

HOUSE BILL 1476

L5
HB 865/03 – ENV

0lr3492

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

Introduced and read first time: March 1, 2010

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, March 8, 2010

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2010

CHAPTER _____

1 AN ACT concerning

2 **Prince George’s County – Maryland–National Capital Park and Planning**
3 **Commission – Commissioners**

4 **PG/MC 119–10**

5 FOR the purpose of altering the date on which a commissioner of the
6 Maryland–National Capital Park and Planning Commission from Prince
7 George’s County is appointed; altering the method by which a member of the
8 Commission from Prince George’s County shall be designated for the position of
9 chairman or vice-chairman of the Commission; providing that the term of the
10 chairman of the Prince George’s County Planning Board shall coincide with that
11 individual’s term of office as commissioner; applying certain provisions
12 regarding conflicts of interest to commissioners appointed from Prince George’s
13 County; providing for the termination of the terms of certain commissioners of
14 the Maryland–National Capital Park and Planning Commission; providing for
15 the appointment and ~~terms~~ term of office of ~~certain commissioners~~ a certain
16 commissioner of the Maryland–National Capital Park and Planning
17 Commission; and generally relating to commissioners of the Maryland–National
18 Capital Park and Planning Commission appointed from Prince George’s County.

19 BY repealing and reenacting, with amendments,
20 Article 28 – Maryland–National Capital Park and Planning Commission
21 Section 2–102, ~~2–105~~, and 2–115
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2003 Replacement Volume and 2009 Supplement)

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

4 **Article 28 – Maryland–National Capital Park and Planning Commission**

5 2–102.

6 The term of office of each member of the Commission is four years.
7 **[Appointments] IN MONTGOMERY COUNTY, APPOINTMENTS** shall be made on or
8 before June 15 of the year in which any appointment is to be made, and terms of office
9 shall begin as of that [date and if] **DATE. IN PRINCE GEORGE’S COUNTY,**
10 **APPOINTMENTS SHALL BE MADE ON OR BEFORE FEBRUARY 1 OF THE YEAR IN**
11 **WHICH ANY APPOINTMENT IS TO BE MADE, AND TERMS OF OFFICE SHALL BEGIN**
12 **AS OF THAT DATE. IF** any appointment is not made as provided in this section a
13 vacancy exists which shall be filled as provided in this article for the filling of
14 vacancies on the Commission. The members of the Commission in office immediately
15 prior to July 1, 1975 shall remain in office under the provision of this article for the
16 remainder of the terms for which they were appointed. Members may continue to
17 serve until their successors are appointed and have qualified. In Montgomery County
18 a person may not be appointed for 3 consecutive, full terms. Those members who have
19 served 2 consecutive terms may complete their current terms.

20 2–105.

21 The [County Executive of Prince George’s County, subject to the approval of the
22 County Council, by a vote of a majority of the full Council, and the] County Council of
23 Montgomery County, subject to the approval of the County Executive as provided in
24 this title, shall [each] designate a member for the position of chairman or
25 vice–chairman. Upon designation by the Montgomery County Council, the name of the
26 designee shall be delivered within three days to the Montgomery County Executive
27 who within 30 days thereafter shall either approve or disapprove the designation. In
28 the event that the County Executive disapproves a designee, he shall return the name
29 of the designee to the Council with the reasons for his disapproval stated in writing.
30 The Council, by the affirmative vote of 6 of its members, may designate a member of
31 the Commission for the position of chairman or vice–chairman over the disapproval of
32 the County Executive. Any designation which has not been disapproved by the County
33 Executive in this manner shall be deemed to have been confirmed. **THE COUNTY**
34 **EXECUTIVE OF PRINCE GEORGE’S COUNTY SHALL DESIGNATE A MEMBER OF**
35 **THE COMMISSION FROM PRINCE GEORGE’S COUNTY WHOSE TERM BEGINS ON**
36 **FEBRUARY 1 OF THE YEAR FOLLOWING A GUBERNATORIAL ELECTION FOR THE**
37 **POSITION OF CHAIRMAN OR VICE–CHAIRMAN.** The Commission shall elect a
38 chairman and vice–chairman from those members designated as above. The chairman
39 shall preside at meetings of the Commission and perform the other customary duties
40 of the office. The vice–chairman shall preside in the absence of the chairman. The

1 chairman and the vice-chairman of the Commission also serve as chairmen of their
2 respective county planning boards, as constituted in this article. **THE TERM OF THE**
3 **CHAIRMAN OF THE PRINCE GEORGE'S COUNTY PLANNING BOARD SHALL**
4 **COINCIDE WITH THAT INDIVIDUAL'S TERM OF OFFICE AS COMMISSIONER.**

5 2-115.

6 (a) **THIS SECTION APPLIES TO COMMISSIONERS APPOINTED FROM**
7 **MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.**

8 (B) No commissioner may:

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

1 Sanitary Commission, the Prince George's County Board of Appeals, or the
2 Montgomery County Board of Appeals.

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

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

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

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

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

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

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding
33 Article 28, § 2-102 of the Annotated Code of Maryland, the term of each commissioner
34 of the Maryland-National Capital Park and Planning Commission appointed from
35 Prince George's County in office on the effective date of this Act shall terminate on
36 January 31 of the year in which that commissioner's term is to expire.

37 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding
38 Article 28, §§ 2-102 and 2-105 of the Annotated Code of Maryland and Section 2 of

1 this Act, the ~~terms of each term~~ of the ~~commissioners~~ commissioner of the
 2 Maryland–National Capital Park and Planning Commission appointed from Prince
 3 George’s County ~~who also holds the position of the chairman of the county planning~~
 4 ~~board~~ serving on January 31, 2011, or ~~their successors~~ that individual’s successor
 5 selected to fill a vacancy, shall terminate on February 1, 2011. The ~~terms~~ term of the
 6 ~~commissioners~~ commissioner appointed from Prince George’s County whose term of
 7 office begins on February 1, 2011, shall terminate on January 31, 2015, or when ~~their~~
 8 ~~successors~~ that individual’s successor ~~are~~ is appointed and ~~qualify~~ qualifies. Beginning
 9 with the term of office of the ~~commissioners~~ commissioner appointed from Prince
 10 George’s County in 2015 ~~who also holds the position of chairman of the Prince George’s~~
 11 ~~County Planning Board~~, the appointment of the ~~commissioners~~ commissioner shall
 12 conform to the provisions of Article 28, § 2–102 of the Annotated Code as enacted by
 13 this Act.

14 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
 15 effect June 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.