Chapter 37

(Senate Bill 96)

AN ACT concerning

Washington Suburban Sanitary Commission

FOR the purpose of adding a new division to the Public Utility Companies Article of the Annotated Code of Maryland, to be designated and known as "Division II. Washington Suburban Sanitary Commission"; revising, restating, and recodifying certain laws relating to the Washington Suburban Sanitary Commission, including laws relating to the members and employees of the Commission and the powers and duties of the Commission; revising, restating, and recodifying certain laws relating to personnel management and collective bargaining for Commission employees, ethics laws for the Commission, Commission procurements, the authority of the Commission to acquire and dispose of certain property, Prince George's County quick take condemnation, certain zoning map referrals, certain urban renewal projects, the issuance and sale of certain bonds and notes, certain taxes imposed by Montgomery County and Prince George's County, certain water and sewer systems, the construction of certain subdivision lines and service connections, the Commission's capital improvements program, certain construction projects and sewer cleaning, the imposition of certain rates and charges by the Commission, the provision of water from the Commission's system to certain other counties, authorities and duties of the Commission regarding the right to enter on or disturb certain public roadways under certain circumstances, the Commission police force, prohibited acts and penalties for the violation of certain provisions, and stormwater management in Montgomery County and Prince George's County; transferring certain provisions relating to flood control and the use of certain lands acquired for flood control and navigation purposes; amending and transferring a certain provision relating to flood control and navigation bonds to the Session Laws; defining certain terms; adding the designation of a new division to the Public Utility Companies Article of the Annotated Code of Maryland, to be known as "Division I. Public Services and Utilities"; renaming the Public Utility Companies Article to be the Public Utilities Article of the Annotated Code; providing for the construction and application of this Act; providing for the continuity of a certain unit and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and permits; providing for the effective dates of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the laws of the State concerning the Washington Suburban Sanitary Commission.

BY repealing

Article 29 – Washington Suburban Sanitary District

Section 1–101 through 1–107, the title "Title 1. Definitions; General Provisions", and the subtitle "Subtitle 1. In General"; 1–201 through 1–208 and the subtitle "Subtitle 2. Legal and Financial Affairs"; 1–301 through 1–304 and the subtitle "Subtitle 3. Payment of Commission Obligations"; 2–101 through 2–104 and the title "Title 2. Prince George's County Quick Take"; 3–101 through 3–110, the title "Title 3. Water, Sewers, and Drainage", and the subtitle "Subtitle 1. In General"; 3–201 through 3–207 and the subtitle "Subtitle 2. Special Provisions"; 3–301 and the subtitle "Subtitle 3. Sewer Cleaning"; 4–101 through 4–110, 4–111A, and 4–112, the title "Title 4. Bonds and Anticipation Notes Generally", and the subtitle "Subtitle 1. General Obligation Bonds and Notes"; 4–201 through 4–212 and the subtitle "Subtitle 2. Revenue Bonds"; 5–101 through 5–109 and the title "Title 5. Front Foot Benefit Charges"; 6–101 through 6–113 and the title "Title 6. Rates and Charges Generally"; 7–101 through 7–107 and the title "Title 7. WSSC Capital Improvements Program"; 8–101 through 8–104 and the title "Title 8. Plumbing, Waterworks, and Sewer Construction"; 9–101 and 9–102 and the title "Title 9. Miscellaneous Powers and Duties of WSSC"; 10–101 through 10–108 and the title "Title 10. Highways and Streets"; 11–101 through 11–117 and the title "Title 11. Merit System"; 11.5–101 through 11.5–114 and the title "Title 11.5 Collective Bargaining"; 12–101 through 12–106, the title "Title 12. Ethics", and the subtitle "Subtitle 1. Conflicts of Interest and Lobbying"; 14–101 through 14–103 and the title "Title 14. Water System in Anne Arundel County"; 15–101 through 15–106 and the title "Title 15. Water System in Howard County"; 16–101 through 16–103 and the title "Title 16. Urban Renewal Projects"; 18–101 through 18–103, 18–104(a)(1) through (6) and (8) through (11) and (b) through (h), and 18–105 through 18–108 and the title "Title 18. Miscellaneous Provisions"; and 19–101 and the title "Title 19. Area Laws and Boundary Descriptions"

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

BY repealing

The article designation "Article 29 – Washington Suburban Sanitary District"

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

BY transferring

Article 29 – Washington Suburban Sanitary District

Section 13–101 and 13–102, respectively, and the title "Title 13. Flood Control"

Annotated Code of Maryland

(2003 Replacement Volume and 2009 Supplement)

to be

Article 28 – Maryland–National Capital Park and Planning Commission

Section 9–101 and 9–102, respectively, and the title "Title 9. Flood Control"
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY adding to
Article – Public Utility Companies
Section 16–101 and the title "Title 16. Definitions"; 17–101 through 17–501 and the title "Title 17. Commission"; 18–101 through 18–217 and the title "Title 18. Personnel"; 19–101 through 19–108 and the title "Title 19. Ethics"; 20–101 through 20–304 and the title "Title 20. Procurement"; 21–101 through 21–403 and the title "Title 21. Property and Land Use Matters"; 22–101 through 22–210 and the title "Title 22. Bonds and Notes"; 23–101 through 23–316 and the title "Title 23. Water, Sewers, and Drainage"; 24–101 through 24–201 and the title "Title 24. Plumbing, Waterworks, and Sewer Construction"; 25–101 through 25–508 and the title "Title 25. Rates and Charges"; 26–101 through 26–206 and the title "Title 26. Water Systems in Anne Arundel County and Howard County"; 27–101 through 27–108 and the title "Title 27. Highways and Streets"; 28–101 and 28–201 and the title "Title 28. Miscellaneous Provisions"; and 29–101 through 29–107 and the title "Title 29. Prohibited Acts; Penalties" to be under the new division "Division II. Washington Suburban Sanitary Commission"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 24–101 through 24–801 to be under the new title "Title 24. Stormwater Management"
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 25–403(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)
(As enacted by Section 3 of this Act and Chapter 423 of Acts of the General Assembly of 2007)

BY adding to
Article – Public Utility Companies
The new division designation "Division I. Public Services and Utilities" to immediately precede Section 1–101
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 29 – Washington Suburban Sanitary District
Section 18–104(a)(7)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY renaming
Article – Public Utility Companies
to be
Article – Public Utilities
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the following Section(s) of the Annotated Code of Maryland be repealed:

Article 29 – Washington Suburban Sanitary District
Section 1–101 through 1–107, the title "Title 1. Definitions; General Provisions", and the subtitle "Subtitle 1. In General"; 1–201 through 1–208 and the subtitle "Subtitle 2. Legal and Financial Affairs"; 1–301 through 1–304 and the subtitle "Subtitle 3. Payment of Commission Obligations"; 2–101 through 2–104 and the title "Title 2. Prince George's County Quick Take"; 3–101 through 3–110, the title "Title 3. Water, Sewers, and Drainage", and the subtitle "Subtitle 1. In General"; 3–201 through 3–207 and the subtitle "Subtitle 2. Special Provisions"; 3–301 and the subtitle "Subtitle 3. Sewer Cleaning"; 4–101 through 4–110, 4–111A, and 4–112, the title "Title 4. Bonds and Anticipation Notes Generally", and the subtitle "Subtitle 1. General Obligation Bonds and Notes"; 4–201 through 4–212 and the subtitle "Subtitle 2. Revenue Bonds"; 5–101 through 5–109 and the title "Title 5. Front Foot Benefit Charges"; 6–101 through 6–113 and the title "Title 6. Rates and Charges Generally"; 7–101 through 7–107 and the title "Title 7. WSSC Capital Improvements Program"; 8–101 through 8–104 and the title "Title 8. Plumbing, Waterworks, and Sewer Construction"; 9–101 and 9–102 and the title "Title 9. Miscellaneous Powers and Duties of WSSC"; 10–101 through 10–108 and the title "Title 10. Highways and Streets"; 11–101 through 11–117 and the title "Title 11. Merit System"; 11.5–101 through 11.5–114 and the title "Title 11.5 Collective Bargaining"; 12–101 through 12–106, the title "Title 12. Ethics", and the subtitle "Subtitle 1. Conflicts of Interest and Lobbying"; 14–101 through 14–103 and the title "Title 14. Water System in Anne Arundel County"; 15–101 through 15–106 and the title "Title 15. Water System in Howard County"; 16–101 through 16–103 and the title "Title 16. Urban Renewal Projects"; 18–101 through 18–103, 18–104(a)(1) through (6) and (8) through (11) and (b) through (h), and 18–105 through 18–108 and the title "Title 18. Miscellaneous Provisions"; and 19–101 and the title "Title 19. Area Laws and Boundary Descriptions"

The article designation "Article 29 – Washington Suburban Sanitary District"

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 13–101 and 13–102, respectively, and the title "Title 13. Flood Control" of Article 29 – Washington Suburban Sanitary District of the Annotated Code of Maryland be transferred to be Section(s) 9–101 and 9–102, respectively, and the title "Title 9. Flood Control" of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utility Companies

DIVISION II. WASHINGTON SUBURBAN SANITARY COMMISSION.

TITLE 16. DEFINITIONS.

16–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(a).

The only change is in style.

(B) COMMISSION.

"COMMISSION" MEANS THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(j).

The only change is in style.

(C) COMMISSIONER.

"COMMISSIONER" MEANS A MEMBER OF THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(b).

No changes are made.

(D) COUNTY.

"COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

REVISOR'S NOTE: This subsection is new language added as the standard definition of "county".

Defined term: "State" § 16–101

(E) HOOKUP.

"HOOKUP" MEANS A CONNECTION BETWEEN THE PLUMBING ON THE OWNER'S PROPERTY AND THE COMMISSION SERVICE CONNECTION.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(c).

The only changes are in style.

Defined term: "Commission" § 16–101

(F) MUNICIPALITY.

"MUNICIPALITY" MEANS A MUNICIPAL CORPORATION THAT IS ORGANIZED UNDER ARTICLE XI–E OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This subsection is new language added for clarity.

(G) PERSON.

"PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND AND ANY PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(f).

No changes are made.

(H) PUBLIC ROADWAY.

"PUBLIC ROADWAY" MEANS ANY STATE, COUNTY, OR MUNICIPAL STREET, ROAD, ALLEY, OR HIGHWAY.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(g).

No changes are made.

Defined terms: "County" § 16–101
"State" § 16–101

(I) SANITARY DISTRICT.

(1) "SANITARY DISTRICT" MEANS THE WASHINGTON SUBURBAN SANITARY DISTRICT, AS DESCRIBED IN CHAPTER 805 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1981.

(2) "SANITARY DISTRICT" DOES NOT INCLUDE ANY SPECIAL EXEMPTION PROVIDED FOR BY LAW.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 1–101(i).

In paragraph (2) of this subsection, the reference to any special exemption "provided for by law" is substituted for the former reference to any special exemptions "of Title 19 of this article" for clarity and accuracy.

(J) SERVICE CONNECTION.

"SERVICE CONNECTION" MEANS A LATERAL SERVICE LINE THAT IS CONSTRUCTED BY THE COMMISSION FROM A COMMISSION WATER OR SEWER MAIN TO A PROPERTY LINE.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(h).

The only change is in style.

Defined term: "Commission" § 16–101

(K) STATE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, "STATE" MEANS:

(I) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE UNITED STATES; OR

(II) THE DISTRICT OF COLUMBIA.

(2) WHEN CAPITALIZED, "STATE" MEANS MARYLAND.

REVISOR'S NOTE: This subsection is new language added to provide an express definition of the terms "state" and "State" in this division that is consistent with the term defined in recently revised articles of the Code. *See, e.g.*, EC § 1–101(g).

REVISOR'S NOTE TO SECTION:

Former Art. 29, § 1–101(d), which defined "includes" or "including", is deleted as duplicative of Art. 1, § 30.

Former Art. 29, § 1–101(e), which defined "municipal corporation" to exclude the Commission for any purpose under Article XI–E of the Maryland Constitution, is deleted as unnecessary in light of the defined term "municipality" that restricts the term to those entities subject to Article XI–E of the Maryland Constitution and given that Article XI–E does not apply to the Commission because the term "municipal corporation" has a geographical connotation with a political body representative of and governing its inhabitants. *See Maryland–National Capital Park and Planning Commission v. Montgomery County*, 267 Md. 82, 296 A.2d 692 (1972).

TITLE 17. COMMISSION.

SUBTITLE 1. COMMISSIONERS.

17–101. ESTABLISHED.

(A) IN GENERAL.

THERE IS A WASHINGTON SUBURBAN SANITARY COMMISSION.

(B) JURISDICTION.

THE COMMISSION HAS JURISDICTION OVER THE SANITARY DISTRICT.

REVISOR'S NOTE: This section formerly was Art. 29, § 1–102(a).

The only changes are in style.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

17–102. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE COMMISSION CONSISTS OF:

(1) THREE COMMISSIONERS FROM PRINCE GEORGE'S COUNTY, APPOINTED BY THE COUNTY EXECUTIVE SUBJECT TO THE CONFIRMATION OF THE COUNTY COUNCIL; AND

(2) THREE COMMISSIONERS FROM MONTGOMERY COUNTY, APPOINTED BY THE COUNTY EXECUTIVE SUBJECT TO THE CONFIRMATION OF THE COUNTY COUNCIL.

(B) QUALIFICATIONS OF MEMBERS.

(1) EACH COMMISSIONER SHALL BE A RESIDENT OF THE SANITARY DISTRICT.

(2) (I) EACH COMMISSIONER FROM MONTGOMERY COUNTY SHALL BE A REGISTERED VOTER OF MONTGOMERY COUNTY.

(II) EACH COMMISSIONER FROM PRINCE GEORGE'S COUNTY SHALL BE A REGISTERED VOTER OF PRINCE GEORGE'S COUNTY.

(C) RESTRICTIONS ON MEMBERS.

(1) AN INDIVIDUAL MAY NOT BE APPOINTED OR CONTINUE IN OFFICE AS A COMMISSIONER IF THE INDIVIDUAL HOLDS ANY OTHER POSITION OF PROFIT OR TRUST UNDER THE CONSTITUTION OR LAWS OF THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE.

(2) NOT MORE THAN TWO COMMISSIONERS FROM MONTGOMERY COUNTY MAY BE OF THE SAME POLITICAL PARTY.

(D) TENURE; VACANCIES.

(1) THE TERM OF A COMMISSIONER IS 4 YEARS AND BEGINS ON JUNE 1 OF THE YEAR OF APPOINTMENT.

(2) THE TERMS OF COMMISSIONERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR COMMISSIONERS ON JULY 1, 1982.

(3) AT THE END OF A TERM, A COMMISSIONER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND TAKES THE OATH OF OFFICE.

(4) A COMMISSIONER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND TAKES THE OATH OF OFFICE.

(5) A VACANCY ON THE COMMISSION DOES NOT IMPAIR THE RIGHT OF THE REMAINING COMMISSIONERS TO EXERCISE ALL THE POWERS OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–102(b), (c), (d), and (e).

In subsection (b) of this section, the references to "commissioner" are substituted for the former references to "appointee" for consistency within this section.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

17–103. APPOINTMENT PROCEDURES.

(A) LIST OF APPLICANTS.

(1) THE COUNTY EXECUTIVE SHALL MAKE AN APPOINTMENT FROM A LIST OF APPLICANTS.

(2) THE LIST SHALL BE:

(I) COMPLETED AT LEAST 3 WEEKS BEFORE THE DATE THE APPOINTMENT IS MADE; AND

(II) OPEN TO THE PUBLIC FOR INSPECTION FROM THE TIME THE LIST IS PREPARED UNTIL THE APPOINTMENT IS MADE.

(3) (I) IF AN INDIVIDUAL IS NOT APPOINTED FROM THE NAMES ON THE LIST, THE COUNTY EXECUTIVE SHALL PREPARE ADDITIONAL LISTS AND FOLLOW THE PROCEDURE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(II) THE 3–WEEK PERIOD BEFORE THE DATE THE APPOINTMENT IS MADE BEGINS WITH THE CLOSING OF EACH LIST.

(B) CONFLICTS OF INTEREST.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY EXECUTIVE OR A DESIGNEE OF THE COUNTY EXECUTIVE MAY INTERVIEW IN PRIVATE EACH APPLICANT FOR APPOINTMENT OR REAPPOINTMENT TO THE COMMISSION REGARDING POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST.

(2) BEFORE APPOINTMENT, THE COUNTY EXECUTIVE OR A DESIGNEE OF THE COUNTY EXECUTIVE SHALL INTERVIEW IN PRIVATE AN APPLICANT WHO IS SELECTED FOR APPOINTMENT TO THE COMMISSION REGARDING POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST.

(3) BEFORE APPOINTMENT, THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY OR A DESIGNEE OF THE COUNTY EXECUTIVE SHALL INFORM THE PRINCE GEORGE'S COUNTY COUNCIL OF POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST OF AN APPLICANT WHO IS SELECTED FOR APPOINTMENT TO THE COMMISSION.

(C) INTERVIEW AND TRANSCRIPT.

(1) A WRITTEN TRANSCRIPT OF AN INTERVIEW UNDER SUBSECTION (B) OF THIS SECTION:

(I) SHALL BE MADE;

(II) MAY BE REVIEWED BY THE APPLICANT, UNLESS THE RIGHT TO REVIEW IS WAIVED BY THE APPLICANT;

(III) MAY BE ALTERED FOR THE APPLICANT BY THE TRANSCRIBING OFFICER, IF THE TRANSCRIPT IS ACCOMPANIED BY A STATEMENT OF THE REASON GIVEN BY THE APPLICANT FOR THE ALTERATION; AND

(IV) SHALL BE SIGNED BY THE APPLICANT.

(2) THE TRANSCRIBING OFFICER SHALL CERTIFY ON THE TRANSCRIPT THAT:

(I) THE APPLICANT WAS SWORN BY THE OFFICER; AND

(II) THE TRANSCRIPT IS A TRUE RECORD OF THE TESTIMONY GIVEN BY THE APPLICANT.

(3) THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY OR A DESIGNEE OF THE COUNTY EXECUTIVE SHALL:

(I) PUBLICLY DISCLOSE THE COMPLETE TRANSCRIBED TESTIMONY OF AN APPOINTEE TO THE COMMISSION 3 WEEKS AFTER THE APPOINTMENT; AND

(II) DESTROY IMMEDIATELY THE COMPLETE TRANSCRIPT OF ANY OTHER APPLICANT WITHOUT DISCLOSURE OF ANY INFORMATION CONTAINED IN THE TRANSCRIPT.

(D) MONTGOMERY COUNTY — INTERVIEW AND DOCUMENTS.

(1) IN MONTGOMERY COUNTY, IF THE COUNTY EXECUTIVE OR A DESIGNEE OF THE COUNTY EXECUTIVE CONDUCTS AN INTERVIEW UNDER SUBSECTION (B) OF THIS SECTION, THE APPLICANT SHALL BE INTERVIEWED:

(I) IN A QUESTION AND ANSWER FASHION;

(II) UNDER OATH; AND

(III) ABOUT ALL SOURCES OF INCOME, PROPERTY HOLDINGS, BUSINESS INTERESTS, AND FINANCIAL INTERESTS OF THE APPLICANT AND THE APPLICANT'S SPOUSE, FATHER, MOTHER, BROTHER, SISTER, AND CHILD.

(2) THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY OR A DESIGNEE OF THE COUNTY EXECUTIVE MAY REQUIRE THE APPLICANT TO PRODUCE DOCUMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–103.

In subsection (a)(2)(i) of this section, the former reference to the "County Executive" making the appointment is deleted as surplusage. Similarly, in subsection (a)(2)(ii) of this section, the former reference to the appointment being made "by the County Executive" is deleted.

Also in subsection (a)(2)(i) of this section, the former reference to the "actual" appointment is deleted as surplusage. Similarly, in subsection (c)(3)(i) of this section, the former reference to an "actual" appointee is deleted.

In subsection (a)(2)(ii) of this section, the reference to when the list is "prepared" is substituted for the former reference to when the list is "first begun" for clarity.

In subsection (a)(3)(i) of this section, the phrase "[i]f an individual is not appointed" is substituted for the former phrase "[i]f the County Executive does not choose to appoint an individual" for brevity.

Also in subsection (a)(3)(i) of this section, the reference to the procedure "under paragraph (2) of this subsection" is substituted for the former reference to the procedure "applicable to the first list" for clarity.

In subsection (a)(3)(ii) of this section, the reference to the 3–week period "before the date the appointment is made" is added for clarity.

In the introductory language of subsection (c)(1) of this section, the reference to an interview "under subsection (b) of this section" is added for clarity.

In subsection (c)(1)(ii) of this section, the reference to the "right to review" the transcript is added for clarity.

In subsection (c)(1)(iii) of this section, the reference to "the transcript" is added for clarity.

In subsection (c)(2)(i) of this section, the former reference to being "duly" sworn is deleted as surplusage.

In subsection (c)(3)(ii) of this section, the former reference to disclosure "to anyone" is deleted as surplusage.

In subsection (d)(1)(iii) of this section, the reference to "and" is substituted for the former reference to "or" for clarity.

In subsection (d)(2) of this section, the reference to requiring "the applicant to produce documents" is substituted for the former reference to

requiring "the production of any documents that the County Executive or designee wishes the applicant to produce" for brevity.

Defined term: "Commission" § 16–101

17–104. REMOVAL OF COMMISSIONERS.

(A) IN GENERAL.

A COMMISSIONER MAY BE REMOVED BEFORE THE COMPLETION OF THE COMMISSIONER'S TERM:

(1) IN MONTGOMERY COUNTY:

(I) BY THE COUNTY EXECUTIVE WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL; OR

(II) UNLESS THE COUNTY EXECUTIVE DISAPPROVES THE RESOLUTION IN WRITING WITHIN 30 DAYS AFTER ITS ADOPTION, BY RESOLUTION OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL; AND

(2) IN PRINCE GEORGE'S COUNTY, BY THE COUNTY EXECUTIVE WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL.

(B) PUBLIC HEARING.

(1) UNLESS A HEARING IS WAIVED IN WRITING BY THE COMMISSIONER DESIGNATED FOR REMOVAL, BEFORE ANY REMOVAL UNDER THIS SECTION, A PUBLIC HEARING SHALL BE HELD:

(I) IN MONTGOMERY COUNTY, BY THE BODY INITIATING THE REMOVAL PROCEEDING; OR

(II) IN PRINCE GEORGE'S COUNTY, BY THE COUNTY COUNCIL.

(2) THE COMMISSIONER SHALL BE GIVEN AN OPPORTUNITY AT THE HEARING TO PRESENT A DEFENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–104.

In subsection (a)(1)(ii) of this section, the reference to within 30 days "after" adoption of the resolution is substituted for the former reference to within 30 days "of" its adoption for clarity.

In subsection (b)(1)(i) of this section, the reference to "or" is substituted for the former reference to "and" for clarity.

Defined term: "Commissioner" § 16–101

17–105. OFFICERS.

(A) IN GENERAL.

FROM AMONG ITS MEMBERS, THE COMMISSION SHALL ELECT A CHAIR AND A VICE CHAIR.

(B) ELECTIONS; TENURE.

(1) THE ELECTION OF THE CHAIR AND VICE CHAIR SHALL BE AT THE FIRST MEETING OF THE COMMISSION IN JUNE OF EACH YEAR, OR AS SOON AFTER THE MEETING AS POSSIBLE.

(2) OF THE CHAIR AND VICE CHAIR:

(I) ONE SHALL BE FROM MONTGOMERY COUNTY AND THE OTHER SHALL BE FROM PRINCE GEORGE'S COUNTY; AND

(II) EACH OFFICE SHALL ALTERNATE ANNUALLY BETWEEN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(3) (I) BY UNANIMOUS VOTE THE COMMISSION MAY WAIVE THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS SUBSECTION FOR 1 YEAR.

(II) THE COMMISSION MAY NOT WAIVE THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS SUBSECTION FOR 2 SUCCESSIVE YEARS.

(4) EACH OFFICER SHALL SERVE FOR 1 YEAR OR UNTIL A SUCCESSOR IS ELECTED.

(C) DUTIES.

EACH OFFICER SHALL PERFORM THE DUTIES DESIGNATED BY THE COMMISSION.

(D) VACANCIES.

(1) IF A VACANCY EXISTS IN THE POSITION OF CHAIR OR VICE CHAIR, THE COMMISSION PROMPTLY SHALL ELECT A NEW CHAIR OR VICE CHAIR FOR THE REMAINING PORTION OF THE 1–YEAR TERM OF OFFICE.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE VACANCY IN THE POSITION OF CHAIR OR VICE CHAIR RESULTS FROM RESIGNATION OR REMOVAL FROM THE COMMISSION, THE ELECTION TO FILL THE UNEXPIRED PORTION OF THE OFFICER'S TERM SHALL BE HELD ONLY AFTER THE COMMISSION VACANCY HAS BEEN FILLED.

(II) THE COMMISSION MAY ELECT AN ACTING CHAIR OR VICE CHAIR TO SERVE UNTIL THE VACANCY HAS BEEN FILLED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–105(b) and (c).

Throughout this section, the references to "chair" and "vice chair" are substituted for the former references to "chairman" and "vice–chairman", respectively, because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (b)(1) of this section, the reference to "after the meeting" is substituted for the former reference to "thereafter" for clarity.

In subsection (b)(2)(ii) of this section, the reference to "annually" is substituted for the former reference to "from year to year" for brevity.

In subsection (d)(2)(i) of this section, the former references to "that officer's" resignation or removal "for any reason" are deleted as surplusage.

Defined term: "Commission" § 16–101

17–106. MEETINGS; MINUTES.

(A) MEETINGS.

THE COMMISSION SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(B) FORM OF MINUTES.

THE COMMISSION SHALL KEEP MINUTES IN THE USUAL CORPORATE FORM.

(C) RECORDATION OF VOTES.

(1) THE VOTES OF THE COMMISSIONERS SHALL BE:

(I) TAKEN AND RECORDED FOR ANY ACTION THAT:

1. AUTHORIZES, MODIFIES, OR RESCINDS A WATER OR SANITARY SEWER EXTENSION; OR

2. ADOPTS OR AMENDS A WATER OR SEWER PROGRAM OF EXTENSIONS;

(II) TAKEN SEPARATELY; AND

(III) RECORDED AS YEAS, NAYS, OR ABSTENTIONS.

(2) THE COMMISSION SHALL RECORD IN THE MINUTES:

(I) THE NAME OF A COMMISSIONER WHO VOTES OR ABSTAINS;

(II) THE REASON FOR AN ABSTENTION;

(III) A BRIEF SUMMARY OF THE MATTERS ON WHICH A VOTE IS TAKEN; AND

(IV) ANY DISCLOSURE MADE UNDER § 19–103 OF THIS ARTICLE.

(D) PUBLIC INSPECTION.

THE MINUTES SHALL BE OPEN TO PUBLIC INSPECTION AT THE PRINCIPAL OFFICE OF THE COMMISSION DURING BUSINESS HOURS.

REVISOR'S NOTE: Subsection (a) of this section is standard language added for clarity.

Subsections (b) through (d) of this section are new language derived without substantive change from former Art. 29, § 12–102.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

17–107. COMPENSATION; BENEFITS; STAFF.

(A) COMPENSATION.

(1) THE MEMBERS OF THE COMMISSION ARE ENTITLED TO THE FOLLOWING ANNUAL SALARIES:

(I) CHAIR $13,500;

(II) VICE CHAIR ..... $13,000; AND

(III) COMMISSIONERS ..... $13,000.

(2) THE SALARY SHALL BE PAID EVERY 2 WEEKS.

(B) BENEFITS.

WHILE IN OFFICE, COMMISSIONERS MAY PARTICIPATE IN ANY COMMISSION PROGRAM OF GROUP HEALTH, LIFE, AND DISABILITY INSURANCE TO THE SAME EXTENT AND UNDER THE SAME TERMS AS COMMISSION STAFF.

(C) STAFF.

THE COMMISSION MAY EMPLOY A STAFF IN ACCORDANCE WITH THE COMMISSION'S BUDGET.

REVISOR'S NOTE: Subsections (a) and (b) of this section are new language derived without substantive change from former Art. 29, § 1–105(a).

Subsection (c) of this section is standard language added for clarity.

In the introductory language of subsection (a)(1) of this section, the reference to "annual" salaries is added for clarity.

Also in the introductory language of subsection (a)(1) of this section, the phrase "are entitled to" the following annual salaries is substituted for the former phrase "shall receive" for consistency with similar provisions in other revised articles of the Code.

In subsection (a)(1)(i) and (ii) of this section, the references to the "chair" and "vice chair" are substituted for the former references to the

"[c]hairman" and "[v]ice–[c]hairman", respectively, because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (b) of this section, the reference to "staff" is substituted for the former reference to "officers and employees" for clarity and brevity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to add a provision to subsection (a) of this section that states that commissioners are entitled to reimbursement for expenses for consistency with standard language throughout the Code providing for the reimbursement of expenses for members of commissions.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

SUBTITLE 2. LEGAL AND FINANCIAL AFFAIRS.

17–201. INCORPORATION; JUDGMENTS; PREVIOUS ACTS.

(A) INCORPORATION.

(1) THE COMMISSION IS A BODY CORPORATE.

(2) THE COMMISSION MAY:

(I) USE A COMMON SEAL;

(II) SUE AND BE SUED; AND

(III) DO ANY OTHER CORPORATE ACT FOR THE PURPOSE OF CARRYING OUT THIS DIVISION.

(B) JUDGMENTS; THREATENED OR PENDING LITIGATION.

(1) THE COMMISSION SHALL CERTIFY TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY A TAX RATE THAT WILL, WHEN IMPOSED AND COLLECTED IN ACCORDANCE WITH § 22–106 OF THIS ARTICLE, PRODUCE AN AMOUNT SUFFICIENT TO SATISFY:

(I) A JUDGMENT AGAINST THE COMMISSION, INCLUDING RELATED COSTS AND ATTORNEY'S FEES; OR

(II) A SETTLEMENT AGREEMENT TO RESOLVE THREATENED OR PENDING LITIGATION, INCLUDING RELATED COSTS AND ATTORNEY'S FEES.

(2) THE COMMISSION SHALL CERTIFY THE TAX RATE UNDER PARAGRAPH (1) OF THIS SUBSECTION AT THE BEGINNING OF THE TAXABLE YEAR FOR PROPERTY TAXES OF THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY IMMEDIATELY FOLLOWING THE DATE OF THE JUDGMENT OR SETTLEMENT AGREEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE TAX RATE DESCRIBED IN THIS SUBSECTION IS IN ADDITION TO ANY TAX REQUIRED UNDER THIS DIVISION FOR INTEREST, SERIAL BONDS, OR SINKING FUND REQUIREMENTS.

(C) PREVIOUS ACTS.

ALL ACTS, ORDERS, AND REGULATIONS PREVIOUSLY PASSED BY THE COMMISSION WHILE SITTING IN THE DISTRICT OF COLUMBIA ARE RATIFIED AND SHALL BE GIVEN THE SAME FORCE AND EFFECT AS IF PASSED IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–201.

In subsection (a)(1) of this section, the reference to the "Commission" is substituted for the former reference to the "members of the WSSC" for accuracy.

Also in subsection (a)(1) of this section, the former phrase "by the name of the 'Washington Suburban Sanitary Commission'" is deleted as unnecessary in light of the use of the defined term "Commission".

In subsection (a)(2)(iii) of this section, the former reference to any "and all" other corporate acts is deleted as implicit in the reference to "any" other corporate act.

In the introductory language of subsection (b)(1) of this section, the reference to "imposed" is substituted for the former reference to "levied" for clarity and consistency with terminology used in the Tax – General Article and the Tax – Property Article.

In subsection (b)(1)(i) and (ii) of this section, the references to "related" costs and attorney's fees are added for clarity.

In subsection (b)(1)(i) of this section, the former reference to a judgment "at law or in equity" is deleted as obsolete to reflect the merger of law and equity effected by Md. Rule 2–301, which mandates "one form of action known as the 'civil action'".

Also in subsection (b)(1)(i) of this section, the former reference to a judgment being "recovered" is deleted as unnecessary.

In subsection (b)(1)(ii) of this section, the reference to a "settlement agreement" is substituted for the former reference to "other sum" for clarity. Similarly, in subsection (b)(2) of this section, the reference to a "settlement agreement" is substituted for the former reference to a "compromise".

Also in subsection (b)(1)(ii) of this section, the reference to "resolve" is substituted for the former reference to "amicably adjust" for clarity and brevity.

In subsection (b)(2) of this section, the reference to the "beginning of the taxable year for property taxes" is substituted for the former reference to the "annual tax levying period" for clarity and consistency with § 22–106 of this article.

Also in subsection (b)(2) of this section, the reference to "immediately following" is substituted for the former reference to "next succeeding" for clarity.

Also in subsection (b)(2) of this section, the reference to "date" is substituted for the former reference to "rendition" for clarity.

In subsection (b)(3) of this section, the reference to any tax required "under this division" is added for clarity.

In subsection (c) of this section, the former reference to "confirmed" is deleted as implicit in the reference to "ratified".

Defined terms: "Commission" § 16–101
"State" § 16–101

17–202. CAPITAL AND OPERATING BUDGETS.

(A) PREPARATION AND SUBMISSION OF BUDGETS; CONTENT.

THE COMMISSION:

(1) BEFORE JANUARY 15 OF EACH YEAR, SHALL PREPARE CAPITAL AND OPERATING BUDGETS FOR THE NEXT FISCAL YEAR THAT SHALL INCLUDE PROJECTS AND CONTRACTS AUTHORIZED UNDER §§ 17–204 AND 17–205 OF THIS SUBTITLE;

(2) SHALL MAKE AVAILABLE TO THE PUBLIC, ON REQUEST, COPIES OF THE BUDGETS DESCRIBED IN ITEM (1) OF THIS SUBSECTION;

(3) BEFORE FEBRUARY 15 OF EACH YEAR, SHALL HOLD A PUBLIC HEARING ON THE PROPOSED CAPITAL AND OPERATING BUDGETS AFTER GIVING AT LEAST 21 DAYS' NOTICE OF THE HEARING BY PUBLICATION IN AT LEAST TWO NEWSPAPERS OF GENERAL CIRCULATION IN MONTGOMERY COUNTY AND TWO NEWSPAPERS OF GENERAL CIRCULATION IN PRINCE GEORGE'S COUNTY;

(4) ON OR BEFORE MARCH 1 OF EACH YEAR, SHALL SUBMIT TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY THE PROPOSED CAPITAL AND OPERATING BUDGETS FOR THE NEXT FISCAL YEAR, INCLUDING THE RECORD OF ANY PUBLIC HEARING ON THE PROPOSED CAPITAL OR OPERATING BUDGET HELD BY THE COMMISSION;

(5) SHALL IDENTIFY THE SOURCES OF REVENUE ALLOCABLE TO EACH PROPOSED EXPENDITURE;

(6) SHALL PROPOSE A COMPLETE SCHEDULE OF RATES FOR WATER SERVICE CHARGES, SEWER USAGE CHARGES, AND AD VALOREM TAXES THAT THE COMMISSION CONSIDERS NECESSARY TO FINANCE THE CAPITAL AND OPERATING BUDGETS;

(7) SHALL CERTIFY THE AMOUNT NECESSARY TO BE RAISED FOR THE NEXT FISCAL YEAR FOR DEBT SERVICE PAYMENTS ON ALL OUTSTANDING BONDS AND NOTES OF THE COMMISSION; AND

(8) BETWEEN MARCH 1 AND APRIL 1 OF EACH YEAR, MAY SUBMIT TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY AMENDMENTS TO THE PROPOSED CAPITAL OR OPERATING BUDGET, INCLUDING A DECLARATION OF NEED IDENTIFYING THE SOURCES OF REVENUE ALLOCABLE TO THE PROPOSED AMENDMENTS.

(B) DUTIES OF COUNTY EXECUTIVES.

THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL SUBMIT TO THE RESPECTIVE COUNTY COUNCIL:

(1) ON OR BEFORE MARCH 15 OF EACH YEAR, THE PROPOSED CAPITAL AND OPERATING BUDGETS, INCLUDING:

(I) RECOMMENDATIONS ON THE PROPOSED CAPITAL AND OPERATING BUDGETS; AND

(II) THE RECORD OF ANY PUBLIC HEARING ON THE CAPITAL OR OPERATING BUDGET HELD BY THE COMMISSION; AND

(2) ANY AMENDMENTS TO THE PROPOSED CAPITAL AND OPERATING BUDGETS WITH THE COUNTY EXECUTIVE'S RECOMMENDATIONS WITHIN 10 DAYS AFTER RECEIPT OF THE AMENDMENTS.

(C) POWERS AND DUTIES OF COUNTY COUNCILS.

(1) THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY:

(I) AFTER GIVING PUBLIC NOTICE, MAY HOLD PUBLIC HEARINGS ON THE PROPOSED CAPITAL AND OPERATING BUDGETS NOT EARLIER THAN 21 CALENDAR DAYS AFTER RECEIPT OF THE CAPITAL AND OPERATING BUDGETS FROM THE RESPECTIVE COUNTY EXECUTIVE;

(II) MAY ADD TO, DELETE FROM, INCREASE, OR DECREASE AN ITEM OF THE CAPITAL OR OPERATING BUDGET;

(III) ON OR BEFORE MAY 15 OF EACH YEAR, SHALL SUBMIT ANY PROPOSED CHANGES TO THE CAPITAL OR OPERATING BUDGETS TO THE OTHER COUNTY COUNCIL FOR REVIEW AND CONCURRENCE; AND

(IV) ON OR BEFORE JUNE 1 OF EACH YEAR, SHALL APPROVE THE CAPITAL AND OPERATING BUDGETS AND SUBMIT THEM TO THE COMMISSION.

(2) (I) IF THE COUNTY COUNCILS FAIL TO CONCUR IN A CHANGE WITH RESPECT TO ANY ITEM IN THE CAPITAL OR OPERATING BUDGET ON OR BEFORE JUNE 1 OF EACH YEAR, THE FAILURE TO CONCUR CONSTITUTES APPROVAL OF THE ITEM AS SUBMITTED BY THE COMMISSION.

(II) IF THE COUNTY COUNCILS FAIL TO APPROVE THE CAPITAL AND OPERATING BUDGETS ON OR BEFORE JUNE 1 OF EACH YEAR, THE

PROPOSED CAPITAL AND OPERATING BUDGETS OF THE COMMISSION ARE DEEMED APPROVED.

(D) BUDGET SUPPLEMENTS.

(1) THE COMMISSION MAY SUBMIT DETAILED PROPOSED SUPPLEMENTS TO THE APPROVED CAPITAL AND OPERATING BUDGETS TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) WITHIN 10 DAYS AFTER RECEIPT OF A PROPOSED BUDGET SUPPLEMENT, EACH COUNTY EXECUTIVE SHALL SUBMIT THE PROPOSED BUDGET SUPPLEMENT, INCLUDING RECOMMENDATIONS, TO THE RESPECTIVE COUNTY COUNCIL.

(3) EACH COUNTY COUNCIL:

(I) MAY HOLD PUBLIC HEARINGS ON THE PROPOSED BUDGET SUPPLEMENT; AND

(II) MAY ADD TO, DELETE FROM, INCREASE, OR DECREASE THE PROPOSED BUDGET SUPPLEMENT.

(4) THE FAILURE OF THE COUNTY COUNCILS TO JOINTLY APPROVE OR AMEND THE PROPOSED BUDGET SUPPLEMENT WITHIN 90 DAYS AFTER THE DATE THAT THE COMMISSION SUBMITS THE PROPOSED BUDGET SUPPLEMENT TO THE COUNTY EXECUTIVES CONSTITUTES DISAPPROVAL OF THE SUPPLEMENT AS SUBMITTED BY THE COMMISSION.

(E) WATER AND SEWER RATE AND AD VALOREM TAX LEVY RECOMMENDATION.

(1) ON SUBMISSION OF THE APPROVED CAPITAL AND OPERATING BUDGETS THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY MAY JOINTLY RECOMMEND TO THE COMMISSION RATES FOR:

(I) WATER SERVICE CHARGES;

(II) SEWER USAGE CHARGES; AND

(III) AD VALOREM TAXES.

(2) (I) ON RECEIPT OF THE CAPITAL AND OPERATING BUDGETS AND RECOMMENDATIONS FROM THE COUNTY COUNCILS, THE COMMISSION SHALL APPROVE A RATE SCHEDULE.

(II) IN APPROVING A RATE SCHEDULE THE COMMISSION SHALL CONSIDER THE PROPOSED RATE CHANGES JOINTLY RECOMMENDED BY THE COUNTY COUNCILS.

(3) SUBJECT TO § 25–101 OF THIS ARTICLE, THE RATES FOR WATER SERVICE CHARGES AND SEWER USAGE CHARGES SHALL BE UNIFORM THROUGHOUT THE SANITARY DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–204.

Throughout this section, the references to "capital and operating" budgets and "capital or operating" budgets are added for clarity.

In subsection (a)(1) of this section, the former reference to the capital and operating budgets being "open for inspection by the public" is deleted as unnecessary in light of the requirement in subsection (a)(2) of this section that the Commission "make available to the public, on request, copies of the budgets".

In subsection (a)(3) of this section, the former references to providing notice in newspapers "published" in each county are deleted in light of the references to newspapers "of general circulation" and Art. 1, § 28.

In subsection (a)(4) of this section, the reference to the "proposed" capital and operating budgets is added for consistency with terminology used throughout this section.

Also in subsection (a)(4) of this section, the reference to any hearing held "by the Commission" is added for accuracy and consistency with subsection (b)(1)(ii) of this section.

Also in subsection (a)(4) of this section, the former reference to budget "for the WSSC" is deleted as unnecessary.

Also in subsection (a)(4) of this section, the former requirement that the WSSC "prepare" the capital and operating budgets is deleted as unnecessary in light of the requirement in subsection (a)(1) of this section that the Commission prepare the budgets.

In subsection (a)(5) of this section, the reference to "each proposed expenditure" is substituted for the former reference to "the various proposed expenditures" for clarity.

In subsections (a)(6) and (e)(1)(i) of this section, the references to water "service" are substituted for the former references to water "consumption" for consistency with terminology used throughout this division. Similarly, in subsection (e)(3) of this section, the reference to water "service" is substituted for the former reference to water "usage".

In subsections (a)(6) and (e)(1)(iii) of this section, the former references to tax "levied" is deleted as unnecessary.

In subsection (a)(7) of this section, the reference to "fiscal" year is added for clarity.

Also in subsection (a)(7) of this section, the reference to "debt service payments" is substituted for the former reference to "payment of interest and principal" for brevity since "debt service" is defined elsewhere in the Code as "the amount annually needed to pay the maturing principal of and interest on bonds, notes, and other evidences of obligation and to meet sinking fund requirements for these purposes". *See* TR § 3–101(e).

In subsections (a)(8) and (b)(2) of this section, the references to "amendments" are substituted for the former references to "amendatory items" for clarity and brevity.

In the introductory language of subsection (b) of this section, the reference to "[t]he county executives of Montgomery County and Prince George's County" is substituted for the former reference to "[e]ach County Executive" for accuracy. Correspondingly, the reference to the "respective" county council is added for clarity.

In the introductory language of subsection (b)(1) of this section, the reference to "on or before" March 15 is substituted for the former reference to "not later than" March 15 for clarity and consistency with terminology used throughout this section.

In subsection (b)(1)(ii) of this section, the reference to a hearing "on the capital or operating budget" is added for accuracy.

In the introductory language of subsection (c)(1) of this section, the reference to "[t]he county councils of Montgomery County and Prince George's County" is substituted for the former reference to "[e]ach County Council" for accuracy. Correspondingly, in subsection (c)(1)(i) of this

section, the reference to the "respective" county executive is added for clarity.

In subsection (c)(1)(i) and the introductory language of subsection (e)(1) of this section, the former references to budgets "of the WSSC" are deleted as unnecessary.

In subsection (c)(1)(i) of this section, the reference to "after giving" public notice is substituted for the former reference to "[o]n" public notice for clarity.

Also in subsection (c)(1)(i) of this section, the reference to receipt "of the capital and operating budgets" is added for clarity.

In subsection (c)(1)(iii) and (2)(i) of this section, the references to "on or before" a certain date are substituted for the former references to "by" a certain date for consistency with terminology used throughout this section.

In subsection (c)(1)(iii) of this section, the reference to May 15 "of each year" is added for clarity and consistency with terminology used throughout this section.

In subsection (c)(2)(i) of this section, the reference to an item "in the capital or operating budget" is added for clarity.

In subsection (c)(2)(ii) of this section, the reference to the Commission's budgets being "deemed approved" is substituted for the former reference to the Commission's budgets being "adopted" for accuracy.

In subsection (d) of this section, the references to proposed "budget" supplements are added for clarity.

In subsection (d)(1) of this section, the reference to the county executives "of Montgomery County and Prince George's County" is substituted for the former reference to the county executives "of the counties" for accuracy.

Also in subsection (d)(1) of this section, the reference to "detailed" proposed supplements is substituted for the former requirement that "[t]he submittals shall include full particulars" for brevity and clarity.

In subsection (d)(2) of this section, the reference to the "respective" county council is substituted for the former reference to the county council "of that county" for brevity and consistency with terminology used throughout this section.

In subsection (d)(4) of this section, the reference to the date "that the Commission submits" the proposed budget supplement is substituted for the former reference to the date "of transmittal … by the WSSC" for clarity and consistency throughout this subtitle.

In the introductory language of subsection (e)(1) of this section, the reference to the county councils "of Montgomery County and Prince George's County" is added for clarity.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

17–203. APPROVAL OF NEW ADMINISTRATION BUILDING OR ADDITION.

APPROVAL BY THE GOVERNING BODIES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY IS REQUIRED BEFORE THE CONSTRUCTION OF ANY NEW COMMISSION ADMINISTRATION BUILDING OR ANY SUBSTANTIAL ADDITION TO AN EXISTING COMMISSION ADMINISTRATION BUILDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–205.

The reference to "the governing bodies" of Montgomery County and Prince George's County is added for clarity.

The reference to an existing "Commission" administration building is added for clarity.

Defined term: "Commission" § 16–101

17–204. CONTRACTS WITH FEDERAL, STATE, COUNTY, OR MUNICIPAL AUTHORITIES.

(A) WATER SUPPLY, SEWER, OR DRAINAGE SYSTEMS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY ENTER INTO A CONTRACT OR AGREEMENT CONCERNING THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE WATER SUPPLY, SEWER, OR DRAINAGE SYSTEMS UNDER ITS CONTROL OR UNDER THE CONTROL OR OWNERSHIP OF THE DISTRICT OF COLUMBIA OR ANY OTHER AGENCY, AUTHORITY, OR COMMISSION SPECIFIED IN THIS SECTION.

(2) THE COMMISSION MAY ENTER INTO A CONTRACT OR AGREEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION WITH:

(I) THE DISTRICT OF COLUMBIA;

(II) ANY FEDERAL, STATE, COUNTY, OR MUNICIPAL AUTHORITY IN THE STATE OR ANY OTHER STATE; OR

(III) ANY PUBLIC WATER, SEWER, OR DRAINAGE COMMISSION IN THE STATE OR ANY OTHER STATE.

(B) WATER OR WASTE WATER SYSTEMS.

THE COMMISSION MAY CONTRACT WITH, AS A PRIMARY PARTY OR AS A SUBCONTRACTOR, OR INVEST IN ANY PERSON FOR THE OWNERSHIP, JOINT–VENTURING, MANAGEMENT, OPERATION, SUPERVISION, ASSISTANCE, PARTICIPATION, OR ANY OTHER ACTIVITY RELATING TO THE DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, OR MANAGEMENT OF WATER OR WASTEWATER SYSTEMS, INCLUDING SYSTEMS, SERVICES, EXPERTISE, INTELLECTUAL PROPERTY, AND TECHNIQUES DEVELOPED IN CONNECTION WITH, OR USABLE OR MARKETABLE WITH RESPECT TO, WATER OR WASTEWATER SYSTEMS.

(C) FORCE AND EFFECT.

(1) ANY CONTRACT OR AGREEMENT ENTERED INTO UNDER THIS SECTION HAS THE FULL EFFECT OF A CONTRACT BETWEEN THE DISTRICT OF COLUMBIA AND THE STATE OR BETWEEN THE OTHER AGENCIES, AUTHORITIES, OR PERSONS DESCRIBED IN THE SECTION AND THIS STATE.

(2) THE AUTHORITY GRANTED IN THIS SECTION IS IN ADDITION TO, AND IS NOT LIMITED BY, THE AUTHORITY GRANTED BY ANY OTHER ACT OF THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–206(a), (b), (c), and (e).

In subsection (a)(1) of this section, the former reference to "any matter necessary, advisable, or expedient" is deleted as unnecessary.

Also in subsection (a)(1) of this section, the former reference to "proper" construction, maintenance, and operation is deleted as unnecessary.

Also in subsection (a)(1) of this section, the former reference to any other "type of" agency is deleted as surplusage.

In subsection (c)(1) of this section, the former reference to a contract entered into under "subsection (a) or (b)" of this section is deleted as unnecessary in light of the fact that subsections (a) and (b) now compose the remainder of the entire section.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Person" § 16–101
"State" § 16–101

17–205. PRODUCTS AND TECHNOLOGIES.

(A) DEFINITIONS.

IN THIS SECTION, "PRODUCT" OR "TECHNOLOGY" DOES NOT INCLUDE WATER OR SEWER SERVICE PROVIDED AS PART OF THE PRIMARY MISSION OF THE COMMISSION IN THE SANITARY DISTRICT OR THROUGH SYSTEMS CONNECTED DIRECTLY TO AND OPERATED AS PART OF THE WATER AND SEWER SYSTEM IN THE SANITARY DISTRICT.

(B) AUTHORITY TO SELL, LEASE, OR LICENSE PRODUCTS AND TECHNOLOGIES.

SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE COMMISSION MAY SELL, LEASE, OR LICENSE TO THE PUBLIC, OR ENTER INTO A CONTRACT CONCERNING:

(1) ANY PRODUCT OR TECHNOLOGY THAT IS PRODUCED OR DEVELOPED BY THE COMMISSION IN THE NORMAL COURSE OF OPERATIONS, INCLUDING PATENTS, TRADEMARKS, AND COPYRIGHTS;

(2) ANY SERVICE DIRECTLY RELATED TO A PRODUCT OR TECHNOLOGY DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(3) ANY SYSTEM, SERVICE, EXPERTISE, INTELLECTUAL PROPERTY, OR TECHNIQUE DEVELOPED, OWNED, OR CONTROLLED BY OR UNDER THE JURISDICTION OF THE COMMISSION.

(C) PRICE STRUCTURE.

THE COMMISSION MAY ADOPT A PRICE STRUCTURE FOR AN ITEM DESCRIBED IN SUBSECTION (B) OF THIS SECTION BASED ON ANY FACTORS THAT THE COMMISSION CONSIDERS RELEVANT, INCLUDING:

(1) THE COSTS OF CREATING, DEVELOPING, REPRODUCING, AND DELIVERING THE PRODUCT OR TECHNOLOGY;

(2) OVERHEAD AND LABOR COSTS; AND

(3) THE FAIR MARKET VALUE OF THE PRODUCT OR TECHNOLOGY.

(D) ACCOUNTING.

(1) THE COMMISSION SHALL ACCOUNT FOR EXPENDITURES AND REVENUES RESULTING FROM SALES UNDER THIS SECTION BY ESTABLISHING A SEPARATE SET OF ACCOUNTS.

(2) THE ACCOUNTS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ITEMIZED AND INCLUDED IN THE COMMISSION'S ANNUAL BUDGET.

(E) USE OF NET REVENUES.

THE COMMISSION SHALL USE ANY NET REVENUES EARNED FROM PROJECTS AND CONTRACTS ENTERED INTO UNDER THIS SECTION TO STABILIZE OR REDUCE RATES AND TO REDUCE DEBT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–208(a) through (d).

In subsection (a) of this section, the reference to "water and sewer system in" the sanitary district is added for clarity.

In the introductory language of subsection (c) of this section, the former reference to an item "authorized under" subsection (b) of this section is deleted as unnecessary in light of the reference to an item "described in" subsection (b) of this section.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

17–206. PROJECTS.

(A) FINANCING.

THE COMMISSION MAY FINANCE INITIAL PROGRAM DEVELOPMENT COSTS AND OTHER PROJECT COSTS FOR A PROJECT SUBJECT TO THIS SUBTITLE FROM COMMISSION FUNDING SOURCES OTHER THAN REVENUE BOND PROCEEDS ONLY IF THOSE COSTS ARE REIMBURSED FROM PROJECT REVENUES.

(B) FUNDING NOT TO EXCEED PERCENTAGE OF GROSS REVENUES.

IN ANY FISCAL YEAR, FUNDING OF INITIAL PROGRAM DEVELOPMENT COSTS AND OTHER PROJECT COSTS UNDER SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED AN AMOUNT EQUAL TO 3% OF THE GROSS REVENUES OF THE COMMISSION FROM WATER SERVICE CHARGES AND SEWER USAGE CHARGES FOR THE IMMEDIATELY PRECEDING FISCAL YEAR.

(C) PROJECTS UTILIZING REVENUE BONDS.

ANY PROJECT, CONTRACT, OR TRANSACTION ENTERED INTO UNDER THIS SUBTITLE THAT USES REVENUE BONDS ISSUED UNDER TITLE 22, SUBTITLE 2 OF THIS ARTICLE SHALL BE ENTERED INTO BY THE COMMISSION THROUGH THE USE OF:

(1) A LIMITED LIABILITY COMPANY;

(2) A LIMITED LIABILITY PARTNERSHIP;

(3) A LIMITED PARTNERSHIP; OR

(4) ANOTHER COMPARABLE LIMITED LIABILITY ENTITY OR ARRANGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 1–206(d), (f), and (g) and 1–208(e), (f), and (g).

In subsection (a) of this section, the phrase "[t]he Commission may" is added for clarity.

Also in subsection (a) of this section, the former reference to a project subject to "a contract or agreement under" this subtitle is deleted as unnecessary.

In subsection (b) of this section, the reference to initial program "development" costs is added for clarity and consistency with subsection (a) of this section.

Also in subsection (b) of this section, the reference to water "service" is substituted for the former reference to water "consumption" for consistency with terminology used throughout this division.

In the introductory language of subsection (c) of this section, the former reference to a project being entered into "only" through the use of certain entities is deleted as unnecessary.

Defined term: "Commission" § 16–101

SUBTITLE 3. PAYMENT OF COMMISSION OBLIGATIONS.

17–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–301(a).

No changes are made.

(B) PROPER INVOICE.

"PROPER INVOICE" MEANS AN INVOICE THAT:

(1) CONTAINS THE CONTRACTOR'S FEDERAL EMPLOYER'S IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER;

(2) CONTAINS THE CONTRACT OR PURCHASE ORDER NUMBER OR OTHER DESCRIPTION OF THE CONTRACT; AND

(3) CONTAINS OR IS ACCOMPANIED BY THE SUBSTANTIATING INFORMATION AND DOCUMENTATION REQUIRED BY REGULATION OR CONTRACT.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–301(c).

The only changes are in style.

(C) RECEIPT DATE.

"RECEIPT DATE" MEANS THE DATE THAT A PROPER INVOICE IS RECEIVED BY THE COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–301(d).

No changes are made.

Defined terms: "Commission" § 16–101
"Proper invoice" § 17–301

17–302. WHEN PAYMENTS ON WRITTEN CONTRACTS MADE.

IT IS THE POLICY OF THE COMMISSION THAT THE COMMISSION SHALL MAKE A PAYMENT IN ACCORDANCE WITH ANY AUTHORIZED, WRITTEN PROCUREMENT CONTRACT TO THE CONTRACTOR WITHIN 30 CALENDAR DAYS AFTER THE RECEIPT DATE OF A PROPER INVOICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–302.

Defined terms: "Commission" § 16–101
"Proper invoice" § 17–301
"Receipt date" § 17–301

17–303. INTEREST ON UNPAID CONTRACTS; RATE.

ANY AMOUNT DUE AND PAYABLE UNDER LAW AND AN AUTHORIZED, WRITTEN PROCUREMENT CONTRACT THAT REMAINS UNPAID FOR MORE THAN 45 CALENDAR DAYS AFTER THE RECEIPT DATE SHALL ACCRUE INTEREST, AT THE RATE SPECIFIED IN § 11–107(A) OF THE COURTS ARTICLE, FOR THE PERIOD THAT BEGINS 31 CALENDAR DAYS AFTER THE RECEIPT DATE.

REVISOR'S NOTE: This section formerly was Art. 29, § 1–303.

The only changes are in style.

Defined term: "Receipt date" § 17–301

17–304. LIABILITY OF COMMISSION FOR PAYMENT OF INTEREST.

THE COMMISSION IS NOT LIABLE FOR THE PAYMENT OF INTEREST UNDER THIS SUBTITLE:

(1) IF A PROPER INVOICE FOR ACCRUED INTEREST IS NOT SUBMITTED WITHIN 30 CALENDAR DAYS AFTER THE DATE OF THE COMMISSION'S CHECK FOR PAYMENT OF THE AMOUNT ON WHICH THE INTEREST ACCRUED;

(2) FOR MORE THAN 1 YEAR FOLLOWING THE 31ST CALENDAR DAY AFTER THE RECEIPT DATE;

(3) ON AMOUNTS REPRESENTING UNPAID INTEREST; OR

(4) IF THERE IS A DISPUTE, AS DETERMINED BY THE COMMISSION, AS TO ANY MATERIAL FACTOR IN THE CONTRACT OR PURCHASE ORDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 1–304 and 1–301(b).

In item (1) of this section, the former reference to the defined term "payment date" is revised as part of the substantive provision because the former defined term appeared only once.

Defined terms: "Commission" § 16–101
"Proper invoice" § 17–301
"Receipt date" § 17–301

SUBTITLE 4. MISCELLANEOUS POWERS AND DUTIES.

17–401. AUDIT; FINANCIAL STATEMENT; PUBLIC INFORMATION.

(A) DUTIES OF COMMISSION.

THE COMMISSION SHALL:

(1) PUBLISH ANNUALLY IN AT LEAST ONE NEWSPAPER IN MONTGOMERY COUNTY AND ONE NEWSPAPER IN PRINCE GEORGE'S COUNTY A COPY OF THE CURRENT FINANCIAL STATEMENT OF THE COMMISSION;

(2) EMPLOY A CERTIFIED PUBLIC ACCOUNTANT LICENSED TO PRACTICE IN THE STATE TO AUDIT THE BOOKS AND ACCOUNTS OF THE COMMISSION;

(3) KEEP AVAILABLE FOR PUBLIC INSPECTION DURING BUSINESS HOURS AT ITS PRINCIPAL OFFICE THE ANNUAL AUDIT AND CURRENT FINANCIAL STATEMENT; AND

(4) FILE ANNUALLY WITH THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, AND THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY A CERTIFIED COPY OF THE ANNUAL AUDIT AND CURRENT FINANCIAL STATEMENT.

(B) COUNTIES — AUDIT AND EXAMINATION OF BOOKS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY COUNCIL OR COUNTY EXECUTIVE OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY, IN PERSON OR BY A DULY AUTHORIZED AGENT, AUDIT AND EXAMINE THE BOOKS AND RECORDS OF THE COMMISSION.

(2) THE COMMISSION MAY NOT BE REQUIRED TO PAY THE COST OF THE AUDIT OR EXAMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 1–106 and 4–101(d).

In subsection (a)(3) of this section, the reference to keeping the audit and financial statement available "for" public inspection is substituted for the former reference to keeping them available "and open to" public inspection for brevity.

In subsection (b)(1) of this section, the former reference to "at any time" is deleted as unnecessary.

In subsection (b)(2) of this section, the reference to the Commission "not be[ing] required to pay the costs" is substituted for the former reference to "be[ing] without cost" for clarity.

Defined terms: "Commission" § 16–101
"State" § 16–101

17–402. DISCRIMINATION PROHIBITED.

THE COMMISSION MAY NOT DISCRIMINATE AGAINST A PERSON ON THE BASIS OF SEX, RACE, CREED, COLOR, AGE, MENTAL OR PHYSICAL DISABILITY, SEXUAL ORIENTATION, OR NATIONAL ORIGIN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–107.

The reference to a mental or physical "disability" is substituted for the former obsolete reference to a mental or physical "handicap".

Defined terms: "Commission" § 16–101
"Person" § 16–101

17–403. REGULATIONS — GENERALLY.

(A) AUTHORITY OF COMMISSION.

(1) EXCEPT AS OTHERWISE PROVIDED BY THIS DIVISION, THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS DIVISION AND ANY OTHER LAWS THE ADMINISTRATION AND ENFORCEMENT OF WHICH ARE VESTED IN THE COMMISSION.

(2) THE COMMISSION MAY:

(I) LIMIT OR REGULATE THE USE AND SUPPLY OF WATER SERVICE AND SANITARY SEWER SERVICE ON A TEMPORARY BASIS IN ANY AREA OR TO ANY PREMISES SERVED BY THE COMMISSION'S FACILITIES, AS THE NEEDS OF THE OCCASION AND THE PROTECTION OF THE COMMISSION'S SYSTEMS REQUIRE;

(II) ADOPT REGULATIONS THAT THE COMMISSION CONSIDERS NECESSARY FOR THE PUBLIC SAFETY, HEALTH, COMFORT, OR CONVENIENCE IN THE CONSTRUCTION, OPERATION, MAINTENANCE, EXPANSION, RELOCATION, REPLACEMENT, RENOVATION, AND REPAIR OF THE COMMISSION'S WATER SYSTEM AND SANITARY SEWER SYSTEM; AND

(III) ESTABLISH THE FORMS OF PERMITS AND SPECIFY THE NATURE, TYPE, AND AMOUNT OF INFORMATION, DETAIL, AND ENGINEERING DATA THAT A PERSON MUST SUBMIT TO THE COMMISSION FOR ANY PERMIT AUTHORIZED OR REQUIRED BY THIS DIVISION.

(B) NOTICE.

EXCEPT FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC HEALTH AND SAFETY OR FOR EMERGENCY PROVISIONS REQUIRED TO PROTECT THE COMMISSION'S SYSTEMS, THE COMMISSION SHALL PUBLISH A NOTICE OF ANY NEW REGULATION THAT IS AUTHORIZED BY THIS SECTION AT LEAST 30 DAYS BEFORE ITS EFFECTIVE DATE IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT.

(C) FORCE AND AUTHORITY OF LAW.

A REGULATION ADOPTED BY THE COMMISSION UNDER THIS SECTION HAS THE FORCE AND AUTHORITY OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 9–101.

In this section and throughout this subtitle, the former references to "rule[s]" are deleted as unnecessary in light of the use of the word "regulation[s]". *See* General Revisor's Note to division.

In subsection (a)(2)(ii) of this section, the former reference to regulations "not inconsistent with law" is deleted as unnecessary since all regulations are required to be consistent with law.

In subsection (a)(2)(iii) of this section, the reference to "establish[ing]" the forms of permits is substituted for the former reference to "[f]ix[ing]" the forms for clarity.

In subsection (b) of this section, the former reference to "separate" notice is deleted as unnecessary.

Also in subsection (b) of this section, the reference to each county "of the sanitary district" is added for clarity.

Also in subsection (b) of this section, the reference to a newspaper "of general circulation" is substituted for the former reference to a newspaper "published" for consistency with the other similar provisions of this division and in light of Art. 1, § 28.

Defined term: "Commission" § 16–101

17–404. REGULATIONS — GAS FIXTURES, DEVICES, AND CONNECTIONS.

(A) AUTHORITY OF COMMISSION.

THE COMMISSION MAY:

(1) ADOPT REGULATIONS FOR THE INSTALLATION OF FUEL GAS PIPING, APPLIANCES, APPURTENANCES, AND CONNECTIONS FROM THE POINT OF SERVICE SUPPLYING ANY PREMISES IN THE SANITARY DISTRICT; AND

(2) REQUIRE A PERMIT AND CHARGE A FEE FOR THE INSTALLATION OF FUEL GAS PIPING, APPLIANCES, APPURTENANCES, AND CONNECTIONS.

(B) NOTICE.

THE COMMISSION SHALL PUBLISH A NOTICE OF ANY NEW REGULATION THAT IS AUTHORIZED BY THIS SECTION AT LEAST 30 DAYS BEFORE ITS EFFECTIVE DATE IN AT LEAST TWO NEWSPAPERS OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT.

(C) VIOLATION OF REGULATIONS PROHIBITED.

A PERSON MAY NOT VIOLATE A REGULATION ADOPTED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 9–102.

In subsection (a)(1) of this section, the former reference to regulations "that the WSSC considers necessary or desirable" is deleted as unnecessary.

In subsection (b) of this section, the former reference to "separate" notice is deleted as unnecessary.

Also in subsection (b) of this section, the reference to each county "of the sanitary district" is added for clarity.

Also in subsection (b) of this section, the reference to newspapers "of general circulation" is substituted for the former reference to a newspaper "published" for consistency with the other similar provisions of this division and in light of Art. 1, § 28.

In subsection (c) of this section, the former reference to a regulation adopted "by the WSSC" is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (a)(2) of this section that authorizes the Commission to charge a fee for the installation of fuel gas piping, appliances, appurtenances, and connections is inconsistent with current practice. The Commission does not currently perform installations but does charge a fee for a permit to install fuel gas piping, appliances, appurtenances, and connections.

The General Assembly may wish to conform this section to current practice.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

17–405. REGULATIONS — PUBLICLY OWNED WATERSHED PROPERTY.

(A) AUTHORITY OF COMMISSION.

UNDER THE AUTHORITY GRANTED TO THE COMMISSION UNDER § 17–403 OF THIS SUBTITLE, THE COMMISSION MAY ADOPT REGULATIONS GOVERNING ALL PUBLICLY OWNED WATERSHED PROPERTY ACQUIRED BY OR UNDER THE JURISDICTION OF THE COMMISSION.

(B) NOTICE.

(1) THE COMMISSION SHALL POST THE WATERSHED REGULATIONS AT EACH PUBLIC RECREATION SITE IN THE WATERSHED AREAS.

(2) THE COMMISSION SHALL PUBLISH THE WATERSHED REGULATIONS AT LEAST 30 DAYS BEFORE THEIR ADOPTION IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT.

(3) (I) THE POSTING AND PUBLICATION OF THE WATERSHED REGULATIONS IS SUFFICIENT NOTICE.

(II) THE SWORN CERTIFICATE OF A COMMISSIONER AS TO THE POSTING AND PUBLICATION OF THE WATERSHED REGULATIONS IS PRIMA FACIE EVIDENCE OF POSTING AND PUBLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104.1(a).

In subsection (a) of this section, the reference to the authority "granted to the Commission" is added for clarity.

Also in subsection (a) of this section, the reference to regulations "governing" all property is substituted for the former reference to regulations "for the government and use of" all property for brevity.

In subsection (b)(2) of this section, the requirement that the "Commission" publish the watershed regulations is added for clarity.

Also in subsection (b)(2) of this section, the reference to a newspaper "of general circulation" is substituted for the former reference to a newspaper "published" for consistency with similar provisions of this division and in light of Art. 1, § 28.

In subsection (b)(3)(i) of this section, the former reference to posting and publication of the regulations being sufficient notice "to all persons" is deleted as surplusage.

In subsection (b)(3)(ii) of this section, the reference to evidence of "posting and publication" is substituted for the former reference to evidence of these facts" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for the consideration of the General Assembly, that subsection (b)(3)(ii) of this section may be obsolete.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101
"Sanitary district" § 16–101

17–406. ADDITIONAL REGULATIONS.

(A) AUTHORITY OF COMMISSION.

THE COMMISSION MAY ADOPT REGULATIONS GOVERNING:

(1) EROSION AND SEDIMENT CONTROL FOR UTILITY CONSTRUCTION UNDER AUTHORITY OF § 17–403 OF THIS SUBTITLE AND § 4–105 OF THE ENVIRONMENT ARTICLE, AFTER REVIEW AND APPROVAL OF THE PROPOSED REGULATIONS BY THE SOIL CONSERVATION DISTRICTS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY AND THE DEPARTMENT OF NATURAL RESOURCES;

(2) SEWER CLEANING UNDER AUTHORITY OF § 24–201 OF THIS ARTICLE;

(3) PLUMBING UNDER AUTHORITY OF § 17–403 OF THIS SUBTITLE AND §§ 24–106, 26–102, AND 26–204 OF THIS ARTICLE;

(4) GAS FITTING UNDER AUTHORITY OF § 17–404 OF THIS SUBTITLE;

(5) REQUIRED PERMITS FOR PUBLIC UTILITY CONSTRUCTION UNDER AUTHORITY OF §§ 27–101 AND 27–107 OF THIS ARTICLE; AND

(6) THE COMMISSION PRETREATMENT PROGRAM UNDER AUTHORITY OF § 17–403 OF THIS SUBTITLE AND § 9–332 OF THE ENVIRONMENT ARTICLE.

