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

Introduced and read first time: February 3, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Maryland-National Capital Park and Planning**
 3 **Commission - Commissioner Appointment and Removal**
 4 **MC/PG 127-05**

5 FOR the purpose of altering the procedures for appointing and removing
 6 commissioners of the Maryland-National Capital Park and Planning
 7 Commission from Prince George's County; providing for the appointment of
 8 certain Commission members by the Prince George's County Council, subject to
 9 approval of the County Executive, and override of disapproval; providing for the
 10 removal of certain Commission members by the Prince George's County Council;
 11 providing for the designation of a member to serve on a full-time basis by the
 12 Prince George's County Council, subject to approval of the County Executive,
 13 and override of disapproval; providing for approval of a supplementary salary
 14 for certain members in a certain manner; authorizing the Prince George's
 15 County Council to require certain applicants for Commission membership to be
 16 interviewed in a certain manner; requiring certain disclosures of certain
 17 information at certain times; applying to Commission members appointed from
 18 Prince George's County certain prohibitions relating to conflicts of interest,
 19 confidentiality, and financial dealings; repealing obsolete provisions; making
 20 stylistic changes; and generally relating to Commissioners of the
 21 Maryland-National Capital Park and Planning Commission.

22 BY repealing and reenacting, with amendments,
 23 Article 28 - Maryland-National Capital Park and Planning Commission
 24 Section 2-101 through 2-105, 2-114(a) and (c), and 2-115
 25 Annotated Code of Maryland
 26 (2003 Replacement Volume and 2004 Supplement)

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

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

2 2-101.

3 (a) (1) The Commission shall be composed of ten members, five of whom
4 shall be residents and registered voters of Montgomery County and five of whom shall
5 be residents and registered voters of Prince George's County.

6 (2) Of the members of the Commission from each county, not more than
7 three shall be members of the same political party.

8 (3) All members shall be persons of ability, experience and integrity and
9 may not be selected as representing or supporting any special interest or interests.
10 [All members of the Commission to be appointed from Prince George's County shall
11 be appointed by the County Executive subject to the approval of the County Council.
12 Upon submission of the name of the appointee to the County Council, the County
13 Council shall hold public hearings on the appointment not less than ten days and not
14 more than 20 days after submission. If the Council fails to act to confirm or reject the
15 appointment within 30 days of the submission to the Council by the County
16 Executive, the appointment stands approved. A vote of a majority of the full County
17 Council is required to confirm or reject an appointment. In making and approving
18 such appointments, the County Council and County Executive shall attempt to
19 provide reasonable geographic balance with respect to the places of residence of the
20 members. The appointment resolution for each appointment shall describe the
21 resulting geographic distribution and provide appropriate explanations. In
22 Montgomery County, the]

23 (B) (1) THE County Council OF MONTGOMERY COUNTY OR PRINCE
24 GEORGE'S COUNTY, AS APPROPRIATE, shall appoint the members of the Planning
25 Commission TO REPRESENT ITS COUNTY from a list of applicants.

26 (2) The list shall be open to the public at all times and shall be completed
27 at least 3 weeks before appointment or reappointment.

28 (3) If the County Council does not appoint an individual whose name
29 appears on the list or if no name appears on the list, the County Council shall provide
30 for the preparation of a second list and shall follow the procedures applicable to the
31 first list.

32 (4) Within 3 days [of] AFTER the appointment by the County Council,
33 the name of the appointee shall be delivered to the County Executive.

34 (C) (1) [who] THE COUNTY EXECUTIVE shall [within 30 days after the
35 appointment] either approve or disapprove the appointment WITHIN 30 DAYS AFTER
36 THE APPOINTMENT.

37 (2) [In the event that] IF the County Executive disapproves an
38 appointment, the County Executive shall return the appointment to the Council with
39 the reasons for the disapproval stated in writing.

1 (3) The COUNTY Council may [by the affirmative vote of 7 of its
2 members,] appoint a member of the Commission over the disapproval of the County
3 Executive BY THE AFFIRMATIVE VOTE OF:

4 (I) IN MONTGOMERY COUNTY, SEVEN MEMBERS; AND

5 (II) IN PRINCE GEORGE'S COUNTY, SIX MEMBERS.

6 (4) An appointment that is not disapproved by the County Executive in
7 the manner provided in this [title] SUBSECTION is deemed to be approved.

8 [(b)] (D) All appointments or reappointments [in Montgomery County shall
9 be] ARE subject to § 2-114 of this subtitle.

