Bill No. 15-08

Concerning: An Act to Repeal Ordinance No. 12-03-598 (Frederick County Official English Ordinance)

Revised: _____ Draft No. _____

Introduced: June 16, 2015

Expires: _____

Enacted: _____

Executive: _____

Effective: _____

Frederick County Code, Chapter N/A, Section(s) _____

COUNTY COUNCIL
FOR FREDERICK COUNTY, MARYLAND

By: Council Member Fitzwater. Co-Sponsor Council Vice President Keegan- Ayer

AN ACT to: Repeal Ordinance No. 12-03-598, for the purpose of promoting a competitive business climate for Frederick County's existing 6,200 businesses which employ 79,000 workers; attracting new life science businesses and jobs that will move Frederick County closer to becoming the State's bio-tech hub; ensuring that non-English language speakers are not deterred from reporting crimes, seeking medical care or other human services; and generally relating to Frederick County's encouragement of multi-linguistic acceptance, tolerance and multi-cultural diversity in an increasingly global economy.

By amending:

Frederick County Code, Chapter N/A, Section(s) _____

Other:

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

Bill No. _____

The Board of County Commissioners of Frederick County, Maryland, enacted Ordinance No. 12-03-598, titled "Frederick County Official English Ordinance" (Ordinance), effective February 22, 2012.

The Ordinance proclaimed English as the official language of Frederick County. The Ordinance required that official actions which bind or commit Frederick County or which give the appearance of presenting the official views or positions of Frederick County be taken in the English language.

The County Council of Frederick County, Maryland, (Council) finds that the Ordinance, and the perception it has created, constitutes a barrier to good business and impedes the growth and development of business and commercial endeavors in Frederick County.

The Council has determined that in order to broaden the appeal of Frederick County to the business community, and to attract and retain businesses and employees in the biotech and life science segments of the commercial economy, Frederick County must and does embrace diversity.

The Council determines and believes that Frederick County is, and should be, a welcoming community to all, with pride in the diversity of cultures and individuals who participate in and promote the well-being and growth of the County.

The Council finds that there are numerous federal and Maryland State laws and regulations that currently exist which require translation and interpretation to facilitate and recognize the increasing diversity of persons residing in Frederick County.

The Council further finds and determines that the Ordinance impedes the integration of diverse culture and values into our community and is contrary to the tolerance and acceptance of all individuals which is a hallmark of the community which is Frederick County.

In light of these circumstances, the Council has determined that it is necessary and proper, and in the best interest of the residents of Frederick County, that the Ordinance be repealed.

NOW, THEREFORE, BE IT ENACTED, that Ordinance No. 12-03-598, attached hereto as Exhibit A, be, and the same is hereby, REPEALED.

_____

Harold F. (Bud) Otis, President
County Council of Frederick County,
Maryland

Exhibit A

THE EFFECTIVE DATE OF THIS ORDINANCE IS FEBRUARY 22, 2012

ORDINANCE NO. 12-03-598

RE: Frederick County Official English Ordinance

The English language is the common language of Frederick County, Maryland and of the United States;

The use of a common language removes barriers of misunderstanding and helps to unify the people of Frederick County, this State and the United States, and helps to enable the full economic and civic participation of all its citizens, regardless of national origin, creed, race or other characteristics, and thus a compelling governmental interest exists in promoting, preserving, and strengthening the use of the English language;

Proficiency in the English language, as well as in languages other than the English language, benefits Frederick County both economically and culturally and should be encouraged;

In addition to any other ways to promote proficiency in the English language, the Board of County Commissioners of Frederick County, Maryland (BOCC) can promote proficiency in English by using the English language in its official actions and activities;

In today's society, Frederick County may also need to protect and preserve the rights of those who speak only the English language to use or obtain governmental programs and benefits; and

The BOCC can reduce costs and promote efficiency, in its roles as employer and a government accountable to the people, by using the English language in its official actions and activities.

The BOCC held a duly advertised public hearing on this proposed Ordinance on February 21, 2012. The public had an opportunity to comment at this public hearing.

Section 1. Official English Declaration

A. The English language is the official language of Frederick County.

B. The BOCC and officials of Frederick County shall take all steps necessary to ensure that the role of English as the common language of Frederick County is preserved and enhanced.

C. The BOCC shall make no Ordinance which diminishes or ignores the role of English as the common language of Frederick County.

D. Official actions of Frederick County which bind or commit Frederick County or which give the appearance of presenting the official views or position of Frederick County shall be taken in the English language. Unofficial or non-binding translations or explanations of official actions may be provided separately in languages other than English, if they are appropriately labelled as such and reference is made to a method to obtain the official action; unless otherwise required by federal or state law, no person has a right to such an unofficial or non-binding translation or explanation, and no liability or commitment of Frederick County shall be based on such a translation or explanation.

E. No ordinance, decree, program, or policy of Frederick County shall require the use of any language other than English for any documents, regulations, orders, transactions, proceedings, meetings, programs, or publications, except as provided in Section 2.

F. No law, ordinance, decree, program, or policy of Frederick County shall penalize or impair the rights, obligations or opportunities available to any person solely because a person speaks only the English language.

Section 2. Exceptions

Frederick County may use a language other than English for any of the following purposes, whether or not the use would be considered part of an official action:

A. To teach or encourage the learning of languages other than English;

B. To protect the public health, sanitation, and public safety;

C. To teach English to those who are not fluent in the language;

D. To comply with the Native American Languages Act, the Individuals with Disabilities Education Act, the Voting Rights Act, or any other federal or state law;

E. To protect the rights of criminal defendants and victims of crime;

F. To promote trade, commerce, and tourism;

G. To collect payments, fines, or other financial obligations due and payable to Frederick County;

H. To create or promote mottos or designations, inscribe public monuments, and perform other acts involving the customary use of a language other than English;

I. To utilize terms of art or terms or phrases from other languages which are commonly used in communications otherwise in English;

J. Printed materials, signage, or other materials or documents of Frederick County printed in languages other than English at the time of the adoption of this ordinance and not otherwise excepted in this Section 2 shall not be discarded or reprinted

solely in English at the addition cost or expense of the taxpayers of Frederick County until they are exhausted or become otherwise obsolete;

K. For any other worthy, justifiable or appropriate action approved by the Board of County Commissioners.

Section 3. Official Functions

Notwithstanding any other state law and except as provided in section 2 of this Ordinance, nothing in this Ordinance shall be construed to prohibit any elected official, officer, agent, employee of the state or a political subdivision, while performing official functions, from communicating unofficially through any medium with another person in a language other than English (as long as official functions are performed in English).

Section 4. Private Use Protected

The declaration and use of English as the official language of Frederick County should not be construed as infringing upon the rights of any person to use a language other than English in private communications or actions, including the right of government officials (including elected officials) to communicate with others while not performing official actions of Frederick County.

Section 5. Federal and State Preemption

Nothing in this Ordinance shall be interpreted as conflicting with the laws of the United States, or of the laws of the State of Maryland.

Section 6. No Cause of Action Created

This Ordinance is not intended to create any cause of action or authorize any legal proceedings to enforce or interpret this Ordinance.

Section 7. Repeal of Prior Resolution.

This Ordinance replaces and supersedes Resolution No. 08-13 "Proclaiming English as the Official, Primary and Common Language" and therefore Resolution No. 08-13 is hereby repealed.

Section 8. Effective Date.

This Ordinance shall take effect on February 22, 2012.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 21st day of February, 2012.

ATTEST:

David B. Dunn
County Manager

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

Blaine R. Young, President

FREDERICK COUNTY GOVERNMENT
COUNTY COUNCIL

COUNCIL MEMBERS

Bud Otis, President
M.C. Keegan-Ayer, V. President
Tony Chmelik
Kirby Delauter
Jerry Donald
Jessica Fitzwater
Billy Shreve

FISCAL NOTE EXECUTIVE SUMMARY

Bill No. 15-08

Title: An Act to Repeal Ordinance No. 12-03-598 (Frederick County Official Language Ordinance)

Sponsor: Council Member Jessica Fitzwater
(Co-Sponsor: Council Vice President M.C. Keegan-Ayer)

Staff: Lori Depies, Finance Director

Funding Information

No fiscal impact.

As the attached Fiscal Note from the Administration provides, this bill does not require any documents to be translated beyond what is already required by State and Federal regulations. The County may incur additional costs if it chooses to provide information or documents in other languages, however, this is also the case currently.

Winchester Hall • 12 East Church Street, Frederick, MD 21701 • 301-600-1100 • Fax 301-600-1849
www.FrederickCountyMD.gov

FREDERICK COUNTY COUNCIL

Local Government Fiscal Estimate of Legislation

CONTACT INFORMATION AND GENERAL INSTRUCTIONS

Bill Number/Reference:	15-08
Bill Title:	An Act to Repeal Ordinance No. 12-03-598 (Frederick County Official Language Ordinance)
Date of First Reading:	06/16/2015
Local Government Agency:	Finance
Prepared By:	Lori Depies
Title:	Finance Director
Phone Number:	301-600-1753
E-Mail Address:	ldepies@Frederickcountymd.gov
Due Date:	
Date Submitted:	07/16/2015

Please submit BY E-MAIL to: Ragen Cherney, Legislative Director/Chief of Staff
Frederick County Council • E-Mail: RCherney@FrederickCountyMD.gov

If you prefer to provide responses or additional information in a separate file or document, send the file or document in a separate e-mail to rcherney@frederickcountymd.gov with the bill number/reference in the subject line.

FREDERICK COUNTY COUNCIL

Local Government Fiscal Estimate of Legislation

Date:	
1.	Describe the impact of this proposed legislation on your agency (operations, revenues, expenditures, etc). If there is no impact, please explain why.

This bill does not require any documents to be translated beyond what is already required by State and Federal regulations. The County may incur additional costs if it chooses to provide information or documents in other languages but this would be the case now.

2.	Please indicate whether the proposed legislation will affect small businesses in Frederick County, and if it will, please provide any information you may have which could be useful in determining the economic impact on small businesses.

This proposed legislation would have a positive impact on local businesses as it promotes a business climate where all are welcome.

FISCAL IMPACT SUMMARY – SHOW (DECREASE) IN PARENTHESES

REVENUES

3.	Analysis of **estimated increase (or decrease) in government revenues.** Please estimate below any anticipated increase (or decrease) in revenues resulting from this legislation. Please be aware of any delayed effective dates in the bill or other factors that may cause revenue increases/decreases to begin in later years.

Source	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
N/A					
TOTAL $	$	$	$	$	$

Please explain how the above estimated increase(s) or decrease(s) were arrived at, including any calculations and/or assumptions made. Please also explain any variation if the revenue increase(s)/decrease(s) are not constant.

No change in revenues anticipated by the passing of this legislation, as written.

FREDERICK COUNTY COUNCIL

Local Government Fiscal Estimate of Legislation

EXPENDITURES

4. Analysis of **estimated increase (or decrease) in government expenditures.** Please estimate below any anticipated increase (or decrease) in expenditures resulting from this legislation. Please be aware of any delayed effective dates in the bill or other factors that may cause expenditure increases/decreases to begin in later years.

A. Salaries & Wages	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
FTE Employees - _____ # of positions Fringe Benefits N/A					
TOTAL (Salaries, wages & benefits)	$	$	$	$	$

Please provide an explanation of the need for the number and type of any personnel listed above, including (1) what specific provision(s) of the bill necessitate additional staff; (2) what the duties of each type employee will be; and (3) why existing personnel cannot absorb the additional work. Please also certify the wage/salary rate and % fringe rate (if differing rates apply) for each personnel classification.

N/A - It is not anticipated that this legislation would create the need for additional staff.

B. Other Operating Expenses	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Technical/Special Fees, Grants/Subsidies Communications-Phone, Postage Travel, Food, Auto, Fuel & Utilities Contractual Services Supplies Equipment-Replacement Equipment-Additional Land & Structures, Fixed Charges Other (Please Specify on Extra Page(s)					
TOTAL (Expenditures)	$	$	$	$	$

On the next page, please provide brief descriptions/breakdowns of the above "Other Operating Expenses."

Please explain below any additional calculations or assumptions made in estimating the "Other Operating Expenses" that will help us to understand the amounts and timing of the expenses.

N/A - It is not anticipated that this legislation would create any additional expenditures. This bill does not require the County to produce documents in any languages other than English.

FREDERICK COUNTY COUNCIL

Local Government Fiscal Estimate of Legislation

4. (cont'd)

C. Operating Expense Descriptions/Breakdowns

Please provide below a short description of the specific purpose of each expense listed under 4B. If any amount(s) listed under 4B represent(s) a total of multiple expenses, provide a breakdown of the fiscal 2016 amount with a short description of each expense (for example, if $2,500 is listed for Communications – Phone, Postage, a statement such as "$1,500 for cellphone charges for two new inspectors and $1,000 for postage for mailings to permittees to notify them of changes to inspection requirements.")

Fiscal 2016 Expenditures

Technical/SpecialFees, Grants & Subsidies description/breakdown	$
Communications – Phone, Postage description/breakdown	$
Travel, Food, Auto Operations, Fuel & Utilities description/breakdown	$
Contractual Services description/breakdown	$
Supplies description/breakdown	$
Equipment-Replacement description/breakdown	$
Equipment-Additional description/breakdown	$
Land & Structures, Fixed Charges description/breakdown	$
Other (Please Specify) description/breakdown	$