(B) NOTICE.

(1) THE COMMISSION SHALL PUBLISH THE REGULATIONS AS PROVIDED UNDER § 17–403(B) OF THIS SUBTITLE.

(2) THE SWORN CERTIFICATE OF A COMMISSIONER AS TO THE PUBLICATION OF THE REGULATIONS IS PRIMA FACIE EVIDENCE OF PUBLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104.2(b).

In subsection (a)(1) of this section, the reference to the review and approval "of the proposed regulations" is added for clarity.

In subsection (b)(1) of this section, the requirement that the "Commission" publish the regulations is added for clarity.

In subsection (b)(2) of this section, the reference to the publication "of the regulations" is substituted for the former reference to publication "under this section" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for the consideration of the General Assembly, that subsection (b)(2) of this section may be obsolete.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

17–407. PAYMENT FOR PROPERTY DAMAGE CAUSED BY SANITARY SEWER BACKUP OR WATER MAIN BREAK.

(A) PROPERTY DAMAGE.

(1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ACCORDANCE WITH ITS REGULATIONS, THE COMMISSION MAY PAY FOR ACTUAL PROPERTY DAMAGE CAUSED BY:

(I) A SANITARY SEWER BACKUP; OR

(II) A WATER MAIN BREAK ON OR AFTER OCTOBER 1, 1999.

(2) PAYMENT MADE BY THE COMMISSION UNDER THIS SECTION IS NOT AN ADMISSION OF LIABILITY.

(B) INTENTIONAL ACT OR NEGLIGENCE.

THE COMMISSION MAY NOT PAY FOR ACTUAL PROPERTY DAMAGE CAUSED BY A SANITARY SEWER BACKUP OR WATER MAIN BREAK IF THE SANITARY SEWER BACKUP, WATER MAIN BREAK, OR RESULTING DAMAGE FROM THE BACKUP OR BREAK WAS CAUSED BY AN INTENTIONAL ACT OR NEGLIGENCE OF THE OWNER OR TENANT OF THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–106.

In subsection (a)(1)(i) of this section, the former reference to a sanitary sewer backup "occurring on or after July 1, 1979" is deleted as unnecessary.

Defined term: "Commission" § 16–101

17–408. COMPOSTING FACILITIES.

(A) LIMITATIONS ON LOCATION OF SITE.

UNLESS THE COMMISSION TAKES PRECAUTIONS TO MAKE A COMPOSTING FACILITY FREE OF OFFENSIVE OFF–SITE ODORS, THE COMMISSION MAY NOT CONSTRUCT THE FACILITY IN AN AREA THAT HAS MORE THAN 100 HOMES THAT ARE LOCATED WITHIN 5 MILES OF THE FACILITY.

(B) CONSTRUCTION AND OPERATION.

THE COMMISSION SHALL ADOPT REGULATIONS THAT PROVIDE STANDARDS FOR THE CONSTRUCTION AND OPERATION OF A COMPOSTING FACILITY THAT IS FREE OF OFFENSIVE OFF–SITE ODORS.

(C) CLOSING FACILITIES.

IF THE COMMISSION DOES NOT CONTROL AND ELIMINATE ANY OFFENSIVE OFF–SITE ODOR THAT IS CAUSED BY A COMPOSTING FACILITY THAT IS CONSTRUCTED AFTER JULY 1, 1986, THE COMMISSION SHALL CLOSE THE FACILITY WITHIN 4 MONTHS AFTER THE DATE THE OFFENSIVE OFF–SITE ODOR IS EMITTED FROM THE FACILITY.

(D) ALTERNATIVES FOR DISPOSITION OF SLUDGE AT CLOSED FACILITIES.

IF A COMPOSTING FACILITY IS CLOSED FOR FAILURE TO MEET ANY STANDARDS ADOPTED BY THE COMMISSION UNDER THIS SECTION, MONTGOMERY COUNTY SHALL SELECT AN ALTERNATIVE METHOD OR LOCATION FOR THE DISPOSITION OF SLUDGE LOCATED AT THE CLOSED FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–107(a), (b), (c), and (e).

In subsection (d) of this section, the former reference to the Montgomery County "government" is deleted as unnecessary.

Former Art. 29, § 18–107(d), which required certain actions regarding composting facilities in existence on July 1, 1986, to be taken on or before January 1, 1987, is deleted as obsolete.

The Washington Suburban Sanitary Commission Law Review Committee notes, for the consideration of the General Assembly, that the Commission does not currently own or run any composting facilities.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for the consideration of the General Assembly, that although former Art. 29, § 18–107(e), revised in subsection (d) of this section, states that Montgomery County shall select an alternative method or location for the disposition of certain sludge on the closing of a composting facility, the intent probably is that the governing body of the county in which the composting facility was located shall select an alternate method or location for the disposition of the sludge. The General Assembly may wish to clarify this provision.

Defined term: "Commission" § 16–101

SUBTITLE 5. BOUNDARY DESCRIPTION OF SANITARY DISTRICT.

17–501. BOUNDARIES.

THE SANITARY DISTRICT IS COMPOSED OF THOSE PARTS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY THAT ARE DESCRIBED IN CHAPTER 766 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1982.

REVISOR'S NOTE: This section formerly was Art. 29, § 19–101.

The only change is in style.

Defined term: "Sanitary district" § 16–101

TITLE 18. PERSONNEL.

SUBTITLE 1. PERSONNEL MANAGEMENT.

18–101. "SECRETARY" DEFINED.

IN THIS SUBTITLE, "SECRETARY" MEANS THE SECRETARY OF BUDGET AND MANAGEMENT.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full reference to the "Secretary of Budget and Management".

18–102. EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT PROHIBIT THE COMMISSION FROM EMPLOYING CONSULTING OR OUTSIDE ENGINEERING SERVICES THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section formerly was Art. 29, § 11–101(c).

The former reference to "other" outside engineering services is deleted as unnecessary.

The only other changes are in style.

Defined term: "Commission" § 16–101

18–103. APPLICABILITY OF STATE PERSONNEL AND PENSIONS ARTICLE TO COMMISSION.

EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN SKILLED SERVICE AND PROFESSIONAL SERVICE EMPLOYEES DO NOT APPLY TO THE COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 29, § 11–116(b).

The only change is in style.

Defined term: "Commission" § 16–101

18–104. EMPLOYMENT OF PERSONNEL; EXPENDITURES; REIMBURSEMENT.

THE COMMISSION:

(1) MAY EMPLOY PERSONNEL AND MAKE EXPENDITURES NECESSARY TO CARRY OUT THE PURPOSES OF THIS SUBTITLE; AND

(2) SHALL REIMBURSE THE STATE FOR ANY REASONABLE COST INCURRED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT IN CARRYING OUT THE FUNCTIONS UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 11–117.

The only changes are in style.

Defined terms: "Commission" § 16–101
"State" § 16–101

18–105. REGULATIONS.

(A) AUTHORITY TO ADOPT.

THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) APPROVAL OF CHANGES.

(1) THE COMMISSION SHALL SUBMIT ANY CHANGE IN A REGULATION TO THE SECRETARY FOR APPROVAL.

(2) FAILURE OF THE SECRETARY TO ACT WITHIN 60 DAYS AFTER RECEIPT OF THE PROPOSED REGULATION CONSTITUTES APPROVAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–102(b).

In this section and throughout this subtitle, the former references to "rule[s]" are deleted as unnecessary in light of the use of the word "regulation[s]". *See* General Revisor's Note to division.

In subsection (a) of this section, the former reference to adopting regulations "that the WSSC considers necessary and proper" is deleted as implicit in the discretionary authority of the Commission to adopt regulations "to carry out this subtitle".

In subsection (b)(1) of this section, the reference to submitting any change in a regulation to the Secretary "for approval" is added for clarity and consistency with subsection (b)(2) of this section.

In subsection (b)(2) of this section, the reference to receipt of the "proposed" regulation is added for clarity.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–106. GENERAL DUTY AND AUTHORITY TO MANAGE EMPLOYEES.

(A) ORGANIZATION REQUIRED.

THE COMMISSION SHALL ORGANIZE ITS EMPLOYEES IN A MANNER THAT PROMOTES THE EFFICIENT DISPOSITION OF ALL MATTERS WITHIN THE COMMISSION'S JURISDICTION.

(B) AUTHORITY.

TO CARRY OUT THIS DIVISION, THE COMMISSION MAY:

(1) ORGANIZE ITS EMPLOYEES INTO DEPARTMENTS OR OTHER DIVISIONAL ORGANIZATIONS;

(2) ESTABLISH THE FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF THE GENERAL MANAGER, SECRETARY, TREASURER, CHIEF ENGINEER, GENERAL COUNSEL, AND OTHER EMPLOYEES THE COMMISSION CONSIDERS NECESSARY; AND

(3) APPOINT, DISCHARGE, AND SET THE COMPENSATION OF ITS EMPLOYEES IN ACCORDANCE WITH THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–101(a) and (b).

In this section, the references to "employees" are substituted for the former references to "staff" for consistency with the terminology used throughout this subtitle.

In subsection (b)(2) of this section, the former reference to "[a]ppoint[ing]" employees is deleted as redundant of the same reference in subsection (b)(3) of this section.

In subsection (b)(3) of this section, the former reference to "all of" the Commission's employees is deleted as surplusage.

Defined term: "Commission" § 16–101

18–107. MERIT SYSTEM.

(A) ESTABLISHMENT AUTHORIZED.

THE COMMISSION MAY ESTABLISH A MERIT SYSTEM THAT INCLUDES ALL OF ITS EMPLOYEES EXCEPT:

(1) THE GENERAL MANAGER, SECRETARY, TREASURER, AND CHIEF ENGINEER;

(2) THE HEAD OF A DEPARTMENT; AND

(3) A PART TIME, TEMPORARY, OR CONTRACT EMPLOYEE.

(B) APPOINTMENTS AND PROMOTIONS.

THE COMMISSION MAY:

(1) APPOINT OR PROMOTE A MERIT SYSTEM EMPLOYEE TO THE POSITION OF GENERAL MANAGER OR DEPARTMENT HEAD OR DESIGNATE A MERIT SYSTEM EMPLOYEE AS THE GENERAL MANAGER OR DEPARTMENT HEAD ON AN ACTING BASIS;

(2) RETAIN THE EMPLOYEE IN THE MERIT SYSTEM IN THE POSITION OR GRADE FROM WHICH THE EMPLOYEE WAS APPOINTED OR PROMOTED; AND

(3) CONTINUE TO EXCLUDE THE POSITIONS OF GENERAL MANAGER AND DEPARTMENT HEAD FROM THE MERIT SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–102(a).

In this section and throughout this subtitle, the references to "merit system" are substituted for the former references to "classified service" for accuracy and to reflect current practice. Similarly, in this section and throughout this subtitle, the reference to a "merit system" employee are substituted for the former references to a "classified" employee. Similarly, in this section and throughout this subtitle, the former references to merit system "or classified service" are deleted. *See* General Revisor's Note to subtitle.

In subsection (a)(1) of this section, the former reference to "creat[ing]" a merit system or classified service is deleted in light of the reference to "establish[ing]" a merit system.

In subsection (b)(1) of this section, the reference to the "position" of general manager or department head is substituted for the former reference to the "office" of general manager or department head for consistency with subsection (b)(3) of this section. Correspondingly, in subsection (b)(1) of this section, the reference to "the general manager or a department head" is substituted for the former reference to the "incumbent of any of these offices".

In subsection (b)(2) of this section, the reference to "retain[ing]" the employee is substituted for the former reference to "[p]rovid[ing] for" the employee's "retention" for brevity.

In subsection (b)(3) of this section, the reference to continuing to "exclude" certain positions from the merit system is substituted for the former reference to continuing to "except" the positions for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for the consideration of the General Assembly, that the intent of subsection (b) of this section is ambiguous. The provision appears to both allow an employee who is promoted to the position of the general manager or department head to retain their previous merit system status but also allow the Commission to exclude those positions from the merit system, which appears contradictory. The General Assembly may wish to address this ambiguity.

Defined term: "Commission" § 16–101

18–108. POSITION CLASSIFICATIONS.

(A) ESTABLISHMENT AND FILING OF LIST.

THE COMMISSION SHALL:

(1) ESTABLISH A LIST OF EACH POSITION TO BE INCLUDED UNDER THE MERIT SYSTEM AND ITS CORRESPONDING SALARY; AND

(2) FILE THE LIST WITH THE SECRETARY.

(B) CHANGES.

THE COMMISSION MAY:

(1) ESTABLISH ADDITIONAL POSITION CLASSIFICATIONS; AND

(2) COMBINE, ALTER, OR ABOLISH EXISTING POSITION CLASSIFICATIONS AND THEIR CORRESPONDING SALARIES.

(C) SUBMISSION TO SECRETARY.

THE COMMISSION SHALL SUBMIT TO THE SECRETARY:

(1) FOR THE SECRETARY'S APPROVAL, EACH POSITION CLASSIFICATION TO BE ESTABLISHED OR ABOLISHED; AND

(2) THE REASON FOR ITS ESTABLISHMENT OR ABOLISHMENT.

(D) ACTION BY SECRETARY.

WITHIN 60 DAYS AFTER RECEIPT OF A PROPOSAL TO ESTABLISH OR ABOLISH A POSITION CLASSIFICATION, THE SECRETARY:

(1) SHALL APPROVE OR DISAPPROVE THE PROPOSAL; AND

(2) IF DISAPPROVING, SHALL GIVE THE REASON FOR THE DISAPPROVAL TO THE COMMISSION.

(E) FAILURE TO ACT.

FAILURE OF THE SECRETARY TO ACT WITHIN 60 DAYS AFTER RECEIPT OF THE PROPOSAL CONSTITUTES APPROVAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–103.

In the introductory language of subsection (b) of this section, the word "may" is substituted for the former word "[s]hall" to clarify the apparent intent of the General Assembly that the Commission be given discretion, and not be required, to establish additional position classifications. Under the former law, the classifications established by the Commission are those that it "considers necessary". The Washington Suburban Sanitary Commission Law Review Committee calls this substitution to the attention of the General Assembly.

Also in subsection (b)(1) of this section, the former reference to additional position classifications "that the WSSC considers necessary" is deleted as surplusage.

In subsection (b)(2) of this section, the reference to "position" classifications is added for clarity and consistency within this section.

Also in subsection (b)(2) of this section, the reference to existing position classifications and "their corresponding" salaries is added for clarity and consistency with subsection (a)(1) of this section.

In subsection (d)(1) of this section, the reference to the "proposal" is substituted for the former reference to the "change" for consistency within this section.

In subsection (d)(2) of this section, the phrase "if disapproving" is added to clarify that a reason need not be given if a proposal is approved.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–109. ADMINISTRATION OF EXAMINATIONS.

(A) IN GENERAL.

PROMPTLY AFTER FILING THE LIST OF MERIT SYSTEM POSITIONS AND CORRESPONDING SALARIES WITH THE SECRETARY AS REQUIRED UNDER § 18–108 OF THIS SUBTITLE, THE COMMISSION SHALL PREPARE AND HOLD EXAMINATIONS TO ESTABLISH A LIST OF INDIVIDUALS ELIGIBLE FOR APPOINTMENT TO VACANCIES IN THE POSITIONS.

(B) ADDITIONAL LISTS.

THE COMMISSION MAY HOLD EXAMINATIONS WHENEVER THE COMMISSION CONSIDERS IT NECESSARY TO ESTABLISH AN ADDITIONAL LIST OF ELIGIBLE INDIVIDUALS FOR ANY POSITION IN THE MERIT SYSTEM.

(C) FORM AND NATURE OF EXAMINATIONS.

EACH EXAMINATION SHALL BE:

(1) A FAIR TEST OF THE RELATIVE ABILITIES OF THE CANDIDATES TO PERFORM THE DUTIES OF THE CLASSIFICATION TO WHICH THEY SEEK TO BE APPOINTED;

(2) COMPETITIVE, FREE, AND OPEN TO ALL INDIVIDUALS WHO LAWFULLY MAY BE APPOINTED TO A POSITION IN THE CLASSIFICATION FOR WHICH THE EXAMINATION IS HELD; AND

(3) IN ONE OR ANY COMBINATION OF THE FOLLOWING FORMS:

(I) ORAL;

(II) WRITTEN; OR

(III) A DEMONSTRATION OF SKILL.

(D) SUBMISSION TO SECRETARY.

ALL EXAMINATIONS SHALL BE SUBMITTED TO THE SECRETARY FOR APPROVAL BEFORE BEING HELD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–104(a) and (b)(1) through (4).

In subsection (a) of this section, the reference to "corresponding" salaries is added for clarity and consistency with other similar provisions of this subtitle.

Also in subsection (a) of this section, the phrase "as required under § 18–108 of this subtitle" is added for clarity.

Also in subsection (a) of this section, the former reference to appointment to vacancies in the "various" positions is deleted as surplusage.

In subsection (b) of this section, the reference to any position in the "merit system" is substituted for the former reference to any position in the "classified list" for clarity.

In the introductory language of subsection (c) of this section, the word "shall" is substituted for the former word "[m]ay" to clarify that while an examination may be in one or a combination of the forms listed in subsection (c)(3) of this section, no forms other than those listed are permissible.

In subsection (c)(2) of this section, the reference to all "individuals" is substituted for the former reference to all "persons" because only a human being, and not the other entities included in the defined term "person", can take an examination.

Also in subsection (c)(2) of this section, the reference to the "classification" is substituted for the former reference to the "class" for consistency with subsection (c)(1) of this section.

In subsection (d) of this section, the reference to an examination being "held" is substituted for the former reference to an examination being "given" for consistency within this section.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–110. NOTICE OF EXAMINATIONS.

AT LEAST ONCE A WEEK FOR AT LEAST 2 SUCCESSIVE WEEKS BEFORE THE DAY ON WHICH AN EXAMINATION IS TO BE HELD, THE COMMISSION SHALL PUBLISH IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT:

(1) THE TIME, PLACE, AND SCOPE OF THE EXAMINATION; AND

(2) THE DUTIES, COMPENSATION, AND QUALIFICATIONS FOR EACH POSITION IN THE CLASSIFICATION FOR WHICH THE EXAMINATION IS TO BE HELD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–106.

In the introductory language of this section, the reference to 2 successive weeks "before the day on which an examination is to be held" is

substituted for the former reference to 2 successive weeks "preceding the examination" for clarity.

Also in the introductory language of this section, the reference to each county "of the sanitary district" is added for clarity.

Also in the introductory language of this section, the former requirement to publish "separate" notices is deleted as unnecessary.

In item (1) of this section, the former reference to the "general" scope of the examination is deleted as implicit in the meaning of the word "scope".

In item (2) of this section, the reference to "compensation" is substituted for the former reference to "pay" for clarity.

Also in item (2) of this section, the reference to "qualifications" is substituted for the former reference to "experience advantageous or required" for brevity.

Also in item (2) of this section, the reference to each position in the "classification" is substituted for the former reference to each position in the "class" for consistency with § 18–109(c) of this subtitle.

Defined term: "Commission" § 16–101

18–111. EXAMINATIONS FOR VETERANS.

ON ALL EXAMINATIONS FOR APPOINTMENT, AN HONORABLY DISCHARGED VETERAN OF THE UNITED STATES ARMED FORCES WHO WAS A BONA FIDE RESIDENT OF THE STATE WHEN THE VETERAN ENTERED THE UNITED STATES ARMED FORCES SHALL RECEIVE A CREDIT OF 5%.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–105.

The references to the "armed forces" are substituted for the former references to the "military or naval services" for clarity.

Defined term: "State" § 16–101

18–112. INSPECTION OF EXAMINATIONS.

(A) PERMITTED.

ON REQUEST, A CANDIDATE MAY INSPECT THE CANDIDATE'S EXAMINATION PAPERS AND SCORES.

(B) REVIEW BY SECRETARY.

(1) IF A CANDIDATE IS NOT SATISFIED WITH THE SCORE RECEIVED FROM THE COMMISSION, THE CANDIDATE MAY APPEAL TO THE SECRETARY.

(2) THE SECRETARY SHALL REVIEW THE CANDIDATE'S EXAMINATION AND SCORE.

(3) THE DECISION OF THE SECRETARY IS FINAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–107(a)(3).

In subsection (a) of this section, the reference to "score" is substituted for the former reference to "marks" for clarity. Similarly, in subsection (b)(1) of this section, the reference to "score" is substituted for the former reference to "marking".

In subsection (b)(2) of this section, the reference to reviewing the "candidate's examination and score" is substituted for the former reference to reviewing the "matter" for clarity.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–113. ESTABLISHMENT OF ELIGIBLE LISTS; APPOINTMENTS.

(A) IN GENERAL.

THE COMMISSION SHALL:

(1) ESTABLISH A LIST OF THE NAMES OF INDIVIDUALS WHOSE GENERAL AVERAGE AND SCORE ON ANY PART OF AN EXAMINATION HELD BY THE COMMISSION EXCEED THE MINIMUM SET BY THE COMMISSION; AND

(2) SEND A COPY OF THE LIST TO THE SECRETARY.

(B) EFFECTIVE PERIOD.

(1) EACH LIST OF ELIGIBLE INDIVIDUALS IS EFFECTIVE FOR 1 YEAR FROM THE DATE THE LIST IS ESTABLISHED.

(2) THE COMMISSION MAY EXTEND THE EFFECTIVE PERIOD FOR A LIST BY ACTION:

(I) TAKEN BEFORE THE EFFECTIVE PERIOD FOR THE LIST EXPIRES; AND

(II) RECORDED IN THE COMMISSION'S MINUTES.

(C) APPOINTMENTS FROM LISTS.

THE COMMISSION MAY APPOINT TO A VACANCY IN THE MERIT SYSTEM ANY INDIVIDUAL WHO IS ON A LIST ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

(D) EXAMINATION REQUIRED FOR APPOINTMENT.

EXCEPT FOR PRESENT EMPLOYEES OF THE COMMISSION, AND EXCEPT AS PROVIDED IN SUBSECTIONS (E) AND (F) OF THIS SECTION, AN INDIVIDUAL MAY NOT BE APPOINTED TO A POSITION UNDER THE MERIT SYSTEM UNLESS THE INDIVIDUAL IS QUALIFIED BY EXAMINATION AS PROVIDED IN THIS SUBTITLE.

(E) TEMPORARY APPOINTMENTS.

(1) IF A POSITION MUST BE ESTABLISHED IMMEDIATELY, THE COMMISSION MAY APPOINT ANY INDIVIDUAL TO THE POSITION WITHOUT AN EXAMINATION, AT ANY SALARY, FOR A PERIOD NOT TO EXCEED 6 MONTHS.

(2) THE COMMISSION MAY EXTEND THE APPOINTMENT ONE TIME FOR A PERIOD NOT TO EXCEED 6 MONTHS.

(F) LABORERS.

THE COMMISSION MAY ADOPT:

(1) RULES EXEMPTING FROM A COMPETITIVE EXAMINATION PROCESS POSITIONS TO BE FILLED BY SEMISKILLED OR UNSKILLED LABORERS; AND

(2) INSTEAD OF A COMPETITIVE EXAMINATION, A SYSTEM THAT THE COMMISSION CONSIDERS WILL BEST PROVIDE FOR FILLING THOSE POSITIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 11–104(b)(5) and 11–107(a)(1) and (2), (b), and (c).

In subsection (a)(1) of this section, the reference to an examination "held by the Commission" is added for clarity.

Also in subsection (a)(1) of this section, the reference to "establish" is substituted for the former reference to "[p]repare" for clarity. Similarly in subsection (b)(1) of this section, the reference to "established" is substituted for the former reference to "prepar[ed]".

Also in subsection (a)(1) of this section, the reference to "score" is substituted for the former reference to "marks" for clarity.

Also in subsection (a)(1) of this section, the former reference to the minimum "of the rules" is deleted as unnecessary.

In subsection (b)(1) of this section, the reference to "[e]ach list of eligible individuals" is substituted for the former reference to "[t]hese lists" for clarity.

Also in subsection (b)(1) of this section, the reference to a list "[being] effective" is substituted for the former requirement that a list "shall continue in force" for brevity and clarity.

In the introductory language of subsection (b)(2) of this section, the reference to the "effective period for a list" is substituted for the former reference to "this period" for clarity.

In subsection (b)(2)(i) of this section, the reference to action taken before the "effective period for the list expires" is substituted for the former reference to action taken before the "expiration of the list" for clarity.

In subsection (d) of this section, the phrase "except as provided in subsections (e) and (f) of this section" is added for clarity and accuracy.

Also in subsection (d) of this section, the references to an "individual" are substituted for the former references to a "person" because only a human being, and not the other entities included in the defined term "person", can be appointed to a position or qualify by examination for appointment.

In subsection (e) of this section, the references to a period "not to exceed" 6 months are substituted for the former references to a period "of" 6 months to clarify that an appointment and its extension may be made for any period of time that is 6 months or less.

In subsection (e)(1) of this section, the reference to appointing any individual "to the position" is added for clarity.

Also in subsection (e)(1) of this section, the phrase "[i]f a position must be established immediately" is substituted for the former phrase "[w]here there is need for the immediate establishment of a position" for brevity.

In subsection (f)(1) of this section, the reference to a competitive examination "process" is added for clarity.

Also in subsection (f)(1) of this section, the former reference to "[g]eneral" rules is deleted as surplusage.

In subsection (f)(2) of this section, the reference to "filling" the positions is added for clarity.

Also in subsection (f)(2) of this section, the former reference to a system "for laborers" is deleted as unnecessary in light of the reference to a system for filling "those positions".

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–114. COMPENSATION FOR SERVICES.

UNLESS OTHERWISE PROVIDED BY LAW, THE COMMISSION MAY NOT APPROVE OR PAY ANY COMPENSATION FOR SERVICES UNLESS THE INDIVIDUAL TO WHOM THE COMPENSATION IS PAID IS AN EMPLOYEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–112.

The phrase "[u]nless otherwise provided by law" is added for clarity.

The reference to an "individual" is substituted for the former reference to a "person" because only a human being, and not the other entities included in the defined term "person", can be an employee.

The reference to the individual to whom the compensation being paid as "an employee" is substituted for the former references to the individual "[e]mployed in the classified service", "[e]xempted or excepted by the

WSSC under the provisions of this article", and "[a] temporary or emergency employee" for brevity and clarity.

The former reference to compensation for "classified" services is deleted as unnecessary.

The former references to "salary" and "wage" are deleted as included in the references to "compensation".

The former reference to "[a]n auditor … and a disbursing officer of" the Commission is deleted as unnecessary.

Defined term: "Commission" § 16–101

18–115. LEAVE TIME — ANNUAL.

(A) IN GENERAL.

EACH MERIT SYSTEM EMPLOYEE IS ENTITLED TO THE NUMBER OF DAYS OF ANNUAL LEAVE WITH PAY THAT THE COMMISSION SPECIFIES BY REGULATION.

(B) LIMITATIONS.

THE NUMBER OF DAYS OF ANNUAL LEAVE WITH PAY SPECIFIED BY A REGULATION ADOPTED UNDER THIS SECTION SHALL BE:

(1) AT LEAST 10 DAYS BUT NOT MORE THAN 30 DAYS IN A CALENDAR YEAR; AND

(2) GENERALLY CONSISTENT WITH THE ANNUAL LEAVE SCHEDULES PROVIDED BY OTHER GOVERNMENTAL AGENCIES IN THE AREA OF THE SANITARY DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–111(a).

In this section, the references to "annual" leave are substituted for the former references to "vacation" leave for consistency with § 18–116(a) of this subtitle and to conform with the terminology used by the Commission.

In subsection (a) of this section, the reference to an employee "[being] entitled to" annual leave is substituted for the former requirement that

an employee "shall receive" annual leave to conform with similar provisions in Title 9 of the State Personnel and Pensions Article.

Also in subsection (a) of this section, the former reference to an employee "of the WSSC" is deleted as unnecessary.

In subsection (b)(1) of this section, the reference to days in a "calendar" year is added for clarity and consistency with § 18–116(a) of this subtitle.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

18–116. LEAVE TIME — SICK.

(A) IN GENERAL.

IN ADDITION TO ANNUAL LEAVE, EACH MERIT SYSTEM EMPLOYEE IS ENTITLED TO UP TO 15 DAYS OF SICK LEAVE WITH PAY IN A CALENDAR YEAR.

(B) USE.

(1) AN EMPLOYEE MAY USE SICK LEAVE AT ANY TIME.

(2) AN EMPLOYEE WHO USES 3 OR MORE CONSECUTIVE DAYS OF SICK LEAVE MUST PRESENT A CERTIFICATE FROM A LICENSED PHYSICIAN BEFORE THE EMPLOYEE MAY RECEIVE PAYMENT FOR THE PERIOD OF ABSENCE.

(C) ACCUMULATION OF UNUSED SICK LEAVE.

AN EMPLOYEE MAY ACCUMULATE UNUSED SICK LEAVE UP TO 60 DAYS OR MORE AS THE COMMISSION SPECIFIES BY REGULATION.

(D) EXTENDED LEAVE PERIOD.

THE COMMISSION, BY REGULATION, MAY PROVIDE FOR GRANTING A LEAVE OF ABSENCE FOR A LONGER PERIOD, WITH FULL OR PARTIAL PAY, TO AN EMPLOYEE WHO IS DISABLED THROUGH AN INJURY OR ILLNESS RESULTING OR ARISING FROM THE EMPLOYEE'S EMPLOYMENT WITH THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–111(b).

In subsections (a) and (c) of this section, the former references to "working" days of sick leave are deleted as unnecessary.

In subsection (a) of this section, the reference to an employee "[being] entitled to" sick leave is substituted for the former requirement that an employee "shall receive" sick leave to conform with similar provisions in Title 9 of the State Personnel and Pensions Article.

Also in subsection (a) of this section, the former reference to an employee "of the WSSC" is deleted as unnecessary.

In subsection (c) of this section, the former introductory language, "[i]f any employee in any calendar year uses less than the full amount of sick leave allowable", is deleted as implicit in the right of an employee to "accumulate unused sick leave".

In subsection (d) of this section, the reference to "full" or partial pay is added for clarity.

Also in subsection (d) of this section, the reference to the employee's employment "with the Commission" is added for clarity.

Defined term: "Commission" § 16–101

18–117. PAYMENT TO BENEFICIARY FOR SALARY AND UNUSED ANNUAL LEAVE.

(A) IN GENERAL.

THE COMMISSION, BY REGULATION, MAY PROVIDE FOR THE DESIGNATION BY A MERIT SYSTEM EMPLOYEE OF THE INDIVIDUAL TO WHOM THE EMPLOYEE'S FINAL SALARY PAYMENT, AND ANY PAYMENT DUE FOR UNUSED ANNUAL LEAVE, SHOULD BE MADE ON THE DEATH OF THE EMPLOYEE.

(B) REQUIREMENTS FOR DESIGNATION.

(1) THE DESIGNATION OF THE BENEFICIARY SHALL BE:

(I) IN WRITING; AND

(II) ON FILE WITH THE COMMISSION BEFORE THE DEATH OF THE EMPLOYEE.

(2) (I) THE WRITING NEED NOT BE IN TESTAMENTARY FORM.

(II) THE DESIGNATION AND PAYMENT ARE NOT TESTAMENTARY DISPOSITIONS.

(C) PAYMENT.

THE COMMISSION MAY MAKE THE PAYMENTS DESCRIBED IN SUBSECTION (A) OF THIS SECTION DIRECTLY TO THE BENEFICIARY DESIGNATED BY THE EMPLOYEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–114.

Also in subsection (a) of this section, the reference to any "payment" due is substituted for the former reference to any "sum which may be" due for brevity and clarity.

Also in subsection (a) of this section, the reference to "annual" leave is substituted for the former reference to "vacation" leave for consistency with § 18–116(a) of this subtitle and to conform with the terminology used by the Commission.

Also in subsection (a) of this section, the former reference to unused "earned" leave is deleted as implicit in the meaning of the word "leave".

In subsection (c) of this section, the reference to making the payments "described in subsection (a) of this section" is substituted for the former reference to paying "any sum due to the deceased employee for salary and for any unused, earned vacation leave" for brevity.

Also in subsection (c) of this section, the former reference to "[t]he disbursing officer of" the Commission is deleted as unnecessary.

Defined term: "Commission" § 16–101

18–118. PENSION OR RETIREMENT PLAN.

(A) IN GENERAL.

THE COMMISSION MAY ESTABLISH A PENSION OR RETIREMENT PLAN FOR ITS EMPLOYEES.

(B) PLAN CONTRACTS; CONTRIBUTIONS.

(1) THE COMMISSION MAY:

(I) CONTRACT WITH AN INSURANCE COMPANY FOR A GROUP, ANNUITY, RETIREMENT, OR PENSION PLAN; AND

(II) CONTRIBUTE TO THE PLAN AS THE COMMISSION CONSIDERS EQUITABLE OR AS REQUIRED BY CONTRACT.

(2) THE COMMISSION'S CONTRIBUTION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE CHARGED AS EXPENSES OF THE SEVERAL FUNCTIONS OF THE COMMISSION IN THE SAME PROPORTION THAT THE RECEIPTS OF THE RESPECTIVE FUNCTIONS BEAR TO THE TOTAL RECEIPTS OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–113.

In subsection (a) of this section, the reference to "establish[ing]" a pension or retirement plan is substituted for the former reference to "formulat[ing] and adopt[ing]" a pension or retirement plan for clarity and brevity.

In subsection (b)(1)(i) of this section, the former reference to contracting with an "established" insurance company is deleted as implicit.

In subsection (b)(2) of this section, the reference to "[t]he Commission's contribution under paragraph (1)(ii) of this subsection" is substituted for the former reference to "[t]his contribution" for clarity.

Also in subsection (b)(2) of this section, the former reference to "payment" is deleted as unnecessary in light of the reference to "contribution".

Defined term: "Commission" § 16–101

18–119. TRANSFERS OF EMPLOYEES.

(A) AUTHORIZED.

THE COMMISSION MAY TRANSFER AN EMPLOYEE FROM ONE DEPARTMENT TO ANOTHER.

(B) LIMITATION.

A TRANSFER MAY NOT RESULT IN A DIMINUTION OF AN EMPLOYEE'S SALARY UNLESS:

(1) THE EMPLOYEE AGREES TO THE REDUCED SALARY; OR

(2) THE SECRETARY CONCURS IN THE REDUCTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–108.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–120. SEPARATIONS FROM MERIT SYSTEM GENERALLY.

AN EMPLOYEE MAY BE SEPARATED FROM THE MERIT SYSTEM:

(1) TEMPORARILY THROUGH SUSPENSION, LAYOFF, OR LEAVE OF ABSENCE; OR

(2) PERMANENTLY THROUGH REMOVAL OR RESIGNATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–109(a)(1).

18–121. TEMPORARY SEPARATIONS — SUSPENSIONS.

(A) IN GENERAL.

THE COMMISSION MAY SUSPEND AN EMPLOYEE FOR DISCIPLINARY PURPOSES FOR UP TO 30 DAYS.

(B) WITHOUT PAY.

EACH SUSPENSION SHALL BE WITHOUT PAY.

(C) LIMITATION.

AN EMPLOYEE MAY NOT BE SUSPENDED FOR DISCIPLINARY PURPOSES FOR MORE THAN 30 DAYS IN A CALENDAR YEAR.

REVISOR'S NOTE: This section formerly was Art. 29, § 11–110(b).

The only changes are in style.

Defined term: "Commission" § 16–101

18–122. TEMPORARY SEPARATIONS — LAYOFFS.

(A) IN GENERAL.

AN EMPLOYEE WHO IS LAID OFF BECAUSE A POSITION HAS BEEN ABOLISHED, DISCONTINUED, OR VACATED BECAUSE OF A CHANGE IN DEPARTMENTAL ORGANIZATION OR BECAUSE OF A STOPPAGE OR LACK OF WORK SHALL BE PLACED ON THE ELIGIBLE LIST FOR THE CLASSIFICATION OF POSITION FROM WHICH THE EMPLOYEE IS LAID OFF.

(B) REEMPLOYMENT.

IF A VACANCY OCCURS IN THE EMPLOYEE'S MERIT SYSTEM POSITION, THE EMPLOYEE SHALL BE REEMPLOYED IN PREFERENCE TO ANY ELIGIBLE INDIVIDUAL WHO IS NOT AN EMPLOYEE OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–110(a).

In subsection (a) of this section, the reference to the "classification" of position is substituted for the former reference to the "class" of position for consistency with § 18–109(c) of this subtitle.

In subsection (b) of this section, the reference to an "individual" is substituted for the former reference to a "person" because only a human being, and not the other entities included in the defined term "person", can be an employee of the Commission.

Defined term: "Commission" § 16–101

18–123. PERMANENT SEPARATIONS — REMOVAL.

(A) IN GENERAL.

AN EMPLOYEE MAY NOT BE PERMANENTLY REMOVED EXCEPT FOR CAUSE AND AFTER AN OPPORTUNITY TO BE HEARD.

(B) RIGHT TO APPEAL.

AN EMPLOYEE WHO IS PERMANENTLY REMOVED MAY APPEAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS IN ACCORDANCE WITH § 4–401 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) LIMITATION.

AN EMPLOYEE MAY NOT BE PERMANENTLY REMOVED FROM THE MERIT SYSTEM BECAUSE OF RELIGIOUS OR POLITICAL OPINIONS OR AFFILIATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–109(b).

In subsection (b) of this section, the reference to an employee "who is permanently removed" is substituted for the former reference to a "discharged" employee for consistency with subsection (a) of this section and SP § 4–401(4).

In subsection (c) of this section, the reference to an employee being "permanently" removed is added for consistency within this section and with § 18–120 of this subtitle.

18–124. PERMANENT SEPARATIONS — RESIGNATIONS.

(A) ESTABLISHMENT BY REGULATION REQUIRED.

THE COMMISSION, BY REGULATION, SHALL ESTABLISH WHAT CONSTITUTES A RESIGNATION.

(B) APPROVAL BY SECRETARY.

A REGULATION ADOPTED UNDER SUBSECTION (A) OF THIS SECTION IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–109(a)(2).

In subsection (b) of this section, the reference to "[a]" regulation "adopted under subsection (a) of this section" is substituted for the former reference to "[t]he" regulation for clarity.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–125. WHISTLEBLOWER PROTECTIONS.

(A) REGULATIONS.

ON OR BEFORE OCTOBER 1, 2010, THE COMMISSION SHALL ADOPT REGULATIONS THAT ESTABLISH COMPREHENSIVE COMMISSION EMPLOYEE WHISTLEBLOWER PROTECTIONS.

(B) REQUIREMENTS.

THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) BE SIMILAR TO THE PROVISIONS OF TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE;

(2) PROHIBIT A MANAGER OR SUPERVISOR FROM TAKING OR REFUSING TO TAKE A PERSONNEL ACTION AS A REPRISAL AGAINST AN EMPLOYEE WHO:

(I) DISCLOSES INFORMATION THAT THE EMPLOYEE REASONABLY BELIEVES EVIDENCES:

1. AN ABUSE OF AUTHORITY, GROSS MISMANAGEMENT, OR GROSS WASTE OF MONEY;

2. A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY; OR

3. A VIOLATION OF LAW; OR

(II) FOLLOWING A DISCLOSURE UNDER ITEM (I) OF THIS ITEM, SEEKS A REMEDY PROVIDED BY REGULATION OR ANY OTHER LAW;

(3) REQUIRE THE COMMISSION TO PROVIDE THE EMPLOYEES OF THE COMMISSION WITH WRITTEN NOTICE OF THE PROTECTIONS AND REMEDIES PROVIDED BY THE REGULATIONS;

(4) SET UP A PROCEDURE BY WHICH AN EMPLOYEE WHO SEEKS RELIEF FOR A VIOLATION OF THE REGULATIONS MAY FILE A COMPLAINT OR A GRIEVANCE;

(5) ESTABLISH A SYSTEM FOR INVESTIGATING COMPLAINTS AND GRIEVANCES; AND

(6) SET FORTH REMEDIAL ACTIONS THAT MAY BE TAKEN BY THE COMMISSION IF A VIOLATION OF THE REGULATIONS IS FOUND TO HAVE OCCURRED.

REVISOR'S NOTE: This section formerly was Art. 29, § 18–109.

No changes are made.

Defined term: "Commission" § 16–101

18–126. PROHIBITED ACTS.

(A) IMPERSONATING ANOTHER IN AN EXAMINATION.

A PERSON MAY NOT IMPERSONATE ANOTHER IN AN EXAMINATION HELD UNDER THIS SUBTITLE.

(B) FALSIFYING EXAMINATION SCORE OR REPORT.

A PERSON MAY NOT WILLFULLY OR CORRUPTLY FALSIFY A SCORE OR REPORT ON AN EXAMINATION HELD UNDER THIS SUBTITLE.

(C) ACTIONS AFFECTING EXAMINATIONS.

(1) A PERSON, ACTING ALONE OR IN COOPERATION WITH ANOTHER, MAY NOT:

(I) WILLFULLY OR CORRUPTLY DECEIVE AN INDIVIDUAL ABOUT THE RIGHT TO TAKE AN EXAMINATION HELD UNDER THIS SUBTITLE;

(II) WILLFULLY OR CORRUPTLY INTERFERE WITH THE RIGHT OF AN INDIVIDUAL TO TAKE AN EXAMINATION HELD UNDER THIS SUBTITLE;

(III) FALSIFY, OR ASSIST ANOTHER TO FALSIFY, A SCORE, GRADE, ESTIMATE, OR REPORT ON THE EXAMINATION OR STANDING OF AN INDIVIDUAL EXAMINED UNDER THIS SUBTITLE; OR

(IV) GIVE TO AN INDIVIDUAL ANY SPECIAL INFORMATION IN ORDER TO IMPROVE OR HARM THE INDIVIDUAL'S RATING FOR APPOINTMENT OR EMPLOYMENT.

(2) NOTWITHSTANDING PARAGRAPH (1)(IV) OF THIS SUBSECTION, A PERSON MAY ANSWER ANY INQUIRY FROM THE SECRETARY.

(D) DECEPTION BY CANDIDATE.

A CANDIDATE FOR EMPLOYMENT MAY NOT DECEIVE THE COMMISSION OR THE SECRETARY IN ORDER TO IMPROVE THE CANDIDATE'S CHANCES FOR APPOINTMENT.

(E) RESIGNATION BEFORE APPOINTMENT.

(1) A CANDIDATE FOR APPOINTMENT TO A MERIT SYSTEM POSITION MAY NOT SIGN A RESIGNATION FROM THAT POSITION IN ADVANCE OF THE APPOINTMENT.

(2) A RESIGNATION SIGNED IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION IS VOID AND OF NO EFFECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–115.

In subsections (a) and (c)(1)(i) and (ii) of this section, the references to this "subtitle" are substituted for the former, overly broad references to this "article" for clarity and accuracy.

In subsection (a) of this section, the former reference to a person impersonating another "person" is deleted as implicit. Similarly, in the introductory language of subsection (c)(1) of this section, the former reference to a person acting in cooperation with another "person" is deleted.

In subsections (b) and (c)(1)(iii) of this section, the references to "score" are substituted for the former references to "mark" for clarity.

In subsection (b) of this section, the reference to an examination "held under this subtitle" is added for clarity.

In the introductory language of subsection (c)(1) of this section, the reference to a person "acting alone" is substituted for the former reference to a person "[b]y himself" for clarity.

In subsection (c)(1)(i) and (ii) of this section, the references to the right "to take an" examination are substituted for the former references to the right "of" examination for clarity.

In subsection (c)(1)(ii) of this section, the prohibition against "interfer[ing]" with a certain right is substituted for the former prohibition against "defeat[ing]" or "obstruct[ing]" the right for brevity and clarity.

In subsection (c)(1)(iv) of this section, the references to an "individual" are substituted for the former references to a "person" because only a human being, and not the other entities included in the defined term "person", can have a rating for appointment or employment.

In subsection (e)(1) of this section, the reference to a resignation "from that position" is added for clarity.

Also in subsection (e)(1) of this section, the reference to a "candidate for appointment" is substituted for the former reference to a "person about to be appointed" for brevity.

Also in subsection (e)(1) of this section, the former reference to "execut[ing]" a resignation is deleted in light of the reference to "sign[ing]" a resignation.

In subsection (e)(2) of this section, the reference to a resignation being "void and" of no effect is added for clarity.

In subsection (e)(2) of this section, the reference to "[a] resignation signed in violation of paragraph (1) of this subsection" is substituted for the former reference to "[a]ny such resignation" for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Secretary" § 18–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Throughout this subtitle, the references to "merit system" are substituted for the former references to "classified service". It appears that the Commission does not currently have a classified service but does currently have an established merit system. This substitution is called to the attention of the General Assembly.

Former Art. 29, § 11–116(a), which required the Secretary to carry out the duties of this subtitle, is deleted as implicit in the authority of the Secretary to carry out the responsibilities of the Department of Budget and Management under this subtitle.

SUBTITLE 2. COLLECTIVE BARGAINING.

18–201. APPLICABILITY OF RIGHTS AND DESIGNATION OF BARGAINING UNITS.

(A) DEFINITIONS; APPLICABILITY.

(1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "CONFIDENTIAL EMPLOYEE" MEANS AN EMPLOYEE WHO ASSISTS OR ACTS IN A CONFIDENTIAL CAPACITY WITH RESPECT TO AN INDIVIDUAL WHO FORMULATES, DETERMINES, OR IMPLEMENTS MANAGEMENT POLICIES IN THE FIELD OF LABOR–MANAGEMENT RELATIONS.

(III) "PROBATIONARY EMPLOYEE" MEANS A COMMISSION MERIT SYSTEM EMPLOYEE DURING THE EMPLOYEE'S INITIAL PROBATIONARY PERIOD AFTER HIRING.

(2) THE RIGHTS GRANTED TO COMMISSION MERIT SYSTEM EMPLOYEES UNDER THIS SUBTITLE DO NOT APPLY TO:

(I) ATTORNEYS IN THE OFFICE OF THE GENERAL COUNSEL;

(II) CONFIDENTIAL EMPLOYEES;

(III) PROBATIONARY EMPLOYEES;

(IV) EMPLOYEES IN THE OFFICE OF THE GENERAL MANAGER;

(V) EMPLOYEES IN THE INTERNAL AUDIT OFFICE;

(VI) EMPLOYEES IN THE OFFICE OF THE SECRETARY; OR

(VII) SUPERVISORS, AS DEFINED IN § 2(11) OF THE NATIONAL LABOR RELATIONS ACT, 29 U.S.C. § 152(11).

(B) BARGAINING UNITS.

(1) COMMISSION EMPLOYEES ARE DIVIDED INTO FOUR BARGAINING UNITS CONSISTING OF:

(I) AN OFFICE/TECHNICAL UNIT THAT INCLUDES:

1. OFFICE CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE RESPONSIBLE FOR INTERNAL AND EXTERNAL COMMUNICATIONS, RECORDING AND RETRIEVING INFORMATION, AND PAPERWORK REQUIRED IN AN OFFICE;

2. TECHNICAL CLASSIFICATION TITLES IN WHICH EMPLOYEES HAVE A COMBINATION OF BASIC SCIENTIFIC OR TECHNICAL KNOWLEDGE AND MANUAL SKILL THAT IS USUALLY ACQUIRED THROUGH SPECIALIZED POSTSECONDARY SCHOOL EDUCATION OR THROUGH EQUIVALENT ON–THE–JOB TRAINING;

3. PARAPROFESSIONAL CLASSIFICATION TITLES IN WHICH EMPLOYEES PERFORM, IN A SUPPORTIVE ROLE, SOME OF THE DUTIES OF A PROFESSIONAL OR A TECHNICIAN BUT THAT USUALLY REQUIRE LESS FORMAL TRAINING OR EXPERIENCE THAN THOSE DUTIES PERFORMED BY THOSE WITH PROFESSIONAL OR TECHNICAL STATUS; AND

4. ALL OTHER NONPROFESSIONAL JOB TITLES CURRENTLY UNREPRESENTED BY ANY OTHER UNION;

(II) A PROFESSIONAL UNIT THAT INCLUDES PROFESSIONAL CLASSIFICATION TITLES IN WHICH EMPLOYEES HAVE SPECIAL OR THEORETICAL KNOWLEDGE THAT IS USUALLY ACQUIRED THROUGH COLLEGE TRAINING OR OTHER TRAINING THAT PROVIDES COMPARABLE KNOWLEDGE OR WORK EXPERIENCE;

(III) A SERVICE, LABOR, AND TRADE UNIT THAT INCLUDES:

1. CLASSIFICATION TITLES IN WHICH EMPLOYEES:

A. PERFORM SERVICE AND MAINTENANCE;

B. MAY OPERATE SPECIALIZED MACHINERY OR HEAVY EQUIPMENT; AND

C. HAVE DUTIES THAT CONTRIBUTE TO THE COMFORT AND CONVENIENCE OF THE PUBLIC OR TO THE UPKEEP AND CARE OF COMMISSION BUILDINGS, FACILITIES, OR GROUNDS;

2. CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE REQUIRED TO HAVE A SPECIAL MANUAL SKILL AND THOROUGH KNOWLEDGE OF PROCESSES THAT ARE REQUIRED THROUGH ON–THE–JOB TRAINING, EXPERIENCE, APPRENTICESHIP, OR OTHER FORMAL TRAINING PROGRAMS; AND

3. CLASSIFICATION TITLES INCLUDED IN THE SERVICE, LABOR, AND TRADE BARGAINING UNIT AS CONSTITUTED ON JANUARY 1, 2003; AND

(IV) A LAW ENFORCEMENT UNIT THAT INCLUDES COMMISSION POLICE OFFICERS.

(2) IF A SINGLE EMPLOYEE ORGANIZATION IS CERTIFIED TO REPRESENT MORE THAN ONE BARGAINING UNIT, THE COMMISSION SHALL NEGOTIATE A SINGLE CONTRACT WITH THAT ORGANIZATION COVERING ALL EMPLOYEES THE ORGANIZATION REPRESENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 11.5–101 and 11.5–102.

In subsection (a)(1)(i) of this section, the reference to this "subsection" is substituted for the former reference to this "title" because the terms are used only in this particular subsection.

In the introductory language of subsection (a)(2) of this section and throughout this subtitle, the references to this "subtitle" are substituted for the former erroneous references to "section" for accuracy. *See* General Revisor's Note to subtitle.

In subsection (a)(2)(v) and (vi) of this section, the references to the "Internal Audit Office" and the "Office of the Secretary" are substituted for the former reference to the "Internal Audit/Secretary's office" to reflect the current organizational structure of the Commission.

In subsection (a)(2)(vii) of this section, the reference to "29 U.S.C. § 152(11)" is added for clarity.

Defined term: "Commission" § 16–101

18–202. EMPLOYEE ORGANIZATION AS EXCLUSIVE REPRESENTATIVE OF BARGAINING UNIT.

(A) IN GENERAL.

THE COMMISSION SHALL RECOGNIZE THE RIGHT OF AN EMPLOYEE ORGANIZATION, CERTIFIED UNDER THIS SUBTITLE AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT, TO REPRESENT THE EMPLOYEES OF THE BARGAINING UNIT IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF GRIEVANCES.

(B) PURPOSE OF EMPLOYEE ORGANIZATION.

AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL:

(1) SERVE AS THE SOLE BARGAINING AGENT FOR THE UNIT IN COLLECTIVE BARGAINING; AND

(2) REPRESENT ALL EMPLOYEES IN THE BARGAINING UNIT FAIRLY, WITHOUT DISCRIMINATION, AND WITHOUT REGARD TO WHETHER AN EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.

(C) EMPLOYEE ORGANIZATION — REQUIREMENTS.

AN EMPLOYEE ORGANIZATION MEETS THE REQUIREMENTS OF SUBSECTION (B)(2) OF THIS SECTION IF THE EMPLOYEE ORGANIZATION'S ACTIONS WITH RESPECT TO EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEE ORGANIZATION AND EMPLOYEES WHO ARE NOT MEMBERS OF THE EMPLOYEE ORGANIZATION ARE NOT ARBITRARY, DISCRIMINATORY, OR IN BAD FAITH.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–103.

The only changes are in style.

Defined term: "Commission" § 16–101

18–203. LABOR RELATIONS ADMINISTRATOR.

(A) INITIAL APPOINTMENT.

AFTER A PUBLIC HEARING, THE COMMISSION SHALL APPOINT AN EXPERIENCED NEUTRAL THIRD PARTY TO SERVE AS LABOR RELATIONS ADMINISTRATOR FOR 1 YEAR.

(B) SECOND APPOINTMENT.

(1) AFTER THE TERM FOR THE LABOR RELATIONS ADMINISTRATOR APPOINTED UNDER SUBSECTION (A) OF THIS SECTION EXPIRES, THE EXCLUSIVE REPRESENTATIVE OR REPRESENTATIVES AND THE COMMISSION SHALL JOINTLY APPOINT A LABOR RELATIONS ADMINISTRATOR FROM A LIST OF FIVE NOMINEES ON WHOM THEY HAVE AGREED.

(2) IF THE EXCLUSIVE REPRESENTATIVE OR REPRESENTATIVES AND THE COMMISSION ARE UNABLE TO JOINTLY AGREE ON A LIST OF FIVE NOMINEES OR ARE UNABLE TO JOINTLY APPOINT A LABOR RELATIONS ADMINISTRATOR FROM THE LIST, THE COMMISSION SHALL REQUEST FROM THE AMERICAN ARBITRATION ASSOCIATION A LIST OF 15 CANDIDATES LOCATED IN THE STATE OR THE WASHINGTON, D.C. METROPOLITAN AREA.

(3) THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE OR REPRESENTATIVES SHALL SELECT THE LABOR RELATIONS ADMINISTRATOR BY EACH OF THE PARTIES STRIKING ONE NAME FROM THE LIST UNTIL THE LAST NAME REMAINS.

(4) A RANDOM DRAWING SHALL DETERMINE THE ORDER IN WHICH THE PARTIES SHALL STRIKE NAMES.

(5) THE LABOR RELATIONS ADMINISTRATOR SHALL BE APPOINTED FOR A TERM OF 3 YEARS.

(C) SUBSEQUENT APPOINTMENT.

AFTER THE TERM FOR THE LABOR RELATIONS ADMINISTRATOR APPOINTED UNDER SUBSECTION (A) OF THIS SECTION EXPIRES AND AFTER A PUBLIC HEARING ON THE APPOINTMENT, IF NO EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED UNDER THIS SUBTITLE, THE COMMISSION SHALL APPOINT THE NEXT LABOR RELATIONS ADMINISTRATOR FOR A TERM NOT EXCEEDING 1 YEAR.

(D) REAPPOINTMENT.

A LABOR RELATIONS ADMINISTRATOR IS ELIGIBLE FOR REAPPOINTMENT.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–104.

In subsection (b)(2) of this section, the reference to an exclusive representative "or representatives" is added for consistency with subsection (b)(1) and (3) of this section.

The only other changes are in style.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (a) of this section is vague. It is unclear whether the appointment by the Commission of a labor relations administrator under subsection (a) of this section could be interpreted to mean only the first appointment of a labor

relations administrator after the original enactment of the statute, or each time a labor relations administrator is appointed. The General Assembly may wish to clarify this subsection.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (c) of this section is vague. The subsection does not take into account any unions that may have been in existence before the enactment of former Article 29, Title 11.5. Likewise, it is unclear as to whether the appointment of the labor relations administrator should be under the procedures listed under subsection (a) of this section or the procedures under subsection (b) of this section. The General Assembly may wish to clarify this subsection.

Defined terms: "Commission" § 16–101
"State" § 16–101

18–204. SUBMISSION OF CONSTITUTION AND BYLAWS TO LABOR RELATIONS ADMINISTRATOR.

(A) IN GENERAL.

AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED OR THAT SEEKS CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SUBTITLE SHALL SUBMIT TO THE LABOR RELATIONS ADMINISTRATOR:

(1) A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION AND BYLAWS; AND

(2) ANY SUBSEQUENT CHANGE IN THE EMPLOYEE ORGANIZATION'S CONSTITUTION OR BYLAWS.

(B) CONTENTS.

THE CONSTITUTION OR BYLAWS SHALL INCLUDE:

(1) A PLEDGE THAT THE EMPLOYEE ORGANIZATION ACCEPT MEMBERS WITHOUT REGARD TO AGE, MARITAL STATUS, NATIONAL ORIGIN, RACE, RELIGION, DISABILITY, SEXUAL ORIENTATION, OR GENDER;

(2) THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF THE EMPLOYEE ORGANIZATION;

(3) PROCEDURES FOR PERIODIC ELECTIONS FOR OFFICERS BY SECRET BALLOT;

(4) FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;

(5) PROCEDURES FOR THE ACCURATE ACCOUNTING OF ALL INCOME AND EXPENDITURES;

(6) A REQUIREMENT THAT AN INDEPENDENT ANNUAL FINANCIAL REPORT BE PRODUCED; AND

(7) THE RIGHT OF MEMBERS TO INSPECT THE ORGANIZATION'S ACCOUNTS.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–105.

The only changes are in style.

18–205. ELECTION OF EXCLUSIVE REPRESENTATIVE.

(A) IN GENERAL.

THE LABOR RELATIONS ADMINISTRATOR SHALL CONDUCT AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE AFTER:

(1) AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION, THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT SUPPORT REPRESENTATION BY AN EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE BARGAINING; OR

(2) AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION, THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT NO LONGER SUPPORT THE CURRENT EXCLUSIVE REPRESENTATIVE.

(B) NOTICE.

(1) AT LEAST 45 DAYS BEFORE AN ELECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL PROVIDE, AND THE COMMISSION SHALL POST IN CONSPICUOUS PLACES IN THE COMMISSION'S FACILITIES, A NOTICE OF THE UPCOMING ELECTION.

(2) THE NOTICE SHALL CONTAIN:

(I) THE DATE, TIME, AND PLACE OF THE ELECTION;

(II) A DESCRIPTION OF WHICH EMPLOYEES ARE ELIGIBLE TO VOTE IN THE ELECTION;

(III) NOTIFICATION THAT A LIST OF THE NAMES AND HOME ADDRESSES OF EMPLOYEES ELIGIBLE TO VOTE WILL BE PROVIDED TO THE PARTICIPATING EMPLOYEE ORGANIZATIONS;

(IV) INSTRUCTIONS ON HOW EMPLOYEES CAN REMOVE THEIR ADDRESSES FROM THE LIST IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION; AND

(V) ANY OTHER INFORMATION THAT, IN THE JUDGMENT OF THE LABOR RELATIONS ADMINISTRATOR, IS APPROPRIATE TO CONVEY TO COMMISSION EMPLOYEES.

(C) VOTING LIST.

(1) AT LEAST 45 DAYS BEFORE AN ELECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL OBTAIN FROM THE COMMISSION THE ELIGIBLE EMPLOYEE VOTING LIST, WHICH INCLUDES THE NAMES AND HOME ADDRESSES OF EVERY EMPLOYEE IN THE BARGAINING UNIT.

(2) COMMISSION EMPLOYEES MAY HAVE THEIR ADDRESSES REMOVED FROM THE ELIGIBLE EMPLOYEE VOTING LIST BY INDIVIDUALLY NOTIFYING THE LABOR RELATIONS ADMINISTRATOR IN WRITING WITHIN 15 DAYS AFTER THE POSTING OF THE NOTICE REQUIRED IN SUBSECTION (B) OF THIS SECTION.

(3) AFTER THE 15–DAY PERIOD, THE LABOR RELATIONS ADMINISTRATOR SHALL PROVIDE THE REDACTED ELIGIBLE EMPLOYEE VOTING LIST TO THE EMPLOYEE ORGANIZATION.

(4) THE PROVISION OF THE ELIGIBLE EMPLOYEE VOTING LIST UNDER THIS SUBSECTION BY THE COMMISSION, THE LABOR RELATIONS ADMINISTRATOR, OR A COMMISSION OFFICIAL, EMPLOYEE, OR OTHER AGENT DOES NOT CONSTITUTE A VIOLATION OF § 10–617(E) OF THE STATE GOVERNMENT ARTICLE OR ANY STATE OR LOCAL LAW, REGULATION, OR ORDINANCE.

(D) BALLOT.

ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT CONTAINING:

(1) THE NAME OF EACH EMPLOYEE ORGANIZATION THAT SUBMITS A VALID PETITION REQUIRING AN ELECTION;

(2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION SUPPORTED BY A PETITION SIGNED BY AT LEAST 10% OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT; AND

(3) AN OPTION FOR NO REPRESENTATION.

(E) RUNOFF ELECTION.

(1) IF NONE OF THE CHOICES ON THE BALLOT RECEIVES A MAJORITY OF THE VOTES CAST, THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD A RUNOFF ELECTION.

(2) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE TWO CHOICES THAT RECEIVED THE HIGHEST NUMBER OF VOTES IN THE INITIAL ELECTION.

(F) CERTIFICATION AS EXCLUSIVE REPRESENTATIVE.

AFTER THE ELECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL CERTIFY AN EMPLOYEE ORGANIZATION THAT RECEIVED A MAJORITY OF THE VOTES CAST AS THE EXCLUSIVE REPRESENTATIVE.

(G) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION OR ORGANIZATIONS SHALL SHARE EQUALLY THE COSTS OF THE ELECTION.

(H) WHEN ELECTIONS MAY NOT BE CONDUCTED.

(1) ELECTIONS MAY NOT BE CONDUCTED:

(I) WITHIN 1 YEAR AFTER THE DATE OF A VALID INITIAL ELECTION UNDER THIS SECTION; OR

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT.

(2) DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT, A PETITION FOR AN ELECTION MAY BE FILED ONLY DURING NOVEMBER OF THE FISCAL YEAR IN WHICH THE AGREEMENT EXPIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–106.

In subsection (b)(2)(iii) of this section, the reference to "home" address is added for consistency with subsection (c)(1) of this section.

In subsection (b)(2)(v) of this section, the former reference to "pertinent" information is deleted as unnecessary in light of the reference to the information being "appropriate".

In subsection (c)(2) of this section, the word "removed" is substituted for the former reference to the word "redacted" for accuracy.

In subsection (g) of this section, the reference to "the employee organization or organizations" is added to clarify that the election may include more than one organization.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that in this section and throughout this subtitle the term "eligible employee" is used without being defined. From the context, it appears that the term refers to an employee who is not excluded from the rights granted to Commission merit system employees under § 18–201(a) of this subtitle, but there is no language that explicitly states that this is the case. The General Assembly may wish to clarify the meaning of the term.

Defined terms: "Commission" § 16–101
"State" § 16–101

18–206. DISPUTE OVER ELIGIBILITY OF EMPLOYEE IN BARGAINING UNIT.

(A) IN GENERAL.

IF THE COMMISSION AND AN EMPLOYEE ORGANIZATION DISPUTE THE ELIGIBILITY OF AN EMPLOYEE IN A BARGAINING UNIT, THE DISPUTE SHALL BE SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR.

(B) EVIDENTIARY HEARINGS.

THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD ONE OR MORE EVIDENTIARY HEARINGS AT WHICH THE COMMISSION AND INTERESTED EMPLOYEE ORGANIZATIONS SHALL HAVE THE OPPORTUNITY TO PRESENT TESTIMONY, DOCUMENTARY AND OTHER EVIDENCE, AND ARGUMENTS.

(C) FINALITY OF DECISION.

THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS FINAL.

(D) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION OR ORGANIZATIONS SHALL SHARE EQUALLY THE COSTS OF THE HEARINGS.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–107.

In subsection (d) of this section, the reference to "the employee organization or organizations" is added for clarity.

No other changes are made.

Defined term: "Commission" § 16–101

18–207. COLLECTIVE BARGAINING — REQUIREMENTS.

(A) IN GENERAL.

THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE SHALL MEET AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH REGARDING:

(1) SALARY AND WAGES, INCLUDING THE PERCENTAGE OF THE INCREASE IN THE SALARY AND WAGES BUDGET THAT WILL BE DEVOTED TO MERIT INCREMENTS AND CASH AWARDS;

(2) PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES;

(3) EMPLOYEE BENEFITS SUCH AS INSURANCE, LEAVE, HOLIDAYS, AND VACATIONS;

(4) HOURS AND WORKING CONDITIONS;

(5) PROVISIONS FOR THE ORDERLY PROCESSING AND SETTLEMENT OF GRIEVANCES CONCERNING THE INTERPRETATION AND IMPLEMENTATION OF A COLLECTIVE BARGAINING AGREEMENT THAT MAY INCLUDE:

(I) BINDING THIRD PARTY ARBITRATION; AND

(II) PROVISIONS FOR THE EXCLUSIVITY OF FORUM;

(6) MATTERS AFFECTING THE HEALTH AND SAFETY OF EMPLOYEES; AND

(7) THE EFFECT ON EMPLOYEES OF THE EXERCISE OF THE COMMISSION'S RIGHTS AND RESPONSIBILITIES UNDER § 18–211 OF THIS SUBTITLE.

(B) AGREEMENT NOT REQUIRED.

THIS SECTION DOES NOT REQUIRE THE COMMISSION OR THE EMPLOYEE ORGANIZATION TO AGREE TO ANY PROPOSAL OR TO MAKE ANY CONCESSION.

(C) TIME FOR COLLECTIVE BARGAINING.

(1) (I) COLLECTIVE BARGAINING MAY NOT BEGIN LATER THAN SEPTEMBER 1 BEFORE THE BEGINNING OF A FISCAL YEAR FOR WHICH AN AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSION AND THE CERTIFIED REPRESENTATIVE.

(II) COLLECTIVE BARGAINING SHALL FINISH ON OR BEFORE THE FOLLOWING FEBRUARY 1.

(2) DURING THE PERIOD SET IN PARAGRAPH (1)(I) OF THIS SUBSECTION, THE PARTIES SHALL NEGOTIATE IN GOOD FAITH.

(D) UNIFORM SALARY AND WAGES.

SALARIES AND WAGES SHALL BE UNIFORM FOR ALL EMPLOYEES IN THE SAME CLASSIFICATION.

(E) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF BINDING ARBITRATION.

(F) PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES MAY NOT BE SUBJECT TO BINDING ARBITRATION.

(2) COLLECTIVE BARGAINING REGARDING PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES MAY NOT REQUIRE THE COMMISSION TO OFFER MORE THAN ONE PENSION PLAN TO ITS EMPLOYEES.

(3) IF MORE THAN ONE EMPLOYEE ORGANIZATION IS CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT, THE COMMISSION SHALL ENGAGE IN COLLECTIVE BARGAINING WITH ALL EXCLUSIVE REPRESENTATIVES AT THE SAME TIME ABOUT THE TERMS OF PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–108(a).

In the introductory language of subsection (a) of this section, the former reference to "the following subjects of bargaining" is deleted as surplusage.

In subsection (f)(2) of this section, the former reference to collective bargaining for active employees "under this section" is deleted as unnecessary.

Defined term: "Commission" § 16–101

18–208. MEDIATION–ARBITRATION.

(A) APPOINTMENT.

(1) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR BEFORE DECEMBER 1 ON A COLLECTIVE BARGAINING AGREEMENT THAT WOULD BECOME EFFECTIVE THE FOLLOWING JULY 1, THE PARTIES SHALL JOINTLY APPOINT A MEDIATOR–ARBITRATOR.

(2) IF THE PARTIES ARE UNABLE TO AGREE ON A MEDIATOR–ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL NAME THE MEDIATOR–ARBITRATOR ON OR BEFORE DECEMBER 7.

(3) NOTWITHSTANDING APPOINTMENT OF THE MEDIATOR–ARBITRATOR, THIS SECTION DOES NOT REQUIRE COMMENCEMENT OF MEDIATION–ARBITRATION BEFORE THE DATE STATED IN SUBSECTION (C) OF THIS SECTION.

(B) WHEN SERVICES MAY BE REQUESTED.

DURING THE COURSE OF THE COLLECTIVE BARGAINING, EITHER PARTY MAY DECLARE AN IMPASSE AND REQUEST THE SERVICES OF THE MEDIATOR–ARBITRATOR, OR THE PARTIES MAY JOINTLY REQUEST THE SERVICES OF A MEDIATOR–ARBITRATOR BEFORE AN IMPASSE IS DECLARED.