10 2-102.

11 (A) The term of office of each member of the Commission is four years.

12 (B) Appointments shall be made on or before June 15 of the year in which any
13 appointment is to be made, and terms of office shall begin as of that date and if any
14 appointment is not made as provided in this section a vacancy exists which shall be
15 filled as provided in this article for the filling of vacancies on the Commission. [The
16 members of the Commission in office immediately prior to July 1, 1975 shall remain
17 in office under the provision of this article for the remainder of the terms for which
18 they were appointed.]

19 (C) Members may continue to serve until their successors are appointed and
20 have qualified.

21 (D) In Montgomery County a person may not be appointed for 3 consecutive,
22 full terms. [Those members who have served 2 consecutive terms may complete their
23 current terms.]

24 2-103.

25 (A) (1) The APPOINTING County Council [of Montgomery County] may
26 remove any member of the Commission appointed from [Montgomery County] THAT
27 COUNTY.

28 (2) Removals may occur prior to the expiration of the term for which they
29 were appointed. [The County Executive of Prince George's County may remove at his
30 pleasure any members from that county prior to the expiration of the term for which
31 they were appointed, subject to the approval of the County Council of Prince George's
32 County by a vote of a majority of the full Council. In each case, the cause of removal
33 shall be stated in writing and a public hearing held on the removal. However, in
34 Prince George's County the Commission member sought to be removed may waive in
35 writing the public hearing held by the Council. Further, this provision does not apply
36 to any Prince George's member of the Commission in office on June 1, 1975 for the
37 member's current term of office.]

1 (B) (1) Any vacancy occurring in the membership of the Commission [from
2 Montgomery County] for any cause shall be filled by the APPOINTING County Council
3 for the unexpired term [and any vacancy occurring in the membership of the
4 Commission from Prince George's County shall be filled in the manner provided in
5 this title for the making of appointments to the Commission].

6 (2) A person appointed to fill any vacancy for an unexpired term shall be
7 a member of the same political party as was represented by the member who vacated
8 the office.

9 2-104.

10 (a) Each member of the Commission shall receive an annual salary of \$5,600
11 and the chairman shall receive \$6,100. In addition they shall be entitled to an annual
12 expense allowance of up to \$2,400, according to rules and regulations adopted by the
13 Commission, provided a voucher is submitted showing the expenses. All salaries are
14 to be payable monthly from the administrative tax collected by the Commission.

15 (b) (1) [In the discretion of the County Executive of Prince George's County,
16 subject to approval by the County Council by a vote of the majority of the full Council,
17 a member of the Commission from that county may be designated to serve on a
18 full-time basis, and this member may be either the chairman or the vice-chairman of
19 the Commission. The Montgomery] THE APPOINTING County Council may designate
20 a member of the Commission from that county to serve on a full-time basis [provided
21 that person] IF THE MEMBER has been designated by that county under the
22 provisions of § 2-105 of this article to serve as chairman or vice-chairman of the
23 Commission. [For any member designated by Prince George's County to serve on a
24 full-time basis, the County Council of that county, upon recommendation from the
25 County Executive, may authorize whatever supplementary salary as may be deemed
26 appropriate.]

27 (2) (I) For any member designated [by Montgomery County] to serve
28 on a full-time basis, the APPOINTING County Council, with approval of the County
29 Executive, may authorize whatever supplementary salary as may be appropriate.

30 (II) [In the event] IF the County Executive fails to approve a
31 supplementary salary authorization by the APPOINTING COUNTY Council within 30
32 days, the APPOINTING COUNTY Council[, by an affirmative vote of 6 of its members,]
33 may authorize the supplementary salary notwithstanding the lack of approval of the
34 County Executive BY THE AFFIRMATIVE VOTE OF:

35 1. IN MONTGOMERY COUNTY, SIX MEMBERS; AND

36 2. IN PRINCE GEORGE'S COUNTY, FIVE MEMBERS.

37 (III) Any supplementary salary authorized in this title shall be
38 payable also from the administrative tax collected by the Commission.

1 2-105.

2 (A) [The County Executive of Prince George's County, subject to the approval
3 of the County Council, by a vote of a majority of the full Council, and the] EACH
4 APPOINTING County Council [of Montgomery County], subject to the approval of the
5 County Executive as provided in this title, shall [each] designate a member for the
6 position of chairman or vice-chairman.

7 (B) (1) Upon designation by the [Montgomery] APPOINTING County
8 Council, the name of the designee shall be delivered within three days to the
9 [Montgomery] County Executive.

