALUATION COMMITTEE IS A**
27 **QUORUM.**

28 **(F) A MEMBER OF THE EVALUATION COMMITTEE:**

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE EVALUATION COMMITTEE; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) (1) THE EVALUATION COMMITTEE SHALL MEET AS NECESSARY TO PERFORM ITS DUTIES, BUT AT LEAST TWO TIMES EACH YEAR.

(2) A MEETING OF THE EVALUATION COMMITTEE MAY BE IN PERSON OR VIRTUAL AT THE DISCRETION OF THE CHAIR.

(H) THE EVALUATION COMMITTEE SHALL:

(1) EVALUATE NONPROFIT ORGANIZATIONS THAT APPLY FOR A GRANT UNDER THIS SUBTITLE BASED ON THE CRITERIA LISTED IN §§ 5-2305 AND 5-2306 OF THIS SUBTITLE; AND

(2) RECOMMEND TO THE DEPARTMENT WHICH APPLICATIONS SHOULD RECEIVE A GRANT FROM THE FUND.

(I) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR CAUSE.
5-2304.

(A) THERE IS A NONPROFIT SUSTAINABILITY FUND.

(B) THE PURPOSE OF THE FUND IS TO PROVIDE GENERAL OPERATING SUPPORT TO NONPROFIT ORGANIZATIONS IN THE STATE.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

1 **(2) INTEREST EARNINGS FROM THE FUND; AND**

2 **(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
3 **THE BENEFIT OF THE FUND.**

4 **(F) (1) THE FUND MAY BE USED ONLY FOR:**

5 **(I) ISSUING GRANTS TO ELIGIBLE NONPROFIT ORGANIZATIONS**
6 **IN ACCORDANCE WITH §§ 5-2305 AND 5-2306 OF THIS SUBTITLE;**

7 **(II) REASONABLE ADMINISTRATIVE EXPENSES INCURRED BY**
8 **THE DEPARTMENT AND THE EVALUATION COMMITTEE; AND**

9 **(III) REASONABLE EXPENSES OF INTERMEDIARY**
10 **ORGANIZATIONS UNDER CONTRACT TO THE DEPARTMENT FOR PURPOSES OF**
11 **MANAGING GRANTS UNDER THIS SUBTITLE.**

12 **(2) FOR EACH FISCAL YEAR, NOT MORE THAN:**

13 **(I) 2% OF THE MONEY APPROPRIATED TO THE FUND MAY BE**
14 **USED FOR THE PURPOSES LISTED IN PARAGRAPH (1)(II) OF THIS SUBSECTION; AND**

15 **(II) 5% OF THE MONEY APPROPRIATED TO THE FUND MAY BE**
16 **USED FOR THE PURPOSES LISTED IN PARAGRAPH (1)(III) OF THIS SUBSECTION.**

17 **(G) FOR FISCAL YEAR 2025 AND EACH FISCAL YEAR THEREAFTER, THE**
18 **GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF**
19 **\$100,000,000 TO THE FUND.**

20 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
21 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

22 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
23 **THE FUND.**

24 **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
25 **WITH THE STATE BUDGET.**

26 **5-2305.**

27 **(A) A NONPROFIT ORGANIZATION IS ELIGIBLE FOR A GRANT UNDER THIS**
28 **SUBTITLE IF THE NONPROFIT ORGANIZATION:**

(1) IS IN GOOD STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;

(2) IS PHYSICALLY LOCATED IN THE STATE; AND

(3) HAD TOTAL REVENUE OF AT LEAST \$50,000 BUT NOT MORE THAN \$10,000,000 IN THE THIRD CALENDAR YEAR BEFORE THE NONPROFIT ORGANIZATION APPLIES FOR A GRANT UNDER THIS SUBTITLE.