(C) IMPASSE.

IF THE MEDIATOR–ARBITRATOR FINDS IN THE MEDIATOR–ARBITRATOR'S SOLE DISCRETION THAT THE PARTIES ARE AT A BONA FIDE IMPASSE OR ON FEBRUARY 1, WHICHEVER OCCURS EARLIER, THE MEDIATOR–ARBITRATOR SHALL DIRECT THE PARTIES TO SUBMIT:

(1) A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE PARTIES PREVIOUSLY AGREED; AND

(2) A SEPARATE MEMORANDUM OF EACH PARTY'S LAST FINAL OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES DID NOT PREVIOUSLY AGREE.

(D) CLOSED HEARING.

(1) ON OR BEFORE FEBRUARY 10, THE MEDIATOR–ARBITRATOR SHALL HOLD A CLOSED HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE, AND PLACE SELECTED BY THE MEDIATOR–ARBITRATOR.

(2) EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND WRITTEN ARGUMENT IN SUPPORT OF THE PARTY'S LAST FINAL OFFER.

(3) THE MEDIATOR–ARBITRATOR MAY NOT OPEN THE HEARING TO A PERSON WHO IS NOT A PARTY TO THE MEDIATION–ARBITRATION.

(E) REPORT.

(1) ON OR BEFORE FEBRUARY 15, THE MEDIATOR–ARBITRATOR SHALL ISSUE A REPORT THAT RESOLVES ALL ITEMS THAT THE PARTIES HAVE NOT AGREED ON PREVIOUSLY.

(2) IN RESOLVING THE ITEMS NOT PREVIOUSLY AGREED ON, THE MEDIATOR–ARBITRATOR MAY CONSIDER THE FOLLOWING FACTORS:

(I) PAST COLLECTIVE BARGAINING CONTRACTS BETWEEN THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO THE AGREEMENT OR THE PRE–COLLECTIVE BARGAINING HISTORY OF EMPLOYEE WAGES, HOURS, BENEFITS, AND OTHER WORKING CONDITIONS;

(II) A COMPARISON OF WAGES, HOURS, BENEFITS, AND CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF OTHER PUBLIC EMPLOYERS IN THE STATE AND THE WASHINGTON, D.C. METROPOLITAN AREA;

(III) A COMPARISON OF WAGES, HOURS, BENEFITS, AND CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE EMPLOYERS IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY;

(IV) THE PUBLIC INTEREST AND WELFARE;

(V) THE ABILITY OF THE EMPLOYER TO FINANCE ANY ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT;

(VI) THE EFFECT OF ANY ECONOMIC ADJUSTMENTS ON THE STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE EMPLOYER; AND

(VII) THE ANNUAL INCREASE OR DECREASE IN CONSUMER PRICES FOR ALL ITEMS AS REFLECTED IN THE MOST RECENT CONSUMER PRICE INDEX – URBAN WAGE EARNERS AND CLERICAL WORKERS ("CPI–W") FOR THE WASHINGTON–BALTIMORE METROPOLITAN AREA.

(3) IN RESOLVING THE ITEMS NOT PREVIOUSLY AGREED ON, THE MEDIATOR–ARBITRATOR SHALL CONSIDER ALL ITEMS ON WHICH THE PARTIES AGREED BEFORE THE MEDIATION–ARBITRATION BEGAN TO BE INTEGRATED WITH EACH OFFER.

(F) FINAL AGREEMENT.

(1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, WITHOUT RATIFICATION BY THE PARTIES, THE OFFER SELECTED BY THE MEDIATOR–ARBITRATOR, AS INTEGRATED WITH THE ITEMS ON WHICH THE PARTIES PREVIOUSLY AGREED, SHALL BE THE FINAL AGREEMENT BETWEEN THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE.

(II) THE COMMISSION SHALL REQUEST FUNDS IN THE COMMISSION'S FINAL BUDGET FROM THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY FOR ALL ECONOMIC PROVISIONS OF THE FINAL AGREEMENT.

(2) THE PARTIES SHALL EXECUTE AN AGREEMENT INCORPORATING THE FINAL AGREEMENT, INCLUDING MEDIATION–ARBITRATION AWARDS AND ALL ISSUES AGREED TO UNDER THIS SUBTITLE.

(G) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF THE MEDIATOR–ARBITRATOR'S SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–108(b).

In subsection (c)(2) of this section, the reference to "each" party's final offer is substituted for the former reference to "the" party's final offer for clarity.

In subsection (d)(1) of this section, the reference to a "closed" hearing is substituted for the former reference to a "nonpublic" hearing for clarity and to conform to the term used throughout the Code.

In subsection (e)(2)(vii) of this section, the reference to Consumer Price Index – "Urban" Wage Earners and Clerical Workers is added for accuracy.

In subsection (f)(1)(ii) of this section, the reference to the county councils "of Montgomery County and Prince George's County" is added for clarity.

In subsection (g) of this section, the former reference to the Commission and the employee organization sharing equally "in paying" the costs is deleted to conform to other similar provisions throughout this subtitle.

Defined terms: "Commission" § 16–101

"Person" § 16–101
"State" § 16–101

18–209. PROVISIONS OF COLLECTIVE BARGAINING AGREEMENT.

(A) IN GENERAL.

THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL EXECUTE A COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL MATTERS OF AGREEMENT ON WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

(B) GRIEVANCE PROCEDURE.

IF A COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR A GRIEVANCE PROCEDURE, THAT GRIEVANCE PROCEDURE SHALL BE THE SOLE PROCEDURE FOR EMPLOYEES IN THE BARGAINING UNIT.

(C) UNION SECURITY PROVISION ALLOWED.

THE COLLECTIVE BARGAINING AGREEMENT MAY INCLUDE AN AGENCY SHOP OR OTHER UNION SECURITY PROVISION.

(D) CONFLICTS BETWEEN AGREEMENT AND REGULATION OR ADMINISTRATIVE PROCEDURE.

THE COLLECTIVE BARGAINING AGREEMENT SUPERSEDES ANY CONFLICTING REGULATION OR ADMINISTRATIVE POLICY OF THE COMMISSION.

(E) EXPIRATION OF AGREEMENT.

A SINGLE–YEAR OR MULTIYEAR COLLECTIVE BARGAINING AGREEMENT SHALL EXPIRE AT THE CLOSE OF THE APPROPRIATE FISCAL YEAR.

(F) WHEN AGREEMENT TAKES EFFECT.

A COLLECTIVE BARGAINING AGREEMENT TAKES EFFECT ON THE APPROVAL BY THE COMMISSION AND THE MEMBERSHIP OF THE UNION REPRESENTING THE BARGAINING UNIT.

(G) RIGHT TO APPEAL.

THIS SECTION DOES NOT LIMIT AN EMPLOYEE'S RIGHT TO AN APPEAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS UNDER § 18–123(B) OF THIS TITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–108(c).

In subsection (g) of this section, the reference to the "Office of Administrative Hearings" is substituted for the former reference to the "Secretary of Budget and Management" to correct an error in former Art. 29, § 11.5–108 due to a substantive change in former Art. 29, § 11–109(b).

The only other changes are in style.

Defined term: "Commission" § 16–101

18–210. FUNDING OF COLLECTIVE BARGAINING AGREEMENTS.

(A) IN GENERAL; REOPENING OF AGREEMENT.

(1) THE COMMISSION SHALL INCLUDE IN ITS ANNUAL PROPOSED OPERATING BUDGET, WHICH IT SUBMITS TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, PROVISIONS FOR THE FUNDING OF ALL TERMS INCLUDED IN ALL COLLECTIVE BARGAINING AGREEMENTS.

(2) UNLESS THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY BOTH APPROVE THE COMMISSION'S BUDGET SO AS TO APPROVE THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT, THE COMMISSION AND THE EMPLOYEE ORGANIZATION, WITHIN 5 DAYS AFTER THE ANNUAL JOINT COUNTY COUNCIL MEETING, SHALL REOPEN THE NEGOTIATED AGREEMENT AND BARGAIN WITH RESPECT TO THE PROVISIONS OF THE AGREEMENT NOT APPROVED BY THE COUNTY COUNCILS.

(B) WHEN PROVISION OF AGREEMENT IS INVALIDATED OR NOT FUNDED.

IF A PROVISION IN A COLLECTIVE BARGAINING AGREEMENT IS NOT FUNDED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY OR IS RULED INVALID, THE REMAINDER OF THE AGREEMENT REMAINS IN EFFECT UNLESS REOPENED UNDER SUBSECTION (A)(2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–109.

In subsection (a)(2) of this section, the reference to "both" county councils approving the budget is added for clarity.

Also in subsection (a)(2) of this section, the reference to the "annual" joint county council meeting is added for clarity.

Defined term: "Commission" § 16–101

18–211. IMPAIRMENT OF RIGHTS AND RESPONSIBILITIES OF COMMISSION PROHIBITED.

THIS SUBTITLE AND ANY AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHT AND RESPONSIBILITY OF THE COMMISSION TO:

(1) DETERMINE THE OVERALL BUDGET AND MISSION OF THE COMMISSION;

(2) MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;

(3) DETERMINE THE SERVICES TO BE RENDERED AND THE OPERATIONS TO BE PERFORMED;

(4) DETERMINE THE LOCATION OF FACILITIES AND THE OVERALL ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, JOB CLASSIFICATIONS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE CONDUCTED;

(5) DIRECT AND SUPERVISE EMPLOYEES;

(6) HIRE, SELECT, AND ESTABLISH THE STANDARDS GOVERNING PROMOTION OF EMPLOYEES AND CLASSIFY POSITIONS;

(7) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE;

(8) TAKE ACTIONS TO CARRY OUT THE MISSIONS OF GOVERNMENT IN SITUATIONS OF EMERGENCY;

(9) TRANSFER AND SCHEDULE EMPLOYEES;

(10) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE WORKFORCE;

(11) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;

(12) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND EVALUATE AND ASSIGN EMPLOYEES, EXCEPT THAT EVALUATION AND ASSIGNMENT PROCEDURES MAY BE A SUBJECT FOR COLLECTIVE BARGAINING;

(13) MAKE AND IMPLEMENT SYSTEMS FOR AWARDING OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS, AND OTHER MERIT AWARDS;

(14) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH, DEVELOPMENT, AND SERVICES;

(15) CONTROL AND REGULATE THE USE OF MACHINERY, EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE COMMISSION, SUBJECT TO § 18–207(A)(6) OF THIS SUBTITLE;

(16) MAINTAIN INTERNAL SECURITY STANDARDS;

(17) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY JOB CLASSIFICATION, DEPARTMENT, OPERATION, UNIT, OR OTHER DIVISION OR SERVICE;

(18) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE EMPLOYEES FOR CAUSE, SUBJECT TO THE GRIEVANCE PROCEDURE STATED IN THE COLLECTIVE BARGAINING AGREEMENT OR AS PROVIDED BY LAW; AND

(19) ISSUE AND ENFORCE RULES, POLICIES, AND REGULATIONS NECESSARY TO CARRY OUT THIS SECTION AND ALL OTHER MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH FEDERAL OR STATE LAW OR THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–110(a).

In item (15) of this section, the reference to "§ 18–207(a)(6) of this subtitle" is substituted for the former erroneous reference to "subsection (j)(1)(vi) of this section".

In item (17) of this section, the former phrase "[s]ubject to paragraph (4) of this subsection" is deleted as unnecessary.

In item (18) of this section, the phrase "or as provided by law" is added for clarity and accuracy.

In item (19) of this section, the former reference to "this article" is deleted as included in the reference to "State law".

Defined terms: "Commission" § 16–101
"State" § 16–101

18–212. PROHIBITED ACTIVITIES BY COMMISSION.

(A) IN GENERAL.

(1) THE COMMISSION MAY NOT:

(I) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN THE EXERCISE OF RIGHTS UNDER THIS SUBTITLE;

(II) DOMINATE, INTERFERE WITH, OR ASSIST IN THE FORMATION, ADMINISTRATION, OR EXISTENCE OF ANY EMPLOYEE ORGANIZATION OR CONTRIBUTE FINANCIAL ASSISTANCE OR OTHER SUPPORT TO AN EMPLOYEE ORGANIZATION;

(III) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN ANY EMPLOYEE ORGANIZATION BY DISCRIMINATING AGAINST AN EMPLOYEE THROUGH HIRING, TENURE, PROMOTION, OR OTHER CONDITIONS OF EMPLOYMENT;

(IV) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT, PETITION, OR COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS SUBTITLE; OR

(V) REFUSE TO BARGAIN IN GOOD FAITH WITH AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT OVER ANY SUBJECT OF BARGAINING OR REFUSE TO PARTICIPATE IN GOOD FAITH IN BINDING ARBITRATION OR GRIEVANCE PROCEDURES UNDER THIS SUBTITLE.

(2) PARAGRAPH (1)(II) OF THIS SUBSECTION DOES NOT PROHIBIT THE COMMISSION FROM ALLOWING EMPLOYEES TO NEGOTIATE OR TO CONFER

WITH THE COMMISSION OVER LABOR MATTERS DURING WORK HOURS WITHOUT THE LOSS OF PAY OR TIME.

(B) OUTSOURCING OF WORK.

THE COMMISSION MAY NOT CONTRACT OUT WORK THAT WILL DISPLACE EMPLOYEES IN A BARGAINING UNIT UNLESS THE COMMISSION GIVES WRITTEN NOTICE TO THE CERTIFIED REPRESENTATIVE OF THE BARGAINING UNIT AT LEAST 90 DAYS BEFORE SIGNING THE CONTRACT OR WITHIN A DIFFERENT PERIOD OF TIME AS AGREED BY THE PARTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–110(b) through (d).

In subsection (b) of this section, the references to a "bargaining unit" are added for clarity.

Also in subsection (b) of this section, the reference to the "Commission" is substituted for the former reference to the "commissioner" for accuracy.

Defined term: "Commission" § 16–101

18–213. PROHIBITED ACTIVITIES OF EMPLOYEE ORGANIZATION.

(A) IN GENERAL.

AN EMPLOYEE ORGANIZATION MAY NOT:

(1) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT UNDER THIS SUBTITLE;

(2) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT UNDER THIS SUBTITLE;

(3) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A MEMBER OF AN EMPLOYEE ORGANIZATION AS PUNISHMENT OR REPRISAL;

(4) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A MEMBER OF AN EMPLOYEE ORGANIZATION FOR THE PURPOSE OF IMPEDING THE MEMBER'S WORK PERFORMANCE;

(5) REFUSE TO NEGOTIATE IN GOOD FAITH WITH THE COMMISSION AS REQUIRED UNDER § 18–207 OF THIS SUBTITLE; OR

(6) FAIL OR REFUSE TO COOPERATE IN IMPASSE PROCEDURES AND IMPASSE DECISIONS AS REQUIRED UNDER § 18–208 OF THIS SUBTITLE.

(B) UNFAIR LABOR CHARGE.

ONLY AN ELIGIBLE EMPLOYEE MAY FILE AN UNFAIR LABOR CHARGE AGAINST AN EMPLOYEE ORGANIZATION FOR A VIOLATION OF SUBSECTION (A)(3) OR (4) OF THIS SECTION.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–111(a) and (b).

In subsection (a)(5) of this section, the reference to "§ 18–207" is added for clarity. Similarly, in subsection (a)(6) of this section, the reference to "§ 18–208" is added.

The only other changes are in style.

Defined term: "Commission" § 16–101

18–214. RIGHTS OF COMMISSION EMPLOYEES.

(A) IN GENERAL.

COMMISSION EMPLOYEES SHALL RETAIN THE RIGHT TO:

(1) FORM, JOIN, OR ASSIST ANY EMPLOYEE ORGANIZATION;

(2) BARGAIN COLLECTIVELY THROUGH THE REPRESENTATIVE THAT THEY HAVE CHOSEN;

(3) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITIES FOR THE PURPOSE OF COLLECTIVE BARGAINING; AND

(4) REFRAIN FROM ANY ACTIVITY COVERED UNDER THIS PARAGRAPH.

(B) GRIEVANCES ONLY THROUGH EXCLUSIVE REPRESENTATIVE.

AN EMPLOYEE MAY ONLY PRESENT A GRIEVANCE ARISING UNDER A COLLECTIVE BARGAINING AGREEMENT TO THE COMMISSION THROUGH THE

EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE FOR THE BARGAINING UNIT.

(C) COMMUNICATION WITH GENERAL MANAGER; LIMITATION ON ALTERATION OF TERMS AND CONDITIONS OF EMPLOYMENT.

(1) AN EMPLOYEE WHO IS A MEMBER OF A BARGAINING UNIT WITH AN EXCLUSIVE REPRESENTATIVE MAY DISCUSS ANY MATTER WITH THE GENERAL MANAGER OF THE COMMISSION OR THE GENERAL MANAGER'S DESIGNEE.

(2) THE COMMISSION MAY NOT ALTER ANY TERMS OR CONDITIONS OF EMPLOYMENT THAT ARE SUBJECT TO COLLECTIVE BARGAINING UNDER § 18–207 OF THIS SUBTITLE WITHOUT FOLLOWING THE PROCESS FOR COLLECTIVE BARGAINING UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–111(c).

In subsection (a)(3) of this section, the word "and" is substituted for the former word "or" for clarity.

The only other changes are in style.

Defined term: "Commission" § 16–101

18–215. STRIKE.

(A) "STRIKE" DEFINED.

IN THIS SECTION, "STRIKE" MEANS THE ACTION OF AN EMPLOYEE, IN CONCERT WITH OTHERS, TO:

(1) REFUSE TO REPORT TO WORK;

(2) STOP OR SLOW DOWN WORK; OR

(3) ABSTAIN WHOLLY OR PARTLY FROM THE FULL, FAITHFUL, AND PROPER PERFORMANCE OF DUTIES FOR THE PURPOSE OF INDUCING, INFLUENCING, OR COERCING A CHANGE IN THE TERMS, CONDITIONS, RIGHTS, OR PRIVILEGES OF EMPLOYMENT.

(B) ENGAGING, INDUCING, OR RATIFYING OF STRIKE BY EMPLOYEE OR EMPLOYEE ORGANIZATION PROHIBITED.

A COMMISSION EMPLOYEE, GROUP OF COMMISSION EMPLOYEES, OR EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, OR RATIFY A STRIKE BY COMMISSION EMPLOYEES.

(C) ENJOINING OF STRIKE.

IF A STRIKE OCCURS, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE ON REQUEST OF THE COMMISSION.

(D) COMPENSATION DURING STRIKE.

AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE COMMISSION WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.

(E) DISCIPLINARY ACTION.

(1) IF AN EMPLOYEE ENGAGES IN, INDUCES, INITIATES, OR RATIFIES A STRIKE, THE COMMISSION MAY TAKE APPROPRIATE DISCIPLINARY ACTION AGAINST THE EMPLOYEE, INCLUDING SUSPENSION OR DISCHARGE.

(2) IF DISCIPLINARY ACTION IS TAKEN AND APPEALED, THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD A HEARING ON THE DISCIPLINARY ACTION AT WHICH THE COMMISSION, THE EMPLOYEE, AND ANY INTERESTED EMPLOYEE ORGANIZATION MAY PRESENT EVIDENCE AND ARGUMENT.

(F) DECERTIFICATION.

(1) IF AFTER A HEARING AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IS FOUND BY THE LABOR RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED A STRIKE INVOLVING THE REFUSAL OF COMMISSION EMPLOYEES TO REPORT FOR WORK, THE LABOR RELATIONS ADMINISTRATOR SHALL REVOKE THE CERTIFICATION OF THE EMPLOYEE ORGANIZATION.

(2) AN EMPLOYEE ORGANIZATION DECERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE RECERTIFIED FOR 2 YEARS AFTER THE END OF THE STRIKE.

(3) IF AFTER A HEARING AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IS FOUND BY THE LABOR RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED

ANY OTHER TYPE OF STRIKE, THE LABOR RELATIONS ADMINISTRATOR MAY REVOKE THE CERTIFICATION OF THE EMPLOYEE ORGANIZATION FOR UP TO 1 YEAR AFTER THE END OF THE STRIKE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–112.

In subsection (e)(2) of this section, the phrase "[i]f disciplinary action is taken and appealed" is added for clarity.

Defined term: "Commission" § 16–101

18–216. UNFAIR LABOR PRACTICE.

(A) IN GENERAL.

IT IS AN UNFAIR LABOR PRACTICE FOR THE COMMISSION OR AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT TO VIOLATE THE RIGHTS OF A COMMISSION EMPLOYEE UNDER THIS SUBTITLE.

(B) WRITTEN CHARGE.

WITHIN 30 BUSINESS DAYS AFTER THE ALLEGED VIOLATION, THE PARTY CHARGING AN UNFAIR LABOR PRACTICE SHALL SUBMIT THE CHARGE IN WRITING TO THE LABOR RELATIONS ADMINISTRATOR AND THE PARTY ALLEGED TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE.

(C) HEARING.

WITHIN 15 BUSINESS DAYS AFTER AN UNFAIR LABOR PRACTICE CHARGE IS SUBMITTED, THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL REQUEST THE LABOR RELATIONS ADMINISTRATOR TO HOLD A HEARING AND DECIDE WHETHER AN UNFAIR LABOR PRACTICE HAS OCCURRED.

(D) ROLE OF LABOR RELATIONS ADMINISTRATOR.

THE LABOR RELATIONS ADMINISTRATOR SHALL:

(1) CONDUCT THE HEARING;

(2) ISSUE A FINDING OF FACTS AND CONCLUSION OF LAW;

(3) ORDER THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE TO CEASE AND DESIST FROM THE PROHIBITED PRACTICE; AND

(4) ORDER ALL RELIEF NECESSARY TO REMEDY THE VIOLATION OF THIS SUBTITLE AND OTHERWISE TO MAKE WHOLE ANY INJURED EMPLOYEE OR EMPLOYEE ORGANIZATION OR THE COMMISSION, IF INJURED, INCLUDING REINSTATEMENT, RESTITUTION, BACK PAY, OR OTHER REMEDY NEEDED TO RESTORE THE EMPLOYEE, THE EMPLOYEE ORGANIZATION, OR THE COMMISSION TO THE POSITION OR CONDITION IT WOULD HAVE BEEN IN BUT FOR THE VIOLATION.

(E) DAMAGES.

THE LABOR RELATIONS ADMINISTRATOR MAY NOT ORDER PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, DAMAGES FOR EMOTIONAL DISTRESS, PAIN, AND SUFFERING, OR ATTORNEY'S FEES FOR PURPOSES OF SATISFYING THE REQUIREMENTS OF SUBSECTION (D)(4) OF THIS SECTION.

(F) DISMISSAL OF CHARGES.

IF THE LABOR RELATIONS ADMINISTRATOR FINDS THAT THE PARTY CHARGED HAS NOT COMMITTED AN UNFAIR LABOR PRACTICE, THE LABOR RELATIONS ADMINISTRATOR SHALL ISSUE AN ORDER DISMISSING THE CHARGES.

(G) JUDICIAL REVIEW OF ADMINISTRATOR'S DECISION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE LABOR RELATIONS ADMINISTRATOR'S DECISION IS FINAL.

(2) A PARTY MAY SEEK JUDICIAL REVIEW OF THE DECISION ON THE BASIS THAT THE DECISION IS ARBITRARY, CAPRICIOUS, OR EXCEEDS THE AUTHORITY OF THE LABOR RELATIONS ADMINISTRATOR.

(H) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF ANY UNFAIR LABOR PRACTICE PROCEEDING.

(I) COURT ORDER.

IF THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE FAILS OR REFUSES TO COMPLY WITH THE LABOR RELATIONS

ADMINISTRATOR'S DECISION IN WHOLE OR IN PART, THE CHARGING PARTY MAY FILE AN ACTION TO ENFORCE THE ORDER WITH THE CIRCUIT COURT FOR THE COUNTY IN WHICH ANY OF THE INVOLVED EMPLOYEES WORK.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–113.

In subsection (d)(3) of this section, the reference to the party "found to have committed" the unfair labor practice is substituted for the former reference to the party "charged with" the unfair labor practice for accuracy.

In subsection (d)(4) of this section, the reference to "other remedy" is substituted for the former reference to "injunctions" for clarity and because a labor relations administrator may not issue an injunction, only a judge may issue an injunction.

In subsection (f) of this section, the former reference to a "prohibited practice" is deleted as unnecessary.

In subsection (g)(2) of this section, the reference to "seek[ing] judicial review" is substituted for the former reference to "appeal[ing]" for accuracy.

Also in subsection (g)(2) of this section, the reference to "exceeds the authority of the labor relations administrator" is substituted for the former reference to "exceeding authority" for clarity.

Defined terms: "Commission" § 16–101
"County" § 16–101

18–217. EXPRESSION OF PERSONAL VIEW, ARGUMENT, OPINION, OR STATEMENT.

(A) APPLICABILITY OF SECTION.

THIS SECTION APPLIES TO THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OR OPINION OR THE MAKING OF ANY PERSONAL STATEMENT THAT:

(1) (I) PUBLICIZES THE FACT OF A REPRESENTATIONAL ELECTION AND ENCOURAGES EMPLOYEES TO EXERCISE THEIR RIGHT TO VOTE IN THE ELECTION;

(II) CORRECTS THE RECORD WITH RESPECT TO ANY FALSE OR MISLEADING STATEMENT MADE BY ANY PERSON; OR

(III) INFORMS EMPLOYEES OF THE COMMISSION'S POLICY RELATING TO LABOR–MANAGEMENT RELATIONS AND REPRESENTATION;

(2) DOES NOT CONTAIN A THREAT OF REPRISAL, FORCE, OR PROMISE OF BENEFIT; AND

(3) IS NOT MADE UNDER COERCIVE CONDITIONS.

(B) EFFECT.

THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OPINION, OR STATEMENT DESCRIBED IN SUBSECTION (A) OF THIS SECTION DOES NOT CONSTITUTE:

(1) AN UNFAIR LABOR PRACTICE UNDER THE PROVISIONS OF THIS SUBTITLE; OR

(2) GROUNDS FOR SETTING ASIDE ANY ELECTION CONDUCTED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–114.

In the introductory language of subsection (a) of this section, the reference to "this section" is substituted for the former reference to "this subsection" for accuracy.

The only other changes are in style.

Defined terms: "Commission" § 16–101
"Person" § 16–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Throughout this subtitle, the references to this "subtitle" are substituted for the former erroneous references to this "section" enacted by Chapter 424, Acts of 2003. Chapter 424 enacted Article 29, Title 11.5 of the Code. This legislation appears to be, at least in part, a reintroduction of House Bill 772 of the 2002 legislative session. However, the structure of the statutory text contained in Chapter 424 differs from that of House Bill 772. House Bill 772 established collective bargaining in one section but when the legislation was introduced again in 2003, it was redrafted in such a way as to break up the provisions into 14 sections in former Article 29, Title 11.5. In the redrafting of the legislation, however, certain internal cross–references were not updated to reflect the change from one section encompassing the whole of the

collective bargaining provisions to those provisions covering 14 separate sections throughout a title.

TITLE 19. ETHICS.

19–101. "BOARD" DEFINED.

IN THIS TITLE, "BOARD" MEANS THE BOARD OF ETHICS ESTABLISHED BY THE COMMISSION UNDER REGULATIONS ADOPTED IN ACCORDANCE WITH TITLE 15, SUBTITLE 8, PART III OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 12–105.1(a).

The word "title" is substituted for the former word "section" to reflect the reorganization of former Art. 29, § 12–105.1(a) as part of this title in this revision.

The only other change is in style.

Defined term: "Commission" § 16–101

19–102. APPLICATION OF MARYLAND PUBLIC ETHICS LAW.

(A) IN GENERAL.

EXCEPT WHERE PROVISIONS OF THIS TITLE EXCEED THE MINIMUM STANDARDS OF THE MARYLAND PUBLIC ETHICS LAW, COMMISSIONERS AND EMPLOYEES OF THE COMMISSION ARE SUBJECT TO THE CONFLICT OF INTEREST AND LOBBYING PROVISIONS OF THE MARYLAND PUBLIC ETHICS LAW.

(B) VIOLATION OF ETHICS LAWS AND REGULATIONS PROHIBITED.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COMMISSIONER, EMPLOYEE, CONTRACTOR, OR SUBCONTRACTOR OF THE COMMISSION MAY NOT WILLFULLY AND KNOWINGLY VIOLATE:

(1) ANY PROVISION OF THIS TITLE;

(2) THE MARYLAND PUBLIC ETHICS LAW; OR

(3) ANY COMMISSION REGULATION GOVERNING:

(I) CONFLICTS OF INTEREST;

(II) FINANCIAL DISCLOSURE;

(III) LOBBYING; OR

(IV) ETHICS IN PUBLIC CONTRACTING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 12–101 and 12–106(a).

In subsection (b)(3)(iii) of this section, the word "or" is substituted for the former word "and" for clarity.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

19–103. CONFLICTS OF INTEREST.

(A) DISCLOSURE.

A COMMISSIONER SHALL DISCLOSE ANY CONFLICTS OF INTEREST UNDER THE MARYLAND PUBLIC ETHICS LAW AT A COMMISSION MEETING.

(B) PROHIBITION ON CERTAIN PARTICIPATION.

THE COMMISSIONER MAY NOT PARTICIPATE IN ANY DECISION OR ACT AFFECTED BY THE CONFLICT OF INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 12–103.

In subsection (a) of this section, the former phrase "[i]f a commissioner of the WSSC has a conflict of interest" is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

19–104. ATTEMPT TO INFLUENCE PROHIBITED.

A COMMISSIONER MAY NOT ATTEMPT TO INFLUENCE A COUNTY OR STATE OFFICIAL IN THE CONDUCT OF THE OFFICIAL'S DUTIES FOR A PURPOSE CONTRARY TO:

(1) THIS TITLE; OR

(2) THE MARYLAND PUBLIC ETHICS LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 12–104.

Defined terms: "Commissioner" § 16–101
"County" § 16–101
"State" § 16–101

19–105. EX PARTE COMMUNICATIONS.

(A) COMMUNICATIONS TO BE PUBLIC.

A COMMISSIONER OR EMPLOYEE OF THE COMMISSION WHO RECEIVES AN EX PARTE COMMUNICATION THAT CONCERNS A CASE WHERE A DETERMINATION OR DECISION IS REQUIRED BY LAW TO BE MADE ONLY AFTER A PUBLIC HEARING FOR INTERESTED PARTIES SHALL MAKE THE EX PARTE COMMUNICATION PUBLIC AND PART OF THE RECORD OF THE PROCEEDING.

(B) COMMUNICATIONS TO BE PART OF RECORD.

A COMMISSIONER OR EMPLOYEE OF THE COMMISSION WHO RECEIVES AN EX PARTE COMMUNICATION THAT CONCERNS THE MERITS OF A CASE WHERE THE COMMISSIONER'S OR EMPLOYEE'S DETERMINATION OR DECISION IS REQUIRED BY LAW TO BE MADE ONLY AFTER A PUBLIC HEARING FOR INTERESTED PARTIES SHALL:

(1) NOTE THE SUBSTANCE OF AN ORAL EX PARTE COMMUNICATION FOR THE RECORD; AND

(2) PLACE THE SUBSTANCE OF A WRITTEN EX PARTE COMMUNICATION ON THE RECORD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 12–105.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

19–106. ADMINISTRATION OF OATHS.

THE BOARD MAY ADMINISTER OATHS.

REVISOR'S NOTE: This section formerly was Art. 29, § 12–105.1(b).

No changes are made.

Defined term: "Board" § 19–101

19–107. JUDICIAL REVIEW AND ENFORCEMENT OF ORDERS.

(A) SCOPE.

NOTWITHSTANDING ANY OTHER PROVISION OF THE COMMISSION CODE OF ETHICS, JUDICIAL ENFORCEMENT UNDER THIS SECTION IN THE INVESTIGATION OF A COMPLAINT ALLEGING IMPROPER DISCLOSURE OF CONFIDENTIAL INFORMATION SHALL APPLY ONLY TO INFORMATION THAT IS SUBJECT TO DENIAL OF A REQUEST FOR INFORMATION UNDER THE MARYLAND PUBLIC INFORMATION ACT.

(B) JUDICIAL REVIEW AND ENFORCEMENT.

(1) A RESPONDENT AGGRIEVED BY A FINAL ORDER OF THE BOARD MAY SEEK JUDICIAL REVIEW AS PROVIDED UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) (I) UNLESS THE BOARD AND THE RESPONDENT MUTUALLY AGREE OTHERWISE, AN ORDER OF THE BOARD IS STAYED UNTIL THE TIME FOR SEEKING JUDICIAL REVIEW EXPIRES.

(II) IF A TIMELY APPEAL IS FILED, THE ORDER IS STAYED UNTIL FINAL DISPOSITION BY THE COURT.

(3) THE COMMISSION MAY SEEK JUDICIAL ENFORCEMENT:

(I) OF AN ORDER OF THE BOARD; OR

(II) IN ACCORDANCE WITH § 19–108 OF THIS TITLE, TO ENSURE COMPLIANCE WITH ITS REGULATIONS GOVERNING:

1. CONFLICTS OF INTEREST;

2. FINANCIAL DISCLOSURE;

3. LOBBYING; OR

4. ETHICS IN PUBLIC CONTRACTING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 12–105.1(c) and (d).

Defined terms: "Board" § 19–101
"Commission" § 16–101

19–108. INJUNCTIVE RELIEF AND FINES.

A COURT MAY:

(1) COMPEL COMPLIANCE WITH AN ORDER OF THE BOARD OR COMMISSION REGULATIONS GOVERNING CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, LOBBYING, OR ETHICS IN PUBLIC CONTRACTING BY:

(I) ISSUING AN ORDER TO CEASE AND DESIST FROM THE VIOLATION; OR

(II) GRANTING OTHER INJUNCTIVE RELIEF; AND

(2) IMPOSE A FINE NOT EXCEEDING $5,000 FOR A VIOLATION OF THIS TITLE OR COMMISSION REGULATIONS GOVERNING CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, LOBBYING, OR ETHICS IN PUBLIC CONTRACTING.

REVISOR'S NOTE: This section formerly was Art. 29, § 12–106(b).

The only changes are in style.

Defined terms: "Board" § 19–101
"Commission" § 16–101

TITLE 20. PROCUREMENT.

SUBTITLE 1. WATER AND SEWER PROCUREMENT CONTRACTS.

20–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–102(a)(1).

The only change is in style.

(B) DESIGN/BUILD CONTRACT.

"DESIGN/BUILD CONTRACT" MEANS A CONTRACT THAT PROVIDES FOR BOTH ARCHITECTURAL AND ENGINEERING DESIGN SERVICES AND CONSTRUCTION SERVICES AS A PART OF A SINGLE CONTRACT.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–102(a)(2).

No changes are made.

(C) EVALUATED BID PRICE.

"EVALUATED BID PRICE" MEANS THE PRICE OF A BID AFTER ADJUSTMENT IN ACCORDANCE WITH OBJECTIVE MEASURABLE CRITERIA.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–102(d)(1)(i) and (ii).

The former reference to the defined term applying to "this subsection" is deleted in light of the reorganization of former Art. 29, § 3–102(d) in this subtitle.

Defined term: "Objective measurable criteria" § 20–101

(D) FACILITIES CONSTRUCTION CONTRACT.

"FACILITIES CONSTRUCTION CONTRACT" MEANS A CONTRACT THAT PROVIDES SERVICES FOR THE CONSTRUCTION OF:

(1) A WATER OR WASTEWATER TREATMENT PLANT;

(2) A WATER OR WASTEWATER PUMPING STATION AND RELATED FORCE MAINS IN THE PUMPING STATION SITE LIMITS;

(3) A WATER STORAGE FACILITY;

(4) A WASTEWATER STORAGE FACILITY; OR

(5) A BUILDING FOR COMMISSION PURPOSES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–102(a)(3).

In item (4) of this subsection, the word "or" is substituted for the former word "and" for clarity.

In item (5) of this subsection, the reference to "a building for Commission purposes" is substituted for the former reference to "building[s]" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the reference to "buildings" in former Art. 29, § 3–102(a)(3)(iv) is unclear. The Committee has interpreted the reference to mean any building for Commission purposes. This substitution is called to the attention of the General Assembly.

Defined term: "Commission" § 16–101

(E) OBJECTIVE MEASURABLE CRITERIA.

"OBJECTIVE MEASURABLE CRITERIA" MEANS STANDARDS THAT ENABLE THE COMMISSION TO COMPARE THE ECONOMY, EFFECTIVENESS, OR VALUE OF THE SUBJECT OF THE BIDS.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–102(d)(1)(iii).

The only change is in style.

Defined term: "Commission" § 16–101

REVISOR'S NOTE TO SECTION:

Former Art. 29, § 3–102(a)(4), which defined "pipeline contract", is deleted because the term is not used in this revised article.

The definitions under former Art. 29, § 3–102, which are defined in this section, applied to former Art. 29, § 3–102(f), which is revised under Subtitle 2 of this revision. As such, these defined terms no longer apply to the revised provisions of former Art. 29, § 3–102(f). However, because these defined terms are not used in the source law for or revised provisions of former Art. 29, § 3–102(f), the change in application of the defined terms does not result in a substantive change.

20–102. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY TO:

(1) DESIGN/BUILD CONTRACTS; AND

(2) CONSTRUCTION CONTRACTS.

REVISOR'S NOTE: This section formerly was Art. 29, § 3–102(b).

The only changes are in style.

Defined term: "Design/build contract" § 20–101

20–103. COMPLIANCE REQUIRED.

IF THE COMMISSION DECIDES TO PROCEED WITH THE DESIGN OR CONSTRUCTION OF A WATER SUPPLY OR SANITARY SEWER SYSTEM, THE COMMISSION SHALL COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–102(c)(1), except as it related to the requirement to provide an opportunity for a hearing.

Defined term: "Commission" § 16–101

20–104. DESIGN AND CONSTRUCTION OF SYSTEM — IN GENERAL.

(A) HEARING.

THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR A HEARING BEFORE PROCEEDING WITH THE DESIGN OR CONSTRUCTION OF A WATER SUPPLY OR SANITARY SEWER SYSTEM.

(B) ADVERTISEMENT.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE COMMISSION:

(1) SHALL ADVERTISE IN NEWSPAPERS AND TECHNICAL MEDIA THAT THE COMMISSION CONSIDERS APPROPRIATE FOR BIDS OR PROPOSALS FOR DESIGN OR CONSTRUCTION SERVICES FOR ANY PART OF A WATER SUPPLY OR SANITARY SEWER SYSTEM; AND

(2) MAY READVERTISE ANY PART OF THE SERVICES NEEDED IF THE COMMISSION CONSIDERS THE PRICES QUOTED IN RESPONSE TO A PRIOR ADVERTISEMENT TO BE UNREASONABLE.

(C) DAY LABOR.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY USE DAY LABOR TO COMPLETE ANY PART OF THE DESIGN OR CONSTRUCTION OF A WATER SUPPLY OR SANITARY SEWER SYSTEM.

(2) NOTWITHSTANDING § 20–105(A) OF THIS SUBTITLE, THE COMMISSION MAY SPEND UP TO $15,000 FOR DAY LABOR FOR ANY PART OF CONSTRUCTION SERVICES WITHOUT ADVERTISING FOR OR RECEIVING BIDS OR PROPOSALS.

(D) AUTHORIZED CONTRACTS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY ENTER INTO ANY TYPE OF CONTRACT UNDER THIS SUBTITLE THAT PROMOTES THE BEST INTEREST OF THE COMMISSION.

(2) THE COMMISSION:

(I) MAY NOT ENTER A COST–PLUS–PERCENTAGE–OF–COST CONTRACT; AND

(II) SHALL PROHIBIT A COST–PLUS–PERCENTAGE–OF–COST SUBCONTRACT UNDER A CONTRACT WITH THE COMMISSION.

(E) AUTHORIZED CONTRACTS — DESIGN/BUILD CONTRACTS.

THE COMMISSION:

(1) MAY ONLY ENTER INTO A DESIGN/BUILD CONTRACT FOR A FACILITIES CONSTRUCTION CONTRACT WITH COSTS EXCEEDING $2,000,000; AND

(2) MAY NOT ENTER INTO A DESIGN/BUILD CONTRACT FOR A PIPELINE.

(F) AUTHORITY TO REJECT A BID OR PROPOSAL.

THE COMMISSION MAY REJECT ANY BID OR PROPOSAL.

(G) CONTRACT SECURITY.

(1) THE COMMISSION MAY REQUIRE A CONTRACT TO BE SECURED BY BONDS, PENALTIES, AND CONDITIONS.

(2) SECURITY AUTHORIZED UNDER THIS SUBSECTION IS ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION.

(H) REGULATIONS.

THE COMMISSION:

(1) MAY ADOPT REGULATIONS TO ESTABLISH A PREQUALIFICATION PROCESS FOR BIDDERS OR OFFERORS; AND

(2) SHALL ADOPT REGULATIONS TO GOVERN DISCUSSIONS HELD WITH OFFERORS UNDER § 20–105(C)(3) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–102(g) and (c)(2) through (5), (7) through (9), and, as it related to the requirement to provide an opportunity for a hearing, (1).

In the introductory language of subsection (b) of this section, the phrase "[s]ubject to subsection (c) of this section" is added for clarity.

In subsection (b)(1) of this section, the reference to design or construction "services" is added for clarity and consistency within this subtitle.

Also in subsection (b)(1) of this section, the reference to a "water supply or sanitary sewer" system is added for clarity.

Also in subsection (b)(1) of this section, the reference to technical "media" is substituted for the former reference to technical "press" to reflect current terminology.

Also in subsection (b)(1) of this section, the reference to proposals or bids "for any part" of a system is substituted for the former reference to proposals or bids for a system "in parts or as a whole" for clarity and brevity. Similarly, in subsection (b)(2) of this section, the first former reference to "the work" or any part of it is deleted.

Also in subsection (b)(1) of this section, the former reference to "as the WSSC considers advisable" is deleted as surplusage.

In subsection (b)(2) of this section, the reference to prices quoted "in response to a prior advertisement" is added for clarity.

Also in subsection (b)(2) of this section, the reference to "services needed" is substituted for the former reference to "the work" for clarity.

In subsection (c)(1) of this section, the reference to "us[ing] day labor to complete any part of the design or construction of a water supply or sanitary sewer system" is substituted for the former reference to "do[ing] any part or all of the work by day labor" for clarity.

In subsection (c)(2) of this section, the former phrase "at any time" is deleted as unnecessary.

In subsection (e) of this section, the references to "enter[ing] into" specified contracts is substituted for the former references to the contracts "be[ing] used" for clarity and consistency within this subtitle.

In subsection (g)(1) of this section, the reference to a contract that is "secured" is substituted for the former reference to a contract that is "protected" for clarity and consistency with Title 17, Subtitle 1 of the State Finance and Procurement Article.

In subsection (h)(2) of this section, the reference to discussions held "with offerors" is added for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (c)(2) of this section is vague. The General Assembly may wish to clarify the intent of the subsection.

Defined terms: "Commission" § 16–101
"Design/build contract" § 20–101
"Facilities construction contract" § 20–101

20–105. METHODS OF SOURCE SELECTION.

(A) IN GENERAL.

THE COMMISSION SHALL AWARD CONTRACTS BY:

(1) COMPETITIVE SEALED BIDS IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; OR

(2) COMPETITIVE SEALED PROPOSALS IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

(B) COMPETITIVE SEALED BIDS.

(1) IF A CONTRACT IS AWARDED BASED ON COMPETITIVE SEALED BIDS, THE COMMISSION SHALL SEEK BIDS BY ISSUING AN INVITATION FOR BIDS.

(2) SUBJECT TO PARAGRAPHS (3) THROUGH (5) OF THIS SUBSECTION, AN INVITATION FOR BIDS SHALL:

(I) INCLUDE THE CONTRACT SPECIFICATIONS, INCLUDING THE EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION PROVIDED UNDER SUBTITLE 2 OF THIS TITLE; AND

(II) STATE WHETHER THE CONTRACT WILL BE AWARDED BASED ON THE LOWEST BID PRICE OR THE LOWEST EVALUATED BID PRICE.

(3) IF A CONTRACT WILL BE AWARDED BASED ON AN EVALUATED BID PRICE, THE INVITATION FOR BIDS SHALL INCLUDE THE OBJECTIVE MEASURABLE CRITERIA BY WHICH THE LOWEST EVALUATED BID PRICE WILL BE DETERMINED.

(4) THE COMMISSION SHALL AWARD CONTRACTS BASED ON COMPETITIVE SEALED BIDS TO THE RESPONSIBLE BIDDER WHO SUBMITS THE LOWEST BID PRICE OR LOWEST EVALUATED BID PRICE, AS APPROPRIATE.

(5) IF THE COMMISSION DETERMINES THAT AN INITIAL PREPARATION OF SPECIFICATIONS FOR PRICE BIDS IS IMPRACTICAL, THE INVITATION FOR BIDS MAY:

(I) INCLUDE A REQUEST FOR AN UNPRICED TECHNICAL OFFER OR SAMPLE; AND

(II) DIRECT A BIDDER TO SUBMIT:

1. A SEALED PRICE BID WITH THE UNPRICED TECHNICAL OFFER OR SAMPLE; OR

2. A PRICE BID AFTER THE COMMISSION:

A. EVALUATES THE TECHNICAL OFFER OR SAMPLE; AND

B. FINDS THAT THE OFFER OR SAMPLE IS ACCEPTABLE UNDER THE CRITERIA SET FORTH IN THE INVITATION FOR BIDS.

(6) IF AN INVITATION FOR BIDS INCLUDES A REQUEST FOR AN UNPRICED TECHNICAL OFFER OR SAMPLE, THE COMMISSION SHALL:

(I) CONSIDER THE PRICE BID OF A BIDDER WHOSE TECHNICAL OFFER OR SAMPLE IS ACCEPTABLE;

(II) RETURN UNOPENED THE PRICE BID OF A BIDDER WHOSE TECHNICAL OFFER OR SAMPLE IS UNACCEPTABLE; AND

(III) AWARD THE CONTRACT TO THE RESPONSIBLE BIDDER WHOSE TECHNICAL OFFER OR SAMPLE IS ACCEPTABLE AND WHO SUBMITS THE LOWEST BID PRICE OR LOWEST EVALUATED BID PRICE, AS SPECIFIED IN THE INVITATION FOR BIDS.

(C) COMPETITIVE SEALED PROPOSALS.

(1) IF A CONTRACT IS AWARDED BASED ON COMPETITIVE SEALED PROPOSALS, THE COMMISSION SHALL SEEK PROPOSALS BY ISSUING A REQUEST FOR PROPOSALS.

(2) A REQUEST FOR PROPOSALS SHALL INCLUDE:

(I) A STATEMENT DESCRIBING THE SCOPE OF THE CONTRACT, INCLUDING THE EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION PROVIDED UNDER SUBTITLE 2 OF THIS TITLE;

(II) THE FACTORS, INCLUDING PRICE, THAT WILL BE USED IN EVALUATING PROPOSALS; AND

(III) THE RELATIVE IMPORTANCE OF EACH FACTOR.

(3) AFTER RECEIPT OF PROPOSALS, BUT BEFORE THE CONTRACT IS AWARDED, THE COMMISSION MAY CONDUCT DISCUSSIONS WITH AN OFFEROR TO:

(I) OBTAIN THE BEST PRICE FOR THE COMMISSION; AND

(II) ENSURE FULL UNDERSTANDING OF THE REQUIREMENTS OF THE COMMISSION, AS SET FORTH IN THE REQUEST FOR PROPOSALS AND IN THE PROPOSAL.

(4) THE COMMISSION:

(I) SHALL TREAT ALL RESPONSIBLE OFFERORS FAIRLY AND EQUALLY; AND

(II) MAY ALLOW EACH RESPONSIBLE OFFEROR TO REVISE THE OFFEROR'S INITIAL PROPOSAL AND SUBMIT A BEST AND FINAL OFFER.

(5) THE COMMISSION SHALL AWARD A CONTRACT BASED ON COMPETITIVE SEALED PROPOSALS TO THE RESPONSIBLE OFFEROR WHO SUBMITS THE PROPOSAL OR BEST AND FINAL OFFER THAT THE COMMISSION DETERMINES IS THE MOST ADVANTAGEOUS TO THE COMMISSION, CONSIDERING THE EVALUATION FACTORS SET FORTH IN THE REQUEST FOR PROPOSALS.

REVISOR'S NOTE: This section formerly was Art. 29, § 3–102(e), (c)(6), and (d)(2) through (7).

Throughout subsection (b) of this section, the references to "invitation for bids" are substituted for the former references to "invitation to bid" for consistency with the defined term found in § 11–101(j) of the State Finance and Procurement Article.

In subsection (b)(6)(iii) of this section, the references to the lowest bid or lowest evaluated bid "price" are added for clarity and consistency within this section.

The only other changes are in style.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (b)(4) and (6) of this section requires the Commission to award contracts based on competitive sealed bids to the responsible bidder who submits the lowest bid price or lowest evaluated bid price. Commission staff have indicated that in practice, the Commission awards contracts based on competitive sealed bids to the responsible bidder who submits the lowest responsive bid. The Washington Suburban Sanitary Commission Law Review Committee calls this discrepancy to the attention of the General Assembly.

Defined terms: "Commission" § 16–101
"Evaluated bid price" § 20–101
"Objective measurable criteria" § 20–101

20–106. NONDISCRIMINATION POLICY.

(A) NONDISCRIMINATION CLAUSE.

(1) THE COMMISSION MAY NOT AWARD A CONTRACT UNLESS THE CONTRACT CONTAINS PROVISIONS OBLIGATING THE CONTRACTOR:

(I) NOT TO DISCRIMINATE IN ANY MANNER AGAINST AN EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT ON THE BASIS OF SEX, RACE, CREED, COLOR, AGE, MENTAL OR PHYSICAL DISABILITY, SEXUAL ORIENTATION, OR NATIONAL ORIGIN; AND

(II) TO INCLUDE A SIMILAR NONDISCRIMINATION CLAUSE IN ALL SUBCONTRACTS.

(2) (I) IF THE NONDISCRIMINATION CLAUSE IS OMITTED FROM A CONTRACT OR SUBCONTRACT, THE COMMISSION SHALL PROVIDE THE CONTRACTOR A REASONABLE OPPORTUNITY TO CURE THE DEFECT, SUBJECT TO THIS SECTION.

(II) IF THE CONTRACTOR FAILS TO CURE THE DEFECT:

1. THE COMMISSION MAY DECLARE THE CONTRACT TO BE VOID; AND

2. THE CONTRACTOR IS ENTITLED TO THE REASONABLE VALUE OF WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR.

(III) IF THE CONTRACTOR CURES THE DEFECT, THE CONTRACT REMAINS IN FORCE ACCORDING TO ITS REVISED TERMS.

(B) VIOLATION — CONTRACTOR.

(1) IN ACCORDANCE WITH THIS SECTION, THE COMMISSION MAY COMPEL A CONTRACTOR TO CONTINUE TO PERFORM UNDER A CONTRACT IF:

(I) THE CONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE REQUIREMENTS OF A NONDISCRIMINATION CLAUSE; AND

(II) THE CONTRACT IS PARTIALLY EXECUTORY.

(2) IF THE COMMISSION COMPELS PERFORMANCE UNDER THIS SUBSECTION, THE COMMISSION:

(I) IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR AFTER THE DATE ON WHICH THE BREACH OF CONTRACT WAS OR SHOULD HAVE BEEN DISCOVERED; AND

(II) SHALL DEDUCT ANY MONEY THAT HAS BEEN PAID UNDER THE CONTRACT FROM THE MONEY THAT COMES DUE UNDER ITEM (I) OF THIS PARAGRAPH.

(C) VIOLATION — SUBCONTRACTOR.

(1) IF A SUBCONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE REQUIREMENTS OF A NONDISCRIMINATION CLAUSE, THE CONTRACTOR MAY DECLARE THE SUBCONTRACT TO BE VOID.

(2) IF A CONTRACTOR DECLARES A SUBCONTRACT TO BE VOID UNDER THIS SUBSECTION, THE CONTRACTOR IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF WORK PERFORMED OR MATERIALS PROVIDED BY THE SUBCONTRACTOR.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 29, § 3–102(h).

Throughout this section, the references to work performed and materials provided "by the [sub]contractor" are added for clarity.

In the introductory language of subsection (a)(1) of this section, the former reference to awarding a contract "to a contractor" is deleted as implicit in a contract award.

In subsection (a)(1)(i) of this section, the reference to mental or physical "disability" is substituted for the former, archaic reference to mental or physical "handicap" and to conform terminology used in other revised articles of the Code. *See*, *e.g.*, Title 20 of the State Government Article.

In subsection (a)(2)(i) of this section, the reference to providing "the contractor" a reasonable opportunity to cure the defect is added for clarity.

In subsection (b)(1) of this section, the phrase "[i]n accordance with this section" is added for clarity. No substantive change is intended.

In subsection (b)(2) of this section, the phrase "[i]f the Commission compels performance under this subsection" is added for clarity.

In subsection (c)(2) of this section, the phrase "[i]f a contractor declares a subcontract to be void under this subsection" is substituted for the former phrase "[i]n that event" for clarity.

Defined term: "Commission" § 16–101

SUBTITLE 2. MINORITY BUSINESS ENTERPRISE PREFERENCES.

20–201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–109(a)(1).

The only change is in style.

(B) MINORITY BUSINESS ENTERPRISE.

EXCEPT AS PROVIDED IN § 20–203 OF THIS SUBTITLE, "MINORITY BUSINESS ENTERPRISE" MEANS A LEGAL ENTITY THAT IS:

(1) ORGANIZED TO ENGAGE IN COMMERCIAL TRANSACTIONS; AND

(2) AT LEAST 51% OWNED AND CONTROLLED BY ONE OR MORE INDIVIDUALS WHO ARE MEMBERS OF A GROUP THAT IS:

(I) DISADVANTAGED SOCIALLY OR ECONOMICALLY BY THE EFFECTS OF PAST DISCRIMINATION, INCLUDING DISCRIMINATION AS TO CERTIFICATION; AND

(II) IDENTIFIED BY A STUDY CONDUCTED IN ACCORDANCE WITH THIS SUBTITLE OR A SIMILAR, PREVIOUSLY CONDUCTED STUDY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–109(a)(3).

In the introductory language of this subsection, the phrase "[e]xcept as provided in § 20–203 of this subtitle" is added for accuracy due to the reorganization of the former provisions in this revised subtitle.

(C) OFFICE.

"OFFICE" MEANS THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE ESTABLISHED UNDER § 20–202 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–109(a)(4).

The only change is in style.

REVISOR'S NOTE TO SECTION:

The definitions in this section are applied to provisions to which those definitions formerly did not apply. The definition of "office" generally is nonsubstantive and is intended solely to allow a concise and standardized reference. The definition of "minority business enterprise" is drafted to be expressly inapplicable to the revised provisions to which the definition did not apply under the source law. Therefore, no substantive change is made.

20–202. OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE.

(A) ESTABLISHED.

THERE IS AN OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE IN THE COMMISSION.

(B) DIRECTOR.

THE HEAD OF THE OFFICE IS THE DIRECTOR OF THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE.

(C) DUTIES.

THE OFFICE SHALL:

(1) ADMINISTER EACH COMMISSION PROGRAM THAT IS CREATED TO PROMOTE THE GROWTH OF OR PARTICIPATION BY MINORITY OR LOCAL SMALL BUSINESS ENTERPRISES, INCLUDING:

(I) THE MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM FOR DESIGN/BUILD AND CONSTRUCTION CONTRACTS UNDER § 20–203 OF THIS SUBTITLE;

(II) THE MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM FOR THE PROCUREMENT OF OTHER GOODS AND SERVICES UNDER § 20–204 OF THIS SUBTITLE; AND

(III) THE LOCAL SMALL BUSINESS ENTERPRISE PROGRAM UNDER SUBTITLE 3 OF THIS TITLE;

(2) PROMOTE AND COORDINATE THE PLANS, PROGRAMS, AND OPERATIONS OF THE COMMISSION THAT PROMOTE OR AFFECT THE ESTABLISHMENT, PRESERVATION, AND STRENGTHENING OF MINORITY BUSINESS ENTERPRISES;

(3) PROMOTE ACTIVITIES AND THE USE OF THE RESOURCES OF THE COMMISSION, LOCAL GOVERNMENTS, AND PRIVATE ENTITIES FOR THE GROWTH OF MINORITY BUSINESS ENTERPRISES;

(4) PROVIDE TECHNICAL AND MANAGERIAL ASSISTANCE TO MINORITY BUSINESS ENTERPRISES;

(5) SCHEDULE SEMINARS AND WORKSHOPS TO EDUCATE MINORITY BUSINESSES ON HOW THE COMMISSION CONDUCTS BUSINESS; AND

(6) ENSURE COMPLIANCE WITH CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACT PARTICIPATION GOALS UNDER § 20–206 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–109(a)(2), (b)(2), (f)(1), and, as it related generally to ensuring compliance with minority subcontractor participation goals, (f)(2).

Subsection (b) of this section is rewritten in standard language for clarity and consistency with other revised articles of the Code. *See*, *e.g.*, § 2–1212(b) of the State Government Article.

In the introductory language of subsection (c)(1) of this section, the reference to the requirement that the Office administer "local small" business programs is added for accuracy.

Also in the introductory language of subsection (c)(1) of this section, the former reference to the requirement that the Office "[c]arry out" certain programs is deleted as included in the reference to the requirement that the Office "administer" these programs.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to change the name of the Office of Small, Local, and Minority Business Enterprise to be the Office of Minority and Local Small Business Enterprises to better reflect the duties of the Office.

Defined terms: "Commission" § 16–101
"Design/build contract" § 20–101
"Minority business enterprise" §§ 20–201, 20–203
"Office" § 20–201

20–203. MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM — DESIGN/BUILD AND CONSTRUCTION CONTRACTS.

(A) "MINORITY BUSINESS ENTERPRISE" DEFINED.

IN THIS SECTION, "MINORITY BUSINESS ENTERPRISE" HAS THE MEANING STATED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) ESTABLISHED.

(1) BY RESOLUTION AND ADOPTING REGULATIONS, THE COMMISSION SHALL ESTABLISH A MANDATORY MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM TO FACILITATE THE PARTICIPATION OF RESPONSIBLE CERTIFIED MINORITY BUSINESS ENTERPRISES IN CONTRACTS AWARDED BY THE COMMISSION IN ACCORDANCE WITH ITS COMPETITIVE BIDDING OR PROPOSAL PROCEDURES UNDER SUBTITLE 1 OF THIS TITLE.

(2) THE OFFICE SHALL ADMINISTER THE PROGRAM ESTABLISHED UNDER THIS SUBSECTION.

(C) REQUIRED PROVISIONS.

REGULATIONS THAT ESTABLISH THE PROGRAM UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE PROVISIONS THAT:

(1) RECOGNIZE THE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES BY THE STATE CERTIFICATION AGENCY DESIGNATED UNDER § 14–303(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) RECOGNIZE ANY OTHER CERTIFICATION PROGRAM THAT THE COMMISSION DETERMINES SUBSTANTIALLY DUPLICATES THE REQUIREMENTS OF THE STATE CERTIFICATION AGENCY;

(3) PROVIDE FOR THE GRADUATION OF A MINORITY BUSINESS ENTERPRISE FROM THE PROGRAM IF THE COMMISSION DETERMINES THAT THE MINORITY BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM;

(4) AT THE TIME OF SUBMISSION, REQUIRE A BID OR PROPOSAL BASED ON A SOLICITATION WITH AN EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION TO INCLUDE PROOF OF A CERTIFIED MINORITY BUSINESS ENTERPRISE COMMITMENT BY STATING:

(I) THE POTENTIAL SUBCONTRACT OPPORTUNITIES AVAILABLE IN THE PRIME PROCUREMENT CONTRACT; AND

(II) THE NUMBER OF MINORITY BUSINESS ENTERPRISES THAT HAVE CERTIFIED, UNDER THE PENALTIES FOR PERJURY, THAT THE MINORITY BUSINESS ENTERPRISE HAS ENTERED INTO AN AGREEMENT WITH THE BIDDER OR OFFEROR TO PROVIDE GOODS OR SERVICES UNDER SPECIFIC TERMS OUTLINED IN THE CERTIFICATION;

(5) REQUIRE EACH GENERAL CONTRACTOR TO SUBMIT TO THE COMMISSION MONTHLY REPORTS OF THE NUMBER OF MINORITY BUSINESS ENTERPRISES EMPLOYED BY THE GENERAL CONTRACTOR;

(6) REQUIRE EACH GENERAL CONTRACTOR TO PROVIDE PROMPT NOTIFICATION TO THE COMMISSION IF A CONTRACT WITH A MINORITY BUSINESS ENTERPRISE IS TERMINATED;

(7) REQUIRE EACH GENERAL CONTRACTOR TO:

(I) MAINTAIN A PARTICIPATION LEVEL FROM MINORITY BUSINESS ENTERPRISES THAT IS CONSISTENT WITH THE PARTICIPATION LEVEL REFERENCED UNDER ITEM (4)(II) OF THIS SUBSECTION; OR

(II) PROVIDE JUSTIFICATION FOR THE INABILITY OF THE GENERAL CONTRACTOR TO MAINTAIN THE PARTICIPATION LEVEL;

(8) PROVIDE FOR AN INCREASE IN MINORITY BUSINESS ENTERPRISE PARTICIPATION AS GENERAL CONTRACTORS AND SUBCONTRACTORS; AND

(9) AUTHORIZE THE WAIVER OF ALL OR PART OF THE PROGRAM FOR A SPECIFIC CONTRACT IF THE COMMISSION DETERMINES THAT APPLYING THE PROGRAM TO THE CONTRACT WOULD CONFLICT WITH THE OVERALL OBJECTIVES AND RESPONSIBILITIES OF THE COMMISSION.

(D) ALTERNATIVE CERTIFICATION PROGRAMS.

BEFORE ACCEPTING AN ALTERNATIVE CERTIFICATION PROGRAM UNDER SUBSECTION (C)(2) OF THIS SECTION, THE COMMISSION SHALL EXAMINE THE ALTERNATIVE PROGRAM TO ENSURE THAT THE ALTERNATIVE PROGRAM COMPLIES WITH THE GUIDELINES ESTABLISHED UNDER § 20–205 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–102(f)(1) through (3) and (4)(i).

In subsection (b)(1) of this section, the cross–reference to "Subtitle 1 of this title" is added for clarity.

In subsection (b)(2) of this section, the former reference to the Office being "established under § 3–109 of this subtitle" is deleted as unnecessary.

In subsection (c)(4)(ii) of this section, the reference to a bidder "or offeror" is added for consistency and accuracy.

Also in subsection (c)(4)(ii) of this section, the former reference requiring a statement of the number of minority business enterprises included in the bid "before the bid is accepted" is deleted as included in the reference that the statement is required "at the time of submission".

In subsection (c)(8) of this section, the reference to minority business "enterprise" is added for clarity and consistency.

Also in subsection (c)(8) of this section, the reference to "general" contractors is substituted for the former reference to "prime" contractors for consistency within this revised title.

In subsection (d) of this section, the references to an "alternative" program are added for clarity.

Also in subsection (d) of this section, the reference requiring that an alternative certification program "complies with" specific guidelines is substituted for the former reference requiring that an alternative certification program "adheres to" specific guidelines for clarity.

Defined terms: "Commission" § 16–101
"Office" § 20–201
"State" § 16–101

20–204. MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM — GOODS AND SERVICES.

(A) ESTABLISHED.

(1) BY RESOLUTION AND ADOPTING REGULATIONS, THE COMMISSION SHALL ESTABLISH A MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM TO FACILITATE THE PARTICIPATION OF RESPONSIBLE CERTIFIED MINORITY BUSINESS ENTERPRISES IN CONTRACTS AWARDED BY THE COMMISSION FOR GOODS AND SERVICES THAT ARE NOT COVERED UNDER § 20–203 OF THIS SUBTITLE, IF THE COMMISSION DETERMINES THAT:

(I) MINORITY BUSINESS ENTERPRISES ARE UNDERREPRESENTED IN THE AWARD OF THESE CONTRACTS DUE TO THE EFFECTS OF PAST DISCRIMINATION; AND

(II) A PROGRAM IS NECESSARY TO REMEDY THE EFFECTS OF THIS PAST DISCRIMINATION.

(2) THE OFFICE SHALL ADMINISTER THE PROGRAM ESTABLISHED UNDER THIS SUBSECTION.

(B) REQUIRED PROVISIONS.

REGULATIONS THAT ESTABLISH THE PROGRAM UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE PROVISIONS THAT:

(1) RECOGNIZE THE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES BY THE STATE CERTIFICATION AGENCY DESIGNATED UNDER § 14–303(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) RECOGNIZE ANY OTHER CERTIFICATION PROGRAM THAT THE COMMISSION DETERMINES SUBSTANTIALLY DUPLICATES THE REQUIREMENTS OF THE STATE CERTIFICATION AGENCY;

(3) PROVIDE FOR THE GRADUATION OF A MINORITY BUSINESS ENTERPRISE FROM THE PROGRAM IF THE COMMISSION DETERMINES THAT THE MINORITY BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM;

(4) AT THE TIME OF SUBMISSION, REQUIRE A BID OR PROPOSAL BASED ON A SOLICITATION WITH AN EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION TO INCLUDE PROOF OF A CERTIFIED MINORITY BUSINESS ENTERPRISE COMMITMENT BY STATING:

(I) THE POTENTIAL SUBCONTRACT OPPORTUNITIES AVAILABLE IN THE PRIME PROCUREMENT CONTRACT; AND

(II) THE NUMBER OF MINORITY BUSINESS ENTERPRISES THAT HAVE CERTIFIED, UNDER THE PENALTIES FOR PERJURY, THAT THE MINORITY BUSINESS ENTERPRISE HAS ENTERED INTO AN AGREEMENT WITH THE BIDDER OR OFFEROR TO PROVIDE GOODS OR SERVICES UNDER SPECIFIC TERMS OUTLINED IN THE CERTIFICATION;

(5) REQUIRE EACH GENERAL CONTRACTOR TO SUBMIT TO THE COMMISSION MONTHLY REPORTS OF THE NUMBER OF MINORITY BUSINESS ENTERPRISES EMPLOYED BY THE GENERAL CONTRACTOR;

(6) REQUIRE EACH GENERAL CONTRACTOR TO PROVIDE PROMPT NOTIFICATION TO THE COMMISSION IF A CONTRACT WITH A MINORITY BUSINESS ENTERPRISE IS TERMINATED;

(7) REQUIRE EACH GENERAL CONTRACTOR TO:

(I) MAINTAIN A PARTICIPATION LEVEL FROM MINORITY BUSINESS ENTERPRISES THAT IS CONSISTENT WITH THE PARTICIPATION LEVEL REFERENCED UNDER ITEM (4)(II) OF THIS SUBSECTION; OR

(II) PROVIDE JUSTIFICATION FOR THE INABILITY OF THE GENERAL CONTRACTOR TO MAINTAIN THE PARTICIPATION LEVEL;

(8) PROVIDE FOR MINORITY BUSINESS ENTERPRISE PARTICIPATION THROUGH SUBCONTRACTING;

(9) (I) AUTHORIZE THE WAIVER OF ALL OR PART OF THE PROGRAM FOR A SPECIFIC CONTRACT IF THE COMMISSION DETERMINES THAT APPLYING THE PROGRAM TO THE CONTRACT WOULD CONFLICT WITH THE OVERALL OBJECTIVES AND RESPONSIBILITIES OF THE COMMISSION; AND

(II) REQUIRE THE COMMISSION TO REPORT ANNUALLY TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY ON ANY WAIVERS GRANTED UNDER THIS SUBSECTION;

(10) EXCEPT AS PROVIDED IN ITEM (11) OF THIS SUBSECTION, PROVIDE FOR A SYSTEM OF GRANTING A PREFERENCE OF UP TO THE LESSER OF 5% OR $50,000 TO MINORITY BUSINESS ENTERPRISES IN EVALUATING BIDS OR PROPOSALS;

(11) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ESTABLISH A SHELTERED MARKET PROGRAM IN WHICH BIDDING ON PROCUREMENT CONTRACTS DESIGNATED BY THE COMMISSION AS APPROPRIATE IS RESTRICTED TO CERTIFIED MINORITY BUSINESS ENTERPRISES;

(12) REQUIRE THE SOLICITATION DOCUMENT ACCOMPANYING EACH SOLICITATION TO SET FORTH THE REGULATIONS THAT ESTABLISH THE PROGRAM;

(13) REQUIRE THE GEOGRAPHIC LOCATION AND THE PRINCIPAL PLACE OF BUSINESS OF THE MINORITY BUSINESS ENTERPRISE TO BE A CONSIDERATION FOR PARTICIPATION IN THE PROGRAM, INCLUDING REQUIRING MONTGOMERY COUNTY BUSINESSES AND PRINCE GEORGE'S COUNTY BUSINESSES TO EACH HAVE A TARGETED PERCENTAGE OF AT LEAST 40% OF ANY CONTRACTS; AND

(14) AUTHORIZE THE COMMISSION TO:

(I) REFUSE TO RECOGNIZE THE CERTIFICATION OF A BUSINESS FOUND TO BE IN VIOLATION OF THE PURPOSES OF THE PROGRAM; AND

(II) PERMANENTLY BAR AN ACTIVE PRINCIPAL OF A VIOLATING BUSINESS FROM FUTURE PARTICIPATION IN THE PROGRAM.