10 (2) (I) [who within 30 days thereafter] THE COUNTY EXECUTIVE shall
11 either approve or disapprove the designation WITHIN 30 DAYS AFTER THE
12 DESIGNATION IS DELIVERED.

13 (II) [In the event that] IF the County Executive disapproves a
14 designee, [he] THE COUNTY EXECUTIVE shall return the name of the designee to the
15 COUNTY Council with the reasons for [his] THE disapproval stated in writing.

16 (III) The COUNTY Council[, by the affirmative vote of 6 of its
17 members,] may designate a member of the Commission for the position of chairman
18 or vice-chairman over the disapproval of the County Executive BY THE AFFIRMATIVE
19 VOTE OF:

20 1. IN MONTGOMERY COUNTY, SIX MEMBERS; AND

21 2. IN PRINCE GEORGE'S COUNTY, FIVE MEMBERS.

22 (IV) Any designation which has not been disapproved by the County
23 Executive in this manner shall be deemed to have been confirmed.

24 (C) (1) The Commission shall elect a chairman and vice-chairman from
25 those members designated [as above] UNDER THIS SECTION.

26 (2) The chairman shall preside at meetings of the Commission and
27 perform the other customary duties of the office.

28 (3) The vice-chairman shall preside in the absence of the chairman.

29 (4) The chairman and the vice-chairman of the Commission also serve
30 as chairmen of their respective county planning boards, as constituted in this article.

31 2-114.

32 (a) The provisions of this section shall apply to the Maryland-National
33 Capital Park and Planning Commission and to all Maryland-National Capital Park
34 and Planning Commissioners appointed or reappointed [by the Montgomery County
35 Council] under § 2-101 of this subtitle.

1 (c) (1) (I) The [Montgomery] APPOINTING County Council may require
2 an applicant for appointment or reappointment as Commissioner of the
3 Maryland-National Capital Park and Planning Commission to be interviewed by the
4 County Council or its designated agent in private as to any possible or potential
5 conflict of interest, and an applicant shall be so interviewed prior to being appointed
6 or reappointed.

7 (II) In each [such] interview, the applicant shall be questioned
8 under oath specifically on, but not limited to, all sources of income, property holdings,
9 business interests and financial interests, as well as the similar interests of the
10 applicant's spouse, father, mother, brother, sister or child.

11 (III) The County Council may require the production of any
12 document it wishes the applicant to produce.

13 (IV) The interview shall be conducted in a question and answer
14 fashion, and a written transcript shall be made of all questions and answers.

15 (2) When the testimony is fully transcribed the transcript shall be
16 submitted to the applicant for examination and shall be read to or by the applicant,
17 unless the submission, examination and reading are waived by the applicant. Unless
18 the submission, examination and reading of the transcript have been waived by the
19 applicant:

20 (i) Any changes which the applicant desires to make shall be
21 entered upon the transcript by the officer transcribing it with a statement of the
22 reason given by the applicant for making them; and

23 (ii) The transcript shall then be signed by the applicant; and the
24 officer transcribing it shall certify on the transcript that the applicant was duly sworn
25 by the officer and that the transcript is a true record of the testimony given by the
26 applicant.

27 (3) An applicant may not be appointed or reappointed unless the
28 applicant has filed a financial disclosure statement as required by § 15-820 of the
29 State Government Article and has been interviewed as required by paragraph (1) of
30 this subsection.

31 (4) There shall be a public disclosure by the County Council of the
32 complete transcribed testimony of the actual appointee or appointees three weeks
33 from the date of [his or her] appointment; and the complete transcript of all other
34 applicants shall be destroyed by the County Council immediately without disclosure
35 of any information contained therein to anyone.

36 (5) Annually, on or before June of each year, the appointee shall disclose,
37 in writing, to the County Council all information available to update and make
38 current the appointee's business and financial interest and property holdings in the
39 State of Maryland and the greater Washington metropolitan area, as well as
40 information available to the appointee concerning the business and financial interest
41 and property holding of the appointee's spouse, father, mother, brother, sister or child,

1 and there shall be complete public disclosure by the County Council of the
2 information so received. The County Council may require substantiation and
3 additional information wherever the Council shall determine it necessary.

4 2-115.

5 (A) THIS SECTION APPLIES TO COMMISSIONERS FROM MONTGOMERY
6 COUNTY AND PRINCE GEORGE'S COUNTY.

7 [(a)] (B) No commissioner may:

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

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

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

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

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

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

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

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2005.