

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 627 (Senator Miller)
Education, Health, and Environmental Affairs

Prince George's County - Development and Ethics Reform Act of 2011

This bill specifies that the district council in Prince George's County may review planning board actions on site plans and comprehensive and specific design plans only if petitioned for review. The bill also prohibits a person from entering into an agreement to provide or receive compensation or anything of value that is dependent on the outcome of any executive or legislative action of the Prince George's County government. The bill also prohibits specified conduct of the district council or county council of Prince George's County, a member of the district council or county council, or an employee or agent of the district council or county council, in relation to applications for development and specified approvals. The bill lastly 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 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. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Review of Specified Planning Board Actions

The bill specifies that, for the purpose of creating a public record and a transparent and open process, the district council in Prince George's County must review the planning board's action on site plans and comprehensive and specific design plans only if the applicant or another person of record petitions for the review.

Prohibited Compensation Agreements

The bill prohibits a person from entering into an agreement to provide or receive compensation or anything of value that is dependent in any manner on the outcome of any executive or legislative action of the county government.

Prohibited Conduct in Relation to Development Applications and Specified Approvals

The bill prohibits a member of the district council or county council of Prince George's County, or an employee or agent of the district council or county council, from recommending, suggesting, or proposing to any applicant for development that they include in their project any specific individual, corporation, or other entity as an agent, employee, vendor, contractor, subcontractor, joint venture partner, or any other participant in the project.

The bill also prohibits the county council, the district council, or a member of the county council or district council from directly or indirectly conditioning the approval of an application for rezoning, site plan, water and sewer system, or preliminary plan of subdivision on a requirement that the applicant provide monetary payments or anything of value to any specific individual, organization, or entity. This prohibition, however, may not be construed to affect any lawfully enacted adequate public facilities requirement, minority business requirement, or any other requirement or condition intended to mitigate the impact of a development on property owners in the areas surrounding the development.

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 compensation for lobbyists from being 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.

Current Law/Background:

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 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.

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 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 legal staff cannot fulfill that role. The county advises that the current members of the board of ethics are not provided compensation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County; 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

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