
By: **Montgomery County Delegation and Prince George's County
Delegation**

Introduced and read first time: February 7, 2003

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 31, 2003

CHAPTER _____

1 AN ACT concerning

2 **Prince George's County - ~~Washington Suburban Sanitary Commission and~~**
 3 **Maryland-National Capital Park and Planning Commission -**
 4 **Commissioners -~~Removal~~**
 5 **MC/PG 121-03**

6 FOR the purpose of ~~authorizing, in Prince George's County, the removal of a~~
 7 ~~commissioner of the Washington Suburban Sanitary Commission or a~~
 8 ~~commissioner of the Maryland-National Capital Park and Planning~~
 9 ~~Commission at the will of the County Executive for Prince George's County;~~
 10 ~~repealing certain requirements that the removal be subject to approval by a~~
 11 ~~majority of the Prince George's County Council; repealing certain requirements~~
 12 ~~for notice and hearing under certain circumstances; and generally relating to~~
 13 ~~the removal, in Prince George's County, of a commissioner of the Washington~~
 14 ~~Suburban Sanitary Commission or a commissioner of the Maryland-National~~
 15 ~~Capital Park and Planning Commission~~ altering the date on which a
 16 commissioner of the Maryland-National Capital Park and Planning
 17 Commission from Prince George's County is appointed; applying certain
 18 provisions regarding conflicts of interest to commissioners from Prince George's
 19 County; providing for the termination of the terms of certain commissioners of
 20 the Maryland-National Capital Park and Planning Commission; providing for
 21 the appointment and terms of office of certain commissioners of the
 22 Maryland-National Capital Park and Planning Commission; providing for the
 23 effective date of this Act; and generally relating to commissioners of the
 24 Maryland-National Capital Park and Planning Commission from Prince
 25 George's County.

1 BY repealing and reenacting, with amendments,
2 Article 28 - Maryland-National Capital Park and Planning Commission
3 Section ~~2-103~~ 2-102 and 2-115
4 Annotated Code of Maryland
5 (1997 Replacement Volume and 2002 Supplement)

6 ~~BY repealing and reenacting, with amendments,~~
7 ~~Article 29 - Washington Suburban Sanitary District~~
8 ~~Section 1-104~~
9 ~~Annotated Code of Maryland~~
10 ~~(1997 Replacement Volume and 2002 Supplement)~~

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article 28 - Maryland-National Capital Park and Planning Commission**

14 ~~2-103.~~

15 (A) ~~The County Council of Montgomery County may remove any member of~~
16 ~~the Commission appointed from Montgomery County. Removals may occur prior to~~
17 ~~the expiration of the term for which they were appointed. [The County Executive of~~
18 ~~Prince George's County may remove at his pleasure any members from that county~~
19 ~~prior to the expiration of the term for which they were appointed, subject to the~~
20 ~~approval of the County Council of Prince George's County by a vote of a majority of~~
21 ~~the full Council. In each case, the] THE cause of removal shall be stated in writing~~
22 ~~and a public hearing held on the removal. [However, in Prince George's County the~~
23 ~~Commission member sought to be removed may waive in writing the public hearing~~
24 ~~held by the Council. Further, this provision does not apply to any Prince George's~~
25 ~~member of the Commission in office on June 1, 1975 for the member's current term of~~
26 ~~office.] Any vacancy occurring in the membership of the Commission from~~
27 ~~Montgomery County for any cause shall be filled by the County Council for the~~
28 ~~unexpired term [and any vacancy occurring in the membership of the Commission~~
29 ~~from Prince George's County shall be filled in the manner provided in this title for the~~
30 ~~making of appointments to the Commission. A person appointed to fill any vacancy for~~
31 ~~an unexpired term shall be] BY a member of the same political party as was~~
32 ~~represented by the member who vacated the office.~~

33 (B) ~~THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY MAY REMOVE AT~~
34 ~~WILL ANY MEMBER OF THE COMMISSION APPOINTED FROM PRINCE GEORGE'S~~
35 ~~COUNTY.~~

36 **~~Article 29 - Washington Suburban Sanitary District~~**

37 ~~1-104.~~

38 (a) ~~A commissioner may be removed before the completion of the~~
39 ~~commissioner's term.~~

- 1 (1) ~~In Montgomery County:~~
- 2 (ii) ~~By the County Executive with the approval of a majority of the~~
- 3 ~~members of the County Council; or~~
- 4 (ii) ~~Unless the Montgomery County Executive disapproves the~~
- 5 ~~resolution in writing within 30 days of its adoption, by resolution of a majority of the~~
- 6 ~~members of the County Council; and~~
- 7 (2) ~~In Prince George's County, [by] AT THE WILL OF the County~~
- 8 ~~Executive [with the approval of a majority of the members of the County Council].~~

9 (b) ~~IN MONTGOMERY COUNTY:~~

- 10 (1) ~~Unless a hearing is waived in writing by the commissioner~~
- 11 ~~designated for removal, prior to any removal under this subsection a public hearing~~
- 12 ~~shall be held;~~
- 13 (i) ~~In Montgomery County,] by the body initiating the removal~~
- 14 ~~proceeding]; and~~
- 15 (ii) ~~In Prince George's County, by the County Council.]; AND~~
- 16 (2) ~~Each commissioner shall be given an opportunity at the hearing to~~
- 17 ~~present a defense.~~

18 2-102.

19 The term of office of each member of the Commission is four years.

20 [Appointments] IN MONTGOMERY COUNTY, APPOINTMENTS shall be made on or

21 before June 15 of the year in which any appointment is to be made, and terms of office

22 shall begin as of that [date and if] DATE. IN PRINCE GEORGE'S COUNTY,

23 APPOINTMENTS SHALL BE MADE ON OR BEFORE FEBRUARY 1 OF THE YEAR IN

24 WHICH ANY APPOINTMENT IS TO BE MADE, AND TERMS OF OFFICE SHALL BEGIN AS

25 OF THAT DATE. IF any appointment is not made as provided in this section a vacancy

26 exists which shall be filled as provided in this article for the filling of vacancies on the

27 Commission. The members of the Commission in office immediately prior to July 1,

28 1975 shall remain in office under the provision of this article for the remainder of the

29 terms for which they were appointed. Members may continue to serve until their

30 successors are appointed and have qualified. In Montgomery County a person may

31 not be appointed for 3 consecutive, full terms. Those members who have served 2

32 consecutive terms may complete their current terms.

33 2-115.

34 (a) THIS SECTION APPLIES TO COMMISSIONERS APPOINTED FROM

35 MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

36 (B) No commissioner may:

1 (1) Decide or participate in a decision in which the commissioner has a
2 financial interest, whether as owner, member, partner, officer, employee, stockholder,
3 or other participant of or in any private business or professional enterprise, that will
4 be affected by such decision, nor may a commissioner knowingly participate in a
5 decision affecting the financial interest of a person related to the commissioner or the
6 commissioner's spouse, father, mother, brother, sister, or child, jointly or severally.
7 This paragraph may not be construed to prohibit a commissioner from having or
8 holding private investment, business, or professional interests, but shall be construed
9 to apply when these interests are or reasonably may be in conflict with the proper
10 performance of duty by the commissioner. These interests shall be presumed to be in
11 conflict with the proper performance of duty by the commissioner when the
12 commissioner or the commissioner's spouse, father, mother, brother, sister or child,
13 jointly or severally, owns a total of more than three percent of the invested capital or
14 capital stock of any groups, firms, corporations, or associations involved in the
15 decision being made by the commissioner or the commission or planning board on
16 which the commissioner serves or receives a total combined compensation of more
17 than \$5,000 per year from any individual, groups, firms, corporations, or associations
18 involved in the decision being made by the commissioner or the commission or
19 planning board on which the commissioner serves. The prohibition does not apply to
20 or include an interest or investment in land geographically remote from the land
21 involved in the decision, the ownership of a recorded single family lot on which the
22 member actually resides, or a possibility of reverter, a mortgage, or other security
23 interest in which the real property in interest is not as otherwise defined in this
24 paragraph.

25 (2) Act as broker, agent, attorney, representative, or employee of any
26 person in the person's business dealings with Montgomery County, Prince George's
27 County, the Maryland-National Capital Park and Planning Commission or
28 Washington Suburban Sanitary Commission nor may the commissioners decide or
29 participate in a decision on any matter in which a close business or professional
30 associate has acted in any of these capacities or represented private interests before
31 either county or the above commissions. The commissioners may not represent
32 private interest or appear in a position of advocacy, other than in the performance of
33 their official duties, either in person or by associate, in any matter or proceeding
34 pending before the Montgomery County Council, the Prince George's County Council,
35 Maryland-National Capital Park and Planning Commission, Washington Suburban
36 Sanitary Commission, the Prince George's County Board of Appeals, or the
37 Montgomery County Board of Appeals.

38 (3) Solicit or accept any gift, favor, loan, service, promise, employment or
39 thing which might influence or tend to influence the proper performance of the
40 commissioner's duty.

41 (4) Disclose any confidential information concerning the property,
42 management, or affairs of either county, Maryland-National Capital Park and
43 Planning Commission or Washington Suburban Sanitary Commission or use such
44 information to advance the financial or other private interests of the commissioner or
45 other persons.

1 (5) Attempt to influence for a purpose contrary to the provisions of this
2 section any other county or State official in the conduct of the other official's duties.

3 [(b)] (C) No part of this section may be construed to prohibit a commissioner
4 from appearing in the pursuit of the commissioner's private interests as a citizen; or
5 from accepting or receiving any benefit by operation of law, or prosecuting or
6 pursuing any claim, right, privilege, or remedy which is the commissioner's by
7 operation of law.

8 [(c)] (D) When a commissioner has any interest as described in this section
9 which is or reasonably may be incompatible with or in conflict with any of the
10 commissioner's official duties or acts, the commissioner shall disclose the interest in a
11 regular public meeting of the commission or the planning boards and the disclosure
12 shall appear in the minutes, and the commissioner is disqualified and may not
13 participate in the decision or act affected thereby.

14 [(d)] (E) Any commissioner convicted of violating subsection [(a)] (B) of this
15 section is guilty of a misdemeanor, and shall be punishable by a fine of not more than
16 \$1,000 or six months in jail, or both fine and imprisonment, or by suspension from the
17 commission or employment for not more than six months, or by outright forfeiture
18 and removal from office, or by any combination of these, as in the discretion of the
19 court is fit and proper.

20 [(e)] (F) The provisions of this section are severable and are as provided in
21 Article 1, § 23 of the Code.

22 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding Article
23 28, § 2-102 of the Code, the terms of all the commissioners of the Maryland-National
24 Capital Park and Planning Commission appointed from Prince George's County
25 serving on June 14, 2003, or their successors selected to fill a vacancy, shall terminate
26 on June 15, 2003. The terms of the commissioners appointed from Prince George's
27 County whose term of office begins on June 15, 2003, shall terminate on January 31,
28 2007, or until their successors are appointed and qualify. Beginning with the term of
29 office of the commissioners appointed in 2007, the appointment of the commissioners
30 shall conform to the provisions of Article 28, § 2-102 of the Code as enacted by this
31 Act.

32 SECTION 2- 3. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect ~~October~~ June 1, 2003.