(B) A NONPROFIT ORGANIZATION IS NOT ELIGIBLE FOR A GRANT UNDER THIS SUBTITLE IF THE NONPROFIT ORGANIZATION:

(1) OPERATES PRINCIPALLY AS:

(I) A HOSPITAL;

(II) A PRIMARY OR SECONDARY SCHOOL;

(III) AN INSTITUTION OF HIGHER EDUCATION;

(IV) A PLACE OF WORSHIP; OR

(V) A CREDIT UNION; OR

(2) HAS RECEIVED MORE THAN FIVE GRANTS FROM THE FUND.

(C) A NONPROFIT ORGANIZATION MAY BE AWARDED ONE GRANT FROM THE FUND EACH YEAR, REGARDLESS OF THE NUMBER OF LOCATIONS THE NONPROFIT ORGANIZATION OPERATES.

(D) (1) THE EVALUATION COMMITTEE SHALL DETERMINE WHETHER A NONPROFIT ORGANIZATION MEETS THE ELIGIBILITY REQUIREMENTS OF THIS SECTION.

(2) A DECISION MADE IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION IS FINAL AND NOT SUBJECT TO APPEAL.

5-2306.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A NONPROFIT ORGANIZATION MAY USE GRANT FUNDS FOR ANY LEGAL PURPOSE.

(2) A NONPROFIT ORGANIZATION MAY NOT USE GRANT FUNDS FROM THE FUND FOR SECTARIAN RELIGIOUS PURPOSES.

(2) CULTURALLY SPECIFIC ORGANIZATIONS SERVING HISTORICALLY UNDERSERVED AND UNDERREPRESENTED COMMUNITIES, INCLUDING DISADVANTAGED RACIAL, ETHNIC, AND RELIGIOUS MINORITIES, IMMIGRANTS, AND LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND OTHER GENDER–NONCONFORMING INDIVIDUALS;

(3) NONPROFIT ORGANIZATIONS LOCATED OUTSIDE THE BALTIMORE AND WASHINGTON METROPOLITAN AREAS; AND

(4) NONPROFIT ORGANIZATIONS WITH:

(I) TOTAL REVENUE OF \$1,500,000 OR LESS; AND

(II) OPERATIONS PRINCIPALLY LOCATED IN THE FOLLOWING COUNTIES:

- 1. ALLEGANY;**
- 2. GARRETT;**
- 3. CAROLINE;**
- 4. CECIL;**
- 5. KENT;**
- 6. ST. MARY’S;**
- 7. SOMERSET;**
- 8. TALBOT;**
- 9. WICOMICO;**
- 10. WASHINGTON; AND**
- 11. WORCESTER.**

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH NONPROFIT ORGANIZATION WHOSE APPLICATION IS DETERMINED TO BE HIGH–PRIORITY SHALL RECEIVE THE MAXIMUM GRANT BASED ON THE CALCULATION IN SUBSECTION (F) OF THIS SECTION.

1 **(2) IF THE TOTAL AMOUNT OF THE MAXIMUM GRANTS TO**
2 **HIGH-PRIORITY APPLICANTS EXCEEDS THE AVAILABLE FUNDING, THE GRANT**
3 **AMOUNTS SHALL BE REDUCED ON A PRORATED BASIS.**

4 **(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH**
5 **NONPROFIT ORGANIZATION WHOSE APPLICATION IS DETERMINED TO BE**
6 **REGULAR-PRIORITY SHALL RECEIVE THE MAXIMUM GRANT BASED ON THE**
7 **CALCULATION IN SUBSECTION (F) OF THIS SECTION.**

8 **(2) IF THE TOTAL AMOUNT OF THE MAXIMUM GRANTS TO**
9 **REGULAR-PRIORITY APPLICATIONS EXCEEDS THE AVAILABLE FUNDING, THE**
10 **GRANT AMOUNTS SHALL BE REDUCED ON A PRORATED BASIS.**

11 **(F) THE MAXIMUM AMOUNT A NONPROFIT ORGANIZATION MAY RECEIVE**
12 **FROM A GRANT AWARDED UNDER THIS SUBTITLE IS CALCULATED IN THE**
13 **FOLLOWING MANNER:**

14 **(1) 10% OF THE NONPROFIT ORGANIZATION'S TOTAL REVENUE, IF**
15 **THE NONPROFIT ORGANIZATION'S TOTAL REVENUE IS AT LEAST \$50,000 BUT NOT**
16 **GREATER THAN \$500,000;**

17 **(2) THE GREATER OF \$50,000 OR 5% OF THE NONPROFIT**
18 **ORGANIZATION'S TOTAL REVENUE, IF THE NONPROFIT ORGANIZATION'S TOTAL**
19 **REVENUE IS MORE THAN \$500,000 BUT NOT GREATER THAN \$2,500,000; AND**

20 **(3) THE GREATER OF \$125,000 OR 1.5% OF THE NONPROFIT**
21 **ORGANIZATION'S TOTAL REVENUE, IF THE NONPROFIT ORGANIZATION'S TOTAL**
22 **REVENUE IS MORE THAN \$2,500,000 BUT NOT GREATER THAN \$10,000,000.**

23 **(G) (1) THE DEPARTMENT MAY CONTRACT WITH ONE OR MORE**
24 **INTERMEDIARY ORGANIZATIONS TO ASSIST IN ADMINISTERING GRANTS UNDER THIS**
25 **SUBTITLE, MARKETING AND OUTREACH, TECHNICAL ASSISTANCE, AND FUND**
26 **NAVIGATION.**

27 **(2) THE EVALUATION COMMITTEE SHALL ADVISE THE DEPARTMENT**
28 **IN THE SELECTION OF INTERMEDIARY ORGANIZATIONS.**

29 **(H) THE DEPARTMENT SHALL DISBURSE GRANT FUNDS TO A NONPROFIT**
30 **ORGANIZATION THAT IS AWARDED A GRANT UNDER THIS SUBTITLE WITHIN 37 DAYS**
31 **AFTER THE ANNOUNCEMENT OF THE AWARD AND THE ISSUANCE OF A GRANT**
32 **AGREEMENT.**

33 **5-2307.**

(A) (1) THE DEPARTMENT SHALL DISCLOSE TO THE EVALUATION COMMITTEE ALL MATERIAL ACTIONS AND DECISIONS THE DEPARTMENT MAKES REGARDING THE ADMINISTRATION OF THE FUND.

(2) THE DEPARTMENT SHALL GIVE DUE CONSIDERATION TO THE RECOMMENDATIONS OF THE EVALUATION COMMITTEE.

(B) (1) THE DEPARTMENT SHALL PUBLISH ON THE DEPARTMENT'S WEBSITE INSTRUCTIONS FOR APPLYING FOR GRANTS UNDER THIS SUBTITLE, INCLUDING A CLEAR AND REASONABLE DEADLINE FOR THE SUBMISSION OF APPLICATIONS.

(2) THE INFORMATION ON THE WEBSITE SHALL BE UPDATED ANNUALLY.

5-2308.

(A) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) IN ESTABLISHING INSTRUCTIONS, PROCEDURES, FORMS, GRANT AGREEMENTS, REPORTING REQUIREMENTS, AND REGULATIONS, THE DEPARTMENT AND THE EVALUATION COMMITTEE SHALL, CONSISTENT WITH ACCEPTABLE FINANCIAL MANAGEMENT PRACTICES, ATTEMPT TO MINIMIZE THE ADMINISTRATIVE BURDEN TO NONPROFIT ORGANIZATIONS.

Article – State Finance and Procurement

6-226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

170. the Cannabis Public Health Fund; [and]

171. the Community Reinvestment and Repair Fund; AND

172. THE NONPROFIT SUSTAINABILITY FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Nonprofit Sustainability Fund Evaluation Committee appointed under § 5–2303(b)(3) of the Economic Development Article, as enacted by Section 1 of this Act, shall expire as follows:

- (1) two members in 2024;
- (2) three members in 2025;
- (3) three members in 2026; and
- (4) three members in 2027.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.