(C) ALTERNATIVE CERTIFICATION PROGRAMS.

BEFORE ACCEPTING AN ALTERNATIVE CERTIFICATION PROGRAM UNDER SUBSECTION (B)(2) OF THIS SECTION, THE COMMISSION SHALL EXAMINE THE ALTERNATIVE PROGRAM TO ENSURE THAT:

(1) THE ALTERNATIVE PROGRAM COMPLIES WITH THE GUIDELINES ESTABLISHED UNDER § 20–205 OF THIS SUBTITLE; AND

(2) THE PRINCIPAL OWNER OF AN ELIGIBLE MINORITY BUSINESS ENTERPRISE IS IN NOT MORE THAN ONE CERTIFIED BUSINESS THAT IS PARTICIPATING IN THE COMMISSION MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM UNDER THIS SECTION.

(D) SHELTERED MARKET PROGRAM.

(1) THE SHELTERED MARKET PROGRAM ESTABLISHED IN SUBSECTION (B)(11) OF THIS SECTION MAY NOT BE USED UNTIL ALL LESS RESTRICTIVE REMEDIES UNDER SUBSECTION (B) OF THIS SECTION AND RACE–NEUTRAL REMEDIES, INCLUDING ASSISTANCE WITH BONDING REQUIREMENTS, FINANCING, OR BIDDING PROCEDURES FOR SMALL FIRMS, HAVE BEEN USED AND DETERMINED TO BE INEFFECTIVE.

(2) IF AT LEAST THREE CERTIFIED MINORITY BUSINESS ENTERPRISES BID ON A CONTRACT UNDER THE SHELTERED MARKET PROGRAM, THE COMMISSION SHALL AWARD THE CONTRACT TO THE LOWEST BIDDER.

(3) IF FEWER THAN THREE CERTIFIED MINORITY BUSINESS ENTERPRISES BID ON A CONTRACT UNDER THE SHELTERED MARKET PROGRAM, THE CONTRACT SHALL BE AWARDED UNDER SUBSECTION (B)(10) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–109(c) through (e) and (b)(1) and, as it related to the administration of the minority business enterprise utilization program for other goods and services, (2)(ii).

In subsection (a)(1)(ii) of this section, the reference to "this" past discrimination is substituted for the former reference to past discrimination "against minority business enterprises in contracting with the WSSC" for brevity.

In subsection (b)(4)(ii) of this section, the reference to a bidder "or offeror" is added for consistency and clarity.

Also in subsection (b)(4)(ii) of this section, the former reference requiring a statement of the number of minority business enterprises included in the bid "before the bid is accepted" is deleted as included in the reference that the statement is required "at the time of submission".

In subsection (b)(8) of this section, the reference to the minority business "enterprise" is added for clarity and consistency.

In subsection (b)(9)(ii) of this section, the reference to the Senate and House Delegations "to the Maryland General Assembly" is added for accuracy.

In subsection (b)(12) of this section, the reference to regulations "that establish the program" is substituted for the former reference to regulations "of the minority business utilization program" for brevity.

In subsection (c) of this section, the references to an "alternative" program are added for clarity.

In subsection (c)(1) of this section, the reference requiring that an alternative certification program "complies with" specific guidelines is substituted for the former reference requiring that an alternative certification program "adheres to" specific guidelines for clarity.

In subsection (d)(2) of this section, the reference to certified minority business "enterprises" is substituted for the former reference to certified minority business "contractors" for consistency within this subtitle.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (d)(2) of this section requires the Commission to award contracts based under the sheltered market program to the lowest bidder. Commission staff have indicated that in practice, the Commission awards these contracts to the responsible bidder who submits the lowest responsive bid. The Washington Suburban Sanitary Commission Law Review Committee calls this discrepancy to the attention of the General Assembly.

Also the Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the requirement under subsection (d)(3) of this section that the Commission award a contract under the sheltered market program in accordance with subsection (b)(10) of this section if the contract was bid on by fewer than three certified minority business enterprises does not conform to current Commission practice. The General Assembly may wish to address this discrepancy.

Defined terms: "Commission" § 16–101
"Minority business enterprise" § 20–201
"Office" § 20–201
"State" § 16–101

20–205. CERTIFICATION PROGRAMS.

(A) DETERMINATION OF MINORITY STATUS.

(1) A CERTIFYING AGENCY SHALL DETERMINE BONA FIDE MINORITY GROUP MEMBERSHIP BASED ON AN INDIVIDUAL'S CLAIM THAT THE INDIVIDUAL IS:

(I) A MEMBER OF A MINORITY GROUP; AND

(II) REGARDED AS A MEMBER BY THAT MINORITY COMMUNITY.

(2) A CERTIFYING AGENCY MAY DETERMINE THAT AN INDIVIDUAL'S CLAIM UNDER THIS SUBSECTION IS INVALID.

(B) DETERMINATION OF MINORITY OWNERSHIP.

(1) TO BE ELIGIBLE FOR CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE AND PARTICIPATION IN A MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM UNDER § 20–203 OR § 20–204 OF THIS SUBTITLE, A BUSINESS SHALL MEET THE STANDARDS UNDER THIS SUBSECTION.

(2) (I) A MINORITY BUSINESS ENTERPRISE SHALL BE AN INDEPENDENT BUSINESS.

(II) A CERTIFYING AGENCY SHALL DETERMINE WHETHER A BUSINESS IS INDEPENDENT BY CONSIDERING:

1. THE DATE THE BUSINESS WAS ESTABLISHED;

2. THE ADEQUACY OF THE RESOURCES OF THE BUSINESS FOR THE WORK REQUIRED UNDER THE CONTRACT;

3. THE DEGREE TO WHICH FINANCIAL, EQUIPMENT LEASING, AND OTHER RELATIONSHIPS WITH NONMINORITY BUSINESSES VARY FROM INDUSTRY PRACTICE; AND

4. ANY OTHER RELEVANT FACTOR.

(3) A MINORITY OWNER SHALL HAVE REAL, SUBSTANTIAL, AND CONTINUING OWNERSHIP AND CONTROL OF THE BUSINESS THAT GOES BEYOND THE PRO FORMA OWNERSHIP OF THE BUSINESS AS REFLECTED IN THE OWNERSHIP DOCUMENTS.

(4) A MINORITY OWNER SHALL HAVE THE CUSTOMARY INCIDENTS OF OWNERSHIP AND SHARE IN THE RISKS AND PROFITS COMMENSURATE WITH THE OWNERSHIP INTERESTS IN THE BUSINESS AS DEMONSTRATED BY AN EXAMINATION OF THE SUBSTANCE RATHER THAN THE FORM OF THE ARRANGEMENTS.

(5) RECOGNITION OF THE BUSINESS AS A SEPARATE ENTITY FOR TAX OR CORPORATE PURPOSES IS NOT NECESSARILY SUFFICIENT FOR CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE.

(6) (I) A MINORITY OWNER SHALL HAVE THE POWER TO:

1. DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF THE BUSINESS; AND

2. MAKE THE DAY–TO–DAY AND MAJOR DECISIONS ON MATTERS OF MANAGEMENT, POLICY, AND OPERATIONS FOR THE BUSINESS.

(II) THE BUSINESS MAY NOT BE SUBJECT TO A FORMAL OR INFORMAL RESTRICTION, INCLUDING A BYLAW, PARTNERSHIP AGREEMENT, OR CHARTER REQUIREMENT FOR CUMULATIVE VOTING RIGHTS, THAT PREVENTS A MINORITY OWNER FROM MAKING A BUSINESS DECISION WITHOUT THE COOPERATION OR VOTE OF AN OWNER WHO IS NOT A MINORITY.

(7) (I) THE BUSINESS MAY NOT BE OPERATED DISPROPORTIONATELY BY THE OWNERS OF THE BUSINESS WHO ARE NOT MINORITIES.

(II) IF THE MANAGEMENT OF THE BUSINESS IS CONTRACTED OUT TO AN INDIVIDUAL OTHER THAN THE OWNER, THE INDIVIDUAL WHO HAS THE ULTIMATE POWER TO HIRE AND FIRE THE MANAGERS MAY BE CONSIDERED AS CONTROLLING THE BUSINESS.

(8) (I) MINORITIES SHALL DIRECTLY HOLD ALL SECURITIES THAT CONSTITUTE OWNERSHIP OR CONTROL OF A CORPORATION FOR THE

PURPOSE OF ESTABLISHING THE CORPORATION AS A MINORITY BUSINESS ENTERPRISE.

(II) SECURITIES HELD IN TRUST OR BY A GUARDIAN FOR A MINOR MAY NOT BE CONSIDERED HELD BY MINORITIES IN DETERMINING THE OWNERSHIP OR CONTROL OF A CORPORATION.

(9) A CONTRIBUTION OF CAPITAL OR EXPERTISE BY A MINORITY OWNER TO ACQUIRE AN INTEREST IN A BUSINESS SHALL BE REAL AND SUBSTANTIAL AND MAY NOT INCLUDE:

(I) A PROMISE TO CONTRIBUTE CAPITAL;

(II) A NOTE PAYABLE TO THE BUSINESS OR OWNERS OF THE BUSINESS WHO ARE NOT SOCIALLY AND ECONOMICALLY DISADVANTAGED; OR

(III) PARTICIPATION AS AN EMPLOYEE AND NOT AS A MANAGER.

(C) DETERMINATION OF MINORITY OWNERSHIP — SPECIAL CONSIDERATIONS.

IN DETERMINING ELIGIBILITY AS A MINORITY BUSINESS ENTERPRISE, A CERTIFYING AGENCY SHALL:

(1) CLOSELY SCRUTINIZE A NEWLY FORMED BUSINESS, OR A BUSINESS FOR WHICH THE OWNERSHIP OR CONTROL HAS CHANGED SINCE THE DATE OF THE ADVERTISEMENT OF THE CONTRACT, TO DETERMINE THE REASON FOR THE TIMING OF THE FORMATION OR CHANGE;

(2) CAREFULLY REVIEW A PREVIOUS OR CONTINUING EMPLOYER–EMPLOYEE RELATIONSHIP AMONG PRESENT OWNERS TO ENSURE THAT AN EMPLOYEE–OWNER HAS THE MANAGEMENT RESPONSIBILITIES AND CAPABILITIES REQUIRED UNDER THIS SECTION; AND

(3) CAREFULLY REVIEW A RELATIONSHIP BETWEEN A MINORITY BUSINESS ENTERPRISE AND A BUSINESS THAT IS NOT A MINORITY BUSINESS ENTERPRISE THAT HAS AN INTEREST IN THE MINORITY BUSINESS ENTERPRISE TO DETERMINE IF THE INTEREST OF THE NONMINORITY BUSINESS CONFLICTS WITH THE OWNERSHIP AND CONTROL REQUIREMENTS OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–102(f)(4)(ii) through (viii).

In subsection (a) of this section, the reference to a certifying agency "determin[ing]" membership in a minority group is substituted for the former reference to membership being "established" for accuracy and consistency within this subtitle.

Subsection (b)(1) of this section is new language added, in part, and substituted, in part, for clarity. This paragraph is derived, in part, from former references to an "eligible" minority business enterprise. As to the remainder, this paragraph states expressly what was only implied in the former law.

In the introductory language of subsection (b)(2)(ii) of this section, the former reference to a "potential" minority business enterprise is deleted as unnecessary because the entire subsection applies to potential minority enterprises.

In subsection (b)(2)(ii)2 of this section, the reference to work "required under" the contract is substituted for the former reference to work "of" the contract for clarity.

In subsection (b)(4) of this section, the requirement that a minority owner "have" ownership rights and responsibilities is substituted for the former requirement that a minority owner "enjoy" ownership rights and responsibilities for clarity.

In subsection (b)(5) of this section, the reference to "certification" as a minority business enterprise is substituted for the former reference to "recognition" as a minority business enterprise for clarity and consistency.

In subsection (b)(6)(ii) of this section, the former reference to making a business decision "of the business" is deleted as unnecessary.

In subsection (b)(7)(i) of this section, the former references to the business "not [being] controlled by minorities" and "not [being] considered a minority business enterprise within the meaning of this section" are deleted as unnecessary and for brevity.

In subsection (b)(7)(ii) of this section, the reference to "the individual" is substituted for the former reference to "persons" for consistency within this subsection.

Also in subsection (b)(7)(ii) of this section, the former reference to the "actual" management of a business is deleted as unnecessary.

Also in subsection (b)(7)(ii) of this section, the former reference to being considered as controlling the business "for the purposes of this subsection" is deleted as unnecessary.

In subsection (b)(8)(i) of this section, the former reference to establishing a corporation as a minority business enterprise "under this section" is deleted as unnecessary.

In subsection (b)(9)(iii) of this section, the former reference to "[t]he mere" participation is deleted as surplusage.

In the introductory language of subsection (c) of this section, the reference to determining eligibility "as a minority business enterprise" is added for clarity.

Also in the introductory language of subsection (c) of this section, the former requirement to "give special consideration" to specific relationships in specific circumstances is deleted as included in the requirements to "closely scrutinize" or "carefully review" these relationships.

In subsection (c)(2) of this section, the reference to management responsibilities and capabilities "required" under this section is substituted for the former reference to management responsibilities and capabilities "discussed" under this section for accuracy.

Also in subsection (c)(2) of this section, the former reference to the relationship "between" specified people is deleted as included in the reference to the relationship "among" these people.

Defined term: "Minority business enterprise" §§ 20–201, 20–203

20–206. SUBCONTRACTOR PARTICIPATION GOALS.

(A) OFFICE DUTIES.

THE OFFICE SHALL VERIFY THAT A CERTIFIED MINORITY BUSINESS ENTERPRISE LISTED IN A SCHEDULE OF PARTICIPATION IS ACTUALLY PERFORMING WORK AND RECEIVING COMPENSATION AS ESTABLISHED IN THE SCHEDULE.

(B) CONTRACTOR DUTIES.

TO FACILITATE THE OFFICE COMPLETING ITS DUTIES UNDER SUBSECTION (A) OF THIS SECTION, A CONTRACTOR SHALL:

(1) ALLOW THE OFFICE TO INSPECT ANY RELEVANT MATTER, INCLUDING RECORDS AND THE JOB SITE;

(2) ALLOW THE OFFICE TO INTERVIEW SUBCONTRACTORS AND EMPLOYEES OF THE CONTRACTOR;

(3) IF PERFORMING A CONSTRUCTION CONTRACT, ENSURE THAT SUBCONTRACTORS:

(I) ARE PAID ANY UNDISPUTED AMOUNT TO WHICH THE SUBCONTRACTOR IS ENTITLED AS PROVIDED UNDER § 15–226 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(II) COMPLY WITH COMMISSION REGULATIONS;

(4) INCLUDE IN THE AGREEMENT WITH THE CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACTOR A REQUIREMENT THAT THE SUBCONTRACTOR SUBMIT A MONTHLY REPORT TO THE COMMISSION THAT:

(I) IDENTIFIES THE PRIME CONTRACT; AND

(II) LISTS PAYMENTS RECEIVED FROM THE CONTRACTOR IN THE PREVIOUS MONTH AND INVOICES SENT TO THE CONTRACTOR THAT HAVE NOT BEEN PAID; AND

(5) SUBMIT A MONTHLY REPORT TO THE COMMISSION THAT LISTS:

(I) UNPAID INVOICES THAT ARE MORE THAN 30 DAYS OLD RECEIVED FROM CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACTORS; AND

(II) THE REASON PAYMENTS HAVE NOT BEEN MADE.

(C) CONTRACTOR'S FINAL REPORT.

(1) (I) ON COMPLETION OF A CONTRACT OR BEFORE FINAL PAYMENT OR RELEASE OF RETAINAGE, THE COMMISSION MAY REQUIRE A GENERAL CONTRACTOR ON A CONTRACT HAVING A MINORITY BUSINESS ENTERPRISE SUBCONTRACTING GOAL TO SUBMIT TO THE COMMISSION A FINAL REPORT OF ALL PAYMENTS MADE TO OR WITHHELD FROM MINORITY BUSINESS ENTERPRISE SUBCONTRACTORS.

(II) THE FINAL REPORT SHALL BE IN AFFIDAVIT FORM AND UNDER THE PENALTIES FOR PERJURY.

(2) EACH SOLICITATION SHALL CONTAIN NOTICE OF THE REQUIREMENTS OF THIS SUBSECTION.

(D) NONCOMPLIANCE.

(1) ON A FINDING THAT A CONTRACTOR IS NONCOMPLIANT, THE COMMISSION SHALL NOTIFY THE CONTRACTOR IN WRITING OF THE FINDINGS AND STATE THE REQUIRED CORRECTIVE ACTION.

(2) A NONCOMPLIANT CONTRACTOR SHALL:

(I) INITIATE THE CORRECTIVE ACTION WITHIN 10 DAYS AFTER RECEIVING THE WRITTEN NOTICE; AND

(II) COMPLETE THE CORRECTIVE ACTION WITHIN THE TIME SPECIFIED BY THE COMMISSION.

(E) SANCTIONS.

IF THE COMMISSION FINDS THAT A GENERAL CONTRACTOR IS IN MATERIAL NONCOMPLIANCE WITH MINORITY BUSINESS ENTERPRISE CONTRACT PROVISIONS AND THE GENERAL CONTRACTOR FAILS TO TAKE THE CORRECTIVE ACTION REQUIRED BY THE COMMISSION, THE COMMISSION MAY:

(1) TERMINATE THE CONTRACT;

(2) REFER THE GENERAL CONTRACTOR TO THE GENERAL MANAGER OF THE COMMISSION OR THE FULL COMMISSION FOR APPROPRIATE ACTION; OR

(3) INITIATE ANY OTHER SPECIFIC REMEDY IDENTIFIED IN THE CONTRACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–109(f)(3) through (6) and, as it related to the specifics of ensuring compliance with minority subcontractor participation goals, (2).

In subsection (b)(4)(ii) of this section, the reference to invoices "sent to the contractor" is added for clarity.

Also in subsection (b)(4)(ii) of this section, the reference to a "month" is substituted for the former reference to "30 days" to conform to the requirement in the introductory language of subsection (b)(4) of this section that the subcontractor submit a "monthly report". No substantive change is intended.

Also in subsection (b)(4)(ii) of this section, the former reference to invoices "for which the subcontractor" has not been paid is deleted as unnecessary.

In subsection (c)(1)(i) and the introductory language of subsection (e) of this section, the reference to a "general" contractor is substituted for the former reference to a "prime" contractor for consistency within this revised title.

In the introductory language of subsection (e) of this section, the reference to a "general contractor" being in material noncompliance is added for clarity.

Also in the introductory language of subsection (e) of this section, the former reference to a contractor that "refuses" to take corrective action is deleted as included in the reference to a contractor that "fails" to take corrective action.

In subsection (e)(2) of this section, the reference to referring "the general contractor" to the Commission is added for clarity.

Also in subsection (e)(2) of this section, the reference to the "full" Commission is substituted for the former reference to the "commissioners of the" Commission for clarity.

Defined terms: "Commission" § 16–101
"Minority business enterprise" §§ 20–201, 20–203
"Office" § 20–201

20–207. REPORTS.

(A) ANNUAL REPORT REQUIRED.

BY SEPTEMBER 15 OF EACH YEAR, THE COMMISSION SHALL ISSUE A REPORT TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY

SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY CONCERNING:

(1) THE IMPLEMENTATION AND ADMINISTRATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAMS UNDER THIS SUBTITLE FOR THE FISCAL YEAR ENDING ON THE PRECEDING JUNE 30; AND

(2) APPROPRIATE RECOMMENDATIONS CONCERNING THE PROGRAMS.

(B) FACT–FINDING STUDY AUTHORIZED.

(1) THE COMMISSION MAY CONDUCT AN IMPARTIAL FACT–FINDING STUDY IN CONNECTION WITH A MINORITY BUSINESS ENTERPRISE PROGRAM FOR CONSISTENCY WITH APPLICABLE LAW.

(2) THE COMMISSION SHALL REPORT THE FINDINGS OF A STUDY COMPLETED UNDER THIS SUBSECTION TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–102(f)(5) and (6) and 3–109(g) and (h).

In subsection (b)(1) of this section, with respect to former Art. 29, § 3–109(g)(1), the reference to an "impartial" study is added for consistency and to state expressly what was only implied in the former law.

In subsection (b)(2) of this section, the reference to the "Senate and House" Delegations is added for accuracy.

Also in subsection (b)(2) of this section, the reference to the findings of a "study" is substituted for the former reference to the findings of a "review" for consistency within this section.

Defined terms: "Commission" § 16–101
"Minority business enterprise" §§ 20–201, 20–203

20–208. TERMINATION OF SUBTITLE.

THIS SUBTITLE SHALL BE OF NO EFFECT AND MAY NOT BE ENFORCED AFTER JULY 1, 2012.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–102(f)(7) and 3–109(i).

The reference to the subtitle being "of no effect" is substituted for the former references to it being "null" and "void" to conform to terminology used in § 14–309 of the State Finance and Procurement Article.

SUBTITLE 3. LOCAL SMALL BUSINESS ENTERPRISE PROGRAM.

20–301. "PROGRAM" DEFINED.

IN THIS SUBTITLE, "PROGRAM" MEANS A LOCAL SMALL BUSINESS ENTERPRISE PROGRAM.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full reference to a "local small business enterprise program".

20–302. AUTHORIZED.

(A) ESTABLISHED.

BY RESOLUTION OR ADOPTING REGULATIONS, THE COMMISSION MAY ESTABLISH A LOCAL SMALL BUSINESS ENTERPRISE PROGRAM.

(B) ADMINISTRATION.

THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE, ESTABLISHED UNDER § 20–202 OF THIS TITLE, SHALL ADMINISTER THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–110(a).

In subsection (b) of this section, the former reference to the program "established under paragraph (1) of this subsection" is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section, the Commission shall establish a minority business enterprise program "[b]y resolution or adopting regulations". In § 20–203(b)(1) and § 20–204(a)(1) of this title, the Commission may establish a minority business enterprise utilization program "[b]y resolution and adopting regulations". These provisions are inconsistent and the General Assembly may wish to address this discrepancy.

Defined terms: "Commission" § 16–101
"Program" § 20–301

20–303. PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO ASSIST SMALL BUSINESSES IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY BY:

(1) ESTABLISHING A SHELTERED MARKET OR OTHER APPROPRIATE PREFERENCE; OR

(2) FACILITATING THE AWARD OF COMMISSION CONSTRUCTION CONTRACTS OR PROCUREMENT CONTRACTS FOR GOODS AND SERVICES TO SMALL BUSINESSES IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–110(b).

In item (2) of this section, the reference to awarding contracts "to small businesses in Montgomery County and Prince George's County" is added for clarity.

Also in item (2) of this section, the reference to "procurement contracts for" goods and services is substituted for the former reference to "the procurement of" goods and services for clarity.

Defined terms: "Commission" § 16–101
"Program" § 20–301

20–304. ELIGIBILITY.

(A) ELIGIBILITY CRITERIA.

THE COMMISSION SHALL ADOPT:

(1) ELIGIBILITY CRITERIA FOR BUSINESSES TO QUALIFY FOR THE PROGRAM, INCLUDING:

(I) THE CRITERIA FOR A SMALL BUSINESS QUALIFYING UNDER THE SMALL BUSINESS PREFERENCE PROGRAM AS ESTABLISHED IN REGULATIONS ADOPTED BY THE DEPARTMENT OF GENERAL SERVICES UNDER § 14–203 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(II) A REQUIREMENT THAT:

1. THE BUSINESS'S PRINCIPAL PLACE OF BUSINESS BE IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY; OR

2. AT LEAST 25% OF THE TOTAL NUMBER OF EMPLOYEES OF THE BUSINESS BE DOMICILED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY; AND

(III) ANY OTHER ELIGIBILITY CRITERIA THAT THE COMMISSION DETERMINES TO BE NECESSARY OR APPROPRIATE FOR THE PROMOTION OF SMALL BUSINESSES IN THE COMMISSION'S SERVICE AREA; AND

(2) ADMINISTRATIVE PROCEDURES FOR CONDUCTING THE PROGRAM.

(B) RACE, ETHNICITY, OR GENDER NOT CONSIDERED.

A BUSINESS MAY QUALIFY AS A LOCAL SMALL BUSINESS ENTERPRISE UNDER THE PROGRAM WITHOUT REGARD TO THE RACE, ETHNICITY, OR GENDER OF THE PARTICIPANTS IN THE BUSINESS.

(C) GRADUATION CRITERIA.

THE COMMISSION SHALL ESTABLISH CRITERIA FOR GRADUATION FROM THE PROGRAM FOR A LOCAL SMALL BUSINESS THAT THE COMMISSION DETERMINES NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM.

(D) REVIEW OF CRITERIA AND PROCEDURES.

THE COMMISSION SHALL REVIEW THE ELIGIBILITY CRITERIA AND ADMINISTRATIVE PROCEDURES OF THE PROGRAM EACH YEAR TO ASSESS THEIR EFFECTIVENESS IN FURTHERING THE PURPOSES OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–110(c) through (f).

In the introductory language of subsection (a)(1)(ii) of this section, the reference to "a requirement" is added for clarity.

In subsection (a)(1)(ii)2 of this section, the former reference to requiring "a significant employee presence in Montgomery County or Prince George's County" is deleted as unnecessary in light of the 25% minimum threshold of employees who must be domiciled in these counties for a business to qualify for the program.

In subsection (a)(1)(iii) of this section, the former reference to criteria that is "otherwise" appropriate is deleted as unnecessary.

Also in subsection (a)(1)(iii) of this section, the former reference to the promotion of "local" small businesses is deleted as included in the reference to the promotion of small businesses "in the Commission's service area".

Defined terms: "Commission" § 16–101
"Program" § 20–301

TITLE 21. PROPERTY AND LAND USE MATTERS.

SUBTITLE 1. ACQUISITION AND DISPOSITION OF PROPERTY.

21–101. ACQUISITION OF PROPERTY.

(A) "PROPERTY" DEFINED.

IN THIS SECTION, "PROPERTY" INCLUDES:

(1) LAND;

(2) STRUCTURES;

(3) BUILDINGS;

(4) STREAMBEDS;

(5) WATERWAYS;

(6) WATER RIGHTS;

(7) WATERSHEDS;

(8) WATER SYSTEMS AND PARTS OF WATER SYSTEMS; AND

(9) WASTEWATER SYSTEMS AND PARTS OF WASTEWATER SYSTEMS.

(B) ELIGIBLE PROPERTY.

THE COMMISSION MAY ACQUIRE PROPERTY FOR THE CONSTRUCTION, EXTENSION, MAINTENANCE, OR OPERATION OF A PROJECT THE COMMISSION CONSIDERS:

(1) NECESSARY TO CARRY OUT THIS DIVISION; OR

(2) IN FURTHERANCE OF THIS DIVISION.

(C) TYPES OF INTEREST.

IF THE COMMISSION DECIDES TO ACQUIRE PROPERTY WITHIN OR OUTSIDE THE SANITARY DISTRICT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE COMMISSION MAY ACQUIRE THE PROPERTY:

(1) IN FEE; OR

(2) AS AN EASEMENT.

(D) CONDEMNATION — IN GENERAL.

IF THE COMMISSION FAILS TO AGREE ON THE TERMS OF ACQUISITION WITH THE OWNER OF ANY PROPERTY, THE COMMISSION MAY CONDEMN THE PROPERTY BY FILING A PETITION FOR CONDEMNATION IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS SITUATED, AS PROVIDED FOR CONDEMNATION OF LAND UNDER THE REAL PROPERTY ARTICLE.

(E) CONDEMNATION — OTHER INTERESTS.

THE COMMISSION MAY CONDEMN THE INTEREST OF ANY TENANT, LESSEE, OR OTHER PERSON HAVING AN INTEREST IN PROPERTY THAT THE COMMISSION DECIDES TO ACQUIRE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–202(a) through (c) and (e).

In subsection (c) of this section, the reference to the Commission "acquir[ing]" property is substituted for the former reference to "purchas[ing]" property for consistency within the subsection.

In subsection (d) of this section, the reference to agreeing "on the terms of acquisition" is added for clarity.

Also in subsection (d) of this section, the reference to "filing a petition for condemnation" is substituted for the former reference to "proceedings" for clarity.

In subsection (e) of this section, the reference to property "that the Commission decides to acquire" is added for clarity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

21–102. CONDEMNATION — LAND USED FOR CEMETERY PURPOSES.

(A) RESOLUTION REQUIRED.

(1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, LAND USED FOR CEMETERY PURPOSES MAY NOT BE CONDEMNED UNLESS THE COMMISSION ADOPTS A RESOLUTION DECLARING THAT IT IS NECESSARY FOR THE PUBLIC HEALTH AND SAFETY TO ACQUIRE THE CEMETERY LAND, OR AN EASEMENT IN THE LAND, IMMEDIATELY BY CONDEMNATION.

(2) A RESOLUTION UNDER THIS SUBSECTION MAY ONLY BE ADOPTED ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE COMMISSIONERS FROM THE COUNTY WHERE THE CEMETERY LAND IS LOCATED.

(B) EXCEPTION FOR SEWER OR WATER LINES.

(1) THE COMMISSION MAY CONDEMN PUBLIC OR PRIVATE LAND USED FOR CEMETERY PURPOSES, OR AN EASEMENT IN THE LAND, WITHOUT ADOPTING A RESOLUTION IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION IF THE LAND OR EASEMENT IS FOR THE PURPOSE OF INSTALLING SEWER LINES OR WATER LINES.

(2) SEWER LINES OR WATER LINES INSTALLED ON PROPERTY CONDEMNED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONSTRUCTED UNDERGROUND AND ENCLOSED.

(C) PROHIBITION AGAINST DISTURBING GRAVE.

THE LAND OR EASEMENT TO BE ACQUIRED MAY NOT DISTURB:

(1) ANY EXISTING GRAVE, GRAVE MARKER, OR MONUMENT; OR

(2) ANY GRAVE SITE:

(I) THE TITLE TO WHICH HAS BEEN TRANSFERRED AS A RESULT OF A BONA FIDE SALE OR EXCHANGE; OR

(II) IN WHICH BURIAL RIGHTS HAVE VESTED OR BEEN TRANSFERRED AS A RESULT OF A BONA FIDE SALE OR EXCHANGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–202(d).

In subsection (b)(1) of this section, the reference to condemning land "without adopting a resolution in accordance with subsection (a) of this section" is added for clarity.

Also in subsection (b)(1) of this section, the former reference to the land or easement "sought to be acquired by the WSSC" is deleted as unnecessary.

In subsection (b)(2) of this section, the reference to "underground" is substituted for the former reference to "below the surface of the earth" for brevity and consistency with terminology used throughout this article.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101
"County" § 16–101

21–103. DISPOSITION OF PROPERTY.

IF THE COMMISSION DOES NOT CONSIDER THE PROPERTY NECESSARY FOR THE OPERATION OF ITS WATER, SEWER, OR STORMWATER MANAGEMENT SYSTEMS, THE COMMISSION MAY SELL, LEASE, TRANSFER, CONVEY, OR DISPOSE OF ANY OF ITS REAL OR PERSONAL PROPERTY ON TERMS AND CONDITIONS THAT THE COMMISSION CONSIDERS ADVANTAGEOUS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–203.

The reference to "stormwater management" is substituted for the former reference to "storm drainage" for clarity and consistency throughout this division.

The reference to selling, leasing, transferring, conveying, "or" disposing of property is substituted for the former reference to selling, leasing, transferring, conveying, "and" disposing of property for accuracy.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that because the Commission does not currently operate any stormwater management systems and because the counties currently have authority over stormwater management, the reference to stormwater management systems in this section may be obsolete.

Defined term: "Commission" § 16–101

SUBTITLE 2. PRINCE GEORGE'S COUNTY QUICK TAKE.

21–201. WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT PROJECT.

IN THIS SUBTITLE, "WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT PROJECT" INCLUDES A:

(1) WATER MAIN, SEWER, OR DRAIN OR APPURTENANCE OF A WATER MAIN, SEWER, OR DRAIN;

(2) FIRE HYDRANT;

(3) RESERVOIR;

(4) WATER PURIFICATION PLANT;

(5) TANK;

(6) PUMPING STATION; AND

(7) SEWAGE DISPOSAL PLANT.

REVISOR'S NOTE: This section formerly was Art. 29, § 2–101.

In the introductory language of this section and throughout this subtitle, the references to "stormwater management" are substituted for the former references to "drainage" for clarity and consistency with terminology used throughout this division.

The only other changes are in style.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that there were references throughout former Art. 29, Title 2, to "drainage project", "drain", and "drainage system". These refer to stormwater management drainage projects, drains, and drainage systems. Currently, the Commission does not exercise stormwater management and those functions have been transferred to Montgomery County and Prince George's County. Therefore, the references to "stormwater management project", "drain", and "stormwater management system" may be obsolete.

21–202. PURPOSE OF SUBTITLE.

THE PURPOSE OF THIS SUBTITLE IS TO PROVIDE THAT IN EMERGENCIES THE COMMISSION, IN ITS DISCRETION, MAY CONDEMN LAND OR INTEREST IN LAND UNDER THE OPTIONAL PROCEDURE PROVIDED BY THIS SUBTITLE BEFORE OR AFTER CONSTRUCTION OF A WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT SYSTEM, OR PART OF A SYSTEM, HAS BEGUN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–103(c)(5).

The references to "this subtitle" are substituted for the former references to "this section" to correct a drafting error in the 1982 revision of former Article 67, the predecessor to Article 29. Prior to the 1982 revision of Article 67, former § 2–1 of that article contained the Prince George's County quick take procedures. The last sentence of former § 2–1(a) provided that "[i]t is the intention of this section to provide that land or interests therein", under specified circumstances, may be condemned "under the optional procedure provided by this section". When former Article 67 was revised by Chapter 767 of the Acts of the General Assembly of 1982, former § 2–1 was divided among revised §§ 2–101 through 2–104, which collectively comprised the whole of the newly created Title 2 of former Article 67, entitled Prince George's County Quick Take. In dividing former § 2–1 into multiple sections, however, the above–quoted language from the last sentence of former § 2–1(a), which became former Art. 29, § 2–103(c)(5), was not altered to reflect the fact that the quick take procedures comprised multiple sections, rather than a single section. The references to "this section" in former § 2–103(c)(5) should have been altered to refer to "this title", in reference to Title 2 of former Article 67.

The former phrase "subject to the prohibition against the taking of any building" is deleted as unnecessary in light of the limitation in

§ 21–204(b) of this subtitle that "[a] building may not be taken under this subtitle".

Defined term: "Commission" § 16–101

21–203. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY TO LAND IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section formerly was Art. 29, § 2–102.

The only change is in style.

21–204. AUTHORITY TO ACQUIRE LAND.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION AND §§ 21–205 AND 21–206(A) OF THIS SUBTITLE, THE COMMISSION MAY ENTER ON AND TAKE POSSESSION OF REMAINING LAND OR INTEREST IN LAND DESCRIBED IN ITEM (2) OF THIS SUBSECTION AND PROCEED WITH THE EXTENSION OR CONSTRUCTION OF A WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT PROJECT IF THE COMMISSION:

(1) HAS ACQUIRED OR IS ACQUIRING BY PURCHASE OR OTHER PROCEDURE, INCLUDING THE CONDEMNATION PROCEDURES PROVIDED FOR IN THE REAL PROPERTY ARTICLE AND SUBTITLE 1 OF THIS TITLE, AT LEAST ONE–HALF OF THE TAKINGS OF LAND OR INTEREST IN LAND REQUIRED FOR THE EXTENSION OR CONSTRUCTION OF THE PROJECT; AND

(2) DETERMINES THAT THE REMAINING TAKINGS OF LAND OR INTEREST IN LAND ARE NEEDED FOR THE EXTENSION OR CONSTRUCTION OF THE PROJECT.

(B) BUILDING MAY NOT BE TAKEN.

A BUILDING MAY NOT BE TAKEN UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–103(a)(1) and (b).

In the introductory language of subsection (a) of this section, the phrase "[s]ubject to subsection (b) of this section and §§ 21–205 and 21–206(a) of this subtitle" is added for clarity.

Also in the introductory language of subsection (a) of this section, the reference to remaining land or interest in land "described in item (2) of this subsection" is added for clarity.

In subsection (a)(2) of this section, the former reference to the Commission "find[ing]" that the remaining takings are needed is deleted as implicit in the reference to the Commission "determin[ing]" that they are needed.

Also in subsection (a)(2) of this section, the former reference to the remaining "number of" takings is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Water supply, sanitary sewer, or stormwater management project" § 21–201

21–205. WRITTEN DECLARATION OF TAKING.

(A) REQUIRED.

(1) THE COMMISSION'S RIGHT TO ENTER AND TAKE POSSESSION OF LAND OR AN INTEREST IN LAND UNDER THIS SUBTITLE TAKES EFFECT IMMEDIATELY AFTER THE FILING OF A WRITTEN DECLARATION OF TAKING IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, ACCOMPANIED BY PAYMENT OF THE ESTIMATED FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND, AS REQUIRED UNDER § 21–206(A) OF THIS SUBTITLE.

(2) A DECLARATION OF TAKING MAY BE:

(I) COMBINED WITH A PETITION FOR CONDEMNATION, FILED SIMULTANEOUSLY WITH OR AS PART OF THE SAME PLEADING; OR

(II) FILED AFTER A PETITION FOR CONDEMNATION.

(B) CONTENTS.

A DECLARATION OF TAKING SHALL:

(1) INCLUDE A STATEMENT AS TO THE NUMBER OF TAKINGS IN LAND OR INTEREST IN LAND NECESSARY FOR THE EXTENSION OR CONSTRUCTION OF THE WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT PROJECT;

(2) INCLUDE A STATEMENT THAT THE COMMISSION HAS ACQUIRED OR IS ACQUIRING BY PURCHASE OR PROCEDURES OTHER THAN THE DECLARATION OF TAKING METHOD AT LEAST ONE–HALF OF THE TAKINGS NEEDED FOR THE EXTENSION OR CONSTRUCTION OF THE PROJECT;

(3) CONTAIN A DESCRIPTION OF THE LAND OR INTEREST IN LAND BEING TAKEN;

(4) NAME THE COMMISSION AS PLAINTIFF AND THE OWNER OF THE LAND OR INTEREST IN LAND AS DEFENDANT;

(5) BE DOCKETED BY THE CLERK OF THE CIRCUIT COURT, UNLESS THE PETITION FOR CONDEMNATION IS ON FILE OR FILED SIMULTANEOUSLY WITH THE DECLARATION OF TAKING; AND

(6) IDENTIFY THE QUALIFIED APPRAISER AND SPECIFY THE ESTIMATED FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND BEING TAKEN, AS REQUIRED BY § 21–206(A) OF THIS SUBTITLE.

(C) NOTICE AND SERVICE.

NOTICE OF AND SERVICE ON THE PROPERTY OWNER OF A DECLARATION OF TAKING SHALL BE ACCOMPLISHED IN THE SAME MANNER AS IS REQUIRED FOR PETITIONS FOR CONDEMNATION.

(D) DATE OF TAKING.

IF THE COMMISSION FILES THE DECLARATION OF TAKING ACCOMPANIED BY THE PAYMENT OF THE ESTIMATED FAIR MARKET VALUE REQUIRED UNDER § 21–206(A) OF THIS SUBTITLE, THE DATE OF FILING SHALL BE THE OPERATIVE DATE OF THE TAKING TO DETERMINE:

(1) THE FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND TAKEN; AND

(2) DAMAGES, IF ANY, CAUSED BY THE TAKING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–104.

In subsection (a)(1) of this section, the phrase "under this subtitle" is substituted for the former phrase "in the circumstances and on the conditions stated in this section" for brevity. The new language also

corrects a drafting error in the 1982 revision of former Article 67, the predecessor to Article 29. Prior to the 1982 revision of Article 67, former § 2–1 of that article contained the Prince George's County quick take procedures. Former § 2–1(b) provided that "[t]he commission's right to enter and take possession of the land or rights therein which is authorized by this section, in the circumstances and upon the conditions herein stated, shall commence immediately upon the filing of a written declaration of taking". When former Article 67 was revised by Chapter 767 of the Acts of the General Assembly of 1982, former § 2–1 was divided among revised §§ 2–101 through 2–104, which collectively comprised the whole of the newly created Title 2 of former Article 67, entitled Prince George's County Quick Take. The above–quoted language from former § 2–1(b), which became former Art. 29, § 2–104(a)(1), was altered to provide that "[t]he WSSC's right to enter and take possession of the land or interest in the land in the circumstances and on the conditions stated in this section begins immediately on the filing of a written declaration of taking". Because former Art. 67, § 2–1 was divided into multiple sections as a result of the revision, such that the quick take procedures comprised the whole of Title 2 of that article, the reference to "this section" in former Art. 29, § 2–104(a)(1) should have been altered to refer to "this title".

Also in subsection (a)(1) of this section, the phrase "payment of the estimated fair market value of the land or interest in land, as required under § 21–206(a) of this subtitle" is substituted for the former phrases "the estimated payment" and "the estimated payment provided for in § 2–103 of this title" for clarity.

In subsection (b)(1) and (2) of this section, the references to an "extension" of the project are added for consistency with § 21–204(a) of this subtitle.

In subsection (b)(1) of this section, the former reference to a "WSSC" statement is deleted as unnecessary.

In subsection (b)(2) of this section, the former reference to one–half "or more" is deleted as unnecessary in light of the reference to "at least" one–half and for consistency with § 21–204(a) of this subtitle.

In subsection (b)(5) of this section, the former reference to the declaration of taking being docketed "as a law case" is deleted as obsolete to reflect the merger of law and equity effected by Md. Rule 2–301, which mandates "one form of action known as the 'civil action'".

In subsection (b)(6) of this section, the reference to the estimated "fair market value of the land or interest in land being taken" is substituted for the former reference to the estimated "valuation" for clarity.

In subsection (c) of this section, the reference to "property" owner is added for clarity.

In the introductory language of subsection (d) of this section, the reference to payment "of the estimated fair market value" is added for clarity.

Also in the introductory language of subsection (d) of this section, the former reference to "in any subsequent proceeding" is deleted as unnecessary.

In subsection (d)(1) of this section, the reference to fair "market" value is added for clarity and consistency with terminology used in the condemnation provisions of the Real Property Article. *See* RP Title 12.

Defined terms: "Commission" § 16–101
"Water supply, sanitary sewer, or stormwater management project" § 21–201

21–206. PAYMENT OF ESTIMATED FAIR MARKET VALUE.

(A) PAYMENT TO COURT OR OWNER.

(1) WITH THE DECLARATION OF TAKING, THE COMMISSION SHALL PAY TO THE OWNER OF THE LAND OR INTEREST IN LAND, OR TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY FOR THE OWNER'S BENEFIT, A SUM THAT THE COMMISSION ESTIMATES TO BE THE FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND BEING TAKEN.

(2) THE COMMISSION'S ESTIMATE OF THE FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND BEING TAKEN MAY NOT BE LESS THAN ITS APPRAISED VALUE AS EVALUATED BY AT LEAST ONE EXPERIENCED AND QUALIFIED APPRAISER, WHOSE QUALIFICATIONS AS AN APPRAISER HAVE BEEN ACCEPTED BY A COURT OF RECORD OF THE STATE.

(B) EFFECT OF ESTIMATED PAYMENT.

PAYMENT OF THE ESTIMATED FAIR MARKET VALUE OF LAND OR INTEREST IN LAND UNDER THIS SECTION DOES NOT LIMIT THE AMOUNT THAT MAY BE AWARDED WITH RESPECT TO THE LAND OR INTEREST IN LAND.

(C) RECEIPT OF MONEY PAID INTO COURT.

IF THE ESTIMATED FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND IS PAID INTO THE COURT UNDER SUBSECTION (A) OF THIS SECTION, THE PROPERTY OWNER, ON WRITTEN REQUEST TO THE CLERK OF THE COURT, MAY RECEIVE THE SUM PAID WITHOUT PREJUDICE TO ANY OF THE OWNER'S RIGHTS IF THE PROPERTY OWNER AGREES TO PAY BACK TO THE COMMISSION THE AMOUNT BY WHICH THE SUM PAID EXCEEDS THE FINAL AWARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–103(a)(2) through (4) and (c)(1).

In subsection (a)(1) of this section, the reference to fair "market" value is added for clarity and consistency with terminology used in the condemnation provisions of the Real Property Article. *See* RP Title 12.

Also in subsection (a)(1) of this section, the phrase "[w]ith the declaration of taking" is substituted for the former reference to the Commission "first" paying the owner for clarity.

Also in subsection (a)(1) of this section, the reference to the "land or interest in land being taken" is substituted for the former reference to the "property being acquired by the WSSC" for clarity and consistency with terminology used throughout this subtitle.

In subsection (a)(2) of this section, the reference to the "Commission's estimate of the fair market value of the land or interest in land being taken" is substituted for the former reference to the "estimate" for clarity.

In subsection (b) of this section, the reference to payment "of the estimated fair market value of land or interest in land under this section" is substituted for the former reference to the payment "to the property owner or to the court for the owner's benefit" for clarity.

Also in subsection (b) of this section, the former reference to the amount that may be "finally" awarded is deleted as unnecessary.

Also in subsection (b) of this section, the former reference to "subsequent condemnation proceedings" is deleted as unnecessary.

Also in subsection (b) of this section, the former reference to land or interest in land "so taken" is deleted as unnecessary.

In subsection (c) of this section, the reference to the "estimated fair market value of the land or interest in land" is substituted for the former reference to the "money" for clarity and consistency with subsection (a) of this section.

Also in subsection (c) of this section, the reference to a payment made "under subsection (a) of this section" is substituted for the former reference to a payment made "for the benefit of the owner of the land or interests in land involved" for brevity and clarity.

Also in subsection (c) of this section, the reference to the "amount by which the sum paid exceeds the final award" is substituted for the former reference to the "difference, if any, between the sum and the final award" to clarify that the property owner is required to agree to pay to the Commission the difference between the sum paid and the final award only if the sum paid into the court is greater than the final award.

Defined terms: "Commission" § 16–101
"State" § 16–101

21–207. INSTITUTION OF CONDEMNATION PROCEEDINGS.

(A) IN GENERAL.

(1) IF THE COMMISSION AND THE OWNER OF THE LAND OR INTEREST IN LAND BEING TAKEN ARE UNABLE TO AGREE AS TO THE COMPENSATION AND DAMAGES, IF ANY, CAUSED BY THE TAKING, THE COMMISSION SHALL INSTITUTE CONDEMNATION PROCEEDINGS IN THE MANNER REQUIRED BY THE REAL PROPERTY ARTICLE AND THE MARYLAND RULES.

(2) THE COURT SHALL HEAR AND DETERMINE THE CONDEMNATION PROCEEDINGS AS SOON AS PRACTICABLE AFTER THE APPLICATION TO THE COURT.

(B) TIME FOR FILING.

IF THE CONDEMNATION PETITION IS NOT FILED AT THE SAME TIME AS THE COMMISSION PAYS THE ESTIMATED FAIR MARKET VALUE TO THE OWNER OR TO THE COURT FOR THE OWNER'S BENEFIT, THE COMMISSION SHALL FILE THE CONDEMNATION PETITION NOT LATER THAN 30 DAYS AFTER RECEIPT OF NOTICE FROM THE PROPERTY OWNER THAT A DISAGREEMENT EXISTS AS TO THE COMPENSATION AND DAMAGES, IF ANY, CAUSED BY THE TAKING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–103(c)(2) through (4).

In subsection (a)(1) of this section, the reference to "the Maryland Rules" is added for accuracy.

In subsections (a)(2) and (b) of this section, the word "condemnation" is added for clarity.

In subsection (b) of this section, the reference to a disagreement existing "as to the compensation and damages, if any, caused by the taking" is added for clarity.

Also in subsection (b) of this section, the reference to the "estimated fair market value" is substituted for the former reference to the "money" for clarity and consistency.

Also in subsection (b) of this section, the references to a "petition" being "file[d]" are substituted for the former references to "proceedings" being "institute[d]" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to repeal the references in subsections (b) and (c) of this section to compensation "and damages" as obsolete, since the term "compensation" includes damages.

Defined term: "Commission" § 16–101

SUBTITLE 3. ZONING AND LAND USE MATTERS.

21–301. ZONING MAP APPLICATIONS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "DISTRICT COUNCIL" HAS THE MEANING AS PROVIDED IN ARTICLE 28, TITLE 8 OF THE CODE.

(II) "DISTRICT COUNCIL" INCLUDES A DESIGNEE OR HEARING OFFICER APPOINTED BY THE DISTRICT COUNCIL.

(3) "REGIONAL DISTRICT" MEANS THE MARYLAND–WASHINGTON REGIONAL DISTRICT, AS SET FORTH IN ARTICLE 28, TITLE 7 OF THE CODE.

(B) REFERRAL FOR REVIEW AND COMMENT.

AN APPLICATION FOR AMENDMENT TO THE ZONING MAP OF THE REGIONAL DISTRICT MAY BE REFERRED BY THE RESPECTIVE DISTRICT COUNCIL TO THE COMMISSION FOR THE COMMISSION'S REVIEW AND COMMENT.

(C) WRITTEN REPORT.

(1) THE COMMISSION SHALL REVIEW EACH APPLICATION REFERRED TO IT AND SHALL REPORT IN WRITING ON EACH APPLICATION TO THE APPROPRIATE DISTRICT COUNCIL NOT LESS THAN 15 DAYS BEFORE THE REGULARLY SCHEDULED PUBLIC HEARING ON THE APPLICATION.

(2) THE REPORT SHALL INCLUDE AN ANALYSIS OF THE PROBABLE IMPACT ON EXISTING AND PROPOSED SEWER, WATER, OR OTHER COMMISSION FACILITIES IN TERMS OF:

(I) TREATMENT FACILITIES;

(II) SEWER LINES OF BOTH PROGRAM AND LESS–THAN–PROGRAM SIZE;

(III) THEIR RESPECTIVE DESIGN CAPACITY AND PRESENT VOLUME FLOW TO CAPACITY RELATIONSHIP;

(IV) CONSTRUCTION SCHEDULES; AND

(V) PROPOSED PROJECTS UNDER THE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM OR 10–YEAR WATER AND SEWER PLAN.

(D) SUPPLEMENTAL INFORMATION.

WITH RESPECT TO AN APPLICATION REFERRED TO THE COMMISSION UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL PROVIDE SUPPLEMENTAL INFORMATION REQUESTED BY THE DISTRICT COUNCIL AT LEAST 15 DAYS BEFORE THE REGULARLY SCHEDULED PUBLIC HEARING ON THE APPLICATION OR WITHIN 15 DAYS AFTER THE COMMISSION RECEIVES THE REQUEST, WHICHEVER IS LATER.

(E) AVAILABILITY OF STAFF.

ON REQUEST OF THE DISTRICT COUNCIL, COMMISSION STAFF SHALL APPEAR BEFORE THE DISTRICT COUNCIL TO DISCUSS INFORMATION PROVIDED BY THE COMMISSION UNDER THIS SECTION.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as the standard introductory language for a definition section.

Subsection (a)(2)(i) and (3) of this section is new language added to clarify the meaning of "district council" and "regional district", respectively.

Subsections (a)(2)(ii) and (b) through (e) of this section are new language derived without substantive change from former Art. 29, § 1–207.

In subsection (b) of this section, the reference to "the Commission's" review and comment is substituted for the former reference to "its" review and comment for clarity.

Also in subsection (b) of this section, the former reference to the regional district "located within Prince George's and Montgomery counties" is deleted as unnecessary in light of the fact that the regional district is located entirely within the boundaries of Montgomery County and Prince George's County.

In subsection (c)(2) of this section, the reference to "Commission" facilities is substituted for the former reference to facilities "under the jurisdiction of the WSSC" for brevity.

In subsection (d) of this section, the reference to "an application referred to the Commission under subsection (b) of this section" is substituted for the former reference to "any referred application" for clarity.

In subsection (e) of this section, the reference to "Commission staff" is substituted for the former reference to "the WSSC shall make staff available" for brevity and clarity.

Also in subsection (e) of this section, the reference to staff appearing "to discuss" information is substituted for the former reference to staff appearing "with respect to" information for clarity.

Also in subsection (e) of this section, the reference to staff information "provided by the Commission" is substituted for the former reference to information "which the WSSC is required to provide" for brevity.

Defined term: "Commission" § 16–101

SUBTITLE 4. URBAN RENEWAL PROJECTS.

21–401. "URBAN RENEWAL AUTHORITY" DEFINED.

IN THIS SUBTITLE, "URBAN RENEWAL AUTHORITY":

(1) MEANS A UNIT OF GOVERNMENT THAT IS ENGAGED IN URBAN RENEWAL ACTIVITY; AND

(2) INCLUDES:

(I) THE STATE;

(II) MONTGOMERY COUNTY;

(III) PRINCE GEORGE'S COUNTY; AND

(IV) ANY UNIT OF GOVERNMENT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 16–101.

Defined term: "State" § 16–101

21–402. COOPERATION BETWEEN COMMISSION AND URBAN RENEWAL AUTHORITY.

IF THE COMMISSION IS PAID OR ASSURED PAYMENT BY AN URBAN RENEWAL AUTHORITY FOR THE COMMISSION'S COSTS AND EXPENDITURES IN ACCORDANCE WITH THIS SUBTITLE, THE COMMISSION MAY COOPERATE WITH AND ASSIST THE URBAN RENEWAL AUTHORITY IN AN URBAN RENEWAL PROJECT UNDERTAKEN BY THE URBAN RENEWAL AUTHORITY BY ABANDONING, RELOCATING, INSTALLING, CONSTRUCTING, OR RECONSTRUCTING WATER OR SANITARY SEWER FACILITIES IN THE URBAN RENEWAL AREA.

REVISOR'S NOTE: This section formerly was Art. 29, § 16–102.

The only changes are in style.

Defined terms: "Commission" § 16–101
"Urban renewal authority" § 21–401

21–403. PAYMENT FOR URBAN RENEWAL PROJECTS.

(A) EXISTING COMMISSION FACILITY — PAYMENT OF ENTIRE COST LESS SALVAGE VALUE.

IF AN URBAN RENEWAL PROJECT OR AN ACT OF THE GENERAL ASSEMBLY THAT PROVIDES FOR AN URBAN RENEWAL PROGRAM REQUIRES OR RESULTS IN THE ABANDONMENT, RELOCATION, REALIGNMENT, RAISING, LOWERING, REBUILDING, OR REMOVAL OF ANY WATER OR SANITARY SEWER FACILITY OF THE COMMISSION, THE URBAN RENEWAL AUTHORITY SHALL PAY TO THE COMMISSION THE ENTIRE COST LESS ANY SALVAGE VALUE FROM THE OLD FACILITY.

(B) EXISTING COMMISSION FACILITY — NO CHANGE TO STRUCTURES UNTIL PAYMENT IS ASSURED.

AN URBAN RENEWAL AUTHORITY MAY NOT ALLOW ANY COMMISSION STRUCTURE TO BE REMOVED, ABANDONED, OR DAMAGED IN CONNECTION WITH AN URBAN RENEWAL PROJECT UNTIL:

(1) THE URBAN RENEWAL AUTHORITY HAS PAID THE COMMISSION; OR

(2) PAYMENT TO THE COMMISSION HAS BEEN ASSURED TO THE COMMISSION'S SATISFACTION, IN ACCORDANCE WITH THIS SUBTITLE.

(C) COSTS OF NEW CONSTRUCTION.

IF AN URBAN RENEWAL PROJECT REQUIRES THE CONSTRUCTION OF A NEW WATER OR SANITARY SEWER FACILITY BY THE COMMISSION, THE COMMISSION MAY:

(1) CONSTRUCT THE FACILITY IF:

(I) THE COSTS OF THE CONSTRUCTION WILL BE REPAID THROUGH EXISTING PROVISIONS FOR SPECIAL ASSESSMENTS, INCLUDING FRONT FOOT BENEFIT CHARGES; OR

(II) THE PAYMENT IS MADE OR ASSURED BY THE URBAN RENEWAL AUTHORITY; AND

(2) ENTER INTO AGREEMENTS WITH AN URBAN RENEWAL AUTHORITY PROVIDING FOR PAYMENT TO THE COMMISSION OVER A PERIOD OF TIME, WITH THE TERMS OF THE CONTRACT AND RATE OF INTEREST DETERMINED BY THE COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 29, § 16–103.

In subsection (a) and the introductory language of subsection (c) of this section, the references to a "sanitary" sewer facility are added for clarity throughout this division.

The only changes are in style.

Defined terms: "Commission" § 16–101
"Urban renewal authority" § 21–401

TITLE 22. BONDS AND NOTES.

SUBTITLE 1. GENERAL OBLIGATION BONDS AND NOTES.

22–101. "BOND" DEFINED.

IN THIS SUBTITLE, "BOND" MEANS A BOND, NOTE, CERTIFICATE OF INDEBTEDNESS, SECURITY, OR OTHER INSTRUMENT EVIDENCING DEBT ISSUED AND SOLD OR OFFERED FOR SALE IN ACCORDANCE WITH LAW.

REVISOR'S NOTE: This section is new language added to clarify the applicability of this subtitle.

22–102. SANITARY DISTRICT BONDS.

(A) IN GENERAL — AUTHORIZED.

THE COMMISSION MAY ISSUE BONDS OF THE SANITARY DISTRICT IN AMOUNTS NECESSARY TO CARRY ON ITS WORK, INCLUDING FOR:

(1) ACQUISITION, DESIGN, CONSTRUCTION, RECONSTRUCTION, ESTABLISHMENT, EXTENSION, ENLARGEMENT, OR CONDEMNATION OF THE WATER AND SEWER SYSTEMS IN THE SANITARY DISTRICT OR IN AN AREA WHERE EXTENSION OF THE SYSTEMS MAY BE AUTHORIZED BY LAW;

(2) ACQUISITION OF LAND OR EQUIPMENT FOR, OR CONSTRUCTION, REMODELING, ENLARGEMENT, OR REPLACEMENT OF ANY OFFICE OR OPERATING BUILDING NECESSARY TO ADMINISTER OR OPERATE THE SYSTEMS; OR

(3) DESIGN AND CONSTRUCTION OF TRUNK SEWERS AND SEWERS OR PORTIONS OF SEWER LINES REQUIRED TO RELIEVE SEPTIC TANK FAILURES AND FOR WHICH NO FRONT FOOT BENEFIT CHARGES CAN BE COLLECTED AS DETERMINED BY THE COMMISSION, AND SEWAGE PUMPING STATIONS AND SEWAGE DISPOSAL FACILITIES, INCLUDING REIMBURSEMENT TO THE DISTRICT

OF COLUMBIA OR OTHER FEDERAL AUTHORITIES FOR ANY CONSTRUCTION WITHIN THE DISTRICT OF COLUMBIA.

(B) BONDS FOR CAPITAL EQUIPMENT — AUTHORIZED.

(1) THE COMMISSION MAY ISSUE BONDS OF THE SANITARY DISTRICT FOR THE ACQUISITION OF CAPITAL EQUIPMENT IN AMOUNTS NECESSARY TO CARRY ON ITS WORK, INCLUDING:

(I) COMPUTER EQUIPMENT;

(II) LABORATORY EQUIPMENT;

(III) MAINTENANCE FIELD AND YARD EQUIPMENT;

(IV) OFFICE EQUIPMENT;

(V) TELECOMMUNICATION EQUIPMENT; AND

(VI) TRUCKS AND FLEET VEHICLES.

(2) THE BONDS MAY BE ISSUED ONLY TO FINANCE THE ACQUISITION OF EQUIPMENT:

(I) WITH A USEFUL LIFE OF 4 TO 7 YEARS;

(II) THAT THE COMMISSION EXPECTS TO FINANCE OVER A PERIOD OF 4 YEARS OR LESS; AND

(III) FOR WHICH THE COMMISSION BUDGETS ACCORDINGLY.

(3) THE PRINCIPAL OF THE BONDS ISSUED UNDER THIS SUBSECTION SHALL BE PAYABLE ANNUALLY BEGINNING NOT MORE THAN 1 YEAR AFTER THE DATE OF ISSUE.

(4) THE BONDS ISSUED UNDER THIS SUBSECTION SHALL MATURE NOT MORE THAN 4 YEARS AFTER THE DATE OF ISSUE.

(5) THE AGGREGATE AMOUNT OF BONDS ISSUED UNDER THIS SUBSECTION OUTSTANDING AT ANY TIME MAY NOT EXCEED $15,000,000, SUBJECT TO ANNUAL UPWARD ADJUSTMENT IN ACCORDANCE WITH THE

CONSUMER PRICE INDEX – ALL URBAN CONSUMERS (CPI–U), FOR THE WASHINGTON, DC–MD–VA METROPOLITAN AREA, OVER THE BASE YEAR 1997.

(C) SERIAL BONDS.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, BONDS ISSUED UNDER THIS SECTION SHALL BE ISSUED AS SERIAL BONDS WITH THE PRINCIPAL PAYABLE ANNUALLY, BEGINNING NO LATER THAN 3 YEARS FROM THE DATE OF ISSUE.

(D) TERMS AND CONDITIONS.

(1) THE BONDS SHALL:

(I) BE ISSUED IN DENOMINATIONS DETERMINED BY THE COMMISSION;

(II) BEAR INTEREST ANNUALLY AT RATES THE COMMISSION DETERMINES TO BE ADVANTAGEOUS TO THE SANITARY DISTRICT AND IN THE PUBLIC INTEREST; AND

(III) MATURE NO LATER THAN 40 YEARS FROM THE DATE OF ISSUE.

(2) THE BONDS MAY BE:

(I) REGISTERED OR COUPON BONDS; OR

(II) REGISTRABLE AS TO PRINCIPAL WITH INTEREST REPRESENTED BY COUPONS.

(3) THE INTEREST ON THE BONDS SHALL BE PAYABLE SEMIANNUALLY.

(E) MATURITY.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSION MAY ISSUE BONDS THAT HAVE A MATURITY OF MORE THAN 1 YEAR AS FULLY REGISTERED BONDS WITHOUT COUPONS.

(2) THE COMMISSION MAY DETERMINE THE FORM OF THE BONDS ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE PURPOSES OF:

(I) QUALIFYING THE INTEREST ON THE BONDS FOR EXEMPTION FROM FEDERAL INCOME TAX; AND

(II) CONFORMING TO STANDARDS AND PRACTICES FOR THE REGISTRATION AND TRANSFER OF BONDS GENERALLY FOLLOWED BY BANKS AND TRUST COMPANIES ACTING AS REGISTRARS AND TRANSFER AGENTS OF BONDS, INCLUDING:

1. SIGNING OF BONDS BY FACSIMILE SIGNATURES OF COMMISSION OFFICERS;

2. AUTHENTICATION OF BONDS BY THE MANUAL SIGNATURE OF AN OFFICER OF A BANK OR TRUST COMPANY SIGNING AS THE REGISTRAR OR TRANSFER AGENT;

3. MAINTENANCE BY REGISTRARS OR TRANSFER AGENTS OF RECORDS OF OWNERS OF BONDS;

4. COMPLYING WITH THE STANDARD RECORD DATE SYSTEM FOR PAYMENT OF INTEREST;

5. ISSUING BONDS ON THE BASIS OF BOOK ENTRIES AND CERTIFICATES; AND

6. COMPLYING WITH REQUIREMENTS FOR THE FORM OF BOND THAT IS ACCEPTABLE TO CENTRAL DEPOSITORIES USED IN THE MARKETING AND TRADING OF MUNICIPAL BOND ISSUES.

(F) TAX EXEMPT.

THE BONDS OF THE SANITARY DISTRICT OR OF THE COMMISSION ARE FOREVER EXEMPT FROM TAXATION BY THE STATE AND COUNTIES AND MUNICIPALITIES IN THE STATE.

(G) EARLY REDEMPTION.

THE BONDS MAY BE MADE REDEEMABLE BEFORE MATURITY AT THE OPTION OF THE COMMISSION AT THE PRICES AND UNDER TERMS AND CONDITIONS THAT THE COMMISSION SETS BEFORE THE BONDS ARE ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–104, 4–101(a) and (f), and, except for the last clause of the first sentence, 4–110(a).

In subsections (a) and (b) of this section, the former phrase "from time to time" is deleted as unnecessary.

Also in subsections (a) and (b) of this section, the former references to issuing bonds in amounts "as it may deem" necessary and amounts "it considers" necessary are deleted as implicit in the authority to issue the bonds.

Also in subsections (a) and (b) of this section, the former references to issuing bonds "[f]or the purpose of providing funds" are deleted as unnecessary.

In subsection (a) of this section, the former reference to the Commission being "created by Chapter 122 of the Acts of the General Assembly of Maryland of 1918" is deleted as unnecessary in light of the defined term "Commission".

In subsection (a)(1) of this section, the reference to "acquisition" is substituted for the former reference to "purchase" for clarity and consistency within this section.

In subsection (a)(2) of this section, the former reference to "buildings" is deleted in light of the reference to a "building" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a)(3) of this section, the former reference to "after January 1, 1951" is deleted as unnecessary.

In subsection (b) of this section, the former references to "purchase" are deleted as implicit in the references to "acquisition".

In subsection (b)(2) of this section, the former phrase "in addition to the conditions and limitations otherwise provided in this section" is deleted as unnecessary.

In subsection (c) of this section, the phrase "[e]xcept as otherwise provided in this section" is added for clarity.

Also in subsection (c) of this section, the reference to "beginning" is substituted for the former reference to "commencing" for clarity.

Also in subsection (c) of this section, the former references to bonds "hereafter" issued under this section and under "the authority of" this section are deleted as unnecessary.

Also in subsection (c) of this section, the former reference to the principal "of any given issue" is deleted as unnecessary.

In subsection (d)(1)(ii) of this section, the former reference to "notes, certificates of indebtedness or other instruments evidencing debt of the sanitary district, issued under the provisions of this subtitle or of any other law" is deleted as unnecessary in light of the defined term "bond" in § 22–101 of this subtitle.

Also in subsection (d)(1)(ii) of this section, the former reference to a bond issued "after July 1, 1968" is deleted as unnecessary.

Also in subsection (d)(1)(ii) of this section, the former phrase "notwithstanding any other provisions of this subtitle to the contrary" is deleted as unnecessary.

In subsection (e)(1) of this section, the former reference to bonds "mean[ing] bonds, notes, and other obligations" is deleted as unnecessary in light of the defined term "bond" in § 22–101 of this subtitle. Similarly, the former reference to issuing "notes, and other obligations" is deleted.

Also in subsection (e)(1) of this section, the former reference to any provision of law "to the contrary, including, without limitation, this article, Article 31 of the Code, and the State Finance and Procurement Article" is deleted as unnecessary.

Also in subsection (e)(1) of this section, the former reference to maturity "at the date of issue" is deleted as unnecessary.

In the introductory language of subsection (e)(2) of this section, the reference to the Commission "may determine" the form of the bonds is substituted for the former reference to the form that the Commission "deems necessary or desirable" for brevity.

In subsection (f) of this section, the former references to bonds "including those heretofore issued" and "issued pursuant to the authority of this section" are deleted as unnecessary.

In subsection (g) of this section, the former reference to bonds "hereafter issued by the WSSC in its name or in the name of the sanitary district" is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101

"Sanitary district" § 16–101
"State" § 16–101

22–103. BONDS — MAXIMUM AMOUNT ISSUED.

