



Legislation Details (With Text)

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**On agenda:** 4/24/2023      **Final action:** 4/24/2023

**Title:** Changes to the Resilience Authority of Annapolis and Anne Arundel County - For the purpose of conforming the City's Resilience Authority law with Anne Arundel County changes: to stagger resilience authority member terms; to make the resilience authority director an Anne Arundel County employee; to change how the authority's Chief Financial Officer is appointed; to alter reporting requirements; and generally relating to the Resilience Authority of Annapolis and Anne Arundel County.

**Sponsors:** Gavin Buckley, Brooks Schandelmeier

**Indexes:** Rules and City Government Committee

**Code sections:**

**Attachments:** 1. O-11-23 First Reader, 2. O-11-23 Fiscal Impact Note, 3. O-11-23 Legislative Summary, 4. O-11-23 Signed

Date	Ver.	Action By	Action	Result
4/24/2023	1	City Council	adopt on second reader	Pass
4/24/2023	1	City Council	adopt on third reader	Pass
4/10/2023	1	City Council	declare the public hearing closed	
3/31/2023	1	Rules and City Government Committee	recommend favorably	Pass
3/27/2023	1	City Council	adopt on first reader	Pass
3/27/2023	1	City Council	refer to Annapolis Education Commission	
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**Changes to the Resilience Authority of Annapolis and Anne Arundel County** - For the purpose of conforming the City's Resilience Authority law with Anne Arundel County changes: to stagger resilience authority member terms; to make the resilience authority director an Anne Arundel County employee; to change how the authority's Chief Financial Officer is appointed; to alter reporting requirements; and generally relating to the Resilience Authority of Annapolis and Anne Arundel County.

CITY COUNCIL OF THE  
**City of Annapolis**

**Ordinance 11-23**

**Introduced by: Mayor Buckley**  
**Co-sponsored by: Ald. Schandelmeier**

**Referred to**  
Rules and City Government Committee

AN ORDINANCE concerning

**Changes to the Resilience Authority of Annapolis and Anne Arundel County**

**FOR** the purpose of conforming the City's Resilience Authority law with Anne Arundel County changes: to stagger resilience authority member terms; to make the resilience authority director an Anne Arundel County employee; to change how the authority's Chief Financial Officer is appointed; to alter reporting requirements; and generally relating to the Resilience Authority of Annapolis and Anne Arundel County.

**BY** repealing and reenacting with amendments the following portions of the Code of the City of Annapolis, 2022 Edition  
**2.58**

**SECTION 1: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

**Title 2 - ADMINISTRATION**

**Chapter 2.58 - RESILIENCE AUTHORITY OF ANNAPOLIS AND ANNE ARUNDEL COUNTY**

**2.58.010 - Definitions.**

In this chapter, the following words have the meanings indicated:

~~A~~1. ~~(1)~~ "Bond" means:

~~a.~~ ~~a~~An obligation for the payment of money, by whatever name known or source of funds secured, issued by the resilience authority under state or county law; ~~and~~

~~(2)~~ ~~b.~~ "Bond" ~~i~~Includes a refunding bond, a note, and any other obligation.

~~B~~2. "Capital costs" mean costs incurred for acquisition, planning, design, construction, repair, renovation, reconstruction, expansion, site improvement, and capital equipping.

~~C~~3. "Climate change" includes sea level rise, nuisance flooding, increased rainfall events, erosion, and temperature rise.

~~D~~4. "Resilience Authority" means the Resilience Authority of Annapolis and Anne Arundel County.

~~E~~5. ~~(1)~~ "Resilience infrastructure" means:

~~a.~~ ~~i~~Infrastructure that mitigates the effects of climate change for the general welfare or safety of the public; ~~and~~

~~(2)~~ "Resilience infrastructure"

~~b.~~ ~~i~~Includes flood barriers, green spaces, building elevation, and stormwater infrastructure.

~~F~~6. "Resilience infrastructure project" means a project to finance or refinance the capital costs associated with resilience infrastructure.

**2.58.020 - Established.**

A. **Purpose.** Pursuant to Title 22 of the Local Government Article of the Maryland State Code, there is a

Resilience Authority of Annapolis and Anne Arundel County, the purpose of which is to undertake and support resilience infrastructure projects in Anne Arundel County and the City of Annapolis.

- B. **Articles of Incorporation.** Upon the acceptance by the State Department of Assessments and Taxation of the articles of incorporation required by state law, the Resilience Authority of Annapolis and Anne Arundel County shall be a body corporate and politic of the county and the City of Annapolis. Acceptance of the articles of incorporation for record by the State Department of Assessments and Taxation is conclusive evidence of the formation of the Resilience Authority.
- C. **Amendments to Articles.** The county, with the concurrence of the City of Annapolis, may adopt amendments to the articles of incorporation of the Resilience Authority.
1. The amendments shall be proposed by the County Executive and approved by resolution of the County Council.
  2. The amendments may contain any provision that lawfully could be contained in the articles of incorporation at the time of the amendment.
  3. The amendments shall be filed for record with the State Department of Assessments and Taxation.
  4. The amendments are effective as of the date and time that the State Department of Assessments and Taxation accepts the amendments for the record.
  5. Acceptance of the amendments for the record by the State Department of Assessments and Taxation is conclusive evidence that the amendments have been lawfully and properly adopted.
- 2.58.030 Modification or termination.

#### 2.58.030 - Modification or termination.

- A. **Modification.** Subject to the provisions of this chapter and any limitations imposed by law on the impairment of contracts, the county, with the concurrence of the City of Annapolis, may:
- (1) 1. Set or change the powers, structure, organization, procedures, programs, or activities of the Resilience Authority;
  - (2) 2. Determine the revenue sources of the Resilience Authority, including any use of general fund revenue and general obligation bonds;
  - (3) 3. Establish the budgetary and financial procedures of the Resilience Authority; and
  - (4) 4. Terminate the Resilience Authority.
- B. **Termination.** On termination of the Resilience Authority:
- (1) 1. Title to all property of the Resilience Authority shall be transferred to and vest in the county and the City of Annapolis; and
  - (2) 2. All obligations of the Resilience Authority shall be transferred to and assumed by the county and the City of Annapolis.

#### 2.58.040 - Membership.

- A. **Composition.**

1. The Resilience Authority consists of twelve members appointed as follows:
  - (i)a. Nine members shall be residents of the county appointed by the County Executive; and
  - (ii)b. Three members shall be residents of the City of Annapolis appointed by the Mayor.
2. Each of the members shall be an individual who has demonstrated abilities in business and public affairs based on education or relevant experience and shall be selected without regard to the member's representation of or support for any special interest.
3. Neither the member nor the member's grandparent, parent, child, grandchild, step-parent, step-child, sibling, step-sibling, uncle, aunt, niece, or nephew, or the spouse of any of them, may have a financial interest in any project with respect to which the Resilience Authority has jurisdiction or any power or authorization to act.
4. A member may not be a county or City elected official, appointed official, or employee.
5. The County Director of Public Works, the County Director of Emergency Management, the County Planning and Zoning Officer, the Deputy City Manager for Resilience and Sustainability, the Director of the Department of Public Works for the City of Annapolis, the Director of Emergency Management for the City of Annapolis, and the Director of Planning and Zoning for the City of Annapolis, or any of their designees, shall serve as non-voting advisors to the Resilience Authority.

B. **Oath.** Before undertaking the duties of a member, each member of the Resilience Authority shall take a constitutional oath of office before the Clerk of the Circuit court for Anne Arundel County.

C. **Term.** ~~The term of a member is four years. At the end of a term, a member continues to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies. A member may be reappointed.~~

Initial appointments of members by the Anne Arundel County Executive and Annapolis Mayor shall be as follows:

1. The County Executive shall appoint three members, and the Mayor shall appoint one member whose terms end on September 30, 2025.
2. The County Executive shall appoint three members, and the Mayor shall appoint one member whose terms end on September 30, 2026.
3. The County Executive shall appoint three members, and the mayor shall appoint one member whose terms end on September 30, 2027.
4. Members appointed after the initial appointments shall serve four-year terms.
  - a. At the end of a term, a member continues to serve until a successor is appointed and qualifies.
  - b. A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.
  - c. A member may be reappointed, but no member shall serve more than three consecutive terms.

D. **Removal.**

1. The Appointing Authority of a member of the Resilience Authority may remove the member for

cause, including absence from ~~twenty-five percent~~ 25% or more of the scheduled meetings and hearings of the Resilience Authority during any ~~twelve~~ 12-month period.

2. The chair of the Resilience Authority shall:

- (i) ~~a.~~ Notify the Appointing Authority of any member who is absent from ~~twenty-five percent~~ 25% or more of the scheduled meetings and hearings during any ~~twelve~~ 12-month period;
- (ii) ~~b.~~ Include in the notification any known extenuating circumstances; and
- (iii) ~~c.~~ Send a copy of the notification to each member of the Resilience Authority.

3. The Appointing Authority may excuse the absences for good cause, such as illness, emergency situations, or other extenuating circumstances.

E. **Personnel Matters.** Except as otherwise provided by state law or in this chapter, the procedures of the county control any personnel matter relating to the internal administration of the Resilience Authority.

F. **Chair.** The County Executive, with the concurrence of the Mayor of the City of Annapolis, annually shall designate a chair from the membership of the Resilience Authority.

G. **Quorum; Meetings.**

- 1. Seven members of the Resilience Authority is a quorum for the transaction of any business, the exercise of any power, or the performance of any duty authorized or imposed by law.
- 2. An affirmative vote of a majority of the members of the Resilience Authority is required for the taking of any action.

H. **Expenses.**

- 1. Each member of the Resilience Authority is entitled to reimbursement for reasonable and necessary expenses.
- 2. Reimbursement shall be made solely from funds received by the Resilience Authority under the provisions of this chapter.

## 2.58.050 Resilience Authority Director.

A. **Appointment.**

- 1. The County Executive, with the concurrence of the Mayor of the City of Annapolis, shall appoint the first Resilience Authority Director.
- 2. Any subsequent Resilience Authority Director shall be appointed by the County Executive, after advice and recommendation by members of the Resilience Authority and with the concurrence of the Mayor of the City of Annapolis.
- 3. The Resilience Authority Director shall ~~be a county employee and~~ serve at the pleasure of the County Executive.

B. **Qualifications.** The Resilience Authority Director shall be of good character, and business experience, and shall meet all requirements of a job description developed by the County Executive with the concurrence of the Mayor of the City of Annapolis.

C. **Financial Interest Prohibited.** Neither the Resilience Authority Director nor the Resilience Authority

Director's grandparent, parent, child, grandchild, step-parent, step-child, sibling, step-sibling, uncle, aunt, niece, or nephew, or the spouse of any of them, may have a financial interest in any project with respect to which the Resilience Authority has jurisdiction or any power or authorization to act.

D. **Compensation.** The Resilience Authority Director shall receive compensation as may be fixed by the ~~Resilience Authority~~ County Executive from time to time.

E. **Additional Duties.** In addition to other duties as may be imposed by the Resilience Authority, and consistent with the job description developed under subsection B, the Resilience Authority Director is responsible for:

1. ~~D~~aily operations of the Resilience Authority; and
2. ~~s~~upervision of any activities or tasks performed by employees; and
3. ~~a~~ppointment of all employees, which includes:
  - a. ~~d~~etermination of their duties; and
  - b. ~~e~~conditions of employment; and
  - c. ~~f~~ixing their compensation, consistent with the bylaws, policies, and procedures adopted by the Resilience Authority.

#### 2.58.060 Chief Financial Officer.

A. **Appointment.** ~~The members of the Resilience Authority shall appoint a Chief Financial Officer. The Chief Financial Officer may not be a member of the Resilience Authority.~~

1. The Resilience Authority Director shall nominate a candidate for Chief Financial Officer.
2. Resilience Authority Members shall vote on confirmation of the nominee.
3. If the nominee is confirmed, the Director shall appoint the candidate to the position.

B. **Qualifications.** The Chief Financial Officer shall:

1. Be of good character, integrity, and have business experience; and
2. Meet all requirements of a job description developed by the Resilience Authority Director and approved by the Members.

~~B. Compensation. The Chief Financial Officer shall receive compensation as may be fixed by the Resilience Authority from time to time.~~

C. **Financial Interest Prohibited.**

Neither the Chief Financial Officer nor the Chief Financial Officer's grandparent, parent, child, grandchild, step-parent, step-child, sibling, step-sibling, uncle, aunt, niece, or nephew, or the spouse of any of them, may have a financial interest in any project with respect to which the Resilience Authority has jurisdiction or any power or authorization to act.

D. **Surety Bond.**

Before the issuance of any bonds under the provisions of this chapter, the Chief Financial Officer shall execute a surety bond in a penal sum to be fixed by the Resilience Authority.

1. The surety bond shall be conditioned on the faithful performance of the duties of office and

executed by a surety company authorized to transact business in this state as surety.

2. The Resilience Authority shall pay the premium on the bond.

### 2.58.070 - Net earnings.

Except as necessary to pay debt service or implement the public purposes or programs of the county or the City of Annapolis, the net earnings of the Resilience Authority may benefit only the county or the City of Annapolis, and may not benefit any person.

### 2.58.080 Powers.

- A. **Generally.** Except as limited by its articles of incorporation, the Resilience Authority has all the powers under this chapter.
- B. **Enumerated.** The Resilience Authority has and may exercise all powers necessary or convenient to undertake, finance, manage, acquire, own, convey, or support resilience infrastructure projects, including, but not limited to, the power to:
  - (1) 1. Acquire by purchase, lease, or other legal means, but not by eminent domain, property for resilience infrastructure;
  - (2) 2. Establish, construct, alter, improve, equip, repair, maintain, operate, and regulate resilience infrastructure owned by the county, the City of Annapolis, or the Resilience Authority;
  - (3) 3. Receive money from the county, the City of Annapolis, the state, other governmental units, or private organizations;
  - (4) 4. Charge and collect fees for its services;
  - (5) 5. Subject to the approval of the county and the City of Annapolis, charge and collect fees to support its bond issuances;
  - (6) 6. Have employees and consultants as it considers necessary;
  - (7) 7. Engage the services of other governmental units;
  - (8) 8. Act as necessary or convenient to carry out the powers granted by law;
  - (9) 9. Sue and be sued, implead and be impleaded, complain and defend in all courts of competent jurisdiction; and
  - (10) 10. Draft and approve by-laws for the management and regulation of its affairs, which will be provided upon approval or revision to each Appointing Authority.

### 2.58.090 Bonds.

- A. **Authority.** Notwithstanding any other provision of law, the Resilience Authority may issue and sell bonds periodically:
  - (1) 1. For resilience infrastructure projects;

- (2) 2. To refund outstanding bonds;
- (3) 3. To pay the costs of preparing, printing, selling, and issuing the bonds;
- (4) 4. To fund reserves; and
- (5) 5. To pay the interest on the bonds in the amount and for the period the Resilience Authority considers reasonable.

B. **Limitation.** Bonds issued by the Resilience Authority are limited obligations and are not a pledge of the faith and credit or taxing power of the county or the City of Annapolis.

### 2.58.100 - Bond transactions.

A. **Resolution Required.** For each issue of its bonds, the Resilience Authority shall adopt a resolution that:

- (1) 1. Specifies and describes the resilience infrastructure being financed;
- (2) 2. Generally describes the public purpose to be served;
- (3) 3. Describes the financing transaction;
- (4) 4. Specifies the maximum principal amount of the bonds that may be issued; and
- (5) 5. Imposes terms or conditions on the issuance and sale of bonds it considers appropriate.

B. **Resolution Permitted.** The Resilience Authority, by corporate resolution, may:

- (1) 1. Specify, determine, prescribe, and approve matters, documents, and procedures that relate to the authorization, sale, security, issuance, delivery, and payment of and for the bonds;
- (2) 2. Create security for the bonds;
- (3) 3. Provide for the administration of bond issues through trust or other agreements with a bank or trust company that cover a countersignature on a bond, the delivery of a bond, or the security for a bond; and
- (4) 4. Take other action it considers appropriate concerning the bonds.

C. **Contracts.** A contract for a resilience infrastructure project may include the requirement for surety and labor and material bonds.

D. **Conclusiveness.** A finding by the County Council, the City Council, or the Board of Directors of the Resilience Authority as to the public purpose of an action taken under this chapter, and the appropriateness of that action to serve the public purpose, is conclusive in a proceeding involving the validity or enforceability of a bond or security for a bond issued under this chapter.

### 2.58.110 Reporting.

A. **Annual Report.** By January 1 of each year, the Resilience Authority shall provide a written report and audited financials statements prepared, in accordance with ~~generally accepted~~ accounting principles generally accepted in the United States, to the County Executive, the County Council, the Mayor of the City of Annapolis, and the Annapolis City Council on the activities and financial position of the Resilience Authority ~~during the prior calendar year~~ as of and for the preceding fiscal year ending June

30.

B. **Examination of Books, Accounts, and Records.** The County Attorney, Controller, or County Auditor and the City Manager of the City of Annapolis, or their designees, may examine the books, accounts, and records of the authority.

C. **Report to State.**

1. Subject to paragraph 2 of this subsection, by January 1 of each year, the Resilience Authority shall submit a report in accordance with § 2-1257 of the State Government Article of the State Code to:
  - (i) **a.** The Senate Budget and Taxation, and Education, Health, and Environmental Affairs Committees; and
  - (ii) **b.** The House Appropriations, and Environment and Transportation Committees.
2. The report required under paragraph 1 of this subsection shall include, at a minimum:
  - (i) **a.** A copy of the report required under subsection A of this section;
  - (ii) **b.** A description of the resilience infrastructure projects funded by the Resilience Authority; and
  - (iii) **c.** The sources of revenue for the resilience infrastructure projects undertaken by the Resilience Authority.

**SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect 45 days from the date it becomes law.