

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 993

(Montgomery County Delegation and Prince George's
County Delegation)

Environmental Matters

Prince George's County - Development and Ethics Reform Act of 2011
MC/PG 118-11

This bill requires that lobbying and conflict-of-interest provisions in Prince George's County's ethics laws prohibit specified conduct and that the laws provide for a seven-member board of ethics with a full-time executive director, and an ethics advisor. The bill also establishes a Board of Planning and Zoning Appeals in Prince George's County to hear and decide applications for local zoning map amendments and special exceptions and makes conforming changes to reflect the board's responsibility.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: None.

Local Effect: Prince George's County expenditures increase by at least \$123,500 annually for the cost of the salary and fringe benefits of an executive director for the county's board of ethics. County expenditures may further increase due to any costs incurred for the services of an ethics advisor and compensation, staff, or other expenses of the newly created Board of Planning and Zoning Appeals. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Prince George's County Ethics Laws

The bill specifies that lobbying provisions enacted by Prince George's County, pursuant to the Maryland Public Ethics Law, must prohibit a person from being engaged for lobbying purposes for compensation that is dependent on the outcome of executive or legislative action before the county government.

Conflict-of-interest provisions enacted by the county, pursuant to the Maryland Public Ethics Law, must:

- prohibit the county government from issuing a credit card to an elected county official; and
- prohibit an elected county official from directly or indirectly soliciting a person to enter into a business relationship with or provide anything of value to a specific individual or entity, if the person being solicited is seeking the success or defeat of county legislation, a county contract, or any other county benefit.

The county's ethics enactments must provide for a county board of ethics composed of seven members, a full-time executive director of the board of ethics, and an ethics advisor. The ethics advisor must meet at least annually with elected officials of the county, assist the officials in preparing required affidavits or other documents, and conduct ethics-related briefings for the officials.

Board of Planning and Zoning Appeals

The bill establishes a Board of Planning and Zoning Appeals in Prince George's County, consisting of five members appointed by the county executive with the advice and consent of the county council. The board has the responsibility of hearing and deciding applications for local zoning map amendments and special exceptions. The bill makes conforming changes to existing provisions relating to zoning map amendments and special exceptions to reflect the board's responsibility.

The board acts by resolution, concurred in by at least three members. Certain local zoning map amendments and special exceptions, however, must be approved by at least four members of the board. The county executive must determine the compensation of the members of the board and may provide staff for the board. Specified powers and authority of the board may not be construed to be in derogation of any existing powers of the Board of Zoning Appeals in Prince George's County.

Current Law/Background:

Prince George's County Ethics Laws

Counties and municipalities are required, under the Maryland Public Ethics Law, to enact provisions to govern the public ethics of local officials relating to conflicts of interest, financial disclosure, and lobbying. Certain municipalities may be exempted or subject to modified requirements under specified circumstances. The provisions generally must be similar to State public ethics laws, but may be modified to make the provisions relevant to the jurisdiction.

The Prince George's County Code of Ethics contains various conflict-of-interest and lobbying provisions. Two requirements that are similar or related to the requirements mandated in the bill are that "an official or employee may not intentionally use the prestige of his office for his own private gain or that of another" and "no person may engage in lobbying activities on behalf of another person for compensation, the payment of which is contingent upon the passage or defeat of any action by the [county council]."

There is a five-member Prince George's County Board of Ethics established under the county ethics code. The board members are appointed by the county executive and confirmed by the county council. The county ethics code provides for the board to be assisted in carrying out its responsibilities by the county attorney and the county executive must furnish the board stenographic services, physical facilities, and other necessary administrative services and employees.

Planning and Zoning in Prince George's County

Planning and zoning functions in Prince George's County are administered by multiple entities, including the Prince George's County Planning Board (made up of the five Prince George's County members of the 10-member Maryland-National Capital Park and Planning Commission) and its planning department staff; the district council (the county council, when acting on planning and zoning matters); the Office of the Zoning Hearing Examiner; and the Board of Zoning Appeals.

The planning board, planning department, district council, and zoning hearing examiner all have a role in the approval of zoning map amendments applicable to single parcels of land. The zoning hearing examiner, however, holds the official county zoning hearings (the record for which includes the planning department's technical staff report and the planning board's recommendation) and makes a decision on the application that is forwarded to the district council, which takes the final action on the application. The district council's action may be appealed to circuit court. The county government can also initiate broader rezoning of geographic areas through "sectional map amendments."

Applications for special exceptions (for the use of a property) are processed in a similar manner as zoning map amendments for single parcels of land, though the zoning hearing examiner makes the final decision, which may be appealed to the district council. Variances (allowing for relief from strict application of certain zoning requirements) are authorized by the Board of Zoning Appeals and the planning board and district council may also grant variances associated with development applications they take final action on.

Some developments can be subject to an in-depth review process called “site plan review” as a result of a requirement in the county’s zoning ordinance, or as a condition of a preliminary plan (initial step in the subdivision process), special exception, or zoning map amendment approval. The planning board holds public hearings on site plan reviews and may approve, approve with conditions, or deny the site plan. The board’s decision can be appealed to the district council, or the district council may, on its own motion, choose to review the decision.

Local Fiscal Effect: Prince George’s County expenditures are expected to increase by at least \$123,500 annually for the cost of the salary and fringe benefits of an executive director for the county’s board of ethics. County expenditures may further increase for the services of an ethics advisor, if existing county staff cannot fulfill that role, and any compensation, staff, or other expenses of the newly created Board of Planning and Zoning Appeals. The county advises that the current members of the board of ethics are not provided compensation.

Additional Information

Prior Introductions: None.

Cross File: SB 517 (Senator Miller) - Education, Health, and Environmental Affairs.

Information Source(s): Prince George’s County; Maryland Department of Planning; State Ethics Commission; Maryland-National Capital Park and Planning Commission, *A Citizen’s Handbook: Planning, Zoning, and Development Review in Prince George’s County (2010)*; Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2011
mc/mcr

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510