(A) MAXIMUM AMOUNT.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE AGGREGATE PRINCIPAL AMOUNT OF BONDS OUTSTANDING AT ANY TIME THAT WILL NOT REACH FULL MATURITY WITHIN 5 YEARS FROM THE DATE OF ISSUE MAY NOT EXCEED THE GREATER OF:

(1) THE SUM OF:

(I) 3.8% OF THE TOTAL ASSESSABLE BASE OF ALL REAL PROPERTY ASSESSED FOR COUNTY TAX PURPOSES WITHIN THE SANITARY DISTRICT; AND

(II) 7% OF THE TOTAL ASSESSABLE PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED UNDER § 8–109(C) OF THE TAX – PROPERTY ARTICLE ASSESSED FOR COUNTY TAX PURPOSES WITHIN THE SANITARY DISTRICT; OR

(2) THE SUM OF:

(I) 3.8% OF THE TOTAL ASSESSABLE BASE OF ALL REAL PROPERTY ASSESSED FOR COUNTY TAX PURPOSES WITHIN THE SANITARY DISTRICT AS OF JULY 1, 1997; AND

(II) 7% OF THE TOTAL ASSESSABLE PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED UNDER § 8–109(C) OF THE TAX – PROPERTY ARTICLE ASSESSED FOR COUNTY TAX PURPOSES WITHIN THE SANITARY DISTRICT AS OF JULY 1, 1997.

(B) AGGREGATE AMOUNT REDUCED.

(1) IN THIS SUBSECTION, "GOVERNMENT OBLIGATION" MEANS:

(I) A DIRECT OBLIGATION OF THE UNITED STATES; OR

(II) AN OBLIGATION UNCONDITIONALLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY THE UNITED STATES.

(2) TO CALCULATE THE MAXIMUM DEBT AUTHORIZED UNDER THIS SECTION, THE AGGREGATE AMOUNT OF BONDS OUTSTANDING IS REDUCED BY:

(I) THE AMOUNT HELD IN THE JOINT SINKING FUND ACCOUNT FOR THE PAYMENT OF PRINCIPAL OF THE BONDS; AND

(II) THE AMOUNT OF ANY BOND FOR WHICH THERE IS IRREVOCABLY DEPOSITED:

1. CASH; OR

2. GOVERNMENT OBLIGATIONS MATURING AS TO PRINCIPAL AND INTEREST AT TIMES AND IN AMOUNTS SUFFICIENT TO PROVIDE ADEQUATE AND COMPLETE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE AND INTEREST AS REQUIRED ON THE BOND.

(C) MAXIMUM DEBT LEVEL — APPLICABILITY.

EXCEPT AS OTHERWISE PROVIDED BY AN ACT OF THE GENERAL ASSEMBLY OF MARYLAND, THE MAXIMUM DEBT LEVEL AUTHORIZED UNDER THIS SECTION APPLIES TO ANY BOND ISSUED UNDER AN ACT OF THE GENERAL ASSEMBLY OF MARYLAND ENACTED ON OR AFTER JULY 1, 1997.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–101(e) and the last clause of the first sentence of 4–110(a).

In subsection (a) of this section, the former reference to bond "mean[ing] any debt instrument issued by the WSSC as part of a bond issue" is deleted as unnecessary.

Also in subsection (a) of this section, the former reference to bonds "whether issued under this section or under any other provision of law" is deleted as unnecessary.

Also in subsection (a) of this section, the requirement in former Art. 29, § 4–110(a) that "the aggregate amount of bonds issued under this section shall be included in and subject to the 7.0 percent limitation under § 4–101(e) of this subtitle" is deleted as unnecessary.

In subsection (b)(1)(ii) of this section, the former reference to "the timely payment of" principal and interest is deleted as unnecessary.

In subsection (c) of this section, the phrase "[e]xcept as otherwise provided by an act of the General Assembly of Maryland" is substituted for the former phrase "unless the enabling act specifically exempts the bond by reference to or modification of this subsection" for brevity and clarity.

Also in subsection (c) of this section, the former reference to an "enabling" act of the General Assembly of Maryland is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"County" § 16–101
"Sanitary district" § 16–101

22–104. GUARANTY.

(A) REQUIRED STATEMENT.

(1) THE BONDS SHALL BE:

(I) ISSUED UNDER THE HAND AND SEAL OF THE COMMISSION; AND

(II) GUARANTEED AS TO PAYMENT OF PRINCIPAL AND INTEREST BY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) EACH BOND SHALL CONTAIN THE FOLLOWING STATEMENT:

"THE PAYMENT OF INTEREST WHEN DUE AND THE PRINCIPAL AT MATURITY IS GUARANTEED BY MONTGOMERY AND PRINCE GEORGE'S COUNTIES, MARYLAND".

(B) COMMISSION SIGNATURES AND SEAL.

(1) THE BONDS OF THE SANITARY DISTRICT SHALL BE SIGNED:

(I) BY THE CHAIR, SECRETARY, AND TREASURER OF THE COMMISSION; OR

(II) IF AUTHORIZED BY THE COMMISSION, BY ANY TWO COMMISSIONERS.

(2) THE OFFICIAL SEAL OF THE COMMISSION SHALL BE IMPRESSED ON A BOND OF THE SANITARY DISTRICT.

(3) FOR BONDS ISSUED FOR THE PURPOSES DESCRIBED UNDER § 22–102(A)(1) AND (2) OF THIS SUBTITLE, THE COMMISSION MAY AUTHORIZE:

(I) ANY OF ITS OFFICIALS TO SIGN A BOND BY FACSIMILE SIGNATURE; AND

(II) A FACSIMILE OF THE OFFICIAL SEAL TO BE PRINTED ON THE BOND.

(4) FOR BONDS ISSUED FOR THE PURPOSES DESCRIBED UNDER § 22–102(A)(3) OF THIS SUBTITLE, THE COMMISSION MAY AUTHORIZE:

(I) ANY OF ITS OFFICIALS TO SIGN A BOND BY FACSIMILE SIGNATURE, PROVIDED THAT THE BOND IS MANUALLY SIGNED BY AT LEAST ONE OFFICIAL; AND

(II) A FACSIMILE OF THE OFFICIAL SEAL TO BE PRINTED ON THE BOND.

(C) COUNTY SIGNATURES.

WITHIN 20 DAYS AFTER THE BONDS ARE PRESENTED BY THE COMMISSION FOR SIGNING, THE GUARANTY OR ENDORSEMENT BY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL BE SIGNED ON EACH OF THE BONDS ON BEHALF OF EACH COUNTY BY THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, OR BY THE COUNTY EXECUTIVE'S DESIGNEE, BY FACSIMILE OR MANUAL SIGNATURE AS THE COUNTY EXECUTIVE DETERMINES.

(D) LIABILITY.

THE LIABILITY UNDER THE GUARANTEE FOR EACH COUNTY IS IN THE SAME PROPORTION THAT THE ASSESSABLE BASE OF THAT PART OF THAT COUNTY WITHIN THE SANITARY DISTRICT BEARS TO THE ASSESSABLE BASE OF THE SANITARY DISTRICT.

(E) LIABILITY; WAIVER.

(1) THE COMMISSION MAY WAIVE THE GUARANTEE REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, IF THE COMMISSION DETERMINES THAT:

(I) THE WAIVER WOULD NOT SERIOUSLY AFFECT THE SALE OF THE BONDS OF THE SANITARY DISTRICT; AND

(II) MONEY MARKET CONDITIONS JUSTIFY THE SALE OF THE BONDS OF THE SANITARY DISTRICT WITHOUT THE GUARANTEE.

(2) THE WAIVER OF THE GUARANTEE UNDER PARAGRAPH (1) OF THIS SUBSECTION ON ONE ISSUE OF BONDS MAY NOT BE CONSTRUED TO BE A WAIVER OF THE GUARANTEE OF FUTURE BOND ISSUES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–103, 4–101(b), and 4–110(b).

In subsection (a)(1) of this section, the reference to "[t]he bonds" is substituted for the former reference to "[t]hey" for clarity.

In subsection (a)(1)(ii) of this section, the former reference to "the County Councils" is deleted as unnecessary.

In subsection (a)(2) of this section, the phrase "[e]ach bond shall contain the following statement" is substituted for the former phrase "which guarant[y] shall be endorsed on each of [the] bonds in the following language" for brevity and clarity.

In subsection (b)(1)(i) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

In subsection (b)(1)(ii) of this section, the phrase "if authorized by the Commission" is substituted for the former phrase "if the WSSC shall so provide" for clarity.

In the introductory language of subsection (b)(3) of this section, the reference to "bonds issued for the purposes described under § 22–102(a)(1) and (2) of this subtitle" is added to clarify to which bonds subsection (b)(3) of this section refers.

In subsection (b)(3)(ii) and (4)(ii) of this section, the former phrase "in which case it shall not be necessary that [the] official seal be impressed physically upon the bonds" is deleted as unnecessary in light of the reference to "a facsimile of the official seal".

In the introductory language of subsection (b)(4) of this section, the reference to "bonds issued for the purposes described under §

22–102(a)(3) of this subtitle" is added to clarify to which bonds subsection (b)(4) of this section refers.

In subsection (c) of this section, the reference to the county executive's "designee" is substituted for the former reference to "any officer designated for that purpose" for brevity.

Also in subsection (c) of this section, the former reference to signing "of [the] endorsement" is deleted as unnecessary.

Also in subsection (c) of this section, the former reference to guaranty or endorsement "by the County Council" is deleted as unnecessary.

In subsection (d) of this section, the references to the "assessable base" are substituted for the former references to the "assessable basis" for clarity.

Also in subsection (d) of this section, the former phrase "[i]n the event of any liability" is deleted as unnecessary.

Also in subsection (d) of this section, the former reference to "the whole of" the sanitary district is deleted as unnecessary.

In subsection (e) of this section, the former reference to the Commission being "a public corporation" is deleted as unnecessary in light of the definition of "Commission".

Also in subsection (e) of this section, the former reference to "[i]t is the purpose of this section to permit the WSSC to waive the present requirement of law as to the guarantee of its bonds and securities by Montgomery and Prince George's counties" is deleted as implicit in the authority to waive the guarantee.

Also in subsection (e) of this section, the former phrase "but to require such guarantee where monetary conditions seem to require the guarantee to secure a favorable sale of its securities" is deleted as unnecessary.

Also in subsection (e) of this section, the former phrases "[n]otwithstanding the foregoing provisions of this subsection" the Commission may "at its option and pursuant to the provisions of § 4–103 of this subtitle" are deleted as unnecessary in light of the organization of this revised subtitle.

Also in subsection (e) of this section, the former reference to the guarantee "of [the] counties" is deleted as implicit in the reference to the guarantee.

In the introductory language of subsection (e)(1) of this section, the reference to the "guarantee required under subsection (d) of this section" is substituted for the former reference to "the required guarantee of Montgomery and Prince George's counties of its bonds and certain other securities, as now required by law" for clarity and brevity.

Also in the introductory language of subsection (e)(1) of this section, the phrase "if the Commission determines that" is substituted for the former reference to "at its option, and if in its opinion the application of this section" for brevity.

In subsection (e)(1) of this section, the references to "bonds" are substituted for the former references to "securities" for consistency within this subtitle.

In subsection (e)(2) of this section, the phrase "may not" is substituted for the former phrase "but this section shall not be taken to mean that" for clarity and brevity.

Also in subsection (e)(2) of this section, the former references to "securities" are deleted as included in the references to "bonds".

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (b)(3) and (4) of this section are inconsistent. Subsection (b)(3) of this section authorizes the Commission to authorize officials to sign a bond authorized by § 22–102(a)(1) and (2) of this subtitle by facsimile signature. Subsection (b)(4) of this section also authorizes the Commission to authorize officials to sign a bond authorized by § 22–102(a)(3) by facsimile signature but the bond must be manually signed by at least one official. The General Assembly may wish to amend these provisions to be consistent.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"Commissioner" § 16–101
"Sanitary district" § 16–101

22–105. DESTROYED, LOST, OR MUTILATED BONDS.

(A) REPLACEMENT BONDS — IN GENERAL.

(1) IF A BOND ISSUED BY THE COMMISSION IS DESTROYED, LOST, OR MUTILATED, THE COMMISSION MAY EXECUTE AND DELIVER TO THE HOLDER

OR REGISTERED OWNER OF THE BOND A NEW BOND WITH THE SAME DATE, NUMBER, MATURITY, AND TENOR:

(I) ON CONDITIONS TO EVIDENCE OWNERSHIP AND THE DESTRUCTION OR LOSS OF THE BOND THAT THE COMMISSION DETERMINES; OR

(II) IN EXCHANGE AND SUBSTITUTION FOR AND CANCELLATION OF THE MUTILATED BOND AND ANY INTEREST COUPONS.

(2) THE COMMISSION MAY REQUIRE INDEMNITY AND PAYMENT OF CHARGES IN CONNECTION WITH THE EXCHANGE OR SUBSTITUTION OF A BOND.

(B) REPLACEMENT BONDS — GUARANTY.

(1) IF THE DESTROYED, LOST, OR MUTILATED BOND WAS GUARANTEED BY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE NEW BOND ISSUED IN SUBSTITUTION SHALL BE ENDORSED WITH A GUARANTY IDENTICAL TO THE GUARANTY ON THE DESTROYED, LOST, OR MUTILATED BOND.

(2) THE ENDORSEMENT SHALL BE SIGNED AS PROVIDED IN § 22–104 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–102.

In subsection (a)(1) of this section, the phrase "[i]f a bond" is substituted for the former phrase "[i]n case any bond heretofore or hereafter" for brevity and clarity.

Also in subsection (a)(1) of this section, the former reference to any bond issued "by the sanitary district" is deleted for accuracy because the sanitary district refers to a geographic area only and, as such, cannot issue debt.

Also in subsection (a)(1) of this section, the former reference to the Commission being "the governing body of the sanitary district" is deleted as unnecessary.

In subsection (a)(1)(i) of this section, the former phrase "in lieu of and in substitution for the bond and its coupons, if any, destroyed or lost" is deleted as unnecessary.

In subsection (a)(2) of this section, the reference to "[t]he Commission may require" indemnity and payment is added for clarity.

In subsection (b)(1) of this section, the former reference to a bond being guaranteed "as to payment of principal and interest" is deleted as unnecessary.

Also in subsection (b)(1) of this section, the former reference to the new bond issued in substitution "for such mutilated or destroyed or lost bond" is deleted as unnecessary.

In subsection (b)(2) of this section, the former reference to § 22–104 of this subtitle "as amended" is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"Commission" § 16–101

22–106. REPAYMENT OF BONDS.

(A) TAX IMPOSED.

(1) TO RETIRE AND PAY THE INTEREST ON BONDS ISSUED UNDER THIS SUBTITLE, EACH YEAR THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL IMPOSE AGAINST THE ASSESSABLE PROPERTY THAT IS IN THE SANITARY DISTRICT A TAX SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS, AS AND WHEN DUE AND UNTIL PAID IN FULL.

(2) THE TAX IS TO BE DETERMINED, IMPOSED, COLLECTED, AND PAID OVER TO THE COMMISSION AS PROVIDED IN THIS SECTION.

(3) EACH YEAR THE COMMISSION SHALL DETERMINE THE AMOUNT NECESSARY TO PAY THE PRINCIPAL AND INTEREST ON BONDS ISSUED TO PROVIDE FUNDS FOR THE CONSTRUCTION, REMODELING, ENLARGEMENT, OR REPLACEMENT OF ANY OFFICE OR OPERATING BUILDING.

(4) (I) THE COMMISSION SHALL SET ASIDE THE AMOUNT DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION FROM WATER SERVICE CHARGES, SEWER USAGE CHARGES, HOUSE CONNECTION CHARGES, AND ANY OTHER CHARGES IMPOSED BY THE COMMISSION AS THE COMMISSION DETERMINES TO BE FAIR AND EQUITABLE.

(II) THE AMOUNT SET ASIDE SHALL BE DEDUCTED FROM THE AMOUNT THAT THE COMMISSION DETERMINES TO BE NECESSARY TO BE

RAISED BY DIRECT TAXATION UNDER THIS SECTION ON CERTIFICATION TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(B) CERTIFICATION OF TAX BASE.

AT LEAST 30 DAYS BEFORE THE TAXABLE YEAR FOR PROPERTY TAXES, THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL CERTIFY TO THE COMMISSION THE TOTAL VALUATION OF ASSESSABLE PROPERTY WITHIN THE SANITARY DISTRICT IN EACH COUNTY.

(C) CERTIFICATION OF NECESSARY TAX RATE.

(1) THE COMMISSION SHALL DETERMINE THE AMOUNT NECESSARY, FOR THE NEXT TAXABLE YEAR, TO PAY:

(I) INTEREST ON ALL OUTSTANDING BONDS;

(II) PRINCIPAL OF ALL SERIAL BONDS MATURING DURING THE YEAR; AND

(III) THE PROPORTIONATE PART OF PRINCIPAL OF ALL OUTSTANDING SINKING FUND BONDS AS DETERMINED BY THE USUAL TABLE OF REDEMPTION OF BONDS BY ANNUAL DEPOSIT IN A SINKING FUND ON INTEREST.

(2) AFTER DEDUCTING ALL AMOUNTS IN HAND APPLICABLE TO PAYMENT OF INTEREST AND PRINCIPAL ON THE BONDS, THE COMMISSION SHALL CERTIFY TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY THE NUMBER OF CENTS PER $100 NECESSARY TO RAISE THE AMOUNT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) TAX IMPOSED BY COUNTIES.

(1) EACH YEAR THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL IMPOSE A TAX IN THE AMOUNT DETERMINED UNDER SUBSECTION (C)(1) OF THIS SECTION ON ALL ASSESSABLE PROPERTY WITHIN THE SANITARY DISTRICT.

(2) THE TAXES IMPOSED UNDER THIS SECTION SHALL:

(I) HAVE THE SAME STATUS AS COUNTY TAXES; AND

(II) BE IMPOSED AND COLLECTED BY THE TAX COLLECTING AUTHORITY FOR EACH COUNTY AS COUNTY TAXES.

(E) PAYMENT OF COLLECTED TAXES TO COMMISSION.

EVERY 60 DAYS, EACH COUNTY SHALL PAY TO THE COMMISSION THE TAXES COLLECTED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–101(c), 4–110(c), the first through fourth sentences of 4–105(a), and the last clause of the second sentence of 4–107.

In subsections (a) and (d) of this section, the references to "impose" and "imposed" are substituted for the former references to "levy" and "levied" for clarity and consistency within this division.

In subsections (a)(1) and (c) of this section, the former references to "notes" are deleted as included in the references to "bonds".

In subsection (a)(1) of this section, the reference to "pay[ing]" the interest on bonds is substituted for the former reference to "meet[ing]" the interest for clarity.

Also in subsection (a)(1) of this section, the phrase "as and when due and until paid in full" is substituted for the former references to "so long as [any of such] bonds [or notes] are outstanding and not paid" and "as they mature" for brevity and clarity.

Also in subsection (a)(1) of this section, the former reference to bonds "authorized to be" issued is deleted as unnecessary.

In subsection (a)(2) of this section, the reference to the tax being paid over to the Commission "as provided in this section" is substituted for the former reference to the tax being paid over to the Commission "in the manner provided by § 4–105 of this subtitle, and all of the provisions of § 4–105 of this subtitle shall apply to the bonds issued hereunder" in light of the organization of this revised subtitle.

In subsection (a)(3) of this section, the reference to the amount necessary to "pay the principal and interest" is substituted for the former reference to the amount necessary to "meet the principal and interest requirements" for clarity.

Also in subsection (a)(3) of this section, the former reference to bonds "issued under the provisions of this section" is deleted as unnecessary.

Also in subsection (a)(3) of this section, the former reference to "buildings" is deleted in light of the reference to a "building" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a)(4)(i) of this section, the reference to "the amount" is substituted for the former reference to "so much of the receipts" for clarity and brevity.

In subsection (b) of this section, the reference to the valuation of property within the sanitary district "in each county" is added for clarity.

Also in subsection (b) of this section, the reference to the "taxable year for property taxes" is substituted for the former reference to the "tax levying period of each year" for clarity.

Also in subsection (b) of this section, the reference to the "county executives of Montgomery County and Prince George's County" is substituted for the former reference to the "respective county executives" for accuracy.

Also in subsection (b) of this section, the reference to "total" valuation is substituted for the former reference to "whole" valuation for clarity.

In the introductory language of subsection (c)(1) of this section, the reference to the amount necessary "for the next taxable year" is substituted for the former reference to the amount "to be raised for the ensuing year" for clarity.

In subsection (c)(1)(iii) of this section, the former reference to "the amount to be paid on the principal of such sinking fund bonds in any 1 year" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to "the amount determined under paragraph (1) of this subsection" is substituted for the former reference to "such amount" for clarity.

Also in subsection (c)(2) of this section, the former reference to the Commission "determin[ing]" the number of cents is deleted as included in the requirement that the Commission "certify" the number.

Also in subsection (c)(2) of this section, the former reference to "the balance remaining to be raised" is deleted as unnecessary.

Also in subsection (c)(2) of this section, the former reference to the amount "for collection by taxation" is deleted as unnecessary.

In subsection (d)(1) of this section, the reference to "[e]ach year the county councils of Montgomery County and Prince George's County shall impose" a tax is substituted for the former reference to "[t]he County Councils of Montgomery and Prince George's counties in their next annual levy shall levy" a tax for clarity.

Also in subsection (d)(1) of this section, the reference to "a tax in the amount determined under subsection (c)(1) of this section" is substituted for "such tax" for clarity and accuracy.

Also in subsection (d)(1) of this section, the reference to all "assessable property" is substituted for the former reference to all "land and improvements and any other property assessed for county tax purposes" for brevity.

In subsection (d)(2)(i) of this section, the reference to taxes having the same "status" as county taxes is substituted for the former reference to taxes having the same "priority rights, bear the same interest and penalties and in every respect be treated the same" as county taxes for brevity.

In subsection (d)(2)(ii) of this section, the former reference to taxes that "now are or may be hereafter by law levied and collected" is deleted as unnecessary.

Also in subsection (d)(2)(ii) of this section, the former reference to taxes imposed "for the ensuing year" is deleted as unnecessary.

In subsection (e) of this section, the reference to "each county" is substituted for the former reference to "they" for clarity.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101

22–107. CURRENT BOND FUND.

(A) IN GENERAL.

(1) THE AMOUNT COLLECTED BY THE COMMISSION FOR BENEFITS IMPOSED AGAINST PROPERTY FOR WATER SUPPLY AND SEWER CONSTRUCTION UNDER TITLE 25, SUBTITLE 2 OF THIS ARTICLE SHALL BE SET ASIDE IN A SEPARATE FUND KNOWN AS THE CURRENT BOND FUND.

(2) (I) THE CURRENT BOND FUND SHALL BE USED TO PAY INTEREST ON ALL OUTSTANDING BONDS.

(II) THE BALANCE OF THE CURRENT BOND FUND SHALL BE PRORATED MONTHLY AND APPLIED TO:

1. THE PAYMENT OF THE PRINCIPAL OF MATURING SERIAL BONDS; AND

2. THE PAYMENT INTO THE JOINT SINKING FUND ACCOUNT, AS PROVIDED UNDER § 22–108 OF THIS SUBTITLE, OF THE PROPORTIONATE PART OF THE PRINCIPAL OF OUTSTANDING SINKING FUND BONDS AS THE OUTSTANDING PAR VALUE OF BOTH TYPES OF BONDS BEAR TO EACH OTHER.

(B) CREDIT DEDUCTION.

TO DETERMINE THE AMOUNT NECESSARY TO BE IMPOSED UNDER § 22–106 OF THIS SUBTITLE, THE COMMISSION SHALL DEDUCT THE AMOUNT TO ITS CREDIT IN THE CURRENT BOND FUND ACCOUNT FROM THE AMOUNT NECESSARY TO BE RAISED IN ANY 1 YEAR FOR INTEREST ON ALL OUTSTANDING BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence and the first clause of the second sentence of former Art. 29, § 4–107.

In subsections (a)(1) and (b) of this section, the references to "imposed" are substituted for the former references to "levied" for clarity and consistency within this division.

In subsection (a)(1) of this section, the reference to "[t]he amount" is substituted for the former reference to "[a]ll sums" for clarity.

Also in subsection (a)(1) of this section, the former reference to "designated" is deleted as included in the reference to "known as".

In subsection (a)(2)(i) of this section, the reference to the "Current Bond Fund" is substituted for the former reference to "which fund" for clarity.

In subsection (b) of this section, the former reference to the "whole" amount is deleted as unnecessary.

Defined terms: "Bond" § 22–101

"Commission" § 16–101

22–108. DISTRIBUTION OF FUNDS.

(A) PAYMENT OF BONDS; DEPOSIT OF MONEY.

(1) FROM THE MONEY RECEIVED FROM THE TAXES IMPOSED UNDER § 22–106 OF THIS SUBTITLE TOGETHER WITH THE AMOUNT IN HAND TO THE CREDIT OF THE CURRENT BOND FUND OR THE AMOUNT APPLICABLE TO THE PAYMENT OF INTEREST AND PRINCIPAL ON THE BONDS, THE COMMISSION SHALL:

(I) PAY ALL INTEREST ON THE BONDS AS AND WHEN DUE; AND

(II) PAY OR RESERVE A SUFFICIENT AMOUNT OF MONEY TO PAY THE SERIAL BONDS BECOMING DUE DURING THE TAXABLE YEAR.

(2) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL DEPOSIT IN ONE OR MORE BANKS IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, TO THE CREDIT OF BOTH COUNTIES AND THE COMMISSION, AS A JOINT FUND TO BE KNOWN AS THE SINKING FUND ACCOUNT, THE AMOUNT RAISED FOR THE PAYMENT OF THE PROPORTIONATE PART OF THE PRINCIPAL OF THE SINKING FUND BONDS.

(B) DEPOSIT OF MONEY.

THE COMMISSION AND MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL INVEST MONEY IN THE SINKING FUND ACCOUNT IN ANY BONDS IN WHICH THE U.S. TREASURY DEPARTMENT AUTHORIZES NATIONAL BANKS TO INVEST SAVINGS OR TRUST FUNDS.

(C) INADEQUATE RECEIPTS.

IF RECEIPTS FROM THE TAX OR OTHER SOURCES ARE INADEQUATE TO PAY THE PRINCIPAL OF THE SERIAL BONDS BECOMING DUE DURING THE TAXABLE YEAR AND TO DEPOSIT THE PRINCIPAL PAYMENT ON THE SINKING FUND BONDS, THE DEFICIENCY SHALL BE ADDED TO AND COLLECTED IN THE FOLLOWING YEAR'S TAX LEVY.

(D) PAYMENT OF INTEREST.

BEFORE THE FIRST TAXABLE YEAR FOR PROPERTY TAXES, THE COMMISSION MAY PAY THE INTEREST ON ANY BONDS IT ISSUES OUT OF THE PROCEEDS OF THE SALE OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth sentence of former Art. 29, § 4–105(a) and the first through third sentences of (b).

In subsection (a) of this section, the former references to "notes" are deleted as included in the defined term "bond".

In the introductory language of subsection (a)(1) of this section, the reference to the money received "from the taxes imposed under § 22–106 of this subtitle" is substituted for the former reference to the money "so" received for clarity.

In subsection (a)(1)(i) of this section, the reference to paying interest on bonds "as and when due" is substituted for the former reference to paying interest on bonds "as it matures" for consistency with the terminology used throughout this subtitle. Similarly, in subsections (a)(1)(ii) and (c) of this section, the references to "becoming due" are substituted for the former references to "maturing".

In subsection (a)(2) of this section, the phrase "[a]fter making the distributions required under paragraph (1) of this subsection" is substituted for the former phrase "and shall then" for clarity.

Also in subsection (a)(2) of this section, the reference to "Montgomery County or Prince George's County" is substituted for the former reference to "1 or both of the counties" for clarity.

In subsection (b) of this section, the reference to investing "money in" the Sinking Fund Account is added for clarity.

Also in subsection (b) of this section, the reference to "Montgomery County and Prince George's County" is substituted for the former reference to "the respective counties" for clarity.

Also in subsection (b) of this section, the former phrase "from time to time" is deleted as unnecessary.

In subsection (c) of this section, the former phrase "by reason of defaults or otherwise" is deleted as surplusage.

In subsection (d) of this section, the reference to the "taxable year for property taxes" is substituted for the former reference to the "tax levying period" for clarity.

Defined terms: "Bond" § 22–101
"Commission" § 16–101

22–109. PERFORMANCE OF ACTS REQUIRED.

TO ENSURE THE PROMPT PAYMENT OF INTEREST AND PROVISION FOR THE PAYMENT OF THE PRINCIPAL ON BONDS ISSUED UNDER THIS SUBTITLE:

(1) THE PROMPT AND PROPER PERFORMANCE OF THE ACTS REQUIRED UNDER §§ 22–106 AND 22–108 OF THIS SUBTITLE IS SPECIALLY ENJOINED; AND

(2) A PERSON WHO IS REQUIRED TO ACT UNDER §§ 22–106 AND 22–108 OF THIS SUBTITLE:

(I) SHALL PERFORM THE ACTS REQUIRED UNDER THOSE SECTIONS;

(II) SHALL PAY OVER ANY FUNDS AS REQUIRED UNDER THOSE SECTIONS; AND

(III) MAY NOT USE ANY PART OF THE FUNDS FOR ANY OTHER PURPOSE THAN FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–105(c).

The former references to "notes" are deleted as included in the defined term "bond".

In the introductory language of this section, the phrase "[t]o ensure the prompt payment of interest and provision for the payment of the principal on bonds issued under this subtitle" is substituted for the former phrase "[i]n order that the prompt payment of interest and the proper provision for the payment of the principal of the bonds and notes shall be assured" for clarity.

In item (1) of this section, the reference to "the acts required under §§ 22–106 and 22–108 of this subtitle" is substituted for the former

reference to "the respective acts and duties heretofore defined" for accuracy and clarity.

In item (2) of this section, the reference to a person who is required to "act under §§ 22–106 and 22–108 of this subtitle" is substituted for the former reference to the "necessary acts and duties hereafter set forth" for accuracy and clarity.

Defined terms: "Bond" § 22–101
"Person" § 16–101

22–110. ANTICIPATION LOANS.

(A) ANTICIPATION LOANS AUTHORIZED.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY BORROW MONEY IN ANTICIPATION OF TAXES, SALE OF BONDS, OR OTHER REVENUE OF THE FISCAL YEAR IN WHICH THE LOAN IS MADE OR THE NEXT SUCCEEDING FISCAL YEAR TO:

(I) PAY THE PRINCIPAL AND INTEREST OF BONDS DUE OR TO BECOME DUE WITHIN 4 MONTHS;

(II) PAY THE INTEREST BECOMING DUE ON ANY BONDS WITHIN 4 MONTHS AND NOT OTHERWISE ADEQUATELY PROVIDED FOR; OR

(III) MEET PAYMENTS REQUIRED TO BE MADE TO EMPLOYEES AND LABORERS AND NOT OTHERWISE PROVIDED FOR.

(2) THE LOAN SHALL BE PAYABLE NOT LATER THAN THE END OF THE FISCAL YEAR AFTER THE YEAR IN WHICH THE LOAN IS MADE.

(B) NOTES.

(1) THE COMMISSION SHALL ISSUE NEGOTIABLE NOTES FOR ALL MONEY BORROWED UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE NOTES MAY BE RENEWED AND MONEY MAY BE BORROWED ON NEW NOTES TO PAY ANY INDEBTEDNESS.

(3) THE NOTES AND LOANS SHALL MATURE WITHIN THE TIME LIMIT FOR THE PAYMENT OF THE ORIGINAL LOAN.

(4) THE COMMISSION SHALL AUTHORIZE, BY RESOLUTION, THE NOTES AND SET:

(I) THE ACTUAL OR MAXIMUM FACE AMOUNT OF THE NOTES;

(II) THE ACTUAL OR MAXIMUM RATE OF INTEREST TO BE PAID ON THE AMOUNT BORROWED; AND

(III) THE ACTUAL OR APPROXIMATE MATURITY OF THE NOTES.

(5) THE COMMISSION SHALL DETERMINE THE FORM AND MANNER OF EXECUTION OF THE NOTES.

(C) OUTSTANDING NOTES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY DETERMINE THE MANNER IN WHICH THE NOTES MAY BE DISPOSED OF.

(2) THE AGGREGATE AMOUNT OF NOTES OUTSTANDING AT ANY ONE TIME MAY NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL PRINCIPAL OF AND INTEREST ON BONDS OF THE SANITARY DISTRICT DUE AND PAYABLE IN THE FISCAL YEAR IN WHICH THE NOTES ARE ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth through eighth sentences of former Art. 29, § 4–105(b).

In the introductory language of subsection (a)(1) of this section, the phrase "[s]ubject to paragraph (2) of this subsection" is added for clarity.

In subsection (a)(1)(i) of this section, the reference to interest "becom[ing] due" is substituted for the former reference to interest "maturing" for consistency with the terminology used throughout the subtitle.

In subsection (b)(1) of this section, the reference to "[t]he Commission" issuing the notes is added for clarity.

Also in subsection (b)(1) of this section, the reference to money borrowed "under subsection (a) of this section" is substituted for the former reference to money "so" borrowed for clarity.

In subsection (b)(2) of this section, the former phrase "from time to time" is deleted as unnecessary.

Also in subsection (b)(2) of this section, the former reference to indebtedness "evidenced thereby" is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the reference to "laborers" in subsection (a)(1)(iii) of this section may be obsolete.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"Sanitary district" § 16–101

22–111. WATER SERVICE CHARGE.

EACH YEAR THE COMMISSION SHALL:

(1) DETERMINE THE AMOUNT NECESSARY TO PAY THE PRINCIPAL AND INTEREST REQUIREMENTS OF THE BONDS; AND

(2) SET THE WATER SERVICE CHARGE OF THE SANITARY DISTRICT AT A RATE SUFFICIENT TO PAY:

(I) THE COST OF THE SERVICE; AND

(II) THE REQUIREMENTS OF BONDS, ISSUED AND OUTSTANDING, THAT ARE TO BE PAID OUT OF THE WATER SERVICE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 29, § 4–106.

In item (2) of this section, the reference to "a rate sufficient to pay" is substituted for the former reference to "such a sum as to produce" for clarity.

Also in item (2) of this section, the former reference to "in addition to" the cost of the service is deleted as unnecessary.

Also in item (2) of this section, the former reference to "the amount determined as necessary to pay the annual requirements of the bonds hereby authorized" is deleted as surplusage.

In item (2)(ii) of this section, the former reference to "any other" bonds is deleted as surplusage.

Also in item (2)(ii) of this section, the former reference to the "annual" requirements is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"Sanitary district" § 16–101

22–112. BOND PAYMENT.

THE AMOUNT OF WATER SERVICE CHARGES AND SEWER USAGE CHARGES COLLECTED EACH YEAR FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON OUTSTANDING BONDS SHALL BE DEDUCTED FROM THE AMOUNT THAT THE COMMISSION HAS DETERMINED IS NECESSARY TO BE RAISED BY AN AD VALOREM TAX ON CERTIFICATION TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–110(d)(5) and the second sentence of 4–106.

The reference to the "amount" is substituted for the former references to the "sum" for clarity.

The reference to "Montgomery County and Prince George's County" is substituted for the former references to "the counties" and "said counties" for clarity and accuracy.

The reference to "an ad valorem tax" is substituted for the former references to "direct taxation" for clarity.

Defined terms: "Bond" § 22–101
"Commission" § 16–101

22–113. NEGOTIABLE BOND ANTICIPATION NOTES.

(A) AUTHORITY.

(1) SUBJECT TO WRITTEN APPROVAL OF THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE COMMISSION, ON BEHALF OF THE SANITARY DISTRICT, MAY:

(I) BORROW MONEY FOR ANY PURPOSE FOR WHICH BONDS OF THE COMMISSION ARE TO BE ISSUED; AND

(II) ISSUE NEGOTIABLE BOND ANTICIPATION NOTES OF THE COMMISSION FOR ANY MONEY BORROWED IN ANTICIPATION OF THE ISSUANCE OF THE BONDS OR OF OTHER REVENUES FOR CAPITAL EXPENDITURES.

(2) THE AGGREGATE AMOUNT OF ALL BOND ANTICIPATION NOTES OUTSTANDING UNDER THIS SECTION AT ANY ONE TIME MAY NOT EXCEED $85,000,000.

(3) THE AGGREGATE AMOUNT OF BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION IN ANTICIPATION OF THE ISSUANCE OF BONDS THAT ARE SUBJECT TO THE 7% LIMITATION UNDER § 22–103(A) OF THIS SUBTITLE, TOGETHER WITH THE AGGREGATE AMOUNT OF BONDS THEN OUTSTANDING THAT ARE SUBJECT TO THE LIMITATION, MAY NOT EXCEED THE 7% LIMITATION.

(B) MATURITY.

(1) EXCEPT AS OTHERWISE PROVIDED FOR EMERGENT PURPOSES UNDER SUBSECTION (D) OF THIS SECTION, BOND ANTICIPATION NOTES, INCLUDING ANY RENEWALS UNDER ITEM (II) OF THIS PARAGRAPH:

(I) SHALL MATURE WITHIN 5 YEARS FROM THE DATE THE NOTES ARE FIRST ISSUED; OR

(II) IF ISSUED FOR A PERIOD OF LESS THAN 5 YEARS, MAY BE RENEWED FOR SUCCESSIVE PERIODS NOT TO EXCEED 1 YEAR EACH.

(2) THE NOTES SHALL BE PAYABLE WITHIN 5 YEARS AFTER THE DATE OF THE FIRST ISSUE.

(C) TERMS.

THE NOTES SHALL:

(1) BE ISSUED IN DENOMINATIONS DETERMINED BY THE COMMISSION;

(2) BEAR INTEREST AS PROVIDED IN § 22–102(D) OF THIS SUBTITLE;

(3) BE PAYABLE AT OR BEFORE MATURITY; AND

(4) BE IN THE FORM AND EXECUTED IN THE MANNER THAT THE COMMISSION DETERMINES.

(D) SALE.

(1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, BOND ANTICIPATION NOTES SHALL BE SOLD AT PUBLIC SALE.

(II) RENEWAL NOTES MAY BE EXCHANGED FOR OUTSTANDING NOTES ON TERMS THAT THE COMMISSION DETERMINES.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COMMISSION MAY SELL THE NOTES AT A NEGOTIATED SALE IF:

(I) THE COMMISSION DETERMINES THAT, FOR ECONOMIC, ENGINEERING, OR FINANCIAL ADMINISTRATION PURPOSES, THE REQUIREMENTS FOR THE FUNDS REQUIRE THE SALE OF THE NOTES AT AN IMMEDIATE OR EARLIER TIME THAN IS POSSIBLE THROUGH THE PROCEDURES OF A PUBLIC SALE; AND

(II) THE AMOUNT OF BOND ANTICIPATION NOTES SOLD AT NEGOTIATED SALE, ISSUED OR OUTSTANDING AT ANY ONE TIME, DOES NOT EXCEED $10,000,000.

(3) BEFORE CONCLUDING A NEGOTIATED SALE, THE COMMISSION SHALL NEGOTIATE WITH AT LEAST TWO RECOGNIZED BANKING INSTITUTIONS THAT PURCHASE BOND ANTICIPATION NOTES AND OBTAIN THE TERMS MOST FAVORABLE IN THE COMMISSION'S INTEREST.

(4) BOND ANTICIPATION NOTES SOLD AT A NEGOTIATED SALE:

(I) SHALL MATURE WITHIN A PERIOD NOT EXCEEDING 180 DAYS; AND

(II) MAY BE RENEWED NOT MORE THAN ONE TIME FOR AN ADDITIONAL PERIOD NOT TO EXCEED 180 DAYS.

(E) RETIRING BOND ANTICIPATION NOTES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, BOND ANTICIPATION NOTES SHALL BE PAID FROM THE PROCEEDS OF THE BONDS IN ANTICIPATION OF WHICH THEY ARE ISSUED.

(2) (I) THE COMMISSION MAY RETIRE THE NOTES FROM FUNDS AVAILABLE FOR THE PAYMENT OF THE BONDS AUTHORIZED BY THE COMMISSION.

(II) THE AMOUNT OF THE BONDS AUTHORIZED SHALL BE REDUCED BY THE AMOUNT OF THE RETIRED NOTES.

(F) GENERAL OBLIGATION AND PLEDGE.

(1) BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION ARE GENERAL OBLIGATIONS OF THE COMMISSION.

(2) THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COMMISSION SHALL BE PLEDGED FOR THE REPAYMENT OF THE NOTES.

(G) GUARANTEE.

(1) MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL GUARANTEE THE BOND ANTICIPATION NOTES AS TO PAYMENT OF PRINCIPAL AND INTEREST SUBSTANTIALLY IN THE MANNER AND FORM AND WITH THE EFFECT PROVIDED FOR THE GUARANTEE OF THE CONSTRUCTION BONDS OF THE COMMISSION ISSUED UNDER § 22–102(A)(1) OF THIS SUBTITLE.

(2) THE COMMISSION MAY WAIVE THE REQUIRED GUARANTEE.

(H) TAX EXEMPTION.

BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION, INCLUDING THE INTEREST ON THE NOTES, ARE FOREVER EXEMPT FROM TAXATION BY THE STATE AND COUNTIES AND MUNICIPALITIES IN THE STATE.

(I) CONSTRUCTION OF SECTION.

THE POWERS AND AUTHORITY GRANTED UNDER THIS SECTION ARE IN ADDITION AND SUPPLEMENTAL TO THE POWERS AND AUTHORITY GRANTED UNDER ANY OTHER LAW AND SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE THE PURPOSES OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–108.

In subsection (a) of this section, the former reference to borrowing money "at any time and from time to time and in such manner as it determines" is deleted as unnecessary in light of the authority granted.

In the introductory language of subsection (a) of this section, the reference to "[s]ubject to" written approval is substituted for the former reference to "[w]ith the" written approval for clarity.

In subsection (a)(1)(i) of this section, the reference to bonds "of the Commission" is substituted for the former references to bonds "of the sanitary district" for accuracy. Similarly, in subsection (a)(1)(ii) of this section, the reference to bond anticipation notes "of the Commission" is substituted for the former reference to bond anticipation notes "of the sanitary district".

In subsection (a)(3) of this section, the reference to the limitation "under § 22–103(a) of this subtitle" is added to clarify which limitation is being referred to.

In the introductory language of subsection (b)(1) of this section, the phrase "under subsection (d) of this section" is substituted for the former phrase "hereinafter mentioned and within the hereinafter specified limitation therefor" for clarity.

In subsection (b)(1)(i) of this section, the reference to 5 years "from the date the notes are first issued" is added for clarity.

In subsection (b)(1)(ii) of this section, the former phrase "from time to time" is deleted as unnecessary.

In subsection (c)(1) of this section, the reference to denominations "determined by the Commission" is added for clarity.

In subsection (c)(3) of this section, the former reference to notes being payable "at such time or times" is deleted as surplusage.

In subsection (d)(1)(i) of this section, the reference to "[e]xcept as provided in paragraph (2) of this subsection" is added for clarity.

In the introductory language of subsection (d)(2) of this section, the former phrase "i.e., without the requirement of a public sale" is deleted as unnecessary.

In subsection (d)(2)(i) of this section, the phrase "for economic, engineering, or financial administration purposes" is substituted for the

former phrase "from an economic or engineering or orderly financial administration point of view" for clarity.

In subsection (d)(3) of this section, the former reference to banking institutions that "generally" purchase notes is deleted as surplusage.

In subsection (e)(2)(i) of this section, the former phrase "in its discretion, in lieu of retiring such notes by means of bonds" is deleted as unnecessary.

In subsection (e)(2)(ii) of this section, the former phrase "in which event" is deleted as unnecessary.

In subsection (f)(1) of this section, the reference to "this section" is substituted for the former reference to "this authority" for clarity.

Also in subsection (f)(1) of this section, the reference to bond anticipation notes being general obligations "of the Commission" is substituted for the former references to bond anticipation notes being general obligations "of the sanitary district" for accuracy. Similarly, in subsection (f)(2) of this section, the reference to the full faith, credit, and taxing power "of the Commission" is substituted for the former reference to the full faith, credit, and taxing power "of the sanitary district".

In subsection (f)(2) of this section, the reference to the full faith, credit, and taxing power of the Commission "for the repayment of the notes" is added for clarity.

In subsection (g)(1) of this section, the reference to construction bonds "of the Commission issued under § 22–102(a)(1) of this subtitle" is substituted for the former reference to construction bonds "of the sanitary district" for accuracy.

Also in subsection (g)(1) of this section, the former reference to "the County Councils of" Montgomery County and Prince George's County is deleted as unnecessary.

In subsection (g)(2) of this section, the reference to the "required" guarantee is substituted for the former reference to the guarantee "by the counties herein prescribed" for brevity.

Also in subsection (g)(2) of this section, the former reference to the Commission "at its option" waiving the guarantee is deleted as implicit in the Commission's authority to waive the guarantee.

Defined terms: "Bond" § 22–101

"Commission" § 16–101
"County" § 16–101
"Municipality"§ 16–101
"Sanitary district" § 16–101
"State" § 16–101

22–114. REFUNDING BONDS — AUTHORITY TO ISSUE.

(A) AUTHORITY.

THE COMMISSION MAY BORROW MONEY AND ISSUE REFUNDING BONDS TO REFUND BONDS ISSUED AND OUTSTANDING BY THE COMMISSION IF:

(1) THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY APPROVE THE PLAN FOR THE ISSUANCE OF REFUNDING BONDS; AND

(2) THE COMMISSION DETERMINES THAT ISSUING REFUNDING BONDS WILL RESULT IN TOTAL SAVINGS IN DEBT SERVICE COSTS, DIRECTLY OR THROUGH ANY DEBT RESTRUCTURING.

(B) TERMS.

THE COMMISSION SHALL AUTHORIZE THE ISSUANCE OF REFUNDING BONDS BY RESOLUTION THAT MAY INCLUDE:

(1) THE DATE OF THE REFUNDING BONDS;

(2) THE MATURITY DATES OF THE REFUNDING BONDS, WHICH MAY NOT EXCEED 40 YEARS FROM THE DATE OF ISSUE;

(3) THE INTEREST RATES ON THE REFUNDING BONDS, WHICH MAY NOT EXCEED 10% ANNUALLY;

(4) THE DENOMINATIONS OF THE REFUNDING BONDS;

(5) THE FORM OF THE REFUNDING BONDS, WHICH MAY BE COUPON OR REGISTERED;

(6) REGISTRATION OR CONVERSION PRIVILEGES;

(7) THE MANNER OF EXECUTING THE REFUNDING BONDS;

(8) THE MANNER OF PAYMENT AT PLACES IN OR OUTSIDE OF THE STATE;

(9) TERMS FOR REDEMPTION BEFORE MATURITY;

(10) TERMS FOR REPLACEMENT OF MUTILATED, DESTROYED, STOLEN, OR LOST BONDS; AND

(11) ANY OTHER TERMS, CONDITIONS, OR COVENANTS.

(C) REFUNDING BONDS FOR FRONT FOOT BENEFIT CHARGES — MATURITY.

REFUNDING BONDS ISSUED TO REFUND OUTSTANDING BONDS FOR WHICH FRONT FOOT BENEFIT CHARGES HAVE BEEN IMPOSED SHALL MATURE ON OR BEFORE 1 YEAR AFTER THE DATE SET FOR THE PAYMENT OF THE FINAL INSTALLMENT OF THE FRONT FOOT BENEFIT CHARGE.

(D) PUBLIC OR NEGOTIATED SALE.

(1) REFUNDING BONDS MAY BE:

(I) EXCHANGED FOR BONDS BEING REFUNDED;

(II) SOLD AT PUBLIC SALE; OR

(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SOLD AT A NEGOTIATED SALE IN AN OPEN MEETING.

(2) REFUNDING BONDS MAY BE SOLD AT A NEGOTIATED SALE IF THE COMMISSION DETERMINES:

(I) THAT A PUBLIC SALE WOULD BE IMPRACTICABLE TO EFFECTUATE THE PURPOSE OF THE REFUNDING BONDS; AND

(II) THE PRICE, TERMS, AND CONDITIONS ARE IN THE BEST INTEREST OF THE COMMISSION.

(E) APPROVAL.

(1) AT LEAST 45 DAYS BEFORE THE SALE OR EXCHANGE OF ANY REFUNDING BONDS, THE COMMISSION SHALL DELIVER ITS PLAN ON THE

ISSUANCE OF THE REFUNDING BONDS TO THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE COMMISSION MAY NOT SELL OR EXCHANGE THE REFUNDING BONDS UNLESS THE PLAN UNDER PARAGRAPH (1) OF THIS SUBSECTION IS APPROVED BY THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(3) (I) ON OR BEFORE 30 DAYS AFTER THE DELIVERY OF THE PLAN, THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL APPROVE OR DISAPPROVE OF THE PLAN.

(II) FAILURE OF A COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY TO ACT WITHIN 30 DAYS IS DEEMED AS APPROVAL OF THE PLAN BY THAT COUNTY.

(4) THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY MAY WAIVE THE TIME PERIOD REQUIREMENTS UNDER THIS SUBSECTION.

(F) VALIDITY OF SIGNATURE.

IF AN OFFICER WHOSE SIGNATURE OR FACSIMILE SIGNATURE APPEARS ON A REFUNDING BOND OR COUPON CEASES TO BE AN OFFICER BEFORE THE DELIVERY OF THE REFUNDING BOND, THE SIGNATURE OR FACSIMILE IS VALID AND SUFFICIENT AS IF THE OFFICER REMAINED IN OFFICE UNTIL DELIVERY.

(G) GUARANTEE.

REFUNDING BONDS ISSUED TO REFUND BONDS GUARANTEED AS TO PAYMENT OF PRINCIPAL AND INTEREST BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY BE GUARANTEED IN THE SAME MANNER AND FORM AS UNDER § 22–104 OF THIS SUBTITLE.

(H) LIMITATION.

REFUNDING BONDS AUTHORIZED UNDER THIS SECTION ARE:

(1) IN ADDITION TO ANY OTHER BONDS AUTHORIZED UNDER THIS SUBTITLE; AND

(2) INCLUDED IN COMPUTING THE AMOUNT OF BONDS THAT MAY BE ISSUED UNDER THE 7% LIMITATION UNDER § 22–103 OF THIS SUBTITLE.

(I) TAX STATUS.

REFUNDING BONDS AUTHORIZED UNDER THIS SECTION ARE FOREVER EXEMPT FROM TAXATION BY THE STATE AND COUNTIES AND MUNICIPALITIES IN THE STATE.

(J) CONSTRUCTION OF SECTION.

THE POWERS GRANTED UNDER THIS SECTION ARE NOT SUBJECT TO THE PROVISIONS OF ANY OTHER LAW IN CONFLICT WITH THE POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–109(a) and (b).

In the introductory language of subsection (a) of this section, the reference to "bonds issued and outstanding by the Commission" is substituted for the former reference to "bonds issued by the sanitary district, at any time outstanding" for brevity and accuracy.

Also in the introductory language of subsection (a) of this section, the former phrase "from time to time" is deleted as unnecessary.

Also in the introductory language of subsection (a) of this section, the former phrase "for the purpose of effecting savings in debt service costs, directly or through any debt restructuring" is deleted as unnecessary in light of the requirement in subsection (a)(2) of this section that the Commission determine "that issuing refunding bonds will result in total savings in debt service costs, directly or through any debt restructuring".

Also in the introductory language of subsection (a) of this section, the former reference to refunding bonds "of the sanitary district" is deleted as unnecessary.

In subsection (a)(1) of this section, the former phrase "pursuant to the provisions of this section" is deleted as unnecessary.

In the introductory language of subsection (b) of this section, the former reference to "resolutions" is deleted in light of the reference to "resolution" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in subsection (b)(1) of this section, the former reference to "dates" is deleted in light of the reference to "date".

In subsection (b)(2) of this section, the reference to "dates" is substituted for the former reference to "time or times" for clarity.

Also in subsection (b)(2) of this section, the phrase "from the date of issue" is substituted for the former reference to "from their respective dates" for clarity.

In subsection (b)(8) of this section, the reference to the "manner" of payment is substituted for the former reference to the "medium" of payment for clarity.

In subsection (c) of this section, the reference to "imposed" is substituted for the former reference to "levied" for clarity and consistency within this division.

Also in subsection (c) of this section, the former reference to bonds "be[ing] stated to" mature is deleted as surplusage.

In subsection (d)(2)(ii) of this section, the reference to the "Commission" is substituted for the former reference to the "sanitary district" for accuracy.

In subsection (e)(3)(i) of this section, the requirement that "the county executives and county councils of Montgomery County and Prince George's County shall approve or disapprove of the plan" within 30 days of the plan being delivered is added for clarity.

In subsection (e)(3)(ii) of this section, the reference to "that county" is substituted for the former reference to "such County Executives or County Council" for brevity.

In subsection (f) of this section, the former reference to being valid and sufficient "for all purposes" is deleted as surplusage.

In subsection (h)(1) of this section, the former reference to bonds authorized under this subtitle "or any amendments of this subtitle" is deleted as unnecessary.

Also in subsection (h)(1) of this section, the former reference to any other bonds authorized "to be issued" is deleted as unnecessary.

In subsection (i) of this section, the reference to refunding bonds "authorized under this section" is added for accuracy.

Also in subsection (i) of this section, the reference to refunding bonds being "forever exempt from taxation by the State and counties and

municipalities in the State" is substituted for the former reference to "[t]he provisions of § 4–101(a) of this subtitle exempting from taxation other bonds of the sanitary district" applying to refunding bonds for brevity and clarity.

In subsection (j) of this section, the former reference to powers "expressly" granted is deleted as surplusage.

Also in subsection (j) of this section, the former reference to any "other section of this subtitle" is deleted as surplusage.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"State" § 16–101

22–115. REFUNDING BONDS — REPAYMENT.

(A) DEPOSIT INTO TRUST FUND.

THE COMMISSION MAY DETERMINE THE AMOUNT OF PROCEEDS FROM THE REFUNDING BONDS TO DEPOSIT IN A TRUST FUND ESTABLISHED IN THE NAME OF THE COMMISSION WITH A TRUST COMPANY OR OTHER BANKING INSTITUTION AS TRUSTEE.

(B) TRUST FUND — USE OF MONEY.

(1) MONEY IN THE TRUST FUND MAY BE INVESTED AND REINVESTED IN DIRECT OBLIGATIONS OF, OR OBLIGATIONS THE PRINCIPAL OF WHICH AND THE INTEREST ON WHICH IS GUARANTEED BY, THE UNITED STATES.

(2) THE COMMISSION MAY PROVIDE FOR THE USE OF MONEY IN THE TRUST FUND TO PAY ALL OR PART OF THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM OF THE BONDS BEING REFUNDED AND OF THE REFUNDING BONDS.

(3) THE PROCEEDS OF THE REFUNDING BONDS SHALL BE INVESTED AND APPLIED SO THAT THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM ON THE BONDS BEING REFUNDED IS PAID IN FULL ON MATURITY, REDEMPTION, OR INTEREST PAYMENT DATES.

(C) EARLY REDEMPTION.

ON OR AFTER THE EARLIEST REDEMPTION DATE, THE COMMISSION MAY CALL FOR REDEMPTION ANY BONDS BEING REFUNDED THAT ARE SUBJECT TO REDEMPTION BEFORE THE STATED MATURITY DATES.

(D) MULTIPLE SERIES.

(1) THE COMMISSION MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES.

(2) (I) THE COMMISSION SHALL DETERMINE THE PRINCIPAL AMOUNT OF EACH SERIES REQUIRED TO ACHIEVE THE PURPOSE FOR THE ISSUANCE OF THE REFUNDING BONDS.

(II) THE PRINCIPAL AMOUNT OF THE REFUNDING BONDS MAY BE GREATER THAN THE PRINCIPAL AMOUNT OF BONDS BEING REFUNDED.

(E) PAYMENT AND SECURITY.

IN ADDITION TO OR IN LIEU OF ANY OTHER MONEY OR SECURITY THAT THE COMMISSION MAY PROVIDE FOR THE PAYMENT OR SECURITY OF THE REFUNDING BONDS, THE COMMISSION MAY MAKE ALL OR PART OF THE REFUNDING BONDS PAYABLE FROM MONEY IN AND SECURED BY THE TRUST FUND.

(F) REPAYMENT AND TAX.

(1) TO RETIRE AND PAY INTEREST ON REFUNDING BONDS ISSUED UNDER § 22–114 OF THIS SUBTITLE, EACH YEAR THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL IMPOSE A TAX ON THE ASSESSABLE PROPERTY WITHIN THE SANITARY DISTRICT SUFFICIENT TO PAY:

(I) THE INTEREST ON THE BONDS AS IT BECOMES DUE; AND

(II) THE PRINCIPAL AND REDEMPTION PREMIUM, IF ANY, OF THE BONDS AT THEIR MATURITY OR REDEMPTION.

(2) IF THE SERIES OF REFUNDING BONDS IS ISSUED TO REFUND STORMWATER MANAGEMENT BONDS, THE COUNTY COUNCIL OF THE RESPECTIVE COUNTY PROVIDED WITH THE PROCEEDS OF THE BONDS BEING REFUNDED SHALL IMPOSE THE TAX.

(3) THE COUNTIES SHALL DETERMINE, IMPOSE, COLLECT, AND PAY THE TAX TO THE COMMISSION AS PROVIDED UNDER § 22–106 OF THIS SUBTITLE.

(4) THE PROVISIONS OF § 22–106 OF THIS SUBTITLE APPLY TO THE REFUNDING BONDS ISSUED UNDER § 22–114 OF THIS SUBTITLE.

(5) THE COMMISSION SHALL MAKE ADEQUATE PROVISION FOR EXTENDING TO ITS RATE PAYERS THE BENEFIT OF SAVINGS IN DEBT SERVICE COSTS DERIVED THROUGH THE ISSUANCE OF ANY REFUNDING BONDS ISSUED UNDER § 22–114 OF THIS SUBTITLE.

(G) OTHER PROVISIONS OF LAW.

ANY PROVISION OF LAW REQUIRING THE SETTING AND COLLECTING OF FRONT FOOT BENEFIT CHARGES FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE OUTSTANDING BONDS BEING REFUNDED SHALL APPLY TO THE PAYMENT OF THE REFUNDING BONDS ISSUED UNDER § 22–114 OF THIS SUBTITLE TO REFUND OUTSTANDING BONDS.

(H) CONSTRUCTION OF SECTION.

THE POWERS GRANTED UNDER THIS SECTION ARE NOT SUBJECT TO THE PROVISIONS OF ANY OTHER LAW IN CONFLICT WITH THE POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–109(c), (d), (e), and the last sentence of (b).

In subsection (a) of this section, the reference to a trust fund established in the name of the "Commission" is substituted for the former reference to a trust fund established in the name of the "sanitary district" for accuracy.

Also in subsection (a) of this section, the former reference to proceeds from refunding bonds being deposited "in trust" is deleted as unnecessary.

In subsections (b)(2) and (3) and (d)(2)(ii) of this section, the former references to "notes" are deleted as included in the defined term "bond".

In subsection (b) of this section, the former phrase "as the WSSC, in its discretion, shall prescribe" is deleted as surplusage.

In subsection (b)(2) and (3) of this section, the former phrases "if any" and "or any of them" are deleted as unnecessary.

In subsection (d)(1) of this section, the reference to "[t]he Commission may issue" refunding bonds is added for clarity.

In subsection (e) of this section, the reference to "the Commission may make" the refunding bonds payable from money in the trust fund is added for clarity.

In subsection (f) of this section, the references to "impose" are substituted for the former references to "levied" for clarity and consistency within this division.

In the introductory language of subsection (f)(1) of this section, the former phrase "so long as the bonds are outstanding and unpaid" is deleted as unnecessary because there would be no need to retire or pay interest on bonds not outstanding and unpaid.

In subsection (f)(2) of this section, the reference to "stormwater management bonds" is substituted for the former reference to "storm and surface water drainage bonds" for clarity and consistency with terminology used throughout the Code.

Also in subsection (f)(2) of this section, the former reference to the county "in which the storm or surface water drainage systems … shall be located" is deleted as unnecessary.

In subsection (f)(3) of this section, the reference to "[t]he counties" determining the tax is added for clarity.

In subsection (f)(5) of this section, the reference to refunding bonds "issued under § 22–114 of this subtitle is substituted for the former reference to refunding bonds "hereunder" for clarity.

In subsection (h) of this section, the former reference to powers "expressly" granted is deleted as surplusage.

Also in subsection (h) of this section, the former reference to any "other section of this subtitle" is deleted as surplusage.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"Sanitary district" § 16–101

SUBTITLE 2. REVENUE BONDS.

22–201. CONSTRUCTION, APPLICATION, AND PURPOSE OF SUBTITLE.

(A) CONSTRUCTION.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS PURPOSES.

(B) PURPOSE.

THE PURPOSE OF THIS SUBTITLE IS TO AUTHORIZE THE COMMISSION TO ISSUE BONDS IN A MANNER THAT PROVIDES FLEXIBILITY WITHOUT IMPOSING ADDITIONAL DEBT BURDENS ON THE ASSESSABLE TAX BASE OF THE SANITARY DISTRICT, SO AS TO YIELD OVERALL SAVINGS TO THE RESIDENTS OF THE SANITARY DISTRICT.

(C) APPLICATION.

THIS SUBTITLE DOES NOT APPLY TO DEBT ISSUED BY THE COMMISSION UNDER SUBTITLE 1 OF THIS TITLE.

REVISOR'S NOTE: This section formerly was Art. 29, §§ 4–201, 4–202, and 4–212.

The only changes are in style.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

22–202. ISSUANCE AND SALE OF BONDS.

(A) IN GENERAL.

THE COMMISSION MAY ISSUE AND SELL REVENUE BONDS TO FINANCE OR REFINANCE ANY OF THE COMMISSION'S COSTS OF A PROJECT AUTHORIZED UNDER THIS DIVISION.

(B) ALLOWABLE COSTS.

(1) REVENUE BONDS MAY FINANCE:

(I) NECESSARY EXPENSES OF PREPARING, PRINTING, SELLING, AND ISSUING THE BONDS;

(II) FUNDING OF RESERVES;

(III) PAYMENT OF INTEREST RELATED TO FINANCING A PROJECT IN THE AMOUNTS AND FOR THE PERIOD THAT THE COMMISSION DETERMINES; AND

(IV) INITIAL PROGRAM DEVELOPMENT COSTS.

(2) COMMISSION FUNDING SOURCES, OTHER THAN REVENUE BOND PROCEEDS, MAY FINANCE INITIAL PROGRAM DEVELOPMENT COSTS OR OTHER PROJECT COSTS ONLY IF THOSE COSTS ARE REIMBURSED FROM PROJECT REVENUES.

(C) AUTHORIZING RESOLUTION.

(1) THE COMMISSION MAY ISSUE BONDS UNDER THIS SUBTITLE ONLY IF THE COMMISSION AUTHORIZES THE ISSUANCE BY RESOLUTION.

(2) THE RESOLUTION MAY AUTHORIZE ONE OR MORE OFFICERS OF THE COMMISSION TO DETERMINE OR SPECIFY BY BOND ORDER THE MATTERS THAT THIS SUBTITLE REQUIRES TO BE DETERMINED OR SPECIFIED, OR AS MAY BE NECESSARY OR ADVISABLE TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE.

(D) NATURE OF BONDS ISSUED.

BONDS ISSUED UNDER THIS SUBTITLE, AND THEIR PRINCIPAL, INTEREST, AND ANY PREMIUM:

(1) ARE LIMITED OBLIGATIONS OF THE COMMISSION;

(2) ARE PAYABLE SOLELY FROM THE REVENUES IDENTIFIED IN THE AUTHORIZING RESOLUTION OR FROM OTHER MONEY MADE AVAILABLE FOR THE PAYMENT; AND

(3) DO NOT CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OF THE COMMISSION OR OF ANY ENTITY WITH TAXING POWER.

(E) TERMS AND CONDITIONS.

(1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, BONDS ISSUED UNDER THIS SUBTITLE SHALL BE DATED, BEAR INTEREST, AND MATURE AT THE TIME THAT THE COMMISSION DETERMINES.

(II) THE BONDS SHALL MATURE NO LATER THAN 50 YEARS AFTER THEIR DATE OF ISSUE.

(2) THE BONDS MAY BEAR INTEREST AT VARIABLE RATES OF INTEREST, IN A MANNER AND AMOUNTS THAT THE COMMISSION DETERMINES.

(3) THE BONDS SHALL BE PAYABLE IN THE MANNER AND AT THE TIMES AND PLACES THAT THE COMMISSION DETERMINES.

(4) THE BONDS MAY BE MADE REDEEMABLE BEFORE MATURITY AT THE OPTION OF THE COMMISSION AT A PRICE AND UNDER TERMS AND CONDITIONS THAT THE COMMISSION DETERMINES.

(5) (I) THE COMMISSION SHALL DETERMINE THE FORMS AND MANNER OF EXECUTION OF THE BONDS.

(II) THE BONDS MAY BE EXECUTED BY FACSIMILE SIGNATURE.

(6) IF AN OFFICER WHOSE SIGNATURE APPEARS ON A BOND CEASES TO BE AN OFFICER BEFORE THE BOND IS DELIVERED, THE SIGNATURE OF THE OFFICER IS VALID AND SUFFICIENT AS IF THE OFFICER HAD REMAINED IN OFFICE UNTIL DELIVERY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–203.

In subsection (a) of this section, the reference to a project "authorized" is substituted for the former reference to a project "relating to the exercise of any power or duty of the WSSC" for clarity and brevity.

In the introductory language of subsection (b)(1) of this section, the phrase "[r]evenue bonds may finance" is substituted for the former phrase "[c]osts that may be financed" for clarity.

In subsection (c)(1) of this section, the reference to "[t]he Commission" issuing bonds is added for clarity.

In subsection (d)(2) of this section, the reference to the "authorizing" resolution is substituted for the former reference to the resolution "referred to in subsection (b) of this section" for brevity.

Also in subsection (d)(2) of this section, the reference to money made available for "the payment" is substituted for the former reference to money made available for "that purpose" for clarity.

In subsection (d)(3) of this section, the reference to an "entity with" taxing power is added for clarity.

In subsection (e)(6) of this section, the former reference to being valid and sufficient "for all purposes" is deleted as surplusage.

Defined term: "Commission" § 16–101

22–203. NEGOTIABILITY.

BONDS ISSUED UNDER THIS SUBTITLE ARE NEGOTIABLE INSTRUMENTS UNDER THE LAWS OF THE STATE.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–204.

The only changes are in style.

Defined term: "State" § 16–101

22–204. MANNER AND PRICE OF SALE.

(A) IN GENERAL.

THE COMMISSION MAY SELL BONDS ISSUED UNDER THIS SUBTITLE:

(1) AT PUBLIC OR PRIVATE SALE; AND

(2) IN A MANNER AND FOR A PRICE THAT THE COMMISSION DETERMINES TO BE IN THE BEST INTERESTS OF THE COMMISSION.

(B) ARTICLE 31 PROVISIONS NOT APPLICABLE.

ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE DO NOT APPLY TO THE ISSUANCE AND SALE OF BONDS AUTHORIZED BY THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–205.

The only changes are in style.

Defined term: "Commission" § 16–101

22–205. PROCEEDS.

(A) USE.

THE PROCEEDS OF EACH BOND ISSUANCE UNDER THIS SUBTITLE SHALL BE USED SOLELY FOR THE PROJECTS FOR WHICH THE BONDS WERE ISSUED.

(B) DISTRIBUTION.

THE PROCEEDS SHALL BE DISTRIBUTED IN THE SAME MANNER AND UNDER ANY RESTRICTIONS STATED IN:

(1) THE AUTHORIZING RESOLUTION OF THE COMMISSION; OR

(2) THE TRUST AGREEMENT SECURING THE BONDS.

(C) ADDITIONAL BONDS TO FUND DEFICIT.

(1) IF THE PROCEEDS OF THE BONDS ARE LESS THAN THE COST OF THE PROJECT FOR WHICH THE BONDS WERE ISSUED, BY RESOLUTION, THE COMMISSION MAY ISSUE AND SELL ADDITIONAL BONDS IN THE SAME MANNER AS THE EARLIER ISSUE TO FUND THE AMOUNT OF THE DEFICIT.

(2) UNLESS OTHERWISE PROVIDED IN THE AUTHORIZING RESOLUTION OR IN THE TRUST AGREEMENT SECURING THE BONDS, THE ADDITIONAL BONDS SHALL BE:

(I) CONSIDERED TO BE OF THE SAME ISSUE AS THE EARLIER ISSUE; AND

(II) ENTITLED TO PAYMENT FROM THE SAME FUNDS AS THE EARLIER ISSUE, WITHOUT PREFERENCE OR PRIORITY OF THE EARLIER ISSUE.

(D) APPLICATION OF SURPLUS.

