

Department of Legislative Services
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FISCAL AND POLICY NOTE
Revised

House Bill 614

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

Environmental Matters

Education, Health, and Environmental Affairs

**Prince George's County - Maryland-National Capital Park and Planning
Commission - Site Plan Approval Authority and Public Ethics Requirements
MC/PG 114-11**

This bill expands the authority of the Prince George’s County Council, sitting as the District Council, to review final decisions of the Planning Board on detailed site plan approvals for development projects, subject to a specified timeframe. The bill also adds new ethics requirements for local officials in the county, including prohibiting (1) the issuance of county credit cards for elected county officials and school board members; (2) the solicitation of a person to enter into a business relationship if the person is seeking a county benefit; or (3) contingent fees for lobbying activities.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: None.

Local Effect: Prince George’s County expenditures may increase by up to \$123,500 annually for the cost of the salary and fringe benefits of an executive director for the county’s board of ethics if a full-time position is needed to fulfill the executive director’s responsibilities. **In addition, this bill may impose a mandate on a unit of local government.** Altering site plan approval authority in Prince George’s County will not materially affect the county government or the Maryland-National Capital Park and Planning Commission (M-NCPPC).

Small Business Effect: None.

Analysis

Bill Summary:

Site Plan Approval

The bill authorizes the Prince George's County Council, sitting as the District Council, to review a final decision of the Prince George's County Planning Board on a detailed site plan, subject to the following timeframe: (1) within 30 days after the Planning Board's final decision, the District Council must decide whether to review the final decision; (2) within 70 days after deciding to review a final decision, the District Council must hold a review hearing, unless this time period is extended for up to 45 additional days at the decision of the District Council or on request of the applicant; and (3) within 60 days after the review hearing, the District Council must issue a final decision.

In addition, a party of record may appeal to the District Council a final decision of the Planning Board on a detailed site plan; and the District Council may revoke a delegation of site plan approval authority to the Planning Board for the purpose of delegating site plan approval authority to a municipality in the regional district.

Public Ethics Requirements

The bill specifies that 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 or a school board member.

The conflict-of-interest provisions must also prohibit an elected county official from directly or indirectly soliciting a person to enter into a business relationship with or provide anything of monetary 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. Any conflict-of-interest provision enacted in accordance with this requirement, however, may not be construed to affect the validity of any legally enacted requirement or condition, proposed and adopted on the public record at a public hearing, the purpose of which is to mitigate the impact of a development on the property owners in the areas surrounding the development, including an adequate public facilities requirement, a minority business requirement, or a community benefit requirement.

Lobbying provisions enacted by Prince George's County, pursuant to the Maryland Public Ethics Law, must prohibit a person from being hired as a lobbyist for compensation that is contingent on the outcome of executive or legislative action before the county government.

The county's ethics enactments must provide for a county board of ethics composed of five members appointed by the county executive, subject to the advice and consent of the county council, and an executive director of the board of ethics who must meet at least annually with each elected official of the county, assist the officials in preparing required affidavits or other documents, and conduct ethics-related briefings. The county's ethics enactments must also require the county board of ethics to meet at least two times each year.

Current Law/Background:

Maryland-National Capital Park and Planning Commission

M-NCPPC was established in 1927 and has jurisdiction over parks and land use planning in most of Montgomery and Prince George's counties. The commission is governed by Article 28 of the Annotated Code of Maryland. The commission prepares and administers a general plan for the physical development of the Maryland-Washington Regional District, an area that encompasses almost all of Montgomery and Prince George's counties. In addition, the commission is charged with acquiring and maintaining a system of parks within the metropolitan district in the two counties. The commission also operates a recreation system for Prince George's County. The commission is funded primarily through various property taxes authorized under Article 28 of the Annotated Code of Maryland and imposed by Montgomery and Prince George's counties. In addition, enterprise fund operations are supported by various service fees and charges.

M-NCPPC has 10 members with 5 members each from Montgomery and Prince George's counties, each with four-year terms.

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 5 Prince George's County members of the 10-member M-NCPPC) 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 the 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.

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.

Local Fiscal Effect: Prince George's County expenditures may increase by up to \$123,500 annually for the cost of the salary and fringe benefits of a full-time executive director for the county's board of ethics. Expenditures may be less than that amount to the extent the responsibilities of the executive director can be fulfilled through a part-time position or by using existing staff to carry out the responsibilities of the executive director position.

Additional Information

Prior Introductions: None.

Cross File: SB 901 (Senator Miller) - Education, Health, and Environmental Affairs.

Information Source(s): Prince George's County, Maryland-National Capital Park and Planning Commission, Department of Legislative Services

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