IF THE PROCEEDS OF BONDS ISSUED UNDER THIS SUBTITLE EXCEED THE COST OF THE PROJECT FOR WHICH THE BONDS ARE ISSUED, THE SURPLUS SHALL BE USED AS THE COMMISSION DETERMINES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–206.

In subsection (b)(1) of this section, the reference to the "authorizing resolution of the Commission" is substituted for the former reference to the "resolution of the WSSC that authorizes the issuance of the bonds" for brevity. Similarly, in subsection (c)(2) of this section, the reference to "authorizing resolution" is substituted for the former reference to the "resolution authorizing the issuance of the bonds".

In subsection (c)(1) of this section, the reference to the project "for which the bonds were issued" is added for clarity.

Also in subsection (c)(1) of this section, the former reference to "projects" is deleted in light of the reference to "project" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined term: "Commission" § 16–101

22–206. SECURITY.

AS DETERMINED BY THE COMMISSION, BONDS ISSUED UNDER THIS SUBTITLE MAY BE SECURED BY OR MADE PAYABLE FROM:

(1) LETTERS OF CREDIT;

(2) LINES OF CREDIT;

(3) BOND PURCHASE AGREEMENTS;

(4) BOND INSURANCE POLICIES;

(5) GUARANTY AGREEMENTS; AND

(6) SIMILAR CREDIT ARRANGEMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–207.

Defined term: "Commission" § 16–101

22–207. REVENUE REFUNDING BONDS.

(A) AUTHORIZED.

THE COMMISSION MAY PROVIDE BY RESOLUTION FOR THE ISSUANCE OF REVENUE REFUNDING BONDS TO REFUND BONDS ISSUED UNDER THIS SUBTITLE.

(B) CONFORMITY TO REQUIREMENTS.

TO THE EXTENT APPLICABLE, REVENUE REFUNDING BONDS ISSUED UNDER THIS SECTION SHALL CONFORM TO THE REQUIREMENTS OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–208.

The only changes are in style.

Defined term: "Commission" § 16–101

22–208. OTHER PROVISIONS NOT APPLICABLE.

BONDS ISSUED UNDER THIS SUBTITLE ARE NOT SUBJECT TO THE LIMITATIONS OF §§ 22–102(B) AND 22–1035 OF THIS TITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–209.

The only changes are in style.

22–209. TRUST AGREEMENTS TO SECURE BONDS.

(A) AUTHORIZED.

THE COMMISSION MAY ENTER INTO A TRUST AGREEMENT TO SECURE BONDS ISSUED UNDER THIS SUBTITLE.

(B) TRUSTEE.

THE TRUSTEE UNDER THE TRUST AGREEMENT MAY BE A BANK OR TRUST COMPANY THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(C) REVENUES PLEDGED OR ASSIGNED.

THE TRUST AGREEMENT MAY PLEDGE OR ASSIGN ALL REVENUES FROM ONE OR MORE PROJECTS AS SPECIFIED BY THE COMMISSION.

(D) PROTECTION AND ENFORCEMENT OF RIGHTS AND REMEDIES OF BONDHOLDERS.

THE TRUST AGREEMENT MAY PROVIDE FOR THE PROTECTION AND ENFORCEMENT OF THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, INCLUDING:

(1) COVENANTS SETTING FORTH THE DUTIES OF THE COMMISSION REGARDING:

(I) CONSTRUCTION, ACQUISITION, IMPROVEMENT, INSTALLATION, MAINTENANCE, OPERATION, REPAIR, AND INSURANCE OF A PROJECT; AND

(II) CUSTODY, SAFEGUARDING, AND APPLICATION OF ALL MONEY;

(2) THE ESTABLISHMENT AND FUNDING OF RESERVE FUNDS;

(3) REQUIREMENTS THAT A PROJECT BE CONSTRUCTED AND PAID FOR UNDER THE SUPERVISION AND APPROVAL OF CONSULTING ENGINEERS EMPLOYED OR DESIGNATED BY THE COMMISSION; AND

(4) STATEMENTS OF THE RIGHTS AND REMEDIES OF THE BONDHOLDERS AND OF THE TRUSTEE, WHICH MAY RESTRICT THE INDIVIDUAL RIGHT OF ACTION OF BONDHOLDERS.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–210.

The only changes are in style.

Defined terms: "Commission" § 16–101
"State" § 16–101

22–210. TAX EXEMPTION; EXCLUSION OF INTEREST FROM GROSS INCOME.

(A) TAX EXEMPTION.

BONDS ISSUED UNDER THIS SUBTITLE, INCLUDING THEIR INTEREST AND ANY PROFIT FROM THEIR SALE OR EXCHANGE, ARE EXEMPT FROM TAXATION BY THE STATE AND ITS COUNTIES AND MUNICIPALITIES.

(B) EXCLUSION OF INTEREST FROM GROSS INCOME.

IF BONDS ARE ISSUED UNDER THIS SUBTITLE WITH THE EXPECTATION THAT THEIR INTEREST MAY BE EXCLUDED FROM THE GROSS INCOME OF THE BONDHOLDERS, THE COMMISSION SHALL ENTER INTO ALL AGREEMENTS AND MAKE ALL CERTIFICATIONS NECESSARY OR ADVISABLE TO SHOW COMPLIANCE WITH THE APPLICABLE PROVISIONS OF FEDERAL TAX LAW.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–211.

The only changes are in style.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"State" § 16–101

TITLE 23. WATER, SEWERS, AND DRAINAGE.

SUBTITLE 1. WATER AND SEWER SYSTEMS.

23–101. COMMISSION WATER, SEWER, AND DRAINAGE SYSTEMS.

(A) SURVEYS, PLANS, ETC.

THE COMMISSION SHALL DEVELOP SURVEYS, PLANS, SPECIFICATIONS, AND ESTIMATES FOR WATER SUPPLY AND SANITARY SEWER SYSTEMS IN THE PORTIONS OF THE SANITARY DISTRICT THAT THE COMMISSION CONSIDERS NECESSARY.

(B) DIVISION INTO DISTRICTS.

THE COMMISSION SHALL DIVIDE THE SANITARY DISTRICT INTO WATER OR SANITARY SEWER DISTRICTS THAT IN THE COMMISSION'S JUDGMENT:

(1) BEST SERVE THE NEEDS OF THE COMMUNITIES IN THE SANITARY DISTRICT; AND

(2) PROMOTE THE CONVENIENCE AND ECONOMY OF THE INSTALLATION AND OPERATION OF WATER SUPPLY AND SANITARY SEWER SYSTEMS.

(C) CONSTRUCTION WITHIN DISTRICTS.

THE COMMISSION MAY PROCEED WITH CONSTRUCTION THAT THE COMMISSION CONSIDERS ADVISABLE IN ANY DISTRICT.

(D) NOTICE.

IF THE COMMISSION INITIATES CONSTRUCTION WITHOUT PETITION OR REQUEST FROM AN INTERESTED PARTY, THE COMMISSION MAY GIVE REASONABLE NOTICE THAT THE COMMISSION CONSIDERS ADVISABLE.

(E) EXTENSION BY COMMISSION INTO CONTIGUOUS AREAS.

(1) THE COMMISSION MAY EXTEND ITS WATER SUPPLY OR SEWER SYSTEMS INTO ANY AREA OUTSIDE OF THE SANITARY DISTRICT THAT IS CONTIGUOUS TO OR IN THE VICINITY OF THE SANITARY DISTRICT IF THE PROPERTY OWNERS OF THE AREA AGREE TO THE CONDITIONS IMPOSED BY THE COMMISSION.

(2) EXCEPT AS PROVIDED IN THIS DIVISION, THE POWERS AND AUTHORITY IN THIS SUBSECTION MAY NOT BE RESTRICTED BY ANY OTHER GENERAL, SPECIAL, OR LOCAL LAW.

(F) STORMWATER MANAGEMENT IN MONTGOMERY COUNTY.

THE COMMISSION MAY NOT INSTALL, OPERATE, OR EXERCISE ANY AUTHORITY OVER STORMWATER MANAGEMENT IN MONTGOMERY COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–101 and 3–103(c) and (d).

In subsection (b)(1) of this section, the reference to "communities in the sanitary district" is substituted for the former reference to "various communities" for clarity.

In subsection (b)(2) of this section, the reference to installation and operation "of water supply and sanitary sewer systems" is added for clarity.

In subsection (d) of this section, the reference to the Commission "initiat[ing]" construction is substituted for the former reference to construction being "on the motion" of the Commission for clarity.

In subsection (e)(1) of this section, the former phrase "[s]ubject to the provisions of § 3–101 of this subtitle" is deleted as unnecessary due to the reorganization of the former provisions into this section.

In subsection (e)(2) of this section, the former reference to restrictions that are "specifically" provided in this division is deleted as unnecessary.

In subsection (f) of this section, the reference to "stormwater management" is substituted for the former reference to "drainage systems" for clarity and consistency with terminology used throughout this division.

Also in subsection (f) of this section, the former phrases "[o]n and after June 30, 1968" and "[o]n and after July 1, 1990" are deleted as obsolete.

Also in subsection (f) of this section, the former reference to "the City of Takoma Park" is deleted as unnecessary because the City of Takoma Park is located entirely in Montgomery County.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (e)(2) of this section that states that the powers and authority in subsection (e) may not be restricted by any other general, special, or local law may violate the general rule of construction that states that any given legislature may not bind the actions of a future legislature. Also, the reference in subsection (e) to "special" laws may be unnecessary because Article III, § 33 of the Maryland Constitution prohibits the legislature from enacting certain special laws.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that although there does not appear to be a provision in the former Article 29 that explicitly states that the Commission may not install, operate, or exercise any authority over stormwater management or drainage systems in Prince George's County, there are provisions stating that Prince George's County may "exercise all the rights, powers, and duties relating to stormwater management, including those formerly exercised by the WSSC" (*see* former Art. 29, § 3–202(a)) and that all property used by the Commission primarily for stormwater management is deemed transferred to the counties (*see* former Art. 29, § 3–202(d)). Therefore, the General Assembly may wish to amend subsection (f) of this section to explicitly state that the Commission may not install, operate, or exercise any authority over stormwater management in Prince George's County.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

23–102. PRIVATE OR MUNICIPAL WATER AND SEWER SYSTEMS IN THE SANITARY DISTRICT.

(A) SCOPE OF SYSTEM.

A PRIVATELY OWNED OR MUNICIPALLY OWNED WATER SUPPLY OR SANITARY SEWER SYSTEM OR PART OF A SYSTEM, WATER MAIN, SEWER, WATER PURIFICATION OR SEWAGE DISPOSAL PLANT, OR CONNECTION WITH THESE FACILITIES MAY NOT BE CONSTRUCTED OR INSTALLED, EXCEPT AS PROVIDED IN THIS SECTION.

(B) EXPENSES PAID BY MUNICIPALITY, PROPERTY OWNERS, OR RESIDENTS.

A MUNICIPALITY OR THE PROPERTY OWNERS OR RESIDENTS OF A LOCALITY IN THE SANITARY DISTRICT MAY CONSTRUCT AND OPERATE A WATER SUPPLY OR SANITARY SEWER SYSTEM OR PART OF A SYSTEM AT THEIR OWN EXPENSE IF THE COMMISSION DECIDES THAT IT IS INEXPEDIENT OR IMPRACTICABLE TO BUILD THE SYSTEM DUE TO REMOTENESS FROM THE COMMISSION'S GENERAL SYSTEM OR FOR OTHER REASONS.

(C) SUPERVISION AND CONTROL BY COMMISSION.

(1) A SYSTEM CONSTRUCTED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL BE CONSTRUCTED UNDER PLANS AND SPECIFICATIONS SUBMITTED TO AND APPROVED BY THE COMMISSION.

(2) THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE SYSTEM SHALL BE UNDER THE SUPERVISION AND GENERAL CONTROL OF THE COMMISSION.

(D) FILING OF RECORDS WITH COMMISSION.

ALL CONSTRUCTION AND OPERATING RECORDS FOR THE SYSTEM, INCLUDING COST RECORDS, SHALL BE FILED WITH THE COMMISSION.

(E) TAKEOVER OF SYSTEMS BY COMMISSION.

THE COMMISSION MAY TAKE OVER THE SYSTEM OR A PART OF THE SYSTEM, WATER MAIN, SEWER, WATER PURIFICATION OR SEWAGE DISPOSAL PLANT, OR CONNECTION WITH THESE FACILITIES IN THE SAME MANNER AS PROVIDED IN § 23–103 OF THIS SUBTITLE.

(F) NO RESTRICTION OF POWERS.

EXCEPT AS PROVIDED IN THIS DIVISION, THE POWERS AND AUTHORITY IN THIS SECTION MAY NOT BE RESTRICTED BY ANY OTHER GENERAL, SPECIAL, OR LOCAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–103(a), (b), and (d).

In subsection (a) of this section, the reference to "privately owned or municipally owned" is added to clarify that this section only applies to water supply or sanitary sewer systems that are privately owned or municipally owned.

Also in subsection (a) of this section, the reference to "water supply or sanitary sewer" system is added for clarity.

In subsection (b) of this section, the former reference to the "desire" of a municipality or the property owners or residents of a locality for a water supply or sanitary sewer system "to be constructed in that municipality or locality" is deleted as unnecessary.

Also in subsection (b) of this section, the former phrase "at the time" is deleted as surplusage.

In subsection (c)(1) of this section, the reference to a system "constructed in accordance with subsection (b) of this section" is added for clarity.

In subsection (d) of this section, the phrase "for the system" is added for clarity.

In subsection (f) of this section, the former reference to restrictions that are "specifically" provided in this division is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (f) of this section that states that the powers and authority in this section may not be restricted by any other general, special, or local law may violate the general rule of construction that states that any given legislature may not bind the actions of a future legislature. Also, the reference in subsection (f) to "special" laws may be unnecessary because Article III, § 33 of the Maryland Constitution prohibits the legislature from enacting certain special laws.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101

23–103. ACQUISITION OF PRIVATE OR MUNICIPAL WATER OR SEWER SYSTEM — GENERALLY.

(A) PURCHASE.

THE COMMISSION MAY PURCHASE A MUNICIPALLY OR PRIVATELY OWNED WATER SUPPLY OR SEWER SYSTEM IF THE COMMISSION:

(1) EXTENDS ITS GENERAL WATER SUPPLY OR SEWER SYSTEM TO THE MUNICIPALLY OR PRIVATELY OWNED WATER SUPPLY OR SEWER SYSTEM AND IS READY TO CONNECT WITH THE SYSTEM; OR

(2) CONSIDERS THE PURCHASE TO BE EXPEDIENT, ADVISABLE, AND PROPER FOR THE ADEQUATE OPERATION OF THE SYSTEM UNDER THE COMMISSION'S JURISDICTION.

(B) CONDEMNATION.

IF THE COMMISSION AND THE OWNER OF A MUNICIPALLY OR PRIVATELY OWNED WATER SUPPLY OR SEWER SYSTEM FAIL TO AGREE TO THE PURCHASE PRICE OR CONDITIONS OF PURCHASE OF THE WATER OR SEWER SYSTEM, THE COMMISSION MAY ACQUIRE THE SYSTEM BY CONDEMNATION, AS PROVIDED IN THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–106.

In subsection (a)(2) of this section, the reference to "the purchase" is substituted for the former reference to "such action" for clarity.

In subsection (b) of this section, the reference to the owner "of a municipally or privately owned water supply or sewer system" is added for clarity.

Defined term: "Commission" § 16–101

23–104. ACQUISITION OF PRIVATE WATER OR SEWER SYSTEM.

(A) JURY AWARD IN CONDEMNATION PROCEEDING.

IF A PRIVATELY OWNED WATER OR SEWER SYSTEM IS THE SUBJECT OF A CONDEMNATION PROCEEDING UNDER THIS DIVISION, A JURY IN THE PROCEEDING SHALL DETERMINE THE FAIR MARKET VALUE AS PROVIDED FOR IN § 12–105(B) OF THE REAL PROPERTY ARTICLE.

(B) DEBTS AND LIENS.

(1) IF THE COMMISSION CONDEMNS A PRIVATELY OWNED SYSTEM, THE COMMISSION SHALL TAKE THE SYSTEM FREE AND CLEAR OF ALL DEBTS AND LIENS.

(2) (I) THE COMMISSION SHALL MAKE A PARTY DEFENDANT ANY PERSON THAT HAS A RECORDED LIEN OR ENCUMBRANCE AGAINST THE PRIVATELY OWNED SYSTEM.

(II) THE CIRCUIT COURT MAY DETERMINE THE RESPECTIVE AMOUNTS DUE THE DEFENDANTS.

(C) POSSESSION AND OPERATION BY COMMISSION.

AFTER THE PAYMENT INTO THE COURT OR TO THE PROPER PARTIES:

(1) THE COMMISSION MAY TAKE POSSESSION OF, MAINTAIN, AND OPERATE THE PRIVATE SYSTEM; AND

(2) ALL PROPERTIES ALONG THE LINE OF ANY WATER MAIN OR SEWER OF THE PRIVATE SYSTEM SHALL STAND IN THE SAME RELATION, BEAR THE SAME BENEFIT ASSESSMENT, AND BE SUBJECT TO THE SAME REGULATIONS AND PENALTIES AS THOUGH THE PRIVATE SYSTEM HAD BEEN CONSTRUCTED AND PUT INTO OPERATION BY THE COMMISSION UNDER THE PROVISIONS OF THIS DIVISION.

(D) CONNECTION CHARGES.

A BUILDING OR PREMISES PROPERLY CONNECTED WITH THE ACQUIRED PRIVATE SYSTEM AT THE TIME OF ITS PURCHASE IS NOT SUBJECT TO THE CONNECTION CHARGE SPECIFIED UNDER TITLE 25, SUBTITLE 3 OF THIS ARTICLE.

(E) SYSTEM UNFIT FOR ACQUISITION.

(1) IF THE COMMISSION CONSIDERS THAT A PRIVATELY OWNED WATER OR SEWER SYSTEM IS UNFIT, IN WHOLE OR IN PART, FOR INCORPORATION WITH THE COMMISSION'S SYSTEM, THE COMMISSION SHALL:

(I) DISREGARD THE EXISTENCE OF THE SYSTEM OR UNFIT PART OF THE SYSTEM; AND

(II) EXTEND THE COMMISSION'S SYSTEM TO SERVE THE AREA SERVED BY THE EXISTING SYSTEM OR UNFIT PART OF THE SYSTEM.

(2) ALL OF THE PROVISIONS OF THIS DIVISION RELATING TO SYSTEMS CONSTRUCTED BY THE COMMISSION APPLY TO AN EXTENSION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–107(a)(1), (b), and (c).

In subsection (a) of this section, the reference to a jury "determin[ing] the fair market value as provided in § 12–105(b) of the Real Property Article" is substituted for the former reference to the jury "[c]onsider[ing] as part of an award any payment, contribution, or tax paid by the respective lot owners or purchasers toward the construction of the systems" in light of *Washington Suburban Sanitary Commission v. Utilities, Inc.*, 365 Md. 1, 775 A.2d 1178 (2001), in which the Court of Appeals stated that the standard for valuing property taken in condemnation in Maryland is set forth in § 12–105(b) of the Real Property Article. *See Washington Suburban Sanitary Commission v. Utilities, Inc.*, 365 Md. 1, 40, 775 A.2d 1178, 1201 (2001). This substitution is called to the attention of the General Assembly.

In subsection (d) of this section, the reference to a building or premises "properly" connected is substituted for the former reference to a building or premises connected "in an adequate manner" for brevity.

Also in subsection (d) of this section, the reference to a building or premises being "subject to" the connection charge is substituted for the former reference to a building or premises being "required to pay" the connection charge for accuracy.

Also in subsection (d) of this section, the former reference to a building or premises "actually" connected with the system is deleted as unnecessary.

In subsection (e)(1)(ii) of this section, the reference to the area "served by" the existing system is substituted for the former reference to the area "tributary to" the existing system for clarity.

Former Art. 29, § 3–107(a)(2) is deleted as unconstitutional. That subsection required that the fair market value of a privately owned water or sewer system in a condemnation proceeding brought by the Commission be reduced by an amount representing contributions

indirectly made by homebuyers for construction of the system and was found to be unconstitutional as applied in *Washington Suburban Sanitary Commission v. Utilities, Inc.*, 365 Md. 1, 775 A.2d 1178 (2001). The Court of Appeals held that this deduction constituted an unconstitutional taking of property without just compensation.

Defined terms: "Commission" § 16–101
"Person" § 16–101

23–105. ACQUISITION OF MUNICIPAL WATER OR SEWER SYSTEM.

(A) POSSESSION AND OPERATION BY COMMISSION.

AFTER THE PAYMENT FOR THE ACQUISITION IS MADE TO THE COURT OR TO THE MUNICIPALITY:

(1) THE COMMISSION MAY TAKE POSSESSION OF, MAINTAIN, AND OPERATE A MUNICIPALLY OWNED WATER OR SEWER SYSTEM; AND

(2) ALL PROPERTIES ALONG THE LINE OF ANY WATER MAIN OR SEWER OF THE MUNICIPAL SYSTEM SHALL STAND IN THE SAME RELATION, BEAR THE SAME BENEFIT ASSESSMENT, AND BE SUBJECT TO THE SAME REGULATIONS AND PENALTIES AS THOUGH THE MUNICIPAL SYSTEM HAD BEEN CONSTRUCTED AND PUT INTO OPERATION BY THE COMMISSION UNDER THE PROVISIONS OF THIS DIVISION.

(B) CONNECTION CHARGES.

A BUILDING OR PREMISES PROPERLY CONNECTED WITH THE ACQUIRED MUNICIPAL SYSTEM AT THE TIME OF ITS PURCHASE IS NOT SUBJECT TO THE CONNECTION CHARGE SPECIFIED UNDER TITLE 26, SUBTITLE 3 OF THIS ARTICLE.

(C) OUTSTANDING BONDS.

IF OUTSTANDING BONDS EXIST FOR A MUNICIPAL SYSTEM ACQUIRED BY THE COMMISSION:

(1) THE MUNICIPALITY MAY USE THE AMOUNT PAID BY THE COMMISSION FOR THE SYSTEM FOR THE PURCHASE OR REDEMPTION OF ANY BOND OR DEBT THAT MAY BE OUTSTANDING AGAINST THE SYSTEM; OR

(2) THE COMMISSION, AS A PART OF THE COMPENSATION FOR THE SYSTEM, MAY ASSUME THE PAYMENT OF ANY OUTSTANDING BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–108.

In the introductory language to subsection (a) of this section, the reference to payment "for the acquisition is made" is added for clarity.

In subsection (a)(1) of this section, the reference to a municipally owned "water or sewer" system is added for clarity.

In subsection (b) of this section, the reference to the acquired "municipal" system is added for clarity and consistency with terminology used throughout this section.

Also in subsection (b) of this section, the reference to a building or premises being "subject to" the connection charge is substituted for the former reference to a building or premises being "required to pay" the connection charge for accuracy.

Also in subsection (b) of this section, the reference to a building or premises "properly" connected is substituted for the former reference to a building or premises connected "in an adequate manner" for brevity.

Also in subsection (b) of this section, the former reference to a building or premises "actually" connected with the system is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101

SUBTITLE 2. SUBDIVISION LINES AND SERVICE CONNECTIONS.

23–201. CONSTRUCTION OF SUBDIVISION LINES IN SANITARY DISTRICT.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "AUTHORIZATION FOR SERVICE" MEANS AN APPLICATION BY A PROPERTY OWNER OR DEVELOPER TO THE COMMISSION FOR WATER OR SEWER SERVICE THAT REQUIRES THE CONSTRUCTION OF SUBDIVISION LINES.

(3) "DEVELOPMENT" MEANS A PROJECT FOR THE CONSTRUCTION OF:

(I) TWO OR MORE RESIDENTIAL DWELLING UNITS; OR

(II) A COMMERCIAL OR INDUSTRIAL STRUCTURE.

(4) "HEALTH HAZARD" MEANS AN OWNER–OCCUPIED RESIDENTIAL PROPERTY WITH A FAILING WELL OR SEPTIC SYSTEM AS CERTIFIED BY THE STATE OR A LOCAL HEALTH DEPARTMENT.

(5) "PAYMENT SECURITY" MEANS SECURITY TO GUARANTEE PAYMENT TO THE UTILITY CONTRACTOR, SUBCONTRACTORS, AND SUPPLIERS THAT PROVIDE LABOR, MATERIALS, OR CONSTRUCTION EQUIPMENT FOR THE CONSTRUCTION OF SUBDIVISION LINES.

(6) "PERFORMANCE SECURITY" MEANS SECURITY TO GUARANTEE COMPLETION OF THE CONSTRUCTION OF SUBDIVISION LINES.

(7) (I) "SUBDIVISION LINES" MEANS THE WATER AND SEWER PIPELINES OR FACILITIES NECESSARY TO PROVIDE SERVICE TO A DEVELOPMENT, INCLUDING SERVICE CONNECTIONS TO INDIVIDUAL LOTS OR PROPERTIES IN A DEVELOPMENT.

(II) "SUBDIVISION LINES" DOES NOT INCLUDE PIPELINES OR FACILITIES THAT CONSTITUTE MAJOR PROJECTS AS DEFINED IN § 23–301 OF THIS TITLE.

(B) APPLICATION OF SECTION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES NOT APPLY TO:

(I) AUTHORIZATIONS FOR SERVICE FOR WHICH:

1. APPLICATION WAS MADE WITH THE COMMISSION ON OR BEFORE JUNE 30, 1999; AND

2. THE COMMISSION ENTERED INTO A CONTRACT FOR CONSTRUCTION OF SUBDIVISION LINES WITH NOTICE TO PROCEED ISSUED BY THE COMMISSION TO ITS CONTRACTOR ON OR BEFORE JUNE 30, 2001; OR

(II) AUTHORIZATIONS FOR SERVICE FOR THE RELIEF OF HEALTH HAZARDS.

(2) EACH PART OF A MULTIPART AUTHORIZATION FOR SERVICE SHALL BE CONSIDERED A SEPARATE AUTHORIZATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(C) CONSTRUCTION AT EXPENSE OF OWNER OR DEVELOPER.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE OWNER OR DEVELOPER OF A DEVELOPMENT IN THE SANITARY DISTRICT SHALL CONSTRUCT ALL SUBDIVISION LINES FOR THE DEVELOPMENT AT THE EXPENSE OF THE OWNER OR DEVELOPER.

(D) AGREEMENT BETWEEN OWNER OR DEVELOPER AND COMMISSION.

BEFORE CONSTRUCTING SUBDIVISION LINES, THE OWNER OR DEVELOPER OF A DEVELOPMENT SHALL ENTER INTO AN AGREEMENT WITH THE COMMISSION THAT:

(1) REQUIRES THE SUBDIVISION LINES TO BE CONSTRUCTED UNDER PLANS AND SPECIFICATIONS SUBMITTED TO AND APPROVED BY THE COMMISSION;

(2) REQUIRES THE OWNER OR DEVELOPER TO COMPLY WITH ALL APPLICABLE LAWS AND REQUIREMENTS FOR THE CONSTRUCTION OF THE SUBDIVISION LINES;

(3) PROVIDES FOR THE INSPECTION OF THE SUBDIVISION LINES BY THE COMMISSION BEFORE THE LINE IS PLACED IN SERVICE;

(4) REQUIRES THE PROPERTY OWNER OR DEVELOPER TO PROVIDE:

(I) PERFORMANCE SECURITY PAYABLE TO THE COMMISSION IN AN AMOUNT ACCEPTABLE TO THE COMMISSION, TAKING INTO ACCOUNT POTENTIAL COST ESCALATION; AND

(II) PAYMENT SECURITY PAYABLE TO THE COMMISSION IN AN AMOUNT EQUAL TO THE AMOUNT OF THE PERFORMANCE SECURITY; AND

(5) PROVIDES THAT BEFORE THE SUBDIVISION LINES ARE PLACED IN SERVICE, THE PROPERTY OWNER OR DEVELOPER SHALL PROVIDE THE COMMISSION WITH A RELEASE OF LIENS, ON A FORM ACCEPTABLE TO THE COMMISSION, SIGNED BY THE UTILITY CONTRACTOR AND NOTARIZED, STATING THAT THE UTILITY CONTRACTOR, SUBCONTRACTORS, AND SUPPLIERS HAVE BEEN PAID.

(E) FORM OF PERFORMANCE SECURITY AND PAYMENT SECURITY.

ACCEPTABLE FORMS OF PERFORMANCE SECURITY AND PAYMENT SECURITY UNDER SUBSECTION (D) OF THIS SECTION ARE:

(1) A CERTIFIED CHECK;

(2) A CASH DEPOSIT;

(3) A CERTIFICATE OF DEPOSIT;

(4) AN IRREVOCABLE LETTER OF CREDIT FROM A FINANCIAL INSTITUTION ACCEPTABLE TO THE COMMISSION AND IN A FORM ACCEPTABLE TO THE COMMISSION;

(5) A BOND EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE; OR

(6) ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE COMMISSION.

(F) CLAIM AGAINST PAYMENT SECURITY.

(1) (I) A UTILITY CONTRACTOR, SUBCONTRACTOR, OR SUPPLIER PROVIDING LABOR, MATERIALS, OR EQUIPMENT FOR THE CONSTRUCTION OF THE SUBDIVISION LINES THAT HAS NOT BEEN PAID MAY FILE A CLAIM AGAINST THE PAYMENT SECURITY WITHIN 180 DAYS AFTER COMPLETION OF CONSTRUCTION OF THE SUBDIVISION LINES UNDER THE PROCEDURE REQUIRED IN THE PAYMENT SECURITY.

(II) IF A PROCEDURE IS NOT SPECIFIED IN THE PAYMENT SECURITY, THE PROCEDURE SHALL BE AS ESTABLISHED BY REGULATIONS ADOPTED BY THE COMMISSION.

(2) THE COMMISSION MAY NOT RELEASE OR REDUCE THE AMOUNT OF THE PAYMENT SECURITY UNTIL:

(I) ALL CLAIMANTS HAVE BEEN PAID; OR

(II) 180 DAYS HAVE PASSED SINCE COMPLETION OF CONSTRUCTION AND NO CLAIMS HAVE BEEN MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–101.1.

In subsection (c) and the introductory language of subsection (d) of this section, the references to the owner or developer of "a development" are substituted for the former references to the owner or developer of "the property" for clarity.

In subsection (c) of this section, the reference to subdivision lines "for the development" is added for clarity.

In subsection (d)(4)(ii) of this section, the former reference to the payment security being "for the benefit of the utility contractor, subcontractors, and suppliers providing labor, materials, or construction equipment for the construction of the subdivision lines" is deleted as unnecessary in light of the defined term "payment security".

In subsection (d)(5) of this section, the former reference to "all" subcontractors and suppliers is deleted as unnecessary.

In subsection (f)(1)(ii) of this section, the former reference to "rules" is deleted as implicit in the reference to "regulations". *See* General Revisor's Note to division.

In subsection (f)(2)(ii) of this section, the reference to "180 days … since completion of construction" is substituted for the former reference to "the 'claim notice date' " for clarity. Correspondingly, in subsection (f)(1) of this section, the former reference to "the claim notice date" is deleted.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (b)(1)(i) of this section may be obsolete. Commission staff advised the Committee that no authorizations for service described in subsection (b)(1)(i) of this section are pending. The General Assembly may wish to repeal this provision.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

"Service connection" § 16–101
"State" § 16–101

23–202. SERVICE CONNECTIONS — IN GENERAL.

(A) SERVICE CONNECTIONS TO ABUTTING PROPERTIES.

(1) IF PROPERTY ABUTS ON A STREET OR RIGHT–OF–WAY IN WHICH A WATER MAIN OR SANITARY SEWER IS INSTALLED, THE COMMISSION SHALL PROVIDE A SERVICE CONNECTION FROM THE WATER MAIN OR SANITARY SEWER TO THE PROPERTY LINE OF THE ABUTTING LOT.

(2) THE SERVICE CONNECTION SHALL BE CONSTRUCTED BY AND AT THE EXPENSE OF THE COMMISSION AND SHALL BE PAID FOR IN ACCORDANCE WITH THIS DIVISION.

(B) HOOKUPS BY ABUTTING PROPERTY OWNERS.

(1) WHEN THE COMMISSION DECLARES A WATER MAIN OR SEWER COMPLETE, AFTER NOTICE, EVERY ABUTTING PROPERTY OWNER MAY HOOK UP SPIGOTS, HYDRANTS, TOILETS, AND WASTE DRAINS WITH THE WATER MAIN OR SEWER, AS APPROPRIATE, WITHIN THE TIME SET BY THE COMMISSION.

(2) IF THE FIXTURES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION DO NOT EXIST OR IF THE COMMISSION DETERMINES THAT THEY ARE IMPROPER OR INADEQUATE, THE PROPERTY OWNER SHALL INSTALL SATISFACTORY EQUIPMENT.

(C) POLLUTED OR UNHEALTHY FACILITIES.

(1) ANY CESSPOOL, SINK DRAIN, OUTHOUSE, OR WELL THAT IS POLLUTED OR A MENACE TO HEALTH SHALL BE ABANDONED AND LEFT IN A WAY THAT IT CANNOT BE USED OR POSE A RISK TO THE PUBLIC HEALTH.

(2) THE COMMISSION SHALL DETERMINE THE DISPOSITION OF THESE FACILITIES.

(D) COMMISSION ORDER REQUIRING PROPERTY HOOKUP.

(1) AFTER THE CONSTRUCTION OR ACQUISITION OF A WATER MAIN OR SEWER, THE COMMISSION MAY ORDER A PROPERTY OWNER OR OCCUPANT WHO REFUSES TO CONNECT TO THE WATER MAIN OR SEWER TO HOOK UP TO THE WATER MAIN OR SEWER IF:

(I) A CONDITION EXISTS THAT APPEARS TO BE A MENACE TO THE HEALTH OF THE OCCUPANTS OF THE PROPERTY OR THE OCCUPANTS OF A NEARBY OR ADJOINING PROPERTY;

(II) THE PROPERTY ON WHICH THE CONDITION EXISTS ABUTS THE WATER MAIN OR SEWER;

(III) THE COMMISSION GIVES THE OWNER OR OCCUPANT 10 DAYS' NOTICE AND AN OPPORTUNITY TO BE HEARD; AND

(IV) THE COMMISSION DETERMINES THE CONDITION TO BE A MENACE TO THE HEALTH OF THE OCCUPANTS OF THE PROPERTY OR THE OCCUPANTS OF A NEARBY OR ADJOINING PROPERTY.

(2) (I) IF THE COMMISSION DETERMINES THAT A CONDITION EXISTS AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL PASS AN ORDER THAT REQUIRES THAT THE PROPERTY HOOKUP BE MADE IN NOT LESS THAN 30 DAYS OR MORE THAN 90 DAYS OF THE ISSUANCE OF THE ORDER.

(II) THE PROPERTY OWNER OR OCCUPANT MAY NOT REFUSE TO COMPLY WITH THE ORDER OR VIOLATE ANY OF THE OTHER PROVISIONS OF THIS SECTION.

(III) AS PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT, THE PROPERTY OWNER OR OCCUPANT MAY SEEK JUDICIAL REVIEW OF THE DECISION OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–104.

In subsection (b)(1) of this section, the former reference to complete "and ready for the delivery of water or the reception of sewage" is deleted as implicit in the reference to "complete".

Also in subsection (b)(1) of this section, the former reference to "due" notice is deleted as unnecessary.

In subsection (c)(1) of this section, the reference to an "outhouse" is substituted for the former reference to "privies" for clarity.

Also in subsection (c)(1) of this section, the phrase "pose a risk" is substituted for the former phrase "injuriously affect" for clarity.

Also in subsection (c)(1) of this section, the former reference to "again" being used is deleted as surplusage.

In the introductory language of subsection (d)(1) of this section, the former references to a water main or sewer "or both" are deleted as unnecessary.

In subsection (d)(2)(ii) of this section, the reference to the "property owner or occupant" is substituted for the former reference to a "person" for consistency with terminology used throughout this subsection.

In subsection (d)(2)(iii) of this section, the reference to "seek judicial review" is substituted for the former reference to "appeal" for accuracy.

Also in subsection (d)(2)(iii) of this section, the former reference to the decision of the Commission "to pass an order which requires the connection to be made" is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Hookup" § 16–101
"Service connection" § 16–101

23–203. CONSTRUCTION OF SERVICE CONNECTIONS.

(A) SCOPE OF SECTION.

EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO STREETS, ROADS, ALLEYS, SIDEWALKS, OR PUBLIC PROPERTY IN THE JURISDICTION OF MONTGOMERY COUNTY.

(B) CONSTRUCTION BY COMMISSION.

(1) THE COMMISSION SHALL MAKE TAPS IN INSTALLATIONS OF THE COMMISSION AT A CHARGE THAT THE COMMISSION CONSIDERS REASONABLE.

(2) THE COMMISSION MAY CONSTRUCT AND MAKE WATER SERVICE CONNECTIONS OF 2 INCHES OR LARGER AND CHARGE FOR THE CONNECTIONS AT THE ACTUAL COST TO THE COMMISSION.

(C) CONSTRUCTION BY MASTER PLUMBER.

THE COMMISSION MAY AUTHORIZE THE CONSTRUCTION OF SERVICE CONNECTIONS BY A MASTER PLUMBER, WHO IS REGISTERED IN THE SANITARY DISTRICT, UNDER THE SUPERVISION OF THE COMMISSION.

(D) CUTTING INTO STREET BY MASTER PLUMBER — IN GENERAL.

(1) IF THE COMMISSION, BY RESOLUTION, AUTHORIZES SERVICE CONNECTIONS TO BE MADE BY A MASTER PLUMBER, UNDER REGULATIONS AND AFTER ISSUANCE OF A WRITTEN PERMIT BY THE COMMISSION, THE MASTER PLUMBER MAY ENTER ON AND CUT INTO A STREET UNDER THE JURISDICTION OF A PUBLIC AUTHORITY TO THE SAME EXTENT THAT THE COMMISSION MAY ENTER ON AND CUT INTO THE STREET.

(2) (I) THE MASTER PLUMBER SHALL FIRST POST WITH THE COMMISSION AN INDEMNITY BOND IN AN AMOUNT SET BY AND WITH SURETIES APPROVED BY THE COMMISSION.

(II) THE BOND SHALL INDEMNIFY THE COMMISSION AND ANY STATE, COUNTY, OR MUNICIPAL AUTHORITY HAVING JURISDICTION OVER THE STREET AGAINST ALL LOSS, COST, OR DAMAGE THAT MAY BE CAUSED BY THE MASTER PLUMBER'S ENTERING ON AND CUTTING INTO THE STREET.

(III) THE MASTER PLUMBER SHALL DEPOSIT WITH THE COMMISSION IN CASH A SUM SET BY THE COMMISSION TO COVER THE COST OF RESURFACING THE CUT.

(3) (I) THE ONLY PERMIT REQUIRED SHALL BE A PERMIT ISSUED BY THE COMMISSION IN ACCORDANCE WITH THIS SECTION.

(II) THE MASTER PLUMBER SHALL NOTIFY THE AUTHORITY HAVING CONTROL OF THE STREET TO BE ENTERED AND CUT OF THE TIME AND NATURE OF THE WORK TO BE DONE.

(E) CUTTING INTO STREET BY MASTER PLUMBER — MONTGOMERY COUNTY.

BEFORE CUTTING INTO A STREET, ROAD, ALLEY, SIDEWALK, OR PUBLIC PROPERTY UNDER THE JURISDICTION OF MONTGOMERY COUNTY, A MASTER PLUMBER SHALL SECURE A PERMIT FROM THE COUNTY AND PAY A FEE AND COMPLY WITH REGULATIONS ESTABLISHED BY THE COUNTY.

(F) REGULATIONS.

THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–105(a), (c), and (d).

In subsection (d)(1) of this section, the former reference to "proper" regulations is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provisions of subsections (c), (d), and (e) of this section, which pertain to the construction of service connections by master plumbers, may be obsolete. Commission staff advised the Committee that the Commission has never authorized the construction of service connections by master plumbers under this section. The General Assembly may wish to repeal subsections (c), (d), and (e) of this section as obsolete.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101
"Service connection" § 16–101
"State" § 16–101

23–204. EXTENSION OF SERVICE TO NEW DEVELOPMENTS IN PRINCE GEORGE'S COUNTY.

THE COMMISSION MAY GRANT WATER OR SEWER SERVICE CONNECTIONS, HOOKUPS, OR AUTHORIZATIONS FOR SERVICE OR OTHERWISE EXTEND WATER AND SEWER SERVICE TO A NEW DEVELOPMENT IN THE PRINCE GEORGE'S COUNTY PORTION OF THE SANITARY DISTRICT ONLY IF THE DEVELOPMENT IS IN CONFORMANCE WITH ADOPTED AND APPROVED PLANS, PROGRAMS, AND POLICIES OF THE COUNTY OR OTHER REGULATIONS THAT THE COUNTY MAY INCLUDE IN AN ADOPTED AND APPROVED COMPREHENSIVE WATER AND SEWER PLAN, AMENDMENT, OR REVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–105(b).

The former reference to "rules" is deleted as implicit in the reference to "regulations". *See* General Revisor's Note to division.

The former reference to the county "desir[ing] to" include regulations is deleted as implicit in the county including them.

The former reference to a "duly" adopted and approved water and sewer plan is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Hookup" § 16–101
"Sanitary district" § 16–101
"Service connection" § 16–101

SUBTITLE 3. CAPITAL IMPROVEMENTS PROGRAM.

23–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 7–101(a).

The only change is in style.

(B) MAJOR PROJECT.

(1) "MAJOR PROJECT" MEANS AN EXTENSION, PROJECT, OR PROGRAM OF WATER AND SEWER FACILITIES.

(2) "MAJOR PROJECT" INCLUDES:

(I) A SEWER MAIN AT LEAST 15 INCHES IN DIAMETER;

(II) A WATER MAIN AT LEAST 16 INCHES IN DIAMETER; AND

(III) A SEWAGE OR WATER PUMPING STATION, FORCE MAIN, AND STORAGE OR OTHER MAJOR FACILITY.

(3) "MAJOR PROJECT" DOES NOT INCLUDE A SEWER MAIN OR WATER MAIN THAT:

(I) PROVIDES ONLY LOCAL SERVICE;

(II) IS 2,000 FEET OR LESS; AND

(III) IS BUILT TO AVOID UNNECESSARY AND UNECONOMICAL DUPLICATION WHEN A MAJOR PROJECT IS CONSTRUCTED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 7–101(b).

The only changes are in style.

(C) PROGRAM.

"PROGRAM" MEANS A 6–YEAR PROJECTED PROGRAM BY THE COMMISSION OF CAPITAL IMPROVEMENTS FOR WATER AND SEWER FACILITIES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 7–101(c).

Defined term: "Commission" § 16–101

23–302. DESIGNATION OF BRANCH OF COUNTY GOVERNMENT.

(A) RESPONSIBILITIES PERFORMED BY COUNTY GOVERNMENT BRANCHES.

IN THIS SUBTITLE, THE REQUIREMENTS AND RESPONSIBILITIES OF THE COUNTY EXECUTIVES AND COUNTY COUNCILS OR SUCCESSOR FORMS OF GOVERNMENTS SHALL BE PERFORMED SEPARATELY OR JOINTLY BY THE BRANCHES OF THE RESPECTIVE COUNTY GOVERNMENTS AS PROVIDED BY CHARTER OR OTHER LAW.

(B) INTENT OF DESIGNATION.

THE DESIGNATION OF A SPECIFIC BRANCH OF COUNTY GOVERNMENT IS NOT INTENDED TO EXPAND, LIMIT, MODIFY, OR VARY THE POWERS AND DUTIES OF THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–102.

23–303. CONTENT OF PROGRAM.

A PROGRAM SHALL INCLUDE:

(1) THE MAJOR PROJECTS THAT THE COMMISSION DETERMINES MAY BE REQUIRED IN EACH OF THE NEXT 6 FISCAL YEARS:

(I) IN THE SANITARY DISTRICT; AND

(II) IN GEOGRAPHICAL AREAS OUTSIDE THE SANITARY DISTRICT THAT THE COMMISSION DETERMINES ARE APPROPRIATE TO INCLUDE IN THE PROGRAM;

(2) A STATEMENT OF THE OBJECTIVES AND THE RELATIONSHIP TO THE LONG–RANGE DEVELOPMENT PLANS DESIGNATED BY EACH COUNTY FOR EACH MAJOR PROJECT;

(3) A PROJECTED CONSTRUCTION SCHEDULE, AN ESTIMATE OF COST, AND A STATEMENT OF FUNDING SOURCES, INCLUDING CONTRIBUTIONS THAT MAY BE REQUIRED FOR THE CONSTRUCTION OF A MAJOR PROJECT;

(4) THE INFORMATION AND DOCUMENTATION FOR EACH MAJOR PROJECT THAT THE COMMISSION IS REQUIRED TO SUBMIT FOR THE 6–YEAR PERIOD COVERED BY THE PROGRAM UNDER TITLE 9, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE;

(5) THE ADDITION OF A NEW MAJOR PROJECT AND THE DELETION, MODIFICATION, OR RESCHEDULING OF A PREVIOUSLY APPROVED MAJOR PROJECT FOR WHICH A CONSTRUCTION CONTRACT HAS NOT BEEN AWARDED OR WILL NOT BE AWARDED DURING THE FISCAL YEAR IN WHICH THE PROGRAM IS BEING SUBMITTED;

(6) AN INDICATION, BY MAJOR PROJECT, OF THE MAINS FOR WHICH CONSTRUCTION CONTRIBUTIONS HAVE BEEN MADE OR COMMITTED AND THE AMOUNTS OF CONTRIBUTIONS AS OF THE DATE OF THE PREPARATION OF THE PROGRAM;

(7) ADDITIONAL INFORMATION FOR MAJOR PROJECTS FOR WHICH CONTRIBUTIONS ARE MADE OR COMMITTED BEFORE APPROVAL OR AMENDMENT OF THE PROGRAM; AND

(8) FOR EACH MAJOR PROJECT, AS APPLICABLE:

(I) THE ESTIMATED MAXIMUM DIAMETER, LENGTH, AND LOCATION OF WATER AND SEWER MAINS;

(II) THE DESIGN CAPACITY AND APPROXIMATE LOCATION OF PUMPING STATIONS;

(III) THE MAXIMUM POPULATION THAT COULD BE SERVED BY EACH SEWER CONSTRUCTION ITEM AS THE ITEM IS PROPOSED TO BE DESIGNED;

(IV) THE MAXIMUM AREA LIMITS THAT COULD BE SERVED BY GRAVITY SYSTEMS FOR EACH SEWER SYSTEM CONSTRUCTION ITEM AND THE AREA THAT EACH ITEM IS DESIGNED TO SERVE, WITH THE AREA LIMITS SET FORTH IN A GENERAL NARRATIVE STATEMENT AND ON A MAP;

(V) THE DEMONSTRATED NEED FOR EACH MAJOR PROJECT, INCLUDING A PRESENTATION OF APPROPRIATE FACTS JUSTIFYING THE PROPOSED CONSTRUCTION; AND

(VI) THE ESTIMATED COST OF EACH CONSTRUCTION ITEM IN THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–103.

In the introductory language of this section and throughout this subtitle, the reference to "[a]" Program is substituted for the former reference to "[t]he" Program to indicate that this section lists requirements for each 6–year capital improvements Program.

In the introductory language of item (1) of this section, the reference to the "next" 6 fiscal years is substituted for the former reference to the "following" 6 fiscal years for clarity.

In item (1)(ii) of this section, the reference to "geographical areas outside the sanitary district" is substituted for the former reference to "other areas" for clarity.

Also in item (1)(ii) of this section, the reference to major projects the Commission determines are appropriate to include in the "Program" is substituted for the former reference to major projects the Commission determines are appropriate to include in the "sanitary district" for accuracy.

In item (3) of this section, the reference to a "major" project is added for consistency within this subtitle.

In item (5) of this section, the references to a contract being "awarded" are substituted for the former references to a contract being "let" for clarity.

In items (6) and (8)(i) of this section, the references to "mains" are substituted for the former references to "lines" for accuracy.

In item (6) of this section, the reference to the "Program" is substituted for the former reference to the "proposed major program" for accuracy. The deletion of the word "proposed" is not intended to be a change in procedure.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Major project" § 23–301
"Program" § 23–301
"Sanitary district" § 16–101

23–304. SUBMISSION OF PROGRAM AND RECOMMENDATIONS.

(A) SUBMISSION OF PROGRAM BY COMMISSION.

BEFORE OCTOBER 1 OF EACH YEAR, THE COMMISSION SHALL PREPARE AND SUBMIT A PROGRAM TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY.

(B) SUBMISSION OF RECOMMENDATIONS — MONTGOMERY COUNTY.

IN MONTGOMERY COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT RECOMMENDATIONS AND SUGGESTED AMENDMENTS ABOUT THE PROGRAM TO THE COUNTY COUNCIL AS AN INTEGRAL PART OF THE COMPREHENSIVE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM REQUIRED BY THE MONTGOMERY COUNTY CHARTER.

(C) SUBMISSION OF RECOMMENDATIONS — PRINCE GEORGE'S COUNTY.

IN PRINCE GEORGE'S COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT THE PROGRAM, TOGETHER WITH COMMENTS, RECOMMENDATIONS, AND SUGGESTED AMENDMENTS, TO THE COUNTY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 7–104 and 7–105(a).

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (a) of this section requiring the Commission to prepare and submit a Program to the County Executive of Prince George's County is

inconsistent with current practice. The Commission submits the Program to both the County Executive and County Council of Prince George's County. The General Assembly may wish to conform this provision to current practice.

Defined terms: "Commission" § 16–101
"Program" § 23–301

23–305. PUBLIC HEARINGS.

(A) BEFORE FINAL ACTION.

BEFORE FINAL ACTION ON A PROGRAM IS TAKEN, PUBLIC HEARINGS SHALL BE HELD ON THE PROGRAM.

(B) IN CONJUNCTION WITH CAPITAL BUDGET HEARINGS.

THE PUBLIC HEARINGS MAY BE CONDUCTED IN CONJUNCTION WITH PUBLIC HEARINGS ON THE 6–YEAR PROGRAMS OR CAPITAL BUDGETS OF MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, OR OTHER AGENCIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(b).

Defined term: "Program" § 23–301

23–306. REVIEW; WRITTEN COMMENT BY COMMISSION.

(A) APPROVAL, DISAPPROVAL, OR MODIFICATION BY COUNTY COUNCILS.

THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL APPROVE, DISAPPROVE, OR MODIFY A PROGRAM.

(B) ADVICE AND RECOMMENDATIONS OF MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL SEEK THE ADVICE AND RECOMMENDATION OF THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION IN REVIEWING A PROGRAM.

(C) DESIGNATION OF WATER OR SEWER MAIN.

THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY MAY DESIGNATE A WATER OR SEWER MAIN FOR CONTROLLED OR LIMITED ACCESS FOR SERVICE TO DESIGNATED AREAS WITHIN THE RESPECTIVE COUNTY.

(D) WRITTEN COMMENT OF COMMISSION.

(1) A MODIFICATION TO A PROGRAM BY THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY IS NOT FINAL UNTIL THE MODIFICATION IS SUBMITTED TO THE COMMISSION FOR WRITTEN COMMENT.

(2) THE COMMISSION HAS AT LEAST 30 DAYS TO COMMENT ON THE MODIFICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(d).

In subsections (a), (b), and (c) of this section, the references to "[t]he county councils of Montgomery County and Prince George's County" are substituted for the former references to "[e]ach County Council" for clarity.

In subsection (d) of this section, the former references to an "amendment" or modification are deleted as included in the reference to a "modification".

In subsection (d)(1) of this section, the reference to a modification "to a Program by the county council of Montgomery County or Prince George's County" is added for clarity.

Defined terms: "Commission" § 16–101
"Program" § 23–301

23–307. APPROVAL OR DISAPPROVAL OF CERTAIN MAJOR PROJECTS.

(A) DISAPPROVAL BY COUNTY COUNCIL.

IF THE STATEMENT OF OBJECTIVES INCLUDED IN THE PROGRAM AS PROVIDED IN § 23–303 OF THIS SUBTITLE DECLARES THAT A MAJOR PROJECT TO BE CONSTRUCTED IN WHOLE OR IN PART IN ONE COUNTY IS DESIGNED TO PROVIDE SERVICES IN WHOLE OR IN SUBSTANTIAL PART TO THE OTHER COUNTY, THE MAJOR PROJECT MAY BE DISAPPROVED WITH THE CONCURRENCE OF THE COUNTY COUNCIL OF THE COUNTY THAT IS TO RECEIVE THE SERVICES.

(B) MODIFICATIONS AND CHANGES.

(1) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COUNTY COUNCIL OF THE COUNTY IN WHICH THE MAJOR PROJECT IS LOCATED MAY DIRECT MODIFICATIONS IN LOCATION OR CHANGE THE PROPOSED YEAR OF CONSTRUCTION IF THE MODIFICATION OR CHANGE WILL NOT PREVENT THE SERVICES BEING AVAILABLE WHEN NEEDED.

(2) THE COUNTY COUNCIL'S AUTHORITY TO DIRECT MODIFICATIONS IN THE LOCATION OF A MAJOR PROJECT DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY BE EXERCISED TO EFFECT REASONABLE CHANGES IN THE LOCATION OF THE MAJOR PROJECT BY THE COUNTY COUNCIL OF THE COUNTY IN WHICH THE MAJOR PROJECT IS LOCATED WHEN THE MAJOR PROJECT IS FIRST APPROVED AS A PART OF A PROGRAM.

(C) FURTHER MODIFICATIONS.

AFTER APPROVAL OF A MAJOR PROJECT IN A PROGRAM, THE COUNTY COUNCIL OF THE COUNTY IN WHICH THE MAJOR PROJECT IS LOCATED MAY MAKE FURTHER MODIFICATIONS ONLY IF:

(1) THE MODIFICATIONS DO NOT RESULT IN SUBSTANTIAL NET ADDITIONAL COSTS OR EXPENSES TO THE COMMISSION; OR

(2) THE COUNTY DIRECTING THE MODIFICATIONS REIMBURSES THE COMMISSION FOR SUBSTANTIAL NET ADDITIONAL COSTS OR EXPENSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(e).

In subsection (a) of this section, the reference to the "statement of objectives included in the Program as provided in § 23–303 of this subtitle" is substituted for the former reference to the "WSSC's submitted statement of objectives with respect to a major project to be constructed in whole or in part in one county" for brevity and clarity.

Also in subsection (a) of this section, the former reference to "designed" services is deleted as surplusage.

In subsection (b)(2) of this section, the reference to the location "of a major project described in subsection (a) of this section" is added for clarity.

Former Art. 29, § 7–105(e)(2)(ii), which provided that certain stormwater management programs in the Commission Capital Improvements Program are not subject to the approval by the county not served by the Program, is deleted as obsolete because the Commission no longer performs stormwater management functions.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–308. SOURCES OF FUNDING.

IN APPROVING OR MODIFYING A PROGRAM, IF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY APPROVES A MAJOR PROJECT FOR WHICH MONEY FROM THE ANTICIPATED SOURCES OF FUNDING SHOWN BY THE COMMISSION UNDER § 23–303 OF THIS SUBTITLE IS INSUFFICIENT, THE COMMISSION IS NOT OBLIGATED TO UNDERTAKE THE MAJOR PROJECT UNLESS THE COUNTY APPROVING THE MAJOR PROJECT PROVIDES ADDITIONAL SOURCES TO FUND THE MAJOR PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(f)(1).

The reference to the anticipated sources of funding shown by the Commission "under § 23–303 of this subtitle" is added for clarity.

The reference to "modifying" is substituted for the former reference to "amending" for consistency within this subtitle.

The reference to "Montgomery County or Prince George's County" is substituted for the former reference to "either county" for clarity.

The reference to the county "approving the major project" is substituted for the former reference to the "respective" county for clarity.

The former reference to additional sources "of capital" is deleted as surplusage.

Defined terms: "Commission" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–309. LIABILITY RESULTING FROM CHANGE.

(A) RESPONSIBILITY FOR LIABILITY.

IF THE COMMISSION BECOMES LEGALLY LIABLE TO A THIRD PARTY AS A DIRECT RESULT OF A MODIFICATION OF A PREVIOUS APPROVAL OF A MAJOR PROJECT BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, THE COUNTY DIRECTING THE CHANGE IS RESPONSIBLE FOR THE LIABILITY THAT RESULTS FROM THE CHANGE.

(B) SETTLEMENT OR RELEASE OF CLAIMS.

THE COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY OR THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY SHALL SETTLE OR RELEASE A CLAIM FOR LIABILITY UNDER SUBSECTION (A) OF THIS SECTION BY:

(1) NEGOTIATING WITH THE CLAIMANT; OR

(2) PAYING THE FINAL JUDGMENT OF A COURT AWARD.

(C) INTERVENTION IN COURT PROCEEDINGS.

IN LITIGATION RESULTING FROM A CLAIM FOR LIABILITY UNDER SUBSECTION (A) OF THIS SECTION, THE COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY MAY:

(1) INTERVENE IN A COURT PROCEEDING BEFORE JUDGMENT; AND

(2) INTERPOSE DEFENSES AVAILABLE TO THE COUNTY OR THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(f)(2) through (4).

In the introductory language of subsection (b) of this section, the reference to a claim for liability "under subsection (a) of this section" is added for clarity.

In the introductory language of subsection (c) of this section, the phrase "[i]n litigation resulting from a claim for liability under subsection (a) of this section" is added for clarity.

In subsection (c)(2) of this section, the former reference to "any and all" defenses is deleted as surplusage.

Defined terms: "Commission" § 16–101
"Major project" § 23–301

23–310. REIMBURSEMENT; RIGHT, TITLE, AND INTEREST.

(A) REIMBURSEMENT.

IF THE COMMISSION HAS MADE EXPENDITURES TO A THIRD PARTY FOR SERVICES OR PROPERTY AS PART OF AN APPROVED MAJOR PROJECT THAT IS SUBSEQUENTLY MODIFIED OR REMOVED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY SO THAT THE SERVICES OR PROPERTY ARE NO LONGER NECESSARY, THE COUNTY DIRECTING THE MODIFICATION OR REMOVAL SHALL REIMBURSE THE COMMISSION FOR THE AMOUNT OF THE EXPENDITURES.

(B) COMMISSION TO GIVE RIGHT, TITLE, AND INTEREST.

THE COMMISSION SHALL GIVE MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY ANY RIGHT, TITLE, AND INTEREST IN AN ITEM FOR WHICH REIMBURSEMENT HAS BEEN MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(f)(5) and (6).

In subsection (a) of this section, the reference to "Montgomery County and Prince George's County" is substituted for the former reference to "either county" for clarity.

Defined terms: "Commission" § 16–101
"Major project" § 23–301

23–311. NOTIFICATION OF FINAL ACTION.

WITHIN 5 DAYS AFTER FINAL ACTION ON A PROGRAM, THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL SUBMIT TO THE COMMISSION NOTIFICATION OF FINAL ACTION, INCLUDING:

(1) THE DETAILS OF CHANGES OR MODIFICATIONS; AND

(2) EVIDENCE OF COMPLIANCE WITH SPECIFIED REQUIREMENTS OF THIS SUBTITLE THAT MAY BE APPLICABLE TO THE FINAL ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(g).

In the introductory language of this section, the reference to "the county councils of Montgomery County and Prince George's County" is substituted for the former reference to "each County Council" for clarity.

In item (2) of this section, the reference to "evidence" of compliance is substituted for the former reference to "[i]ndications" for clarity.

Also in item (2) of this section, the reference to specified "requirements" is substituted for the former reference to specified "conditions" for clarity.

Defined terms: "Commission" § 16–101
"Program" § 23–301

23–312. ADOPTION OF PROGRAM; AMENDMENTS TO PROGRAM.

(A) ADOPTION OF PROGRAM.

THE COMMISSION SHALL:

(1) REVIEW EACH PROGRAM;

(2) REVISE EACH PROGRAM AS REQUIRED BY A FINAL ACTION OF THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY; AND

(3) ADOPT EACH PROGRAM BEFORE THE BEGINNING OF THE FIRST FISCAL YEAR OF THAT PROGRAM.

(B) CAPITAL BUDGET TO INCLUDE APPROVED MAJOR PROJECTS.

THE COMMISSION'S CAPITAL BUDGET FOR THE FIRST FISCAL YEAR OF EACH PROGRAM APPROVED BY THE COMMISSION SHALL PROVIDE MONEY TO BEGIN THE APPROVED MAJOR PROJECTS FOR THE FIRST YEAR OF THAT PROGRAM.

(C) AMENDMENTS TO PROGRAM.

(1) A MAJOR PROJECT MAY NOT BEGIN IF THE MAJOR PROJECT IS NOT IN CONFORMITY WITH THE PART OF THE PROGRAM APPLICABLE TO THAT FISCAL YEAR UNLESS THE MAJOR PROJECT IS INCLUDED IN THE PROGRAM BY AN AMENDMENT TO THE PROGRAM.

(2) THE AMENDMENT TO THE PROGRAM:

(I) MAY BE PROPOSED BY THE COMMISSION OR INITIATED BY THE COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY;

(II) ON REASONABLE ADVANCE NOTICE TO THE PUBLIC, SHALL BE SUBJECT TO A PUBLIC HEARING HELD BY THE COUNTY COUNCIL OF THE COUNTY THAT INITIATES THE AMENDMENT OR BY BOTH COUNTY COUNCILS IF THE AMENDMENT AFFECTS BOTH COUNTIES; AND

(III) REQUIRES FINAL ACTION BY THE COUNTY COUNCIL OF EACH AFFECTED COUNTY.

(3) THE COUNTY COUNCIL OF THE AFFECTED COUNTY SHALL NOTIFY THE COMMISSION OF THE FINAL ACTION.

(4) THE COMMISSION SHALL ADOPT AN AMENDMENT APPROVED BY FINAL ACTION BY THE COUNTY COUNCIL OF EACH AFFECTED COUNTY.

(D) MATERIAL CHANGES.

(1) IN THIS SUBSECTION, "MATERIAL CHANGE" DOES NOT INCLUDE THE FOLLOWING ITEMS IF SERVICE FROM A MAJOR PROJECT AS CONSTRUCTED DOES NOT EXTEND BEYOND THE AREA APPROVED FOR CONSTRUCTION OF A SEWER PROJECT:

(I) A NORMAL DEVIATION FROM THE MOST RECENT ESTIMATED CONSTRUCTION COSTS;

(II) A CHANGE IN LOCATION CAUSED BY RIGHT–OF–WAY ACQUISITION PROBLEMS;

(III) A CONDITION FOUND IN THE FIELD WHEN ACTUAL CONSTRUCTION PLANS ARE PREPARED; OR

(IV) A MODIFICATION OF AN ESTIMATED SIZE OR LENGTH OF A CONSTRUCTION ITEM.

(2) A MAJOR PROJECT MAY NOT BE CONSTRUCTED UNTIL AN ADOPTED PROGRAM IS AMENDED AS TO ANY MATERIAL CHANGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–106(a) through (d).

In subsection (a)(2) of this section, the reference to the county councils "of Montgomery County and Prince George's County" is added for clarity.

In subsection (b) of this section, the reference to the capital budget providing "money to begin" the approved major projects is substituted for the former reference to the capital budget providing "for beginning" the approved major projects for clarity.

In subsection (c)(1) of this section, the reference to a "major project" is substituted for the former reference to a "WSSC capital improvements project" for consistency within this subtitle.

In subsection (c)(3) of this section, the former reference to the final action "provided in paragraph (2) of this subsection" is deleted as unnecessary.

In subsection (c)(4) of this section, the reference to an amendment "approved by final action by the county council of each affected county" is substituted for the former reference to an amendment "as specified for the ... Program" for clarity.

In subsection (d) of this section, the references to a "major" project are added for consistency within this subtitle.

In subsection (d)(2) of this section, the former reference to a "finally" adopted Program is deleted as surplusage.

Defined terms: "Commission" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–313. REPORTS.

(A) FINAL REPORT ON COMPLETED MAJOR PROJECTS.

THE COMMISSION SHALL SUBMIT A FINAL REPORT, INCLUDING CONSTRUCTION COST FIGURES, ON COMPLETED MAJOR PROJECTS TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(B) STATUS REPORT ON UNCOMPLETED MAJOR PROJECTS.

(1) WHEN THE COMMISSION SUBMITS A PROGRAM UNDER § 23–304 OF THIS SUBTITLE, THE COMMISSION SHALL INCLUDE A STATUS REPORT OF ALL APPROVED MAJOR PROJECTS THAT HAVE NOT BEEN COMPLETED AS OF THE DATE THAT THE PROGRAM IS SUBMITTED.

(2) THE REPORT SHALL:

(I) IDENTIFY THE MAJOR PROJECT;

(II) SPECIFY THE DATES OF APPROVAL OF THE MAJOR PROJECT;

(III) INDICATE THE CURRENT STATUS OF THE MAJOR PROJECT, INCLUDING AN ESTIMATE OF THE DATE OF COMPLETION OF CONSTRUCTION;

(IV) INDICATE IF THE MAJOR PROJECT IS THE SUBJECT OF A MATERIAL CHANGE AND ANY AMENDMENT THAT IS REQUIRED UNDER § 23–312 OF THIS SUBTITLE; AND

(V) FOR AN APPROVED MAJOR PROJECT IN MONTGOMERY COUNTY, INDICATE A CHANGE IN THE LAST ESTIMATED CONSTRUCTION COSTS AND A MODIFICATION IN LOCATION, SIZE, AND LENGTH OF A CONSTRUCTION ITEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–106(e).

In this section, the references to a "major" project are added for consistency within this subtitle.

In subsection (b)(1) of this section, the reference to a Program submitted "under § 23–304 of this subtitle" is added for clarity.

Also in subsection (b)(1) of this section, the former reference to the Program being submitted "to the Montgomery County Executive and County Council and the Prince George's County Executive and County Council" is deleted as unnecessary.

In subsection (b)(2)(ii) of this section, the reference to the dates of approval "of the major project" is added for clarity.

Defined terms: "Commission" § 16–101
"Major project" § 23–301

"Program" § 23–301

23–314. EXTENSIONS.

(A) APPROVAL REQUIRED.

UNLESS THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY HAVE APPROVED THE EXTENSION, THE COMMISSION:

(1) MAY NOT EXTEND OR APPROVE CONSTRUCTION OF A SEWER OF ANY SIZE OR CAPACITY TO SERVE PROPERTY IN EITHER COUNTY BEYOND THE AREA THAT HAS BEEN APPROVED FOR SERVICE IN A PROGRAM AND THE 10–YEAR WATER AND SEWER PLAN REQUIRED UNDER § 9–503 OF THE ENVIRONMENT ARTICLE; OR

(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MAY NOT EXTEND A WATER LINE OF ANY SIZE OR CAPACITY BEYOND THE APPROVED TERMINAL POINT OF A MAJOR PROJECT.

(B) ALLOWABLE EXTENSIONS BEYOND TERMINAL POINT.

IF THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY HAVE APPROVED THE EXTENSION, THE COMMISSION MAY EXTEND A WATER LINE BEYOND THE TERMINAL POINT IF:

(1) THE EXTENSION OF THE WATER LINE WOULD PROVIDE WATER SERVICE TO A DEVELOPMENT THAT IS WITHIN AN APPROVED SEWER PROJECT AREA; OR

(2) THE AFFECTED COUNTY, THROUGH AN APPROPRIATE COUNTY UNIT, HAS APPROVED THE INSTALLATION OF INDIVIDUAL SEWAGE DISPOSAL FACILITIES.

(C) SUBMISSION FOR APPROVAL AND NOTIFICATION BY COUNTY.

THE COMMISSION MAY CONSTRUCT AN EXTENSION THAT REQUIRES APPROVAL UNDER THIS SECTION IF:

(1) THE PROPOSED EXTENSION HAS BEEN SUBMITTED FOR APPROVAL; AND

(2) WITHIN 30 DAYS AFTER RECEIPT OF THE PROPOSED EXTENSION, THE AFFECTED COUNTY HAS NOT NOTIFIED THE COMMISSION THAT THE EXTENSION SHOULD NOT BE MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–106(f).

In the introductory language of subsection (a) of this section and the introductory language to subsection (b) of this section, the references to the county councils "of Montgomery County and Prince George's County" are added for clarity.

In subsection (a)(1) of this section, the reference to the 10–year water and sewer plan "required under § 9–503 of the Environment Article" is added for clarity.

In subsection (a)(2) of this section, the reference to a "major project" is substituted for the former reference to a "WSSC capital improvements project" for consistency within this subtitle.

In the introductory language to subsection (b) of this section, the former reference to "a storm drainage system" is deleted as obsolete because the Commission no longer performs stormwater management functions.

In subsections (b)(2) and (c)(2) of this section, the references to the "affected" county are added for clarity.

As to the substitution of the reference to a "unit" for the former reference to an "agency" in subsection (b)(2) of this section, *see* General Revisor's Note to division.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (c) of this section that authorizes the Commission to construct an extension if, within 30 days after receipt of the extension, the affected county has not notified the Commission that the extension should not be made may conflict with subsection (a) of this section that prohibits the Commission from constructing a certain extension without the approval of the county councils of Montgomery County and Prince George's County. The General Assembly may wish to address this apparent conflict.

Defined terms: "Commission" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–315. PRINCE GEORGE'S COUNTY — SANITARY SEWER SERVICE OUTSIDE APPROVED AREAS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(B) SANITARY SEWER SERVICE IN CERTAIN DRAINAGE AREAS.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE COMMISSION MAY PROVIDE SANITARY SEWER SERVICE IN DRAINAGE AREAS THAT ARE TRIBUTARY TO COUNTY–APPROVED TRUNK SEWERS AND COUNTY–APPROVED PUMPING STATIONS OUTSIDE OF THE COUNTY–APPROVED SERVICE AREAS.

(C) DEVELOPMENT IN ACCORDANCE WITH CERTAIN MASTER PLAN AND APPROVAL.

PROPERTY TO WHICH SANITARY SEWER SERVICE IS PROVIDED UNDER THIS SECTION SHALL BE DEVELOPED IN ACCORDANCE WITH A MASTER PLAN ADOPTED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND APPROVED BY THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY AFTER SUBMISSION TO THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY FOR REVIEW.

(D) SERVICE TO EXISTING STRUCTURES.

NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, THE COMMISSION MAY PROVIDE SANITARY SEWER SERVICE TO EXISTING STRUCTURES LOCATED IN THE DRAINAGE AREAS DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–106(g).

In subsection (d) of this section, the reference to "the drainage areas described in subsection (b) of this section" is substituted for the former reference to "those drainage areas in Prince George's County" for clarity.

Defined term: "Commission" § 16–101

23–316. COOPERATIVE EFFORT.

(A) LEGISLATIVE INTENT.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COMMISSION, THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION, AND THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY COOPERATE TO THE FULLEST EXTENT IN SEEKING TO ATTAIN MAXIMUM HARMONY OF WATER AND SANITARY SEWER CONSTRUCTION PROGRAMS WITH THE OTHER ELEMENTS OF ORDERLY GROWTH IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(B) EXCHANGE OF INFORMATION.

THE COMMISSION, THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION, AND THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY ARE ENCOURAGED TO:

(1) MEET AND DISCUSS EACH PROGRAM; AND

(2) EXCHANGE INFORMATION AND DETAILS NECESSARY TO ACHIEVE THE COORDINATION CONTEMPLATED BY THIS SECTION FOR EACH PROGRAM.

(C) ADDITIONAL INFORMATION PROVIDED BY COMMISSION.

THE COMMISSION SHALL GIVE ADDITIONAL INFORMATION AND DETAILS THAT THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY REQUEST IN CONNECTION WITH THE CONSIDERATION OF A PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–107.

Defined terms: "Commission" § 16–101
"Program" § 23–301

TITLE 24. PLUMBING, WATERWORKS, AND SEWER CONSTRUCTION.

SUBTITLE 1. CONSTRUCTION PROJECTS.

24–101. CONSTRUCTION IN SANITARY DISTRICT OR AREAS OF PRINCE GEORGE'S COUNTY NOT IN SANITARY DISTRICT.

(A) PERMIT REQUIRED.

(1) A PERSON SHALL OBTAIN A PERMIT FROM THE COMMISSION BEFORE THE PERSON MAY ENGAGE IN PLUMBING, WATERWORKS, OR SEWER CONSTRUCTION IN A BUILDING OR ON PRIVATE PROPERTY IN THE SANITARY DISTRICT OR AREAS OF PRINCE GEORGE'S COUNTY THAT ARE NOT IN THE SANITARY DISTRICT.

(2) THE PERSON SHALL PAY TO THE COMMISSION A REASONABLE PERMIT FEE SET BY THE COMMISSION.

(B) CONSTRUCTION STANDARDS.

WORK PERFORMED UNDER A PERMIT AUTHORIZED BY THIS SECTION SHALL:

(1) CONFORM TO THE COMMISSION'S REGULATIONS; AND

(2) BE SUBJECT TO ANY INSPECTION THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–101(a).

In subsection (a)(1) of this section, the reference to a person "engag[ing] in" plumbing, waterworks, or sewer construction is substituted for the former reference to a person "do[ing]" plumbing, waterworks, or sewer construction to conform to the terminology used in this and other revised articles of the Code.

Also in subsection (a)(1) of this section, the reference to property in "areas of Prince George's County that are not in the sanitary district" is substituted for the former reference to property "elsewhere in Prince George's County" for clarity.

In subsection (a)(2) of this section, the reference to paying a fee "to the Commission" is added for clarity.

In the introductory language of subsection (b) of this section, the reference to the work "performed under a permit authorized by this section" is added for clarity.

In subsection (b)(1) of this section and throughout this title, the former reference to "rules" is deleted in light of the use of the word "regulations". *See* General Revisor's Note to division.

Also in subsection (b)(1) of this section, the former reference to the "requirements adopted by the WSSC" is deleted as implicit in the reference to the "Commission's regulations".

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

24–102. PRIVATE OR SEMIPUBLIC WATER SUPPLY OR SEWER SYSTEM IN SANITARY DISTRICT OR AREAS OF PRINCE GEORGE'S COUNTY NOT IN SANITARY DISTRICT.

(A) PERMIT REQUIRED.

(1) A PERSON SHALL OBTAIN A PERMIT FROM THE COMMISSION BEFORE THE PERSON MAY CONSTRUCT A PRIVATE OR SEMIPUBLIC WATER SUPPLY OR SEWER SYSTEM FOR THE USE OF AT LEAST TWO BUILDINGS OR PREMISES IN THE SANITARY DISTRICT OR AREAS OF PRINCE GEORGE'S COUNTY THAT ARE NOT IN THE SANITARY DISTRICT.

(2) THE PERSON SHALL PAY TO THE COMMISSION A REASONABLE PERMIT FEE.

(B) CONSTRUCTION STANDARDS.

(1) THE PRIVATE OR SEMIPUBLIC WATER SUPPLY OR SEWER SYSTEM SHALL BE INSTALLED, MAINTAINED, AND OPERATED UNDER REGULATIONS THAT THE COMMISSION ADOPTS.

(2) THE OWNER OR OPERATOR OF THE SYSTEM SHALL PAY TO THE COMMISSION A REASONABLE SUPERVISION AND INSPECTION FEE THAT THE COMMISSION SETS.

(C) FAILURE OR REFUSAL TO COMPLY WITH COMMISSION REQUIREMENTS.

IF AN OWNER OR OPERATOR OF A PRIVATE OR SEMIPUBLIC WATER SUPPLY OR SEWER SYSTEM FAILS OR REFUSES TO CORRECT, MAINTAIN, OR OPERATE THE SYSTEM IN COMPLIANCE WITH THE REQUIREMENTS OF THE COMMISSION, THE COMMISSION MAY:

(1) MAKE THE CORRECTION OR TAKE OVER THE OPERATION OF THE SYSTEM FOR THE PERIOD NECESSARY; AND

(2) COLLECT THE COSTS FOR THE CORRECTION OR OPERATION FROM THE OWNER OR OPERATOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–101(c) and (d).

In subsection (a)(1) of this section, the reference to a private or semipublic water supply or sewer "system" is substituted for the former reference to an "installation" for consistency within this subtitle.

Also in subsection (a)(1) of this section, the reference to property in "areas of Prince George's County that are not in the sanitary district" is substituted for the former reference to property "elsewhere in Prince George's County" for clarity.

Also in subsection (a)(1) of this section, the former reference to a system "intended" for the use of at least two buildings or premises is deleted as surplusage.

In subsection (a)(2) of this section, the reference to paying a permit fee "to the Commission" is added for clarity.

In subsection (b)(1) of this section, the reference to a "private or semipublic water supply or sewer system" is substituted for the former reference to a "plant" to conform to the terminology used throughout this section.

In subsection (b)(2) of this section, the requirement that the owner or operator of a system "pay to the Commission a reasonable supervision and inspection fee that the Commission sets" is substituted for the former reference to authority of the Commission to "fix and collect … a reasonable fee for supervision and inspection of the systems" to conform to the terminology used throughout this subtitle.

In subsection (c) of this section, the reference to a "private or semipublic water supply or sewer" system is added for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

24–103. HOOKUP TO COMMISSION WATER OR SEWER SERVICE LINE.

(A) PERMIT REQUIRED.

(1) A PERSON SHALL OBTAIN A PERMIT FROM THE COMMISSION BEFORE THE PERSON MAY MAKE A HOOKUP WITH A WATER OR SEWER SERVICE LINE THAT THE COMMISSION CONSTRUCTS OR MAINTAINS.

(2) A HOOKUP SHALL BE MADE UNDER THE CONDITIONS THAT THE COMMISSION AUTHORIZES.

(B) PREVENTION OF WASTE OF WATER.

TO PREVENT OR ELIMINATE LEAKAGE, LOSS OF WATER, THE UNNECESSARY USE OF SEWERS, OR OTHER WASTE OF WATER, THE COMMISSION MAY:

(1) AT A REASONABLE TIME, ENTER A BUILDING OR PREMISES THAT HAS A CONNECTION WITH THE WATER SUPPLY OR SEWER SYSTEM UNDER THE JURISDICTION OF THE COMMISSION; AND

(2) ISSUE AN ORDER REQUIRING A CHANGE IN THE PLUMBING, WATERWORKS, OR WATER OR SEWER CONNECTION THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–101(b).

In subsection (a)(1) of this section, the requirement that a person "obtain a permit from the Commission before the person may make a hookup" is substituted for the former reference to a hookup that "may not be made … without a permit" to conform to the terminology used throughout this subtitle.

Defined terms: "Commission" § 16–101
"Hookup" § 16–101
"Person" § 16–101

24–104. WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO:

(1) IN MONTGOMERY COUNTY:

(I) AN APARTMENT HOUSE WITH FEWER THAN FIVE DWELLING UNITS; OR

(II) A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM CONSTRUCTED:

1. TO SERVE ONLY A SINGLE BUILDING OR GROUP OF BUILDINGS SERVING AS A SINGLE FARM UNIT OR AS A SINGLE COMMERCIAL OR INDUSTRIAL ESTABLISHMENT;

2. BY THE COUNTY, AN INSTRUMENTALITY OF THE COUNTY, OR THE CITY OF ROCKVILLE; OR

3. BY A MUNICIPALITY, IF THE MUNICIPALITY OWNED AND OPERATED THE SYSTEM ON JUNE 1, 1965; AND

(2) IN PRINCE GEORGE'S COUNTY, A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM:

(I) CONSTRUCTED TO SERVE ONLY A SINGLE FAMILY RESIDENCE OR A SINGLE BUILDING; OR

(II) OWNED AND OPERATED BY A MUNICIPALITY ON JANUARY 1, 1959.

(B) PERMIT REQUIRED.

(1) THIS SUBSECTION DOES NOT APPLY TO CALVERT MANOR.

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON SHALL OBTAIN A PERMIT FROM THE COMMISSION BEFORE THE PERSON MAY CONSTRUCT, ALTER, EXTEND, OR OPERATE A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM OUTSIDE THE SANITARY DISTRICT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(C) REQUIREMENTS FOR ISSUANCE OF PERMIT.

(1) THE COMMISSION MAY NOT ISSUE A PERMIT UNDER SUBSECTION (B) OF THIS SECTION UNTIL THE COMMISSION APPROVES:

(I) COMPLETE PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION, ALTERATION, EXTENSION, OR OPERATION OF THE WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM; AND

(II) ANY OTHER INFORMATION THAT THE COMMISSION REQUIRES.

(2) THE COMMISSION SHALL:

(I) DURING CONSTRUCTION, INSPECT ALL PROJECTS FOR WHICH THE PERMIT WAS ISSUED; AND

(II) REQUIRE THE CONSTRUCTION TO CONFORM TO THE APPROVED PLANS AND SPECIFICATIONS.

(3) THE COMMISSION MAY CHARGE A REASONABLE PERMIT FEE NOT EXCEEDING 6% OF THE ESTIMATED CONSTRUCTION COST FOR A PROJECT DESCRIBED IN THIS SECTION.

(D) MATERIAL CHANGE IN PLANS AND SPECIFICATIONS.

(1) A PERSON HOLDING A PERMIT UNDER SUBSECTION (B) OF THIS SECTION SHALL SUBMIT TO THE COMMISSION:

(I) ANY MATERIAL CHANGE IN THE PLANS AND SPECIFICATIONS; AND

(II) A STATEMENT OF THE REASONS FOR THE CHANGE.

(2) THE COMMISSION SHALL APPROVE AND ISSUE A PERMIT FOR A MATERIAL CHANGE BEFORE THE PERSON MAY INCLUDE THE CHANGE IN THE ACTUAL CONSTRUCTION.

(E) COMMISSION REGULATION OF INSTALLATION, MAINTENANCE, AND OPERATION OF SYSTEM.

A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM, INCLUDING OXIDATION PONDS AND SEWAGE LAGOONS, FOR WHICH A PERMIT IS REQUIRED UNDER THIS SECTION SHALL BE INSTALLED, MAINTAINED, AND OPERATED UNDER REGULATIONS THAT THE COMMISSION ADOPTS.

(F) DUTIES OF COMMISSION.

THE COMMISSION SHALL:

(1) INSPECT THE OPERATIONS OF ANY WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM AUTHORIZED UNDER THIS SECTION;

(2) REQUIRE THE OWNERS OR OPERATORS OF THE SYSTEM TO MAINTAIN AND OPERATE THE SYSTEM IN COMPLIANCE WITH THE COMMISSION'S REASONABLE REQUIREMENTS AND WITH REGARD TO PUBLIC HEALTH, SAFETY, AND COMFORT;

(3) SET AND COLLECT FROM THE OWNERS OR OPERATORS OF THE SYSTEM A REASONABLE FEE FOR THE SUPERVISION AND INSPECTION OF THE SYSTEM; AND

(4) IF THE OWNER OR OPERATOR FAILS OR REFUSES TO CORRECT, MAINTAIN, OR OPERATE THE SYSTEM IN COMPLIANCE WITH THE COMMISSION'S REQUIREMENTS:

(I) MAKE THE CORRECTION OR TAKE OVER THE OPERATION OF THE SYSTEM FOR ANY PERIOD NECESSARY; AND

(II) COLLECT THE COSTS FOR THE CORRECTION OR OPERATION FROM THE OWNER OR OPERATOR.

(G) ANALYSES PERFORMED BY MUNICIPALITY.

THE COMMISSION:

(1) SHALL ADJUST ITS INSPECTION FEES ACCORDINGLY IF A MUNICIPALITY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY:

(I) OWNS OR OPERATES A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM;

(II) PERFORMS OR HAS PERFORMED BACTERIOLOGICAL AND CHEMICAL ANALYSES ON THE SYSTEM BY QUALIFIED PERSONNEL, AS APPROVED BY THE DEPARTMENT OF THE ENVIRONMENT AND THE COMMISSION; AND

(III) FILES WITH THE COMMISSION A MONTHLY REPORT OF THE ANALYSES SHOWING THAT SATISFACTORY OPERATING CONDITIONS EXIST IN THE SYSTEM; AND

(2) IS NOT REQUIRED TO DUPLICATE AN ANALYSIS.

(H) WATER OR SEWAGE TREATMENT FACILITY — COMMISSION INSPECTION NOT REQUIRED IF SUBJECT TO DEPARTMENT OF THE ENVIRONMENT INSPECTION.

(1) IF A WATER OR SEWAGE TREATMENT FACILITY IS CONSTRUCTED UNDER A COMMISSION PERMIT AND OPERATES SUBJECT TO INSPECTION BY THE DEPARTMENT OF THE ENVIRONMENT, THE COMMISSION IS NOT REQUIRED TO DUPLICATE THE OPERATIONAL INSPECTION FUNCTIONS THAT THE DEPARTMENT OF THE ENVIRONMENT CONDUCTS.

(2) THE COMMISSION MAY ELIMINATE OR REDUCE ITS OPERATION AND INSPECTION FEE IN PROPORTION TO THE ELIMINATED INSPECTION ACTIVITIES.

(3) ALL OTHER REQUIREMENTS OF THE COMMISSION PERMIT FOR THE FACILITY SHALL BE APPLICABLE.

(I) PLANS TO BE FILED AFTER PROJECT IS COMPLETED.

(1) WHEN A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM AUTHORIZED UNDER THIS SECTION IS COMPLETED, THE PERSON CONSTRUCTING THE SYSTEM SHALL FILE WITH THE COMMISSION AS A PERMANENT RECORD A CERTIFIED COPY OF THE PLANS IN FULL, SHOWING THE WORK AS BUILT.

(2) THE RECORD SHALL INCLUDE THE INFORMATION AND BE IN THE FORM THAT THE COMMISSION REQUIRES.

(J) COMPLIANCE NOT EXCUSED BY CONVICTION.

A PERSON FOUND TO HAVE VIOLATED THIS SECTION IS NOT RELIEVED FROM THE REQUIREMENT TO SECURE AND PAY FOR A PERMIT AND COMPLY WITH ALL OTHER APPLICABLE PROVISIONS OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–102.

In subsection (b)(2) of this section, the former reference to a "written" permit is deleted as implicit in the existence of a permit.

Also in subsection (b)(2) of this section, the former reference to "any area" outside the sanitary district is deleted as surplusage.

In subsection (c) of this section, the former reference to the Commission approving plans and issuing permits for the construction, alteration, or extension of a water supply system and a sewage collection and disposal system "in the area described in subsection (a) of this section" is deleted as erroneous due to an incorrect cross–reference that occurred in Chapter 767, Acts of 1982.

In the introductory language of subsection (c)(1) of this section, the reference to a permit "under subsection (b) of this section" is substituted for the former reference to "this" permit for clarity.

Also in the introductory language of subsection (c)(1) of this section, the former reference to information being "submitted to" the Commission is deleted as unnecessary in light of the requirement that the Commission "approves" the information.

In subsection (c)(1)(i) of this section, the reference to the "operation" of the water supply or sewage collection and disposal system is added for consistency with subsection (b)(2) of this section.

Also in subsection (c)(1)(i) of this section, the reference to "construction" is substituted for the former reference to "installation" to conform with terminology used throughout this section.

Also in subsection (c)(1)(i) of this section, the former reference to the Commission approving plans "in accordance with its requirements" is deleted as implicit in the requirement in subsection (e) of this section that a water supply or sewage collection and disposal system for which a permit is required under this section be installed, maintained, and operated under Commission regulations.

In subsection (c)(2) of this section, the former reference to "[a]ll construction shall take place in accordance with the approved plans and shall be subject to the inspection of the WSSC" is deleted as implicit in the reference to the Commission "inspect[ing] all projects for which the permit was issued" and "requir[ing] the construction to conform to the approved plans and specifications".

In subsection (c)(2)(i) of this section, the reference to projects "for which the permit was issued" is substituted for the former reference to "these" projects for clarity.

In subsection (c)(2)(ii) of this section, the reference to plans "and specifications" is added for consistency within the subsection.

In the introductory language of subsection (d)(1) of this section, the reference to a person "holding a permit under subsection (b) of this section" is added for clarity.

In subsection (e) of this section, the reference to regulations that the Commission "adopts" is substituted for the former reference to regulations that the Commission "requires" for clarity.

Also in subsection (e) of this section, the former reference to "reasonable" regulations is deleted as unnecessary in light of the requirement that regulations must be reasonable in order to be valid. *See Comptroller of Treas. v. M.E. Rockhill, Inc.*, 205 Md. 226, 233 (1954).

In subsections (f)(1) and (i)(1) of this section, the reference to a "water supply or sewage collection and disposal system authorized under this section" is substituted for the former reference to a "project" for clarity. Correspondingly, in subsections (f)(2) and (i)(1) of this section, the references to the "system" are substituted for the former references to the "project" for consistency throughout this section.

In subsection (f)(4)(ii) of this section, the reference to the costs for the "correction or operation" is substituted for the former reference to the costs for the "system" for accuracy.

In subsection (g)(1)(i) of this section, the reference to a sewage collector "and" disposal system is substituted for the former reference to a sewage collection "or" disposal system for clarity.

In subsection (g)(1)(iii) of this section, the former reference to conditions "currently" existing in the system is deleted as unnecessary.

In subsection (h)(1) of this section, the reference to the operational inspection functions "that the Department of the Environment" conducts is substituted for the former reference to "those" operational inspection functions for clarity.

In subsection (h)(3) of this section, the reference to "requirements … be[ing] applicable" is substituted for the former reference to "aspects ... continu[ing]" for clarity.

In subsection (i)(2) of this section, the reference to the record "includ[ing] the information" is substituted for the former reference to "be[ing] of a character" for clarity.

In subsection (j) of this section, the reference to "[a] person found to have violated this section" is substituted for the former reference to "[a] conviction under this section" for accuracy since a violation of this section is a Commission infraction under § 29–101 of this article and not a criminal offense.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (a)(1)(ii)3 and (2)(ii) of this section may be obsolete. Those provisions exempt from this section water supply or sewage collection and disposal systems constructed by a municipality in Montgomery County if the municipality owned and operated the system on June 1, 1965, or by a municipality in Prince George's County if the municipality owned and operated the system on January 1, 1959. It is unknown whether there are any systems currently in service that fall under those exemptions.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for consideration by the General Assembly, that subsection (b)(1) of this section may be obsolete since Commission staff have advised the Committee that it does not know the origin of the exemption for Calvert Manor or whether the exemption is still applicable.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for consideration by the General Assembly, that it is unclear whether the provision in subsection (d)(2) of this section requiring the Commission to approve and issue a permit for a material change should be interpreted to mean that the Commission shall issue a second permit for the material change or that the Commission may modify the existing permit to allow for the material change. The General Assembly may wish to clarify this provision.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

24–105. PLUMBING INSTALLATION IN PRINCE GEORGE'S COUNTY.

(A) APPLICATION OF COMMISSION REGULATIONS.

(1) IN THOSE PARTS OF PRINCE GEORGE'S COUNTY THAT ARE NOT IN THE SANITARY DISTRICT, THE COMMISSION'S PLUMBING REGULATIONS:

(I) APPLY TO PLUMBING INSTALLATIONS THAT BEGAN ON OR AFTER JUNE 1, 1965; BUT

(II) DO NOT APPLY TO PLUMBING INSTALLATIONS THAT EXISTED ON JULY 1, 1965.

(2) (I) THE OWNER OF THE PROPERTY WHERE PLUMBING INSTALLATIONS EXISTED ON JULY 1, 1965, IS NOT REQUIRED TO CHANGE THE PLUMBING UNTIL WATER OR SEWER SERVICE IS OBTAINED FROM A COMMISSION SYSTEM.

(II) IF WATER OR SEWER SERVICE IS OBTAINED FROM A COMMISSION SYSTEM, THIS SECTION AND THE COMMISSION'S REGULATIONS APPLY TO THE PROPERTY AND THE PLUMBING AS IF THE PROPERTY WERE IN THE SANITARY DISTRICT.

(B) PERMITS AND INSPECTIONS IN AREAS NOT IN SANITARY DISTRICT.

(1) THE COMMISSION MAY ENTER INTO AN AGREEMENT WITH PRINCE GEORGE'S COUNTY UNDER WHICH THE COUNTY WILL ISSUE THE NECESSARY PERMIT AND PERFORM THE NECESSARY INSPECTION FOR AND IN THE NAME OF THE COMMISSION IN THOSE AREAS THAT ARE NOT IN THE SANITARY DISTRICT, IF THE AGREEMENT PROVIDES THAT THE PLUMBING REGULATIONS OF THE COMMISSION WILL BE APPLIED.

(2) THIS SUBSECTION OR AN AGREEMENT ENTERED INTO UNDER THIS SUBSECTION DOES NOT AFFECT THE POWER OF THE COMMISSION:

(I) TO ADOPT REGULATIONS TO INSTALL PLUMBING IN PRINCE GEORGE'S COUNTY AS THE COMMISSION CONSIDERS NECESSARY FOR THE PUBLIC HEALTH; OR

(II) TO REGULATE PUBLIC AND SEMIPUBLIC WATER SUPPLY AND SEWER SYSTEMS UNDER THIS SECTION AND § 24–102 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–103.

In subsection (a)(2)(ii) of this section, the phrase "[i]f water or sewer service is obtained from a Commission system" is substituted for the former phrase "[o]n the happening of any of those events" for clarity.

In the introductory language of subsection (b)(2) of this section, the reference to this section not "affect[ing]" the power of the Commission is substituted for the former reference to this section not "tak[ing] away from" the power of the Commission for brevity.

In subsection (b)(2)(ii) of this section, the reference to the Commission's power "to regulate" is substituted for the former reference to the Commission's power "with respect to" for clarity.

Also in subsection (b)(2)(ii) of this section, the former reference to a "sanitary" sewer system is deleted for consistency with § 24–102 of this subtitle.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (a) of this section may be obsolete since it only applies to plumbing installations that were begun before June 1, 1965, or in existence on July 1, 1965. Also, there may be an inconsistency in the provision because according to subsection (a)(1)(i) of this section, the Commission regulations apply to certain plumbing installations begun on or after June 1, 1965, but subsection (a)(1)(ii) of this section states that Commission regulations do not apply to installations in existence on July 1, 1965. As a result these provisions apparently overlap regarding installations begun between June 1 and 30, 1965. It is unclear whether the phrase "in existence" in subsection (a)(1)(ii) of this section refers only to installations that were completed and operating on July 1, 1965. If that is the case, there would be no overlap.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

24–106. PLUMBER/GASFITTER'S LICENSES.

(A) POWER OF COMMISSION TO ISSUE LICENSES.

(1) SUBJECT TO § 12–305 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, ONLY THE COMMISSION MAY ISSUE LICENSES TO PERSONS TO WORK IN THE PLUMBING BUSINESS IN AREAS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY UNDER THE JURISDICTION OF THE COMMISSION.

(2) LICENSE FEES MAY NOT EXCEED THE FEES SET IN THE MARYLAND PLUMBING ACT.

(3) THE COMMISSION SHALL EXERCISE THE AUTHORITY OF THE STATE BOARD OF PLUMBING IN AREAS UNDER THE JURISDICTION OF THE COMMISSION.

(B) RECIPROCAL LICENSES.

(1) A PERSON HOLDING A VALID MASTER PLUMBER/GASFITTER LICENSE OR A JOURNEYMAN PLUMBER/GASFITTER LICENSE ISSUED BY THE COMMISSION IS ENTITLED TO AN EQUIVALENT LICENSE ISSUED BY THE STATE BOARD OF PLUMBING WITHOUT EXAMINATION ON PRESENTATION OF:

(I) THE LICENSE ISSUED BY THE COMMISSION; AND

(II) A NOTARIZED STATEMENT OF GOOD STANDING ISSUED BY THE COMMISSION.

(2) A PERSON HOLDING A VALID MASTER PLUMBER/GASFITTER LICENSE OR A JOURNEYMAN PLUMBER/GASFITTER LICENSE ISSUED BY THE STATE BOARD OF PLUMBING IS ENTITLED TO AN EQUIVALENT LICENSE ISSUED BY THE COMMISSION WITHOUT EXAMINATION ON PRESENTATION OF THE LICENSE ISSUED BY THE STATE BOARD OF PLUMBING.

(C) LICENSES UNDER RECIPROCITY ARRANGEMENT STILL VALID.

A LICENSE ISSUED TO A MASTER PLUMBER/GASFITTER OR A JOURNEYMAN PLUMBER/GASFITTER IN GOOD STANDING UNDER A RECIPROCITY ARRANGEMENT BY THE STATE BOARD OF PLUMBING AND THE COMMISSION BEFORE JULY 1, 1978, REMAINS IN FORCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–104.

In subsection (a)(1) of this section, the former reference to a person "desiring" to work is deleted as surplusage.

In subsection (a)(3) of this section, the former reference to "power" is deleted as included in the reference to "authority".

In subsection (b) of this section, the references to "an equivalent license" are substituted for the former references to "a master plumber/gasfitter license or a journeyman plumber/gasfitter license, as applicable" for brevity.

In subsection (b)(1)(i) of this section, the reference to "the license issued by the Commission" is substituted for the former reference to "a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license, as applicable" for clarity and brevity. Similarly, in subsection (b)(2) of this section, the reference to "the license" is substituted for the former reference to "a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license, as applicable".

In subsection (c) of this section, the reference to a license remaining in "force" is substituted for the former reference to a license remaining in "full force and effect" for brevity.

As to the Maryland Plumbing Act, *see* BOP Title 12.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (c) of this section may be unnecessary in light of subsection (b) of this section. Subsection (b) of this section provides that a person with a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license issued by the Commission is entitled to an equivalent license by the State Board of Plumbing under certain circumstances and that a person with a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license issued by the State Board of Plumbing is entitled to an equivalent license by the Commission under certain circumstances. Subsection (c) of this section provides that a license issued to a master plumber/gasfitter or a journeyman plumber/gasfitter under a certain reciprocity agreement before a certain date remains in force. Since subsection (b) of this section already provides for a general system of reciprocity, subsection (c) of this section may not be necessary. The General Assembly may wish to repeal subsection (c) as duplicative.

Defined terms: "Commission" § 16–101
"Person" § 1–101

SUBTITLE 2. SEWER CLEANING.

24–201. SEWER CLEANING GENERALLY.

(A) "SEWER CLEANING" DEFINED.

(1) IN THIS SECTION, "SEWER CLEANING" MEANS THE CLEANING OR CLEARING OF AND THE REMOVAL OF STOPPAGES OR OBSTRUCTIONS IN SANITARY SEWER LINES, PIPES, AND FIXTURES.

(2) "SEWER CLEANING" DOES NOT INCLUDE ANY INSTALLATION, MAINTENANCE, EXTENSION, REMOVAL, OR ALTERATION OF ANY PIPE, SANITARY FIXTURE, OR OTHER SEWER APPARATUS.

(B) CONSTRUCTION OF SECTION.

THIS SECTION MAY NOT BE CONSTRUED TO:

(1) REQUIRE A PERSON TO HAVE A SEWER CLEANER'S LICENSE TO CLEAN A SEWER ON THE PERSON'S OWN PROPERTY;

(2) PREVENT A PERSON FROM CLEANING A SEWER ON THE PERSON'S OWN PROPERTY; OR

(3) APPLY TO OR PROHIBIT THE CLEANING BY ANY PERSON OF A SEWER OR SANITARY FIXTURE OF ANY DWELLING, COMMERCIAL OR INDUSTRIAL ESTABLISHMENT, OR PREMISES OWNED OR OPERATED BY THE PERSON.

(C) REGULATIONS.

THE COMMISSION SHALL ADOPT AND ENFORCE REGULATIONS GOVERNING SEWER CLEANING IN SANITARY SEWER LINES, PIPES, AND FIXTURES CONNECTED TO THE COMMISSION'S SANITARY SEWER SYSTEM.

(D) LICENSES.

(1) (I) TO QUALIFY FOR A SEWER CLEANER'S LICENSE, A PERSON NEED NOT BE A MASTER PLUMBER.

(II) A SEWER CLEANER'S LICENSE DOES NOT AUTHORIZE THE LICENSEE TO ENGAGE IN THE PLUMBING BUSINESS OTHER THAN SEWER CLEANING.

(2) THE COMMISSION:

(I) SHALL REQUIRE THAT A PERSON OTHER THAN A LICENSED MASTER PLUMBER WHO IS ENGAGED IN OR REPRESENTS THE PERSON TO THE PUBLIC AS ENGAGED IN SEWER CLEANING BE LICENSED BY THE COMMISSION;

(II) MAY REQUIRE A BOND OF THE LICENSEE TO INSURE COMPLIANCE WITH AND ADHERENCE TO THE REGULATIONS ADOPTED BY THE COMMISSION;

(III) MAY ESTABLISH QUALIFICATIONS AND EXAMINE APPLICANTS CONCERNING THEIR COMPETENCY AND QUALIFICATIONS FOR A LICENSE UNDER THIS SECTION; AND

(IV) MAY REQUIRE A REASONABLE FEE FOR THE ISSUANCE AND RENEWAL OF A LICENSE IN AN AMOUNT NOT MORE THAN ONE–HALF OF THE FEE CHARGED FOR A MASTER PLUMBER'S LICENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–301.

In the introductory language to subsection (b) of this section, the reference to "may not be construed to" is substituted for the former reference to "does not" for clarity and consistency with other revised articles of the Code.

In subsection (d)(1)(ii) of this section, the reference to engaging in the plumbing business "other than sewer cleaning" is substituted for the former reference to engaging in the plumbing business "unless the licensee is otherwise qualified and has the license required of plumbers" for clarity and brevity.

In subsection (d)(2)(i) of this section, the former reference to sewer cleaning "in sanitary sewer lines, pipes, and fixtures" is deleted as unnecessary in light of the definition of "sewer cleaning" in subsection (a) of this section.

Defined terms: "Commission" § 16–101
"Person" § 16–101

TITLE 25. RATES AND CHARGES.

SUBTITLE 1. IN GENERAL.

25–101. NONUNIFORM CONDITIONS FOR SERVICE.

(A) "INDUSTRIAL USER" DEFINED.

IN THIS SECTION, "INDUSTRIAL USER" MEANS:

(1) AN INDUSTRY IDENTIFIED IN THE CATEGORY "DIVISION D – MANUFACTURING" OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION

SYSTEM DEVELOPED BY THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET; OR

(2) ANY INDUSTRY IN ANOTHER CLASS OF SIGNIFICANT WASTE PRODUCERS THAT THE COMMISSION ESTABLISHES BY REGULATION.

(B) IN GENERAL.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE OR SUBTITLES 3 THROUGH 5 OF THIS TITLE THAT REQUIRES A REGULATION, RATE, OR CHARGE TO BE UNIFORM THROUGHOUT THE SANITARY DISTRICT, IF THE COMMISSION DETERMINES THAT IN ANY AREA OF THE SANITARY DISTRICT THE CONDITIONS FOR SERVICE FROM ANY OF ITS SYSTEMS, INCLUDING THE COST OF INSTITUTING AND MAINTAINING THE SERVICE, ARE SUBSTANTIALLY DIFFERENT FROM THE CONDITIONS FOR SERVICE GENERALLY IN THE SANITARY DISTRICT, THE COMMISSION MAY DEFINE THE AREA AS A SUBDISTRICT AND ADOPT A DIFFERENT REGULATION, RATE, OR CHARGE TO APPLY IN THAT SUBDISTRICT.

(C) RATES AND REGULATIONS APPLICABLE TO INDUSTRIAL USERS.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE OR SUBTITLES 3 THROUGH 5 OF THIS TITLE THAT REQUIRES A REGULATION, RATE, OR CHARGE TO BE UNIFORM THROUGHOUT THE SANITARY DISTRICT, IF THE COMMISSION DETERMINES THAT CONDITIONS FOR SERVICE FROM ANY OF ITS SYSTEMS, INCLUDING THE COST OF MAINTAINING AND OPERATING THE SYSTEMS, TO A PROPERTY OCCUPIED BY AN INDUSTRIAL USER ARE SUBSTANTIALLY DIFFERENT FROM THE CONDITIONS FOR SERVICE GENERALLY IN THE SANITARY DISTRICT, THE COMMISSION MAY ADOPT REGULATIONS AND SET HIGHER RATES OR CHARGES OR ADOPT MORE RESTRICTIVE USAGE REGULATIONS FOR INDUSTRIAL USERS.

(D) NOTICE AND HEARING.

BEFORE ADOPTING ANY DIFFERENT REGULATION, RATE, OR CHARGE UNDER THIS SECTION, THE COMMISSION SHALL:

(1) PUBLISH NOTICE OF THE PROPOSED MODIFICATION IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT; AND

(2) HOLD A PUBLIC HEARING ON THE NECESSITY OR ADVISABILITY OF A MODIFICATION OF THE REGULATION, RATE, OR CHARGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–103.

In this section and throughout this subtitle, the former references to "rule[s]" are deleted as implicit in the references to "regulation[s]". *See* General Revisor's Note to division.

In subsection (a) of this section, the former definition of "industrial use" is deleted as unnecessary since it is no longer used in this subtitle.

In subsection (a)(1) of this section, the reference to the "North American Industry Classification System developed by the United States Office of Management and Budget" is substituted for the former reference to the "Standard Industrial Classification Manual of 1967 of the Bureau of the Budget, Office of the President of the United States" to reflect the current standards. No substantive change is intended.

In subsection (a)(2) of this section, the reference to any "industry in another class of significant waste producers" is substituted for the former reference to any "other class of significant waste producers" for clarity and consistency with subsection (a)(1) of this section.

In subsection (b) of this section, the reference to "this subtitle or Subtitles 3 through 5 of this title" is substituted for the former reference to "this title" to reflect the revision of former Art. 29, Title 6 in this subtitle and Subtitles 3 through 5 of this title.

Also in subsection (b) of this section, the former reference to an area "or subdistrict" of the sanitary district is deleted because the Commission may define an area as a subdistrict under this subsection.

Also in subsection (b) of this section, the reference to defining the area "as a subdistrict" is substituted for the former reference to defining the area "or subdistrict" for accuracy.

In subsection (c) of this section, the phrase "[n]otwithstanding any other provision of this subtitle or Subtitles 3 through 5 of this title that requires a regulation, rate, or charge to be uniform throughout the sanitary district" is added for clarity and consistency with subsection (b) of this section.

Also in subsection (c) of this section, the reference to "a property occupied by an industrial user" is substituted for the former reference to "industrial use properties" for clarity and to allow the use of the defined term "industrial user".

In subsection (d)(1) of this section, the reference to each county "of the sanitary district" is added for clarity and consistency with other similar provisions in this division.

Also in subsection (d)(1) of this section, the reference to a newspaper "of general circulation" in each county is substituted for the former reference to a newspaper "published" in each county for consistency with similar provisions in other revised articles of the Code.

Also in subsection (d)(1) of this section, the former reference to "separate" notices is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101

25–102. APPLICABILITY OF OTHER LAWS OR REGULATIONS.

EXCEPT AS PROVIDED IN SUBTITLE 2 OF THIS TITLE, ANY LAW OR REGULATION THAT APPLIES IN THE SANITARY DISTRICT SHALL APPLY TO ANY PROPERTY FOR WHICH THE FRONT FOOT BENEFIT CHARGE OR AD VALOREM TAX IS SUSPENDED OR EXEMPTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–107.

The former reference to an exception "specifically" provided in Subtitle 2 of this title is deleted as unnecessary.

Defined term: "Sanitary district" § 16–101

25–103. AD VALOREM TAX — AREAS WITHOUT TAX.

(A) INTENT OF SECTION.

THE INTENT OF THIS SECTION:

(1) IS TO DECLARE THE EFFECT OF THE ACTS OF THE GENERAL ASSEMBLY THAT HAVE ADDED AREA OR PROPERTY TO THE SANITARY DISTRICT ON THE CONDITIONS PROVIDED IN THIS SECTION; AND

(2) IS NOT TO AMEND ANY OF THE CONDITIONS ESTABLISHED BY THESE ACTS.

(B) AREAS WITHOUT TAX.

UNTIL THE COMMISSION BEGINS, EXTENDS, OR ACQUIRES A WATER OR SANITARY SEWER SYSTEM IN AN AREA OR PROPERTY ADDED TO THE SANITARY DISTRICT AND MAKES WATER OR SEWER SERVICE AVAILABLE TO THE PROPERTIES IN THE AREA:

(1) THE COMMISSION MAY NOT SEEK THE IMPOSITION OF AN AD VALOREM TAX ON THAT AREA OR PROPERTY; AND

(2) THE AREA OR PROPERTY ADDED TO THE SANITARY DISTRICT IS INCLUDED IN THE SANITARY DISTRICT FOR ALL PURPOSES OF THIS DIVISION, EXCEPT AS A TAXING DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–108.

In subsection (b)(1) of this section, the reference to "seek[ing] the imposition of" an ad valorem tax is substituted for the former reference to "levy[ing]" an ad valorem tax for accuracy since the Commission does not have the authority to impose an ad valorem tax but may only certify the amount needed to be raised to the counties, which then impose the tax. The Washington Suburban Sanitary Commission Law Review Committee calls this substitution to the attention of the General Assembly.

In subsection (b)(2) of this section, the former phrase "[u]ntil all of the conditions of this subsection are fulfilled" is deleted as included in the phrase "[u]ntil the Commission begins, extends, or acquires a water or sanitary sewer system".

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

25–104. MODIFICATION OF RATE, CHARGE, TAX, OR ASSESSMENT — NOTICE AND HEARING.

IF THE COMMISSION DETERMINES THAT IT IS NECESSARY OR ADVISABLE TO MODIFY AN EXISTING RATE, CHARGE, OR ASSESSMENT, THE COMMISSION SHALL:

(1) PUBLISH NOTICE OF THE PROPOSED MODIFICATION IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT; AND

(2) HOLD A PUBLIC HEARING ON THE NECESSITY OR ADVISABILITY OF THE PROPOSED MODIFICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–109.

In the introductory language of this section, the reference to "advisable" is substituted for the former reference to "desirable" for consistency within this section.

Also in the introductory language of this section, the former reference to "levy" is deleted as implicit in the reference to "assessment".

In item (1) of this section, the reference to each county "of the sanitary district" is added for clarity and consistency with other similar provisions in this division.

Also in item (1) of this section, the reference to a newspaper "of general circulation" in each county is substituted for the former reference to a newspaper "published" in each county for consistency with similar provisions in other revised articles of the Code.

Also in item (1) of this section, the former reference to "[p]romptly" publish is deleted as unnecessary.

Also in item (1) of this section, the former reference to "separate notices" is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101

25–105. APPEALS TO PUBLIC SERVICE COMMISSION.

(A) IN GENERAL.

(1) AN APPEAL TO THE PUBLIC SERVICE COMMISSION OF THE REASONABLENESS OF ANY RATE, CHARGE, OR ASSESSMENT OF THE COMMISSION MAY BE TAKEN BY:

(I) AN INDIVIDUAL WHO HAS A FINANCIAL INTEREST IN THE APPEAL; OR

(II) THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(2) UNDER REGULATIONS OF THE PUBLIC SERVICE COMMISSION, ON APPEAL UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PUBLIC SERVICE COMMISSION SHALL DETERMINE THE REASONABLENESS OF THE RATE, CHARGE, OR ASSESSMENT OF THE COMMISSION.

(B) PROCEDURE FOR APPEAL.

AN APPEAL UNDER THIS SECTION SHALL BE TAKEN BY FILING A WRITTEN COMPLAINT WITHIN 30 DAYS AFTER THE DATE ON WHICH THE COMMISSION SET THE RATE OR FIXED THE CHARGE OR ASSESSMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–110.

Throughout this section, the former references to a "tax levy" are deleted for accuracy since the Commission does not have the authority to levy taxes.

In subsection (a)(1) of this section, the reference to the power of an individual or county council to "appeal the reasonableness of any rate, charge, or assessment of the Commission to the Public Service Commission" is added for clarity.

In subsection (a)(2) of this section, the references to the "rate, charge, or assessment" are substituted for the former references to the "assessment, tax levy, or service charge" for consistency within this subtitle.

In subsection (b) of this section, the reference to "set the rate or fixed the charge or assessment" is substituted for the former reference to "made the assessment, tax levy, or service charge" for clarity.

Defined term: "Commission" § 16–101

25–106. REFUNDS.

(A) SCOPE OF SECTION.

EXCEPT FOR ASSESSMENTS AND BENEFIT CHARGES AUTHORIZED BY SUBTITLE 2 OF THIS TITLE, THIS SECTION APPLIES TO ANY FEE OR CHARGE IMPOSED BY THE COMMISSION.

(B) CLAIMS.

(1) A PERSON MAY FILE A WRITTEN CLAIM WITH THE COMMISSION, IN A FORM AND CONTAINING THE INFORMATION AND SUPPORTING DOCUMENTS REQUIRED BY THE COMMISSION, FOR A REFUND OF THE AMOUNT OF A FEE OR CHARGE THE PERSON PAID TO THE COMMISSION THAT EXCEEDS THE AMOUNT THAT IS PROPERLY AND LEGALLY PAYABLE.

(2) IF THE PROPERTY FOR WHICH THE FEE OR CHARGE WAS PAID HAS BEEN TRANSFERRED TO A NEW OWNER AFTER THE PAYMENT, THE NEW OWNER MAY FILE THE CLAIM FOR THE REFUND.

(C) INVESTIGATION.

(1) ON THE RECEIPT OF A CLAIM FOR A REFUND UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL INVESTIGATE THE MERITS OF THE CLAIM.

(2) ON THE REQUEST OF THE CLAIMANT, THE COMMISSION, OR THE COMMISSION'S DESIGNEE, SHALL HOLD A HEARING ON THE CLAIM.

(3) A CLAIM SHALL BE DISALLOWED UNLESS IT IS FILED WITHIN 3 YEARS AFTER THE DATE OF THE PAYMENT FOR WHICH THE REFUND IS REQUESTED.

(4) THE COMMISSION SHALL PAY INTEREST ON ANY AMOUNT REFUNDED UNDER THIS SECTION, CALCULATED AT THE RATE OF 6% PER YEAR, STARTING 180 DAYS FROM THE DATE THE CLAIM WAS MADE.

(D) FAILURE TO REACH FINAL DECISION.

IF THE COMMISSION FAILS TO REACH A FINAL DECISION ON A CLAIM WITHIN 180 DAYS AFTER THE DATE THE CLAIM IS FILED, THE FAILURE SHALL BE DEEMED A FINAL REJECTION OF THE CLAIM.

(E) JUDICIAL REVIEW.

WITHIN 30 DAYS AFTER THE DATE OF FINAL ACTION BY THE COMMISSION ON A CLAIM FOR A REFUND FILED UNDER SUBSECTION (B) OF THIS SECTION, A PETITION FOR JUDICIAL REVIEW MAY BE FILED WITH THE CIRCUIT COURT AS PROVIDED IN TITLE 7, CHAPTER 200 OF THE MARYLAND RULES.

(F) REFUNDS WITHOUT CLAIM AUTHORIZED.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE COMMISSION MAY REFUND A PAYMENT THAT THE COMMISSION DETERMINES WAS PAID IN EXCESS OF THE AMOUNT THAT WAS PROPERLY AND LEGALLY PAYABLE, WHETHER OR NOT THE PERSON WHO MADE THE PAYMENT FILES A CLAIM FOR A REFUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–111(a) through (f).

In subsections (b)(1) and (f) of this section, the former references to "on or after July 1, 1986" are deleted as obsolete.

Subsection (b)(1) of this section is revised to state that the claim for a refund is for the amount of the fee or charge that is in excess of the amount that is properly and legally payable for clarity.

In subsection (c)(3) of this section, the former reference to a claim being "automatically" disallowed is deleted as unnecessary.

Also in subsection (c)(3) of this section, the former reference to the claim being filed "with the WSSC" is deleted as unnecessary.

In subsection (e) of this section, the reference to "a petition for judicial review" is substituted for the former reference to "an appeal from the final action" for accuracy.

Also in subsection (e) of this section, the former reference to filing an appeal with "the appellate courts of this State" is deleted because according to the Maryland Rules, a petition for judicial review of an administrative decision shall be filed with the circuit court.

In subsection (f) of this section, the reference to "payable" is substituted for the former reference to "collectible" for clarity.

Former Art. 29, § 6–111(g), which related to partial credit for payment of charges in connection with a multiunit residential customer service account, is deleted as obsolete because the claim needed to be made by January 1, 1988.

Defined terms: "Commission" § 16–101
"Person" § 16–101

SUBTITLE 2. BENEFIT CHARGES.

25–201. "SEWER" DEFINED.

IN THIS SUBTITLE, "SEWER" MEANS A SANITARY SEWER.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full reference to "sanitary sewer".

25–202. DECLARATION OF BENEFIT.

THE CONSTRUCTION, ACQUISITION, REPLACEMENT, OR ENLARGEMENT OF, OR THE INSTALLATION OF A SERVICE CONNECTION TO, A WATER MAIN OR SEWER BENEFITS EACH PROPERTY THAT ABUTS ON, IS CONNECTED TO, OR IS SERVED BY THE WATER MAIN OR SEWER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–101(a), and, as they related to the benefits for property abutting on or connected to a water main or sewer, §§ 5–106(a)(1) and 5–107(a).

The reference to an "enlargement" is substituted for the former reference to an "augmented facility" for clarity.

The reference to a "service" connection is added for clarity.

The former reference to the property "or that part of the property determined by the WSSC to be served by the connection" is deleted as unnecessary.

Defined terms: "Service connection" § 16–101
"Sewer" § 25–201

25–203. CLASSIFICATION OF PROPERTY.

(A) CLASSIFICATION.

TO IMPOSE A BENEFIT CHARGE FOR THE CONSTRUCTION OF A WATER SUPPLY OR SEWER SYSTEM, THE COMMISSION SHALL CLASSIFY EACH PROPERTY THAT ABUTS ON A STREET, ROAD, LANE, ALLEY, RIGHT–OF–WAY, OR EASEMENT IN WHICH A WATER MAIN OR SEWER LINE IS TO BE LAID AS:

(1) AGRICULTURAL;

(2) INDUSTRIAL OR BUSINESS;

(3) INSTITUTIONAL;

(4) MULTIUNIT BUSINESS;

(5) MULTIUNIT RESIDENTIAL;

(6) RESIDENTIAL SUBDIVISION; OR

(7) SMALL ACREAGE.

(B) CHANGE OF CLASSIFICATION.

THE CLASSIFICATION OF A PROPERTY BY THE COMMISSION IS FINAL, SUBJECT ONLY TO REVISION:

(1) AT A HEARING UNDER § 25–204(A) OF THIS SUBTITLE; OR

(2) BY THE COMMISSION IF THE USE OF THE PROPERTY CHANGES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–101(b).

In the introductory language of subsection (a) of this section, the word "impose" is substituted for the former word "assess" for clarity.

Also in the introductory language of subsection (a) of this section, the reference to "benefit charge" is substituted for the former reference to "benefits" for clarity and consistency with § 25–204 of this subtitle.

In subsection (b) of this section, the reference to a hearing "under § 25–204(a) of this subtitle" is added for clarity.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–204. BENEFIT CHARGE.

(A) IMPOSITION AND NOTICE.

(1) WHEN CONSTRUCTION BEGINS OR WITHIN 12 MONTHS AFTER COMPLETION OF A WATER SUPPLY OR SEWER PROJECT, THE COMMISSION SHALL:

(I) IN ACCORDANCE WITH A CLASSIFICATION ESTABLISHED UNDER § 25–203 OF THIS SUBTITLE, IMPOSE A BENEFIT CHARGE ON EACH PROPERTY THAT ABUTS ON THE WATER MAIN OR SEWER; AND

(II) NOTIFY EACH PROPERTY OWNER IN WRITING OF:

1. THE CLASSIFICATION OF THE OWNER'S PROPERTY;

2. THE BENEFIT CHARGE IMPOSED ON THE PROPERTY; AND

3. THE TIME AND PLACE OF A HEARING TO CONTEST THE IMPOSITION OF THE CHARGE.

(2) THE COMMISSION MAY DELIVER THE NOTICE REQUIRED UNDER THIS SUBSECTION BY:

(I) MAILING THE NOTICE TO THE LAST KNOWN ADDRESS OF THE PROPERTY OWNER;

(II) GIVING THE NOTICE IN PERSON TO AN ADULT OCCUPYING THE PROPERTY; OR

(III) IF THE PROPERTY IS VACANT OR UNIMPROVED, POSTING THE NOTICE ON THE PROPERTY.

(B) BASIS OF CHARGE.

(1) FOR EACH CLASS OF PROPERTY, THE COMMISSION SHALL IMPOSE A BENEFIT CHARGE FOR WATER SUPPLY OR SEWER CONSTRUCTION, OR BOTH, THAT IS BASED ON:

(I) THE APPROXIMATE COST OF CONSTRUCTION AS AN INTEGRAL PART OF THE WHOLE SYSTEM; AND

(II) 1. THE NUMBER OF FRONT FEET ABUTTING ON THE STREET, ROAD, LANE, ALLEY, RIGHT–OF–WAY, OR EASEMENT IN WHICH THE WATER MAIN OR SEWER IS PLACED; OR

2. FOR MULTIUNIT CLASSES, THE NUMBER OF UNITS IN OR ON THE PROPERTY THAT ABUT ON THE WATER MAIN OR SEWER.

(2) IN ACCORDANCE WITH PARAGRAPH (1) AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IN IMPOSING A FRONT FOOT BENEFIT CHARGE THE COMMISSION:

(I) FOR AN IRREGULARLY SHAPED LOT THAT ABUTS ON A STREET, ROAD, LANE, ALLEY, RIGHT–OF–WAY, OR EASEMENT IN WHICH THERE IS OR IS BEING CONSTRUCTED A WATER MAIN OR SEWER, SHALL USE A FRONT FOOTAGE THE COMMISSION CONSIDERS REASONABLE AND FAIR;

(II) FOR ALL THE LOTS IN A BLOCK OWNED BY THE SAME PROPERTY OWNER AND APPURTENANT TO A RESIDENCE, MAY USE A CONTINUOUS FRONT FOOTAGE FOR ALL THE LOTS REGARDLESS OF THE STREETS ON WHICH THE LOTS FACE;

(III) FOR A LOT WITH A FRONT AND REAR ON SEPARATE STREETS, MAY USE A FRONT FOOTAGE ON BOTH THE FRONT AND REAR; AND

(IV) FOR A CORNER LOT OF LESS THAN 2 ACRES IN THE RESIDENTIAL SUBDIVISION CLASSIFICATION:

1. MAY NOT USE A FRONT FOOTAGE ON MORE THAN ONE SIDE UNLESS THE CORNER LOT ABUTS ON TWO PARALLEL STREETS; AND

2. IF THE CORNER LOT ABUTS ON TWO PARALLEL STREETS, SHALL USE A FRONT FOOTAGE THAT IS REASONABLE AND FAIR, TAKING INTO CONSIDERATION THE FRONT FOOTAGE TOWARD WHICH THE BUILDING ON THE LOT WOULD NATURALLY FACE.

(3) THE COMMISSION MAY IMPOSE A FRONT FOOT BENEFIT CHARGE ON THE FULL FRONT FOOTAGE FOR A LOT DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION EVEN IF A WATER MAIN OR SEWER DOES NOT EXTEND ALONG THE FULL LENGTH OF A BOUNDARY.

(C) UNIFORMITY OF CHARGE.

THE BENEFIT CHARGE SHALL BE:

(1) UNLESS OTHERWISE PROVIDED IN THIS SUBTITLE, UNIFORM FOR EACH CLASSIFICATION OF PROPERTY IN THE SANITARY DISTRICT FOR ANY 1 YEAR;

(2) DETERMINED BY THE COMMISSION AS COSTS AND CONDITIONS REQUIRE; AND

(3) IMPOSED ONCE A YEAR TO BEGIN ON THE JANUARY 1 OR JULY 1 AFTER THE DATE OF ITS IMPOSITION AND MAY NOT BE INCREASED IN THAT YEAR.

(D) ANNUAL PAYMENT.

(1) BEGINNING WHEN THE COMMISSION IMPOSES A BENEFIT CHARGE FOR A PROPERTY, THE COMMISSION SHALL REQUIRE THE PROPERTY OWNER TO PAY THE BENEFIT CHARGE ANNUALLY FOR A PERIOD OF YEARS EQUAL TO THE PERIOD OF MATURITY OF THE BONDS THE PROCEEDS OF WHICH FINANCED THE CONSTRUCTION OF THE WATER MAIN OR SEWER.

(2) IF A PROPERTY OF THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY IS SUBJECT TO A BENEFIT CHARGE UNDER THIS SUBTITLE, THE BENEFIT CHARGE SHALL BE PAID IN THE SAME MANNER AS BY A PRIVATE PROPERTY OWNER.

(E) LIEN.

EACH BENEFIT CHARGE IMPOSED UNDER THIS SUBTITLE IS A LIEN AGAINST THE PROPERTY THAT CONTINUES UNTIL THE BENEFIT CHARGE IS PAID AND THE ACCOUNT IS EXTINGUISHED IN ACCORDANCE WITH THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 5–101(c) through (f), 5–102(a), 5–103(a), 5–106(c)(2), and 5–109(c)(1) and (2) and (a)(2) and the third and fourth clauses of (a)(1).

In this section, the word "impos[e]" is substituted for the former word "lev[y]" for clarity.

In subsection (a)(1)(i) of this section, the reference to a classification "established under § 25–203 of this subtitle" is added for clarity.

Also in subsection (a)(1)(i) of this section, the former reference to "[f]ix[ing]" a benefit charge is deleted as implicit in "impos[ing]" a benefit charge.

In subsection (a)(1)(ii)1 of this section, the reference to the "classification of the owner's property" is substituted for the former reference to the "class in which the respective properties fall" for clarity.

In subsection (a)(1)(ii)3 of this section, the reference to a hearing "to contest the imposition of the charge" is added for clarity.

In the introductory language of subsection (a)(2) of this section, the reference to the "Commission [delivering] the notice required under this subsection" is added for clarity.

In subsection (a)(2)(i) of this section, the reference to the "property" owner is added for clarity and accuracy.

In subsection (a)(2)(ii) and (iii) of this section, the references to "property" are substituted for the former references to "premises" for consistency within this subtitle.

In the introductory language of subsection (b)(1)(ii)2 of this section, the former reference to a sewer "line" is deleted for consistency within this subtitle.

In subsection (b)(2) of this section, the references to "us[ing]" a "front footage" are substituted for the former references to "assess[ing]" a "frontage" for clarity.

In the introductory language of subsection (b)(2) of this section, the former reference to "classifying property" is deleted as unnecessary.

In subsection (b)(2)(iii) of this section, the former reference to a lot that "runs through" is deleted for brevity.

In the introductory language of subsection (b)(2)(iv) of this section, the former reference to a lot being 2 acres "in size" is deleted as surplusage.

In subsection (c)(1) of this section, the reference to "this subtitle" is added for clarity.

In subsection (c)(3) of this section, the former reference to the benefit charge being imposed "for a class" is deleted as unnecessary.

In subsection (d)(1) of this section, the reference to the "property owner" paying the benefit charge is substituted for the former reference to the "properties" paying the benefit charge for accuracy.

Also in subsection (d)(1) of this section, the reference to a period of years "equal to" the period of maturity of the bonds is substituted for the former reference to the periods being "co–extensive" for clarity.

In subsection (d)(2) of this section, the reference to a benefit charge "under this subtitle" is added for clarity.

Also in subsection (d)(2) of this section, the former reference to a benefit charge "levied against the property" is deleted as unnecessary.

Subsection (e) of this section is revised to consolidate and clarify that each time a benefit charge is assessed and not paid, a lien is placed against the property that continues until the benefit charge is paid and extinguished.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101
"Sewer" § 25–201

25–205. EXEMPTION OR SUSPENSION OF BENEFIT CHARGE.

(A) EXEMPTION.

(1) THE COMMISSION MAY NOT IMPOSE A FRONT FOOT BENEFIT CHARGE ON:

(I) PROPERTY OWNED BY THE STATE, A COUNTY, OR A MUNICIPALITY;

(II) PROPERTY IN THE SANITARY DISTRICT THAT IS CONNECTED TO OR AUTHORIZED BY THE COMMISSION TO BE CONNECTED TO A WATER OR SEWER SYSTEM OPERATED BY:

1. A MUNICIPALITY; OR

2. A WATER OR SEWER COMPANY UNDER THE JURISDICTION OF THE DEPARTMENT OF THE ENVIRONMENT;

(III) PROPERTY OWNED BY A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT THAT IS USED FOR PUBLIC PURPOSES; OR

(IV) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, PROPERTY CLASSIFIED AS AGRICULTURAL THAT IS ACTUALLY USED FOR FARMING PURPOSES, UNLESS A CONNECTION IS MADE TO A WATER MAIN OR SEWER RUNNING THROUGH OR ADJACENT TO THE PROPERTY.

(2) THE COMMISSION MAY IMPOSE A REASONABLE FRONT FOOT BENEFIT CHARGE ON PROPERTY CLASSIFIED AS AGRICULTURAL, WHICH MAY NOT EXCEED THE CHARGE FOR 300 FEET OF FRONT FOOTAGE.

(B) SUSPENSION.

THE COMMISSION MAY SUSPEND THE IMPOSITION AND COLLECTION OF A FRONT FOOT BENEFIT CHARGE:

(1) WITH RESPECT TO A SEWER LINE, FOR PROPERTY OTHERWISE SUBJECT TO A FRONT FOOT BENEFIT CHARGE THAT THE COMMISSION DETERMINES CANNOT OBTAIN SERVICE FROM THE SEWER PIPE ON WHICH THE BENEFIT CHARGE WOULD BE BASED;

(2) FOR CONSTRUCTION OF A WATER MAIN IF THE OWNER OF THE PROPERTY THAT IS OTHERWISE SUBJECT TO THE BENEFIT CHARGE IS NOT PERMITTED TO CONNECT TO THE WATER MAIN BECAUSE OF A FINDING:

(I) BY THE COMMISSION THAT THERE IS NO SEWER AND THE EXTENSION OF AN IMPROVED SEWER SYSTEM IS NOT REASONABLY FEASIBLE; AND

(II) BY A COUNTY HEALTH DEPARTMENT THAT A SEPTIC SYSTEM WOULD NOT BE APPROVED FOR THE DISPOSAL OF THE WATER FOR WHICH THE CONNECTION IS REQUESTED; OR

(3) IF THE PROPERTY THAT IS OTHERWISE SUBJECT TO THE FRONT FOOT BENEFIT CHARGE FOR A WATER MAIN OR SEWER HAS A PREEXISTING RESIDENTIAL DWELLING THAT IS SERVED BY A WELL OR SEPTIC SYSTEM, UNTIL THE PROPERTY OWNER REQUESTS SERVICE FROM THE WATER MAIN OR SEWER.

(C) TERMINATION OF EXEMPTION OR SUSPENSION.

(1) IF A PROPERTY IS EXEMPT FROM FRONT FOOT BENEFIT CHARGES OR IF THE COMMISSION HAS SUSPENDED FRONT FOOT BENEFIT CHARGES FOR A PROPERTY AND THE PROPERTY IS NO LONGER ELIGIBLE FOR THE EXEMPTION OR SUSPENSION, THE COMMISSION SHALL:

(I) CLASSIFY THE PROPERTY IN ACCORDANCE WITH § 25–203 OF THIS SUBTITLE; AND

(II) IMPOSE A FRONT FOOT BENEFIT CHARGE AT A RATE AND FOR A PERIOD OF TIME EQUAL TO THAT OF PROPERTY THAT WAS ORIGINALLY CLASSIFIED OR FOR WHICH THE COMMISSION IMPOSED BENEFIT CHARGES IN THE YEAR OF THE SUSPENSION.

(2) THE COMMISSION SHALL USE MONEY FROM FRONT FOOT BENEFIT CHARGES IMPOSED ON PROPERTY UNDER PARAGRAPH (1) OF THIS SUBSECTION TO:

(I) AMORTIZE BONDS ISSUED TO CONSTRUCT WATER MAINS AND SEWERS FOR WHICH BENEFIT CHARGES WERE IMPOSED UNDER THIS SUBTITLE; OR

(II) CONSTRUCT OTHER WATER MAINS AND SEWERS FOR WHICH BENEFIT CHARGES ARE IMPOSED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–102(b) through (e).

In subsection (a) of this section, the references to "property" are substituted for the former references to "[l]and" for consistency within this subtitle.

In the introductory language of subsection (a)(1) of this section and in subsection (c)(1)(ii) of this section, the former references to "collect[ing]" a front foot benefit charge are deleted as implicit in the references to "impos[ing]" the charge. No substantive change is intended.

In subsection (a)(1) of this section, the former reference to "[p]ublic parks or playgrounds owned by a municipality" is deleted as unnecessary in light of the reference to "property owned by … a municipality".

Also in subsection (a)(1) of this section, the former references to "buildings" are deleted as unnecessary in light of the references to "property".

In subsection (a)(1)(iv) of this section, the phrase "subject to paragraph (2) of this subsection" is added for clarity.

Also in subsection (a)(1)(iv) of this section, the former reference to "trucking" purposes, referring to the delivery of agricultural goods, is deleted as included in the reference to "farming" purposes.

In subsection (a)(2) of this section, the reference to the "Commission [imposing] a reasonable front foot benefit charge" is substituted for the

former reference to the property being "subject to a front foot assessment for a reasonable frontage, as determined by the WSSC" for clarity.

In subsection (b) of this section, the references to a "benefit charge" are substituted for the former references to an "assessment" for clarity and consistency within this subtitle.

Also in subsection (b) of this section, the references to property being "subject to [a] front foot benefit charge" are substituted for the former references to property being "assessable" for clarity.

In subsection (b)(3) of this section, the former references to a sewer "line" are deleted for consistency within this subtitle.

In subsection (c) of this section, the word "imposed" is substituted for the former words "assessed" and "levied" for clarity.

In the introductory language of subsection (c)(2) of this section, the word "money" is substituted for the former word "receipts" for clarity.

In subsection (c)(2) of this section, the references to "water mains and sewers" are substituted for the former references to "water and [sanitary] sewer lines" for consistency within this subtitle.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (a)(1)(ii)2 of this section may be obsolete. Commission staff have indicated that there is no property in the sanitary district that is connected or authorized by the Commission to be connected to a water or sewer company under the jurisdiction of the Department of the Environment. The General Assembly may wish to repeal this provision as obsolete.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101
"Sewer" § 25–201
"State" § 16–101

25–206. CONNECTION TO NONABUTTING WATER MAIN OR SEWER.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO A PROPERTY OWNER:

(1) WHOSE PROPERTY DOES NOT ABUT A WATER MAIN OR SEWER; AND

(2) WHO HAS NOT PREVIOUSLY PAID A BENEFIT CHARGE FOR THE CONSTRUCTION OF THE WATER MAIN OR SEWER.

(B) AUTHORITY OF COMMISSION.

THE COMMISSION:

(1) SHALL ALLOW A PROPERTY OWNER TO CONNECT TO A NONABUTTING WATER MAIN OR SEWER;

(2) SHALL CLASSIFY THE PROPERTY AND IMPOSE A FRONT FOOT BENEFIT CHARGE TO BE PAID BY THE PROPERTY OWNER AT THE RATE AND FOR THE SAME NUMBER OF YEARS AS THOUGH THE PROPERTY ABUTTED ON A WATER MAIN OR SEWER CONSTRUCTED IN THE YEAR IN WHICH THE CONNECTION IS MADE;

(3) WHEN THE CONNECTION IS MADE, SHALL PLACE THE PROPERTY OWNER IN THE SAME POSITION AS TO ALL CHARGES, RATES, AND BENEFITS AS IF THE PROPERTY ABUTTED ON A NEWLY CONSTRUCTED WATER MAIN OR SEWER;

(4) IF A WATER MAIN OR SEWER ABUTTING ON THE PROPERTY IS SUBSEQUENTLY CONSTRUCTED, MAY REQUIRE THE PROPERTY OWNER TO CONNECT TO THE ABUTTING LINE AND DISCONTINUE SERVICE FROM THE NONABUTTING LINE; OR

(5) WHILE THE PROPERTY IS IN THE SAME CLASSIFICATION AS WHEN THE NONABUTTING CONNECTION WAS MADE, SHALL ALLOW THE PRIOR IMPOSITION OF A FRONT FOOT BENEFIT CHARGE TO STAND AND MAY NOT IMPOSE A FRONT FOOT BENEFIT CHARGE FOR THE NEW ABUTTING WATER MAIN OR SEWER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–104(a).

Subsection (a) of this section is revised as a scope provision for clarity.

In subsection (b) of this section, the word "impose" is substituted for the former words "assess" and "determine" for clarity and consistency throughout this title.

In subsection (b)(1) of this section, the reference to a property owner connecting "to a nonabutting water main or sewer" is substituted for the former reference to the connection being made by a property owner "whose property does not abut on the water main or sewer" for brevity.

In subsection (b)(3) of this section, the reference to "plac[ing]" the property owner in a certain position is substituted for the former reference to the property owner's "stand[ing]" in a certain position for clarity.

Also in subsection (b)(3) of this section, the former reference to the property owner "and the property" being in a certain position is deleted as unnecessary.

In subsection (b)(4) of this section, the reference to a "water main or sewer" is substituted for the former reference to "water or sewer lines" for consistency within this subtitle.

In subsection (b)(5) of this section, the reference to imposing "a front foot benefit charge" is added for clarity.

Also in subsection (b)(5) of this section, the reference to the prior "imposition of a front foot benefit charge" is substituted for the former reference to the prior "assessment" for clarity and accuracy.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that, although in subsection (b)(1) of this section the Commission is required to allow a property owner to connect with a nonabutting water main or sewer, the intent may be that the Commission is authorized to allow the property owner to connect with a nonabutting water main or sewer. The General Assembly may wish to clarify this provision.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–207. REMOTE AREA CONNECTION.

(A) "COST OF CONSTRUCTION" DEFINED.

IN THIS SECTION, "COST OF CONSTRUCTION" INCLUDES THE COST OF CONNECTING A WATER MAIN OR SEWER TO THE COMMISSION SYSTEM.

(B) CLASSIFICATION AS REMOTE AREA.

IF A PROPERTY OWNER APPLIES FOR A WATER MAIN OR SEWER IN AN AREA IN WHICH THE COMMISSION DETERMINES SERVICE IS NOT ECONOMICALLY FEASIBLE UNLESS THE APPLICANT MAKES A SUBSTANTIAL CONTRIBUTION TO THE COST OF CONSTRUCTION OF THE WATER MAIN OR SEWER, THE COMMISSION MAY CLASSIFY THE APPLICANT'S PROPERTY TOGETHER WITH ADJACENT OR ADJOINING PROPERTIES THAT COULD BE READILY SERVED BY THE CONSTRUCTION REQUIRED BY THE APPLICANT AS A REMOTE AREA.

(C) CONSTRUCTION.

THE COMMISSION MAY CONSTRUCT THE WATER MAIN OR SEWER AFTER:

(1) APPROVING THE APPLICATION;

(2) RECEIVING PAYMENT FROM THE APPLICANT OF THE CONTRIBUTION NECESSARY FOR THE COST OF CONSTRUCTION; AND

(3) IMPOSING THE REQUIRED FRONT FOOT BENEFIT CHARGE.

(D) REFUND OF CONTRIBUTION.

(1) THE COMMISSION MAY CONTRACT WITH THE APPLICANT AT THE TIME OF THE CONTRIBUTION TO REFUND PART OR ALL OF THE CONTRIBUTION FROM ANY FRONT FOOT BENEFIT CHARGES IMPOSED ON THE PROPERTY FOR THE WATER MAIN OR SEWER SUBSEQUENTLY CONSTRUCTED BY THE COMMISSION AND SERVED THROUGH THE LINES OF THE APPLICANT IN THE REMOTE AREA.

(2) THE COMMISSION SHALL DETERMINE THE PROPORTION OF THE CONTRIBUTION TO BE REFUNDED AND THE MAXIMUM TIME OF REPAYMENT, NOT TO EXCEED 10 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–104(b).

In this section, the word "impos[e]" is substituted for the former word "lev[y]" for clarity.

Also in this section, the references to "water main or sewer" are substituted for the former references to "water [or] sewer line[s]" for consistency within this subtitle.

In subsection (b) of this section, the reference to a "property owner" applying for a water main or sewer is substituted for the former reference to an "applicant" applying for a water main or sewer for clarity.

In the introductory language of subsection (c) of this section, the former phrase "as are desired by the applicant" is deleted as unnecessary.

In subsection (c)(2) of this section, the reference to "receiving" payment "from the applicant" is added for clarity.

Also in subsection (c)(2) of this section, the reference to the contribution "necessary for the cost of construction" is added for clarity.

In subsection (d)(1) of this section, the reference to a front foot benefit charge imposed "on the property for the water or sewer" is substituted for the former reference to the charge being imposed "against property on lines" for clarity.

In subsection (d)(2) of this section, the reference to the proportion of "the contribution" to be refunded is added for clarity.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–208. ACQUISITION OF SYSTEM.

WHEN THE COMMISSION ACQUIRES AN EXISTING WATER OR SEWER SYSTEM OTHER THAN A MUNICIPAL SYSTEM, THE COMMISSION MAY IMPOSE A FRONT FOOT BENEFIT CHARGE LESS THAN THE UNIFORM FRONT FOOT BENEFIT CHARGE REQUIRED IN § 25–204 OF THIS SUBTITLE IF:

(1) THE CONSTRUCTION COST OF THE SYSTEM HAS BEEN ADDED, WHOLLY OR PARTLY, TO THE PURCHASE PRICE OF THE PROPERTY THAT ABUTS ON THE SYSTEM; AND

(2) THE ADDITION OF THE CONSTRUCTION COST IS A FACTOR IN THE COST OF THE SYSTEM TO THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–104(c).

In the introductory language of this section, the reference to an existing "water or sewer" system is added for clarity.

Also in the introductory language of this section, the phrase "required in § 25–204 of this subtitle" is added for clarity.

Also in the introductory language of this section, the word "impose" is substituted for the former word "levy" for clarity.

Also in the introductory language of this section, the references to a front foot "benefit charge" are substituted for the former references to a front foot "assessment" for consistency within this subtitle.

Also in the introductory language of this section, the former reference to the front foot benefit charge "levied in the sanitary district" is deleted as unnecessary.

In item (1) of this section, the reference to the purchase "price" is added for clarity.

Also in item (1) of this section, the reference to "property" is substituted for the former reference to "land" for consistency within this subtitle.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–209. CONNECTION BENEFIT CHARGE.

(A) CONNECTION BENEFIT CHARGE.

A WATER OR SEWER CONNECTION BENEFIT CHARGE IMPOSED BY THE COMMISSION UNDER THIS SECTION IS IN ADDITION TO A BENEFIT CHARGE IMPOSED UNDER ANY OTHER SECTION OF THIS SUBTITLE.

(B) PAYMENT.

(1) (I) WHEN A BENEFIT CHARGE OR PORTION OF A BENEFIT CHARGE FOR A WATER MAIN OR SEWER CONNECTION IS MADE PAYABLE ON AN INSTALLMENT BASIS AS PROVIDED IN § 25–304(B) OF THIS TITLE, THE DEFERRED AMOUNT AND INTEREST SHALL BE PAID BY AN ANNUAL BENEFIT CHARGE IN AN AMOUNT AND FOR THE PERIOD OF YEARS NECESSARY TO AMORTIZE THE ACCOUNT.

(II) PROPERTY SUBJECT TO A BENEFIT CHARGE IMPOSED UNDER THIS SECTION IS SUBJECT TO THE BENEFIT CHARGE UNTIL PAYMENTS HAVE AMORTIZED THE CHARGE, INCLUDING ACCRUED INTEREST.

(2) THE COMMISSION SHALL ALLOW A PROPERTY OWNER SUBJECT TO A BENEFIT CHARGE FOR THE DEFERRED PORTION OF A CONNECTION BENEFIT CHARGE TO EXTINGUISH THE ACCOUNT BY PAYING THE PRINCIPAL AND INTEREST DUE UP TO THE TIME OF PAYMENT.

(C) PAYMENT BY PUBLIC ENTITIES.

IF A FEDERAL, STATE, COUNTY, OR OTHER GOVERNMENTAL UNIT OR MUNICIPALITY ACQUIRES PROPERTY FOR PUBLIC USE THAT IS SUBJECT TO A BENEFIT CHARGE UNDER THIS SECTION, THE BENEFIT CHARGE SHALL BE PAID AND EXTINGUISHED AS PROVIDED IN § 25–212 OF THIS SUBTITLE.

(D) COLLECTION.

A BENEFIT CHARGE IMPOSED UNDER THIS SECTION SHALL BE COLLECTED AS PROVIDED IN § 25–214 OF THIS SUBTITLE.

(E) BONDS.

TO IMPLEMENT THIS SECTION, THE COMMISSION MAY:

(1) INCLUDE IN THE SALE OF BONDS THE COST OF MAKING SERVICE CONNECTIONS THAT ARE PAID ON AN INSTALLMENT BASIS; AND

(2) USE ANY FUNDS OBTAINED FROM THE SALE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–106(a)(2), (b), (c)(1) and (3), (d), (e), and, except as it related to the connection being a benefit to the property, (a)(1).

In subsections (a) and (d) of this section, the word "imposed" is substituted for the former word "levied" for clarity.

Also in subsections (a) and (d) of this section, the former references to a benefit charge being "established" are deleted as included in the references to a benefit charge being "imposed".

In subsections (b)(1)(i) and (e)(1) of this section, the former references to "a deferred or" installment basis are deleted for consistency with § 25–304(b) of this title.

In subsection (b)(1)(i) of this section, the reference to a water "main" is added for clarity and consistency within this subtitle.

Also in subsection (b)(1)(i) of this section, the references to a "benefit" charge are added for clarity.

Also in subsection (b)(1)(i) of this section, the former reference to the deferred amount "of the connection charge" is deleted as unnecessary.

In subsection (b)(1)(ii) of this section, the reference to "accrued interest" is substituted for the former reference to "interest increment" for clarity.

Also in subsection (b)(1)(ii) of this section, the references to a benefit "charge" are substituted for the former references to a benefit "assessment" for consistency within this subtitle.

Also in subsection (b)(1)(ii) of this section, the former reference to "annual or other" payments is deleted as unnecessary.

In subsection (b)(2) of this section, the former reference to extinguishing the account "and lien" is deleted as unnecessary.

In subsection (c) of this section, the reference to "unit" is substituted for the former reference to "agency, commission, board" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In subsection (e)(1) of this section, the reference to "service" connections is added for clarity and accuracy.

In subsection (e)(2) of this section, the reference to funds obtained "from the sale" is added for clarity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Service connection" § 16–101
"Sewer" § 25–201
"State" § 16–101

25–210. REPLACEMENT OR ENLARGEMENT OF WATER MAIN OR SEWER.

(A) BENEFIT CHARGE FOR CONSTRUCTION.

(1) WHEN THE COMMISSION REPLACES OR ENLARGES A WATER MAIN OR SEWER TO PROVIDE INCREASED WATER OR SEWER SERVICE CAPABILITY FOR ABUTTING OR CONNECTED PROPERTY BECAUSE OF A CHANGE IN THE USE OR ZONING CLASSIFICATION OF THE PROPERTY, A BENEFIT CHARGE

FOR THE CONSTRUCTION OF THE REPLACEMENT OR ENLARGED SYSTEM SHALL BE:

(I) IMPOSED AS PROVIDED IN § 25–204 OF THIS SUBTITLE;

(II) COLLECTED AS PROVIDED IN § 25–214 OF THIS SUBTITLE; AND

(III) REDEEMED AS PROVIDED IN § 25–211 OF THIS SUBTITLE.

(2) ANY UNPAID PORTION OF THE INITIAL BENEFIT CHARGE IMPOSED FOR THE ORIGINAL CONSTRUCTION OF THE WATER MAIN OR SEWER SHALL BE INCLUDED IN THE NEW BENEFIT CHARGE AS AN INCREMENTAL CHARGE TO THE SINGLE RESULTING BENEFIT CHARGE FOR THE ENLARGED SYSTEM ONLY FOR THE REMAINING YEARS OF THE INITIAL BENEFIT CHARGE.

(B) EXCEPTION FOR RESIDENTIAL SUBDIVISION CLASS.

THE COMMISSION MAY NOT IMPOSE AN ADDITIONAL BENEFIT CHARGE UNDER SUBSECTION (A) OF THIS SECTION FOR A PROPERTY IN THE RESIDENTIAL SUBDIVISION CLASS THAT ABUTS ON AN ENLARGED WATER MAIN OR SEWER AND THAT IS SUBJECT TO, OR WAS SUBJECT TO AND PAID, A BENEFIT CHARGE FOR WATER MAIN OR SEWER CONSTRUCTION UNTIL THE CLASSIFICATION OF THE PROPERTY IS CHANGED BECAUSE OF A CHANGE IN USE OR ZONING CLASSIFICATION REQUESTED BY THE PROPERTY OWNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–107(b) through (d) and, except as it related to the enlargement being a benefit to the property, (a).

In subsection (a)(1) of this section, the former reference to the benefit charge being imposed, collected, and redeemed as provided "for the initial construction of the enlarged or augmented facility" is deleted in light of the reference to specific cross–referenced provisions.

In the introductory language of subsection (a)(1) of this section, the reference to a system being "enlarge[d]" is substituted for the former reference to a system being "augmented" for clarity.

Also in the introductory language of subsection (a)(1) of this section, the reference to a zoning "classification" is substituted for the former reference to a zoning "category" for consistency within this subtitle.

Also in the introductory language of subsection (a)(1) of this section, the reference to construction of the "replacement or enlarged system" is substituted for the former reference to the "water or sewer system service" for clarity and accuracy.

Also in the introductory language of subsection (a)(1) of this section, the former reference to the property "to be abutting or connected" is deleted as unnecessary.

In subsection (a)(1)(i) of this section, the word "imposed" is substituted for the former word "assessed" for clarity.

In subsections (a)(2) and (b) of this section, the former references to an "augmented" system are deleted as redundant of the reference to an "enlarged" system.

In subsection (a)(2) of this section, the reference to the initial benefit charge "imposed for the original construction of the water main or sewer" is added for clarity.

Also in subsection (a)(2) of this section, the reference to being "included" is substituted for the former reference to being "merged" for clarity.

Also in subsection (a)(2) of this section, the reference to the enlarged "system" is substituted for the former reference to the enlarged "facility" for clarity. Similarly, in subsection (b) of this section, the reference to the enlarged "water main or sewer" is substituted for the former reference to the enlarged "facility".

In subsection (b) of this section, the reference to the "property" owner is added for clarity.

Also in subsection (b) of this section, the reference to "water main or sewer" construction is substituted for the former reference to "water or sewer line" construction for consistency within this subtitle.

Also in subsection (b) of this section, the reference to the "residential subdivision" class is substituted for the former reference to the "single family residential" class for consistency with § 25–203(a) of this subtitle.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–211. EXTINGUISHMENT OR REDEMPTION.

(A) CALCULATION OF AMOUNT.

(1) FOR PURPOSES OF THIS SECTION, THE ANNUAL BENEFIT CHARGE FOR A PROPERTY SHALL BE CALCULATED AT A SUM:

(I) EQUAL TO THE BASE RATE APPLIED TO THE CLASSIFICATION FOR THE PROPERTY AS IT IS USED, DISREGARDING ANY ALLOWANCE FOR EXCESS; BUT

(II) NOT LESS THAN THE BASE RATE APPLIED TO PROPERTY IN THE RESIDENTIAL SUBDIVISION CLASSIFICATION.

(2) AT ANY TIME, A BENEFIT CHARGE MAY BE EXTINGUISHED OR REDEEMED BY PAYMENT TO THE COMMISSION OF A SUM EQUAL TO:

(I) THE ANNUAL BENEFIT CHARGE MULTIPLIED BY THE NUMBER OF YEARS YET TO RUN ON THE BONDS THAT FINANCED THE CONSTRUCTION OF THE WATER MAIN OR SEWER ON WHICH THE BENEFIT CHARGE WAS BASED; AND

(II) LESS THE INTEREST CALCULATED AT THE RATE OF INTEREST ON THE BONDS THAT FINANCED THE CONSTRUCTION OF THE WATER MAIN OR SEWER ON WHICH THE BENEFIT CHARGE IS BASED.

(B) REDEMPTION BECAUSE OF ACQUISITION BY PUBLIC ENTITY.

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, IF A BENEFIT CHARGE IS PAID AND REDEEMED BECAUSE THE PROPERTY IS ACQUIRED BY THE STATE, A COUNTY, OR OTHER GOVERNMENTAL UNIT UNDER ANY LAW THAT REQUIRES REDEMPTION, THE PAYMENT TO THE COMMISSION:

(1) SHALL BE THE CAPITALIZED AMOUNT OF THE ACTUAL BENEFIT CHARGE; BUT

(2) MAY NOT BE LESS THAN AN AMOUNT CALCULATED AS IF THE PROPERTY WERE IN THE SMALL ACREAGE CLASSIFICATION, WITH THE REDEMPTION AMOUNT CALCULATED AS PROVIDED IN THIS SECTION.

(C) PURCHASE OF BONDS.

(1) ON RECEIVING A SUM FROM THE EXTINGUISHMENT OR REDEMPTION OF ONE OR MORE FRONT FOOT BENEFIT CHARGES, THE COMMISSION:

(I) SHALL PURCHASE AND CANCEL ONE OR MORE BONDS FROM THE SERIES OF BONDS ISSUED FOR THE CONSTRUCTION THAT WAS THE BASIS OF THE FRONT FOOT BENEFIT CHARGE; OR

(II) MAY INVEST OR USE THE SUM TO:

1. CONSTRUCT OTHER WATER MAINS AND SEWERS FOR WHICH BENEFIT CHARGES ARE IMPOSED; OR

2. AMORTIZE BONDS ISSUED FOR THE CONSTRUCTION OF WATER MAINS AND SEWERS FOR WHICH FRONT FOOT BENEFIT CHARGES ARE IMPOSED UNDER THIS SUBTITLE.

(2) THE COMMISSION MAY MAKE UP A DEFICIENCY IN THE PURCHASE OF A BOND OR PAY A PREMIUM FROM ANY AVAILABLE SURPLUS FUNDS.

(3) THE EXTINGUISHMENT OR REDEMPTION OF A BENEFIT CHARGE IS CONDITIONAL UNTIL THE LAST YEAR OF MATURITY OF THE BONDS FROM WHICH PROCEEDS THE WATER MAINS OR SEWERS WERE CONSTRUCTED.

(4) IF, AFTER EXTINGUISHMENT OR REDEMPTION, THE USE OF THE PROPERTY CHANGES TO ANOTHER CLASSIFICATION THAT WOULD YIELD A GREATER BENEFIT CHARGE THAN THAT USED TO CALCULATE THE SUM TO EXTINGUISH OR REDEEM THE BENEFIT CHARGE, THE COMMISSION MAY:

(I) RECLASSIFY THE PROPERTY;

(II) CALCULATE A BENEFIT CHARGE TO GIVE CREDIT FOR THE SUM PAID FOR THE EXTINGUISHMENT OR REDEMPTION; AND

(III) REIMPOSE THE BENEFIT CHARGE FOR THE REMAINING NUMBER OF YEARS UNTIL THE BONDS MATURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–103(b) through (d).

In the introductory language of subsection (a)(1) of this section, the reference to the annual benefit charge "for a property" is added for clarity.

In subsection (a)(1)(i) of this section, the reference to the "classification for the property as it is used" is substituted for the former reference to

the "class in which the property may then be by reason of its use" for brevity and clarity.

In subsection (a)(2)(i) of this section, the reference to the years "yet to run on the bonds" is substituted for the former reference to the years "that it has yet to run" for clarity.

Also in subsection (a)(2)(i) of this section, the former reference to the bond "proceeds" is deleted as unnecessary.

In the introductory language of subsection (b)(1) of this section, the reference to a "unit" is substituted for the former reference to an "authority or agency" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In subsection (b)(2) of this section, the reference to an "amount calculated" is substituted for the former reference to a "charge which would develop" for clarity.

In subsection (c)(1)(ii) of this section, the references to "water mains and sewers" are substituted for the former references to "water and sanitary sewer lines" for consistency within this subtitle.

Also in subsection (c)(1)(ii) of this section, the word "imposed" is substituted for the former word "levied" for clarity.

In subsection (c)(3) of this section, the reference to bond proceeds from which "the water mains or sewers were constructed" is substituted for the former reference to proceeds from which "the construction was done" for clarity.

In the introductory language of subsection (c)(4) of this section, the reference to the "sum to extinguish or redeem the benefit charge" is substituted for the former reference to the "redemption amount" for clarity.

Also in the introductory language of subsection (c)(4) of this section, the former reference to property changing to another class "so that the property would be placed in a different class" is deleted as unnecessary.

In subsection (c)(4)(iii) of this section, the reference to the remaining number of years "until the bonds mature" is added for clarity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sewer" § 25–201

"State" § 16–101

25–212. PROPERTY ACQUIRED FOR PUBLIC USE.

(A) PAYMENT OF BENEFIT CHARGE.

EXCEPT AS PROVIDED FOR THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY UNDER § 25–204(D)(2) OF THIS SUBTITLE, WHEN THE STATE OR A COUNTY OR MUNICIPALITY, OR A UNIT OF THE STATE OR A COUNTY, ACQUIRES PROPERTY FOR PUBLIC USE THAT IS SUBJECT TO A BENEFIT CHARGE IMPOSED UNDER THIS SUBTITLE, THE BENEFIT CHARGE SHALL BE PAID AND EXTINGUISHED BY PAYMENT TO THE COMMISSION OF A SUM CALCULATED IN ACCORDANCE WITH § 25–211 OF THIS SUBTITLE.

(B) ACQUISITION WITHOUT EMINENT DOMAIN.

WHEN PROPERTY IS ACQUIRED WITHOUT EMINENT DOMAIN, THE COMMISSION SHALL BE PAID THE AMOUNT NECESSARY TO EXTINGUISH THE BENEFIT CHARGE BEFORE THE DEED EVIDENCING THE TRANSFER MAY BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(C) ACQUISITION BY EMINENT DOMAIN.

WHEN PROPERTY IS ACQUIRED BY EMINENT DOMAIN:

(1) THE COMMISSION SHALL BE NAMED A PARTY TO THE EMINENT DOMAIN PROCEEDINGS AND THE JURY SHALL MAKE A SEPARATE AWARD TO THE COMMISSION OF THE AMOUNT NECESSARY TO EXTINGUISH THE BENEFIT CHARGE; OR

(2) THE CONDEMNING AUTHORITY SHALL PAY THE COMMISSION THE AMOUNT NECESSARY TO EXTINGUISH THE BENEFIT CHARGE AT THE SAME TIME THE CONDEMNING AUTHORITY PAYS THE AMOUNT AWARDED TO THE PROPERTY OWNER IF:

(I) BY OVERSIGHT OR MISTAKE, THE COMMISSION IS NOT NAMED A PARTY TO THE PROCEEDINGS; OR

(II) THE JURY'S INQUISITION DOES NOT SPECIFY A SEPARATE AWARD FOR THE AMOUNT NECESSARY TO PAY THE BENEFIT CHARGE.

(D) HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY.

IF THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY ALLOWS A BENEFIT CHARGE TO BECOME DELINQUENT:

(1) BY THE FIRST MONTH OF THE NEXT FISCAL YEAR, THE MONTGOMERY COUNTY COUNCIL SHALL AUTHORIZE AND APPROPRIATE SUFFICIENT FUNDS TO PAY THE DELINQUENT BENEFIT CHARGE AND ALL PENALTIES AND INTEREST ON THE CHARGE; AND

(2) THE MONTGOMERY COUNTY EXECUTIVE SHALL PAY THE APPROPRIATED FUNDS TO THE COMMISSION PROMPTLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–109(a)(1), (b), and (c)(3).

In subsection (a) of this section, the reference to "§ 25–204(d)(2) of this subtitle" is added for clarity.

Also in subsection (a) of this section, the word "imposed" is substituted for the former word "levied" for clarity.

Also in subsection (a) of this section, the reference to a "unit" is substituted for the former reference to a "commission, board, or agency" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to division.

Also in subsection (a) of this section, the reference to a benefit charge imposed "under this subtitle" is substituted for the former reference to a benefit charge imposed "by the WSSC" for accuracy.

Also in subsection (a) of this section, the former reference to paying a sum "necessary to pay off the benefit charge" is deleted as surplusage.

In subsections (b) and (c)(1) of this section, the former references to "pay and" extinguish are deleted as unnecessary.

In subsection (b) of this section, the former phrase "as provided in this section" is deleted as surplusage.

Also in subsection (b) of this section, the former reference to eminent domain "proceedings" is deleted as surplusage.

In subsection (c)(1) of this section, the reference to making an award "to" the Commission is substituted for the former reference to making an award "in favor of" the Commission for clarity.

In subsection (c)(2) of this section, the references to the benefit "charge" are substituted for the former references to the benefit "assessment" for consistency within this subtitle.

In the introductory language of subsection (c)(2) of this section, the former reference to the amount awarded "in the proceedings" is deleted as unnecessary.

In subsection (d)(2) of this section, the former reference to appropriated funds "for delinquent benefit charges" is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"State" § 16–101

25–213. OMISSIONS AND MISTAKES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO:

(1) AN OMISSION OR MISTAKE PREVIOUSLY MADE BY THE COMMISSION; OR

(2) A JUDGMENT OR DECREE PREVIOUSLY RENDERED ON A PROPERTY IF FRONT FOOT BENEFIT CHARGE PAYMENTS HAVE NOT BEEN MADE ON THE PROPERTY.

(B) PROCEDURE.

(1) WHEN THE COMMISSION DISCOVERS AN OMISSION OR MISTAKE OR WITHIN A REASONABLE TIME AFTER A COURT RENDERS A JUDGMENT OR DECREE, THE COMMISSION MAY IMPOSE A FRONT FOOT BENEFIT CHARGE AT A RATE AND IN A CLASSIFICATION THAT IT COULD HAVE IMPOSED ORIGINALLY OR THAT A COURT ORDERS, INCLUDING ANY INCREASES APPLIED TO THE PROJECT OF WHICH THE PROPERTY IS A PART, IF:

(I) THE COMMISSION DISCOVERS THAT PROPERTY SUBJECT TO A FRONT FOOT BENEFIT CHARGE:

1. MISTAKENLY HAS NOT HAD A FRONT FOOT BENEFIT CHARGE IMPOSED;

2. HAS HAD THE CHARGE IMPOSED BUT WAS LISTED IN THE WRONG NAME; OR

3. HAS HAD THE CHARGE IMPOSED UNDER AN INCORRECT DESCRIPTION; OR

(II) A PROPERTY OWNER DID NOT RECEIVE NOTICE AS REQUIRED BY § 25–204 OF THIS SUBTITLE; OR

(III) THE COURT SET ASIDE THE SERVICE OF NOTICE BY JUDGMENT OR DECREE.

(2) THE FRONT FOOT BENEFIT CHARGE IMPOSED UNDER THIS SECTION SHALL RUN FOR THE PERIOD OF YEARS THE BENEFIT CHARGE WOULD HAVE RUN IF IT HAD BEEN IMPOSED AT THE PROPER TIME OR IN THE PROPER MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–105.

In this section, the former references to "error" are deleted as implicit in the references to "mistake".

In subsection (a) of this section, the reference to a judgment or decree rendered "on a property" is added for clarity.

In subsection (b) of this section, the word "impose[d]" is substituted for the former words "lev[ied]" and "established" for clarity.

In the introductory language of subsection (b)(1) and in subsection (b)(1)(iii) of this section, the references to a "court" rendering or setting aside a judgment or decree are added for clarity.

In the introductory language of subsection (b)(1) of this section, the reference to "the Commission" discovering an omission or mistake is added for clarity.

Also in the introductory language of subsection (b)(1) of this section, the word "omission" is substituted for the former word "inadvertence" and the word "mistake" is substituted for the former word "oversight" for consistency with subsection (a) of this section.

In subsection (b)(1)(i) of this section, the former reference to property that has not had a front foot benefit charge imposed "against it" is deleted as unnecessary.

In subsection (b)(1)(i)1 of this section, the word "mistakenly" is substituted for the former word "erroneously" for consistency within this section.

In subsection (b)(1)(i)2 of this section, the reference to the benefit charge being "listed" in the wrong name is added for clarity.

In subsection (b)(1)(ii) of this section, the reference to notice "required by § 25–204 of this subtitle" is added for clarity.

Also in subsection (b)(1)(ii) of this section, the reference to a "property" owner is added for consistency within this subtitle.

Defined term: "Commission" § 16–101

25–214. COLLECTION OF BENEFIT CHARGE.

(A) APPLICATION OF SECTION.

THIS SECTION APPLIES TO THE COLLECTION OF BENEFIT CHARGES FOR THE COMMISSION BY THE DIRECTORS OF FINANCE OF PRINCE GEORGE'S COUNTY AND MONTGOMERY COUNTY OR BY OTHER TAX COLLECTING AUTHORITIES IN THOSE COUNTIES.

(B) DUTIES OF COMMISSION.

EACH YEAR, FOR 30 DAYS BEFORE THE COLLECTION OF TAXES BEGINS IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE COMMISSION SHALL HAVE ACCESS TO THE RECORDS OF THE TREASURY DIVISION IN EACH COUNTY'S DEPARTMENT OR OFFICE OF FINANCE TO INFORM EACH COUNTY:

(1) REGARDING WHICH PROPERTIES OR PROPERTY OWNERS ARE SUBJECT TO A BENEFIT CHARGE AND THE ANNUAL BENEFIT CHARGE IMPOSED ON THE PROPERTY;

(2) REGARDING EACH PROPERTY ON WHICH THE COMMISSION HAS IMPOSED A BENEFIT CHARGE THAT WAS NOT SUBJECT TO STATE OR COUNTY TAXES; AND

(3) OF THE TOTAL BENEFIT CHARGE IMPOSED FOR ALL PROPERTIES IN THE COUNTY.

(C) DUTIES OF COUNTY DIRECTOR OF FINANCE.

(1) (I) ALL LAWS RELATING TO THE COLLECTION OF COUNTY TAXES APPLY TO THE COLLECTION OF A BENEFIT CHARGE.

(II) A BENEFIT CHARGE:

1. FOR PURPOSES OF COLLECTION, SHALL BE TREATED AS A COUNTY TAX;

2. SHALL BEAR THE SAME INTEREST AND PENALTIES AS A COUNTY TAX; AND

3. SHALL BE ADVERTISED WITH, AND IN THE SAME MANNER AS, A COUNTY TAX.

(2) THE DIRECTOR OF FINANCE SHALL COLLECT A BENEFIT CHARGE IN ACCORDANCE WITH THIS SECTION.

(3) THE DIRECTOR OF FINANCE:

(I) SHALL REFER A PROTEST, OBJECTION, OR COMPLAINT CONCERNING A BENEFIT CHARGE TO THE COMMISSION; AND

(II) MAY NOT REFUND, CHANGE, OR AMEND A BENEFIT CHARGE.

(4) A PROPERTY REDEEMED FROM A COUNTY TAX SALE OR A PROPERTY SOLD BY THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY AFTER A FINAL TAX SALE MAY NOT BE REDEEMED OR SOLD EXCEPT ON PAYMENT OF THE BENEFIT CHARGE DUE ON THE PROPERTY.

(5) A PROPERTY SUBJECT TO A DELINQUENT BENEFIT CHARGE SHALL BE SOLD FOR THE DELINQUENT BENEFIT CHARGE AT THE SAME TIME AND IN THE SAME MANNER AS PROPERTY SOLD FOR DELINQUENT COUNTY TAXES.

(D) TAX BILL.

(1) THE DIRECTOR OF FINANCE SHALL:

(I) PRINT ON THE TAX BILL:

**"TO SANITARY COMMISSION BENEFIT CHARGE $...."; **

(II) PROVIDE A SPACE ON THE TAX BILL FOR THE INTEREST OR PENALTY;

(III) MAKE THE PROPER ENTRIES ON EACH TAX BILL MAILED; AND

(IV) COLLECT THE AMOUNT SPECIFIED ON THE BILL FOR THE BENEFIT CHARGE WITH THE STATE AND COUNTY TAXES.

(2) IN MONTGOMERY COUNTY, EACH PROPERTY TAX BILL SHALL LIST SEPARATELY ANY DEFERRED WATER MAIN OR SEWER CONNECTION BENEFIT CHARGES APPLICABLE TO AN ASSESSED PROPERTY.

(E) PAYMENT TO COMMISSION; PENALTY.

(1) ON OR BEFORE THE 10TH DAY OF EACH MONTH, THE DIRECTOR OF FINANCE SHALL PAY THE COMMISSION THE AMOUNT OF THE BENEFIT CHARGES COLLECTED BY THE DIRECTOR OF FINANCE THROUGH THE LAST DAY OF THE PRECEDING MONTH.

(2) IF THE DIRECTOR OF FINANCE DOES NOT PAY THE AMOUNT DUE THE COMMISSION AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, THE AMOUNT DUE SHALL BEAR A PENALTY OF 1% PER MONTH.

(3) THE DIRECTOR OF FINANCE IS PERSONALLY LIABLE FOR FAILURE TO PAY THE AMOUNT DUE TO THE COMMISSION.

(4) THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL REQUIRE THE BONDS OF ITS RESPECTIVE DIRECTOR OF FINANCE TO BE CONDITIONED ON PAYMENT TO THE COMMISSION OF THE AMOUNT COLLECTED UNDER THIS SECTION.

(F) PAYMENT TO COUNTIES.

(1) BY DECEMBER 1 OF EACH YEAR, THE COMMISSION SHALL PAY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY A REASONABLE AMOUNT FOR THE SERVICES OF ITS RESPECTIVE DIRECTOR OF FINANCE.

(2) THE PAYMENT PROVIDED FOR IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE INCLUDED AS AN ITEM IN THE COMMISSION'S OPERATING BUDGET.

REVISOR'S NOTE: Subsection (a) of this section is new language added as an application provision for clarity.

Subsections (b) through (f) of this section are new language derived without substantive change from former Art. 29, § 5–108.

Throughout this section, the references to the "directors of finance" and "director of finance" are substituted for the former references to "treasurers" and "treasurer" for clarity and accuracy.

In subsection (b) of this section, the word "imposed" is substituted for the former word "levied" for clarity.

In the introductory language to subsection (b) of this section, the reference to the "records of the treasury division in each county's department or office of finance" is substituted for the former reference to the "book" for accuracy and to conform to current practice.

Also in the introductory language of subsection (b) of this section, the reference to "inform[ing] each county" is substituted for the former references to "mak[ing] the entries", "stamp[ing] on the treasurer's books, of the respective counties, opposite the properties or owners listed in the books", and "add[ing] any properties … to the treasurer's books" for accuracy and to conform to current practice.

Also in the introductory language of subsection (b) of this section, the former reference to "free" access is deleted as unnecessary.

Also in the introductory language of subsection (b) of this section, the former reference to the "time when the actual" collection begins is deleted as unnecessary.

In subsection (b)(3) of this section, the phrase "for all properties in the county" is added for clarity.

In subsection (c)(1)(ii)2 of this section, the phrase "as a county tax" is added for clarity.

In the introductory language of subsection (c)(3) and in subsection (e)(1) of this section, the former references to the "respective" director of finance are deleted as unnecessary.

In subsection (c)(5) of this section, the reference to "delinquent" county taxes is added for clarity.

In the introductory language of subsection (d) of this section, the former reference to the directors of finance "of Prince George's and Montgomery Counties, or other tax collecting authorities" is deleted in light of subsection (a) of this section.

In subsection (d)(1)(iii) of this section, the reference to each tax bill "mailed" is substituted for the former reference to each bill "sent out" for clarity.

Also in subsection (d)(1)(iii) of this section, the former reference to "necessary" entries is deleted as included in the reference to "proper" entries.

In subsection (d)(2) of this section, the former reference to every tax bill "rendered for fiscal year 1986 and thereafter" is deleted as obsolete.

In subsection (e)(1) of this section, the phrase "[o]n or before" the 10th day is substituted for the former phrase "[o]n" the 10th day for consistency with the terminology used in other revised articles of the Code. No substantive change is intended.

In subsection (e)(3) of this section, the former reference to "withholding the payment" is deleted as redundant of the reference to the "failure to pay the amount due".

In subsection (e)(4) of this section, the reference to the amount collected "under this section" is substituted for the former reference to the amount collected "for the WSSC" for clarity and accuracy.

Defined terms: "Commission" § 16–101
"State" § 16–101

SUBTITLE 3. CONNECTION CHARGES.

25–301. CONNECTION CHARGES GENERALLY.

(A) IN GENERAL.

FOR EACH SERVICE CONNECTION UNDER § 23–202 OF THIS ARTICLE, THE COMMISSION SHALL SET A CONNECTION CHARGE THAT THE COMMISSION DETERMINES TO BE REASONABLE.

(B) UNIFORMITY.

SUBJECT TO A YEARLY REVISION BY THE COMMISSION:

(1) FOR CONNECTIONS OF THE SIZES AND CLASSES FOR WHICH THE AVERAGE COST REASONABLY MAY BE ASCERTAINED, THE CONNECTION CHARGE SHALL BE UNIFORM THROUGHOUT THE SANITARY DISTRICT; AND

(2) FOR ALL OTHER CONNECTIONS, THE CONNECTION CHARGE SHALL BE THE ACTUAL COST.

(C) PAYMENT.

ALL PROPERTY OWNERS SHALL PAY THE CONNECTION CHARGE TO THE COMMISSION BEFORE THE ACTUAL CONNECTION OF ANY LINE ON PRIVATE PROPERTY IS MADE.

(D) USE OF REVENUE OVER COST.

OF THE TOTAL REVENUE OVER ACTUAL COST THAT IS DERIVED FROM THE CONNECTION CHARGES, THE COMMISSION SHALL:

(1) RETAIN ONE–HALF OF THE REVENUE IN A CONTINGENCY FUND FOR REPAIR, REPLACEMENT, OR ANY EXTRAORDINARY EXPENSE IN THE MAINTENANCE AND OPERATION OF WATER SUPPLY OR SEWER SYSTEMS UNDER THE CONTROL OF THE COMMISSION; AND

(2) APPLY ONE–HALF OF THE REVENUE TO PAY THE COMMISSION'S DEBT SERVICE FOR OUTSTANDING DEBTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–101.

In this section and throughout this subtitle, the references to a "connection" charge are added for clarity.

In the introductory language of subsection (b) of this section, the former reference to a revision "of the charges" is deleted as unnecessary.

In subsection (c) of this section, the reference to paying the connection charge "to the Commission" is substituted for the former reference to paying the charge "at the office of the WSSC" for brevity.

In subsection (d)(2) of this section, the reference to "debt service for outstanding bonds" is substituted for the former reference to "bonded debt" for clarity.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

25–302. SEPARATE CLASSES — UNIMPROVED AREA.

(A) IN GENERAL.

IF THE COMMISSION DETERMINES THAT IT IS FEASIBLE, REASONABLE, AND ECONOMICAL, THE COMMISSION MAY PLACE IN A SEPARATE CLASS A WATER OR SANITARY SEWER CONNECTION THAT IS MADE TO A WATER OR SEWER LINE INSTALLED IN A STREET, ROAD, ALLEY, OR RIGHT–OF–WAY THAT HAS NOT BEEN PAVED OR OTHERWISE IMPROVED TO AVOID THE NECESSITY OF REPLACING PAVEMENT OR STREET IMPROVEMENTS ON INSTALLATION OF THE CONNECTION.

(B) COST OF CONNECTION.

(1) THE COMMISSION MAY:

(I) IMPOSE A CONNECTION CHARGE BASED ON THE ACTUAL COST OF THE CONNECTIONS, INCLUDING THE COMMISSION INSPECTION CHARGE; OR

(II) PROVIDE FOR THE INSTALLATION OF THE CONNECTIONS, INCLUDING TAPS INTO A MAIN OR LINE, BY THE APPLICANT OR AT THE APPLICANT'S COST, UNDER SUPERVISION AND INSPECTION OF THE COMMISSION.

(2) THE COMMISSION MAY AUTHORIZE ANY CLASS OF CONNECTION FROM ITS WATER LINE OR SANITARY SEWER LINE TO BE CONSTRUCTED BEYOND THE PROPERTY LINE OF THE PROPERTY TO BE SERVED IF THE CONNECTING LINE IS CONSTRUCTED AT THE SAME TIME FROM THE MAIN TO THE STRUCTURE ON THE PROPERTY TO BE SERVED.

(C) PAYMENT OF CONSTRUCTION EXPENSES AND MAINTENANCE.

THE PROPERTY OWNER SHALL PAY THE ENTIRE EXPENSE OF THE CONSTRUCTION AND MAINTENANCE OF THE PART OF THE CONNECTING LINE FROM THE PROPERTY LINE INTO THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–102(a).

In subsection (a) of this section, the phrase "to avoid the necessity of" is substituted for the former phrase "so as not to require" for clarity.

Also in subsection (a) of this section, the former reference to a class "of connection" is deleted as unnecessary.

In subsection (b)(1)(i) of this section, the reference to "impos[ing]" a charge is substituted for the former reference to "specify[ing]" a charge for consistency within this title.

In subsections (b)(2) and (c) of this section, the references to a "line" are substituted for the former references to a "pipe" for consistency within this title.

In subsection (b)(2) of this section, the phrase "at the same time" is substituted for the former phrase "at 1 time" for clarity.

In subsection (c) of this section, the reference to the property owner paying the "entire" expense is substituted for the former reference to the property owner "alone" paying the expense for clarity.

Also in subsection (c) of this section, the reference to the "property line into the property" is substituted for the former reference to the "property line in or on the property" for clarity and brevity.

Also in subsection (c) of this section, the former reference to "subsequent" maintenance is deleted as unnecessary.

Defined term: "Commission" § 16–101

25–303. SEPARATE CLASSES — OTHER AREAS.

(A) IN GENERAL.

IF THE COMMISSION PROVIDES FOR A CLASS OF CONNECTIONS FOR UNIMPROVED AREAS AS PROVIDED IN § 25–302 OF THIS SUBTITLE:

(1) THE CHARGES FOR WATER AND SANITARY SEWER CONNECTIONS TO SIMILAR PROPERTIES IN DEVELOPED AREAS MAY BE BASED ON THE COMMISSION'S CALCULATION, BASED ON ITS EXPERIENCE, OF AN

AVERAGE COST FOR CONNECTIONS IN BOTH UNIMPROVED AND DEVELOPED AREAS; AND

(2) THE COMMISSION MAY SPECIFY THIS CONNECTION CHARGE AS THE UNIFORM CONNECTION CHARGE PROVIDED IN § 25–301 OF THIS SUBTITLE FOR CONNECTIONS INSTALLED BY THE COMMISSION IN DEVELOPED AREAS.

(B) DIFFERENCE IN COST.

ANY DIFFERENCE BETWEEN THE ACTUAL COST OF THE CONNECTIONS AND THE UNIFORM CONNECTION CHARGE SHALL BE PAID FROM THE WATER SERVICE CHARGE OR A SEWER USAGE CHARGE, AS APPLICABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–102(b).

In the introductory language of subsection (a) of this section, the phrase "as provided in § 25–302 of this subtitle" is added for clarity.

In subsection (a)(1) of this section, the reference to "based on" its experience is substituted for the former reference to "utilizing" its experience for clarity.

Also in subsection (a)(1) of this section, the former references to "already" developed areas are deleted as unnecessary.

In subsection (b) of this section, the reference to "paid from the water service charge or a sewer usage charge, as applicable" is substituted for the former reference to "a part of the cost of providing water and sewer service, as applicable, for which other provisions of this article provide a water service charge or a sewer usage charge" for brevity and clarity.

Defined term: "Commission" § 16–101

25–304. CONNECTION AS PART OF A LATERAL LINE.

(A) IN GENERAL.

(1) THE COMMISSION MAY PROVIDE FOR THE INSTALLATION OF THE WATER OR SEWER CONNECTION AS PART OF THE CONSTRUCTION OF A WATER OR SEWER LATERAL LINE WHERE THE PROPERTY TO WHICH THE CONNECTION IS MADE HAS NOT BEEN ASSESSED A FRONT FOOT BENEFIT CHARGE UNDER § 25–203 OF THIS TITLE.

(2) IF AN INSTALLATION IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL COLLECT THE DEFERRED PART OF THE CONNECTION CHARGE BY THE BENEFIT CHARGE ASSESSMENT PROCEDURE UNDER §§ 25–204(E) AND 25–209 OF THIS TITLE.

(B) INSTALLMENT PAYMENT.

(1) IF THE WATER OR SEWER LATERAL LINE HAS BEEN CONSTRUCTED OR WHERE THE PROPERTY FOR WHICH AN APPLICATION FOR CONNECTION IS MADE HAS BEEN ASSESSED A BENEFIT CHARGE UNDER § 25–204 OF THIS TITLE AND THE PROPERTY IS IN AN AGRICULTURAL, SMALL ACREAGE, OR RESIDENTIAL CLASS, THE COMMISSION MAY PROVIDE FOR AN INSTALLMENT PAYMENT METHOD FOR ALL OR A PART OF THE WATER AND SEWER CONNECTION CHARGES FOR SINGLE FAMILY RESIDENTIAL UNITS WITH INDIVIDUAL WATER OR SEWER CONNECTIONS.

(2) IF AN INSTALLMENT PAYMENT METHOD IS ESTABLISHED AND CHOSEN BY AN APPLICANT FOR CONNECTION:

(I) THE INSTALLATION OF THE CONNECTION IS AN ADDITIONAL BENEFIT TO THE PROPERTY; AND

(II) THE APPLICANT IS LIABLE FOR PAYMENT FOR THE ADDITIONAL BENEFIT UNTIL THE DEFERRED CHARGE HAS BEEN AMORTIZED UNDER THE SCHEDULE THAT THE COMMISSION REQUIRES.

(3) THE CONNECTION CHARGE BENEFIT ASSESSMENT IS PAYABLE AS PROVIDED IN §§ 25–204(E) AND 25–209 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–102(c) and (d).

In subsection (a)(2) of this section, the phrase "[i]f an installation is made under paragraph (1) of this subsection" is substituted for the former phrase "[i]n this event" for clarity.

In subsection (b)(1) of this section, the former reference to a "deferred" payment method is deleted as surplusage since subsection (b)(2)(ii) of this section requires payment "until the deferred charge has been amortized" under the Commission's schedule, effectively requiring installment payments.

Also in subsection (b)(1) of this section, the reference to an installment "payment method" is substituted for the former reference to an installment "basis of payment" for clarity.

Also in subsection (b)(1) of this section, the former reference to "house" connections is deleted as implicit in the reference to "single family residential units with individual" connections.

In the introductory language of subsection (b)(2) of this section, the reference to "an installment payment method" is substituted for the former reference to "these procedures" for clarity.

Also in the introductory language of subsection (b)(2) of this section, the former reference to an applicant "who requests the deferred payment method" is deleted as unnecessary.

In subsection (b)(2)(i) of this section, the former reference to property "so connected" is deleted as surplusage.

In subsection (b)(2)(ii) of this section, the reference to the payment "for the additional benefit" is substituted for the former reference to the payment "for which" for clarity.

Defined term: "Commission" § 16–101

25–305. COMPLIANCE WITH REQUIREMENTS FOR REGULATIONS.

IN ADOPTING OR AMENDING ANY REGULATION UNDER THIS SUBTITLE, AND IN ESTABLISHING OR MODIFYING WATER OR SEWER CONNECTION CHARGES UNDER §§ 25–302 AND 25–303 OF THIS SUBTITLE, THE COMMISSION SHALL COMPLY WITH THE REQUIREMENTS OF § 17–403 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–102(e).

The reference to correction charges "under §§ 25–302 and 25–303 of this subtitle" is added for clarity.

The former reference to a "rule" is deleted as implicit in the reference to a "regulation". *See* General Revisor's Note to division.

Defined term: "Commission" § 16–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 29, § 6–102(f), which specified that an agreement that the Commission entered into between July 1, 1969 and April 22, 1970 with the owner of property for the installation of a water or sewer residential connection of a certain deferred basis was valid and the Commission was authorized to collect the deferred part by establishing a benefit charge against the property, is deleted as obsolete.

SUBTITLE 4. SYSTEM DEVELOPMENT CHARGE.

25–401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 6–113(a)(1).

The only change is in style.

(B) FIXTURE UNIT.

"FIXTURE UNIT" MEANS THE ASSIGNED VALUE FOR A PLUMBING FIXTURE OR GROUP OF PLUMBING FIXTURES, AS SET FORTH IN THE COMMISSION'S PLUMBING AND GAS FITTING REGULATIONS, THAT IS STANDARDIZED WITH A COMMON LAVATORY HAVING AN ASSIGNED VALUE OF ONE BASED ON ITS PROBABLE DISCHARGE INTO THE DRAINAGE SYSTEM OR HYDRAULIC DEMAND ON THE WATER SUPPLY.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 6–113(a)(2).

The former reference to a "particular" plumbing fixture is deleted as unnecessary.

The only other changes are in style.

Defined term: "Commission" § 16–101

(C) NEW SERVICE.

"NEW SERVICE" MEANS:

(1) A FIRST TIME CONNECTION OF A PROPERTY TO THE COMMISSION WATER OR SEWER SYSTEM; OR

(2) A NEW CONNECTION OR INCREASED WATER METER SIZE FOR A PROPERTY PREVIOUSLY OR CURRENTLY SERVED BY THE COMMISSION IF THE NEW CONNECTION OR INCREASED METER SIZE IS NEEDED BECAUSE OF A CHANGE IN THE USE OF THE PROPERTY OR AN INCREASE IN DEMAND FOR SERVICE AT THE PROPERTY.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 6–113(a)(3).

The only changes are in style.

Defined term: "Commission" § 16–101

(D) TOILET.

"TOILET" MEANS A WATER CLOSET, AS SET FORTH IN THE COMMISSION'S PLUMBING AND GAS FITTING REGULATIONS.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 6–113(a)(4).

The only changes are in style.

Defined term: "Commission" § 16–101

25–402. IMPOSITION OF SYSTEM DEVELOPMENT CHARGE.

(A) IN GENERAL.

IN ADDITION TO ANY OTHER CHARGES AUTHORIZED UNDER THIS DIVISION, THE COMMISSION MAY IMPOSE A SYSTEM DEVELOPMENT CHARGE THAT SHALL BE PAID BY AN APPLICANT FOR NEW SERVICE.

(B) METHOD OF PAYMENT.

THE SYSTEM DEVELOPMENT CHARGE SHALL BE PAID AS FOLLOWS:

(1) FOR RESIDENTIAL PROPERTIES:

(I) 50% AT THE TIME THE PLUMBING PERMIT APPLICATION IS FILED; AND

(II) 50% WITHIN 12 MONTHS AFTER THE EARLIER OF THE DATE ON WHICH A PLUMBING PERMIT APPLICATION IS FILED OR ON TRANSFER OF TITLE TO THE PROPERTY; AND

(2) FOR OTHER PROPERTIES, 100% AT THE TIME THE PLUMBING PERMIT APPLICATION IS FILED.

(C) SECURITY.

WHEN THE APPLICANT FILES THE PLUMBING PERMIT APPLICATION, THE APPLICANT SHALL DEPOSIT WITH THE COMMISSION SECURITY:

(1) IN THE FORM OF AN IRREVOCABLE LETTER OF CREDIT;

(2) IN THE FORM OF A FINANCIAL GUARANTY BOND; OR

(3) IN A FORM THE COMMISSION ESTABLISHES AND APPROVES UNDER ITS REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–113(b).

In subsection (a) of this section, the former phrase "[s]ubject to the provisions of this section" is deleted as unnecessary.

In subsection (b)(1)(i) of this section, the reference to the "plumbing permit" application is added for clarity.

In subsection (b)(1)(ii) of this section, the reference to the "earlier" of the dates is substituted for the former reference to "whichever [of the dates] occurs first" for clarity and brevity.

Also in subsection (b)(1)(ii) of this section, the former reference to an application filed "with the Commission" is deleted as unnecessary.

In subsection (c)(3) of this section, the former reference to "rules" is deleted as implicit in the reference to "regulations". *See* General Revisor's Note to division.

Defined terms: "Commission" § 16–101
"New service" § 25–401

25–403. AMOUNT OF SYSTEM DEVELOPMENT CHARGE.

(A) PROCEDURES FOR SETTING SYSTEM DEVELOPMENT CHARGE.

(1) EACH YEAR THE MONTGOMERY COUNTY COUNCIL AND THE PRINCE GEORGE'S COUNTY COUNCIL SHALL MEET TO DETERMINE THE AMOUNT OF THE SYSTEM DEVELOPMENT CHARGE.

(2) THE AMOUNT OF THE SYSTEM DEVELOPMENT CHARGE FOR A PARTICULAR PROPERTY:

(I) SHALL BE BASED ON THE NUMBER OF PLUMBING FIXTURES AND THE ASSIGNED VALUES FOR THOSE FIXTURES AS SET FORTH IN THE COMMISSION'S PLUMBING AND GAS FITTING REGULATIONS;

(II) EXCEPT AS PROVIDED IN ITEM (III) OF THIS PARAGRAPH AND SUBSECTION (C) OF THIS SECTION, MAY NOT EXCEED $200 PER FIXTURE UNIT;

(III) FOR RESIDENTIAL PROPERTIES WITH FIVE OR FEWER TOILETS, SHALL BE BASED ON THE NUMBER OF TOILETS PER DWELLING UNIT AND:

1. FOR EACH APARTMENT UNIT, MAY NOT EXCEED $2,000;

2. FOR DWELLINGS WITH ONE OR TWO TOILETS, MAY NOT EXCEED $3,000;

3. FOR DWELLINGS WITH THREE OR FOUR TOILETS, MAY NOT EXCEED $5,000;

4. FOR DWELLINGS WITH FIVE TOILETS, MAY NOT EXCEED $7,000; AND

5. FOR DWELLINGS WITH MORE THAN FIVE TOILETS, SHALL BE CALCULATED ON A FIXTURE UNIT BASIS.

(3) WHEN DETERMINING THE SYSTEM DEVELOPMENT CHARGE, THE COUNTY COUNCILS SHALL CONSIDER THE ACTUAL COST OF CONSTRUCTION OF COMMISSION FACILITIES.

(B) EXEMPTIONS.

WHEN DETERMINING THE SYSTEM DEVELOPMENT CHARGE, UNDER CRITERIA ESTABLISHED JOINTLY AND AGREED ON BY THE COUNTY COUNCILS, THE COUNTY COUNCILS:

(1) SHALL GRANT A FULL OR PARTIAL EXEMPTION FROM THE CHARGE FOR PUBLIC SPONSORED OR AFFORDABLE HOUSING AS JOINTLY DEFINED AND AGREED ON BY THE COUNTY COUNCILS;

(2) MAY GRANT A FULL OR PARTIAL EXEMPTION FROM THE CHARGE FOR:

(I) REVITALIZATION PROJECTS; OR

(II) IF THE PROPERTY IS USED PRIMARILY FOR RECREATIONAL AND EDUCATIONAL PROGRAMS AND SERVICES TO YOUTH, PROPERTY OWNED BY A COMMUNITY–BASED ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT HAS THE PRIMARY MISSION AND PURPOSE OF PROVIDING RECREATIONAL AND EDUCATIONAL PROGRAMS AND SERVICES TO YOUTH, IF THE EXEMPTION AMOUNT DOES NOT EXCEED $80,000; AND

(3) MAY GRANT A FULL OR PARTIAL EXEMPTION FROM THE SYSTEM DEVELOPMENT CHARGE, UNDER CONDITIONS SET FORTH BY THE COUNTY COUNCILS, FOR:

(I) RESIDENTIAL PROPERTY LOCATED IN A MIXED RETIREMENT DEVELOPMENT AS DEFINED IN THE ZONING ORDINANCE OF PRINCE GEORGE'S COUNTY;

(II) RESIDENTIAL PROPERTY LOCATED IN A PLANNED RETIREMENT COMMUNITY AS DEFINED IN THE ZONING ORDINANCE OF MONTGOMERY COUNTY;

(III) ELDERLY HOUSING OTHER THAN THAT INCLUDED IN ITEM (I) OR (II) OF THIS ITEM; OR

(IV) PROPERTIES USED FOR MANUFACTURING OR BIOTECHNOLOGY RESEARCH AND DEVELOPMENT.

(C) MAXIMUM CHARGE.

ON JULY 1, 1999, AND JULY 1 OF EACH SUCCEEDING YEAR, THE MAXIMUM CHARGE, AS ESTABLISHED IN SUBSECTION (A)(2) OF THIS SECTION, MAY BE CHANGED BY AN AMOUNT EQUAL TO THE PRIOR CALENDAR YEAR'S CHANGE IN THE CONSUMER PRICE INDEX PUBLISHED BY THE BUREAU OF

LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR FOR URBAN WAGE EARNERS AND CLERICAL WORKERS FOR ALL ITEMS FOR THE WASHINGTON, D.C. METROPOLITAN AREA, OR THE SUCCESSOR INDEX.

(D) FAILURE TO AGREE.

IF THE COUNTY COUNCILS DO NOT AGREE ON THE AMOUNT OF THE SYSTEM DEVELOPMENT CHARGE, THE SYSTEM DEVELOPMENT CHARGE IMPOSED DURING THE PREVIOUS YEAR SHALL CONTINUE IN EFFECT FOR THE FOLLOWING FISCAL YEAR.

(E) IF AMOUNT OF CHARGE IS LESS THAN NECESSARY.

IF THE SYSTEM DEVELOPMENT CHARGE ESTABLISHED BY THE COUNTY COUNCILS IS LESS THAN THE AMOUNT NECESSARY TO RECOVER THE FULL COST OF CONSTRUCTING GROWTH RELATED FACILITIES, THE COMMISSION SHALL IDENTIFY THE PART OF THE COST OF THAT GROWTH THAT WILL BE PAID BY CURRENT RATEPAYERS AS:

(1) A PERCENTAGE OF ANY RATE INCREASE; AND

(2) THE ANNUAL MONETARY AMOUNT ON A TYPICAL RESIDENTIAL CUSTOMER'S ANNUAL WATER AND SEWER BILL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–113(c)(1) through (3).

In subsection (a)(1) of this section, the word "determine" is substituted for the former phrase "discuss and approve" for brevity.

In subsection (a)(2)(ii) of this section, the reference to "subsection (c) of this section" is added for clarity.

Also in subsection (a)(2)(ii) of this section, the former phrase "on or after July 1, 1998" is deleted as unnecessary.

In subsection (a)(3) and the introductory language of subsection (b) of this section, the references to the "system development charge" are substituted for the former references to the "charge under this section" for clarity.

In subsection (a)(3) of this section, the former reference to "identify and" consider is deleted as unnecessary.

In subsection (b)(2)(ii) of this section, the reference to the exemption amount "not exceed[ing]" $80,000 is substituted for the former reference to the exemption being "limited to" $80,000 for clarity.

In subsection (b)(3)(iii) of this section, the reference to elderly housing "other than that included in item (i) or (ii) of this item" is substituted for the former reference to "[o]ther" elderly housing because items (i) and (ii) do not specifically describe any type of elderly housing.

Former Art. 29, § 6–113(c)(4), which prohibited the county councils from imposing a system development charge in a fiscal year if the county councils had not previously agreed on a system development charge, is deleted as unnecessary since the county councils have agreed on a system development charge.

Former Art. 29, § 6–113(c)(5), which applied to imposing system development charges before July 1, 1994 and July 1, 1995, is deleted as obsolete.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that former Art. 29, § 6–113(c)(1)(iv)2 was amended by Chapter 423 of the Acts of 2007 and Chapter 441 of the Acts of 2009. These amendments will terminate on December 31, 2010. *See* § 1 of Ch. 441, Acts of 2009. No effect on the termination provision is intended.

Defined terms: "Commission" § 16–101
"Fixture unit" § 25–401
"Toilet" § 25–401

25–404. SYSTEM DEVELOPMENT CHARGE FUND.

(A) IN GENERAL.

(1) THE COMMISSION SHALL DEPOSIT ALL FUNDS COLLECTED UNDER THE SYSTEM DEVELOPMENT CHARGE INTO A SYSTEM DEVELOPMENT CHARGE FUND.

(2) THE SYSTEM DEVELOPMENT CHARGE FUND IS A SPECIAL FUND THAT MAY NOT REVERT TO GENERAL FUNDS OF THE COMMISSION.

(B) USE OF FUNDS.

THE COMMISSION MAY USE THE FUNDS COLLECTED FROM THE SYSTEM DEVELOPMENT CHARGE ONLY TO:

(1) PAY FOR NEW TREATMENT, TRANSMISSION, AND COLLECTION FACILITIES, THE NEED FOR WHICH IS DIRECTLY ATTRIBUTABLE TO THE ADDITION OF NEW SERVICE AND THE CONSTRUCTION OF WHICH BEGAN AFTER JULY 1, 1993; OR

(2) AMORTIZE ANY BOND THAT IS ISSUED IN CONNECTION WITH THE CONSTRUCTION OF THOSE NEW FACILITIES.

(C) OTHER COSTS.

OTHER COSTS OF ENHANCEMENT, MAINTENANCE, OR ENVIRONMENTAL REGULATION ON EXISTING OR NEW SYSTEMS SHALL BE BORNE EQUALLY BY ALL RATEPAYERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–113(d).

Defined terms: "Commission" § 16–101
"New service" § 25–401

25–405. CONSTRUCTION OF FACILITIES.

(A) AUTHORIZED.

THE COMMISSION MAY ALLOW A DEVELOPER TO DESIGN AND CONSTRUCT ANY ON–SITE OR OFF–SITE FACILITY NECESSARY FOR THE DEVELOPER'S PROJECT IF THE FACILITY IS:

(1) IN THE COMMISSION CAPITAL IMPROVEMENT PROGRAM AND THE 10–YEAR COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEM PLAN ADOPTED BY ONE OF THE COUNTY COUNCILS;

(2) A MAJOR PROJECT INCLUDED IN THE COMMISSION CAPITAL IMPROVEMENT PROGRAM; OR

(3) A PROJECT THAT INCLUDES A SEWER MAIN OR WATER MAIN THAT:

(I) PROVIDES ONLY LOCAL SERVICE;

(II) IS 2,000 FEET OR LESS;

(III) HAS A DIAMETER OF:

1. 15 INCHES OR MORE IF IT IS A SEWER MAIN; OR

2. 16 INCHES OR MORE IF IT IS A WATER MAIN; AND

(IV) IS BUILT TO AVOID UNNECESSARY AND UNECONOMICAL DUPLICATION WHEN A MAJOR PROJECT IS CONSTRUCTED.

(B) STANDARDS FOR FACILITIES.

A FACILITY CONSTRUCTED UNDER THIS SECTION SHALL BE DESIGNED, CONSTRUCTED, AND INSPECTED IN ACCORDANCE WITH:

(1) THE STANDARDS USED BY THE COMMISSION; AND

(2) ALL APPLICABLE LAWS, REGULATIONS, AND WRITTEN POLICIES OF THE COMMISSION.

(C) ACCEPTANCE OF FACILITY; CREDIT AGAINST CHARGE.

AFTER THE COMMISSION APPROVES A FACILITY CONSTRUCTED BY A DEVELOPER UNDER THIS SECTION, THE COMMISSION SHALL:

(1) ACCEPT THE FACILITY AS PART OF THE COMMISSION SYSTEM; AND

(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, GRANT THE DEVELOPER A CREDIT AGAINST ANY CHARGE IMPOSED UNDER THIS SUBTITLE IN AN AMOUNT EQUAL TO THE COST OF CONSTRUCTING THE FACILITY.

(D) AUDIT REVIEW AND APPROVAL.

THE COMMISSION'S INTERNAL AUDITOR SHALL REVIEW AND APPROVE THE COSTS INCURRED BY THE DEVELOPER.

(E) AGREEMENT.

THE COMMISSION AND THE DEVELOPER SHALL ENTER INTO AN AGREEMENT THAT INCORPORATES THE PROVISIONS OF THIS SECTION.

(F) REJECTION.

IF THE COMMISSION REJECTS A DEVELOPER'S REQUEST TO DESIGN AND CONSTRUCT FACILITIES UNDER THIS SECTION, THE COMMISSION SHALL EXPLAIN IN WRITING TO THE DEVELOPER THE REASONS FOR THE REJECTION.

(G) REPORT.

(1) THE COMMISSION SHALL SUBMIT A REPORT AT THE END OF EACH FISCAL YEAR TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY DELEGATIONS TO THE GENERAL ASSEMBLY AND TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) THE REPORT SHALL STATE THE NUMBER OF REQUESTS MADE BY DEVELOPERS UNDER THIS SECTION, INCLUDING:

(I) THE NUMBER OF ACCEPTANCES AND REJECTIONS BY THE COMMISSION; AND

(II) THE JUSTIFICATION FOR ANY REJECTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–113(e).

In subsection (f) of this section, the phrase "explain in writing to the developer" is substituted for the former phrase "submit to the developer a written explanation" for brevity.

In subsection (g) of this section, the reference to the "Montgomery County and Prince George's County Delegations to the General Assembly" is substituted for the former reference to the "House and Senate Delegations of both counties" for clarity.

Also in subsection (g) of this section, the reference to the "county councils of Montgomery County and Prince George's County" is substituted for the former phrase reference to the "County Councils" for clarity.

Defined term: "Commission" § 16–101

SUBTITLE 5. SERVICE RATES.

25–501. SERVICE RATES GENERALLY.

(A) IN GENERAL.

THE COMMISSION SHALL SET A SERVICE RATE THAT THE COMMISSION CONSIDERS NECESSARY TO PROVIDE FUNDS FOR:

(1) MAINTAINING, REPAIRING, AND OPERATING ITS WATER SUPPLY AND SEWER SYSTEMS, INCLUDING THE OVERHEAD EXPENSE AND DEPRECIATION ALLOWANCE; AND

(2) MAKING ANY PAYMENTS TO THE DISTRICT OF COLUMBIA, AS SPECIFIED IN THIS TITLE.

(B) RATE.

THE SERVICE RATE:

(1) SHALL BE CHARGEABLE AGAINST ALL PROPERTIES FOR A CONNECTION WITH ANY LINE OWNED BY THE COMMISSION;

(2) SHALL BE UNIFORM THROUGHOUT THE SANITARY DISTRICT; AND

(3) MAY BE CHANGED AS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–104(a)(1) and (2).

In subsection (a)(1) of this section, the former reference to a "proper" depreciation allowance is deleted as surplusage.

In subsection (b)(1) of this section, the reference to a "line" is substituted for the former reference to a "pipe" for consistency with terminology used in this division.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

25–502. SERVICE RATES FOR WATER.

(A) IN GENERAL.

(1) EXCEPT AS PROVIDED IN THIS SUBTITLE, THE SERVICE RATE FOR WATER SHALL CONSIST OF:

(I) A MINIMUM OR A READY TO SERVE CHARGE; AND

(II) A CHARGE FOR WATER USED.

(2) THE MINIMUM OR READY TO SERVE CHARGE SHALL BE BASED ON THE SIZE OF THE METER ON THE WATER CONNECTION LEADING TO THE PROPERTY.

(3) THE CHARGE FOR WATER USED SHALL BE BASED ON THE AMOUNT OF WATER PASSING THE METER DURING THE PERIOD BETWEEN THE LAST TWO READINGS.

(4) THE METER SHALL BE PLACED ON EACH WATER CONNECTION BY AND AT THE EXPENSE OF THE COMMISSION.

(B) MINIMUM NUMBER OF GALLONS WITHOUT ADDITIONAL CHARGE.

THE COMMISSION MAY PROVIDE THAT A SPECIFIED MINIMUM NUMBER OF GALLONS OF WATER:

(1) BE INCLUDED IN THE MINIMUM OR READY TO SERVE CHARGE WITHOUT ADDITIONAL SERVICE CHARGES FOR THE WATER; AND

(2) MAY VARY WITH THE SIZE OF THE METER INVOLVED.

(C) RATE FOR FEDERAL, STATE, OR OTHER UNITS OF GOVERNMENT.

(1) IF THE COMMISSION FURNISHES WATER TO A FEDERAL, STATE, OR OTHER UNIT OF GOVERNMENT THAT IS EXEMPT FROM BENEFIT CHARGES OR AD VALOREM TAXES IMPOSED UNDER THIS DIVISION, THE COMMISSION SHALL SET THE WATER SERVICE CHARGE AT AN AMOUNT THE COMMISSION CONSIDERS NECESSARY AND REASONABLE.

(2) IN SETTING THE CHARGE, THE COMMISSION SHALL TAKE INTO CONSIDERATION THE GENERAL TAX, THE BENEFIT CHARGE IMPOSED IN THE SANITARY DISTRICT, AND THE REGULAR SERVICE RATE AS PROVIDED IN SUBSECTIONS (A) AND (B) OF THIS SECTION.

(D) WATER SYSTEM OUTSIDE SANITARY DISTRICT.

(1) IF, BECAUSE OF PUBLIC NECESSITY, THE COMMISSION HAS EXTENDED THE COMMISSION'S WATER SYSTEM OUTSIDE THE BOUNDARIES OF THE SANITARY DISTRICT TO RENDER A NEEDED SERVICE, THE COMMISSION MAY PAY FOR THE EXTENSION OUT OF ITS FUNDS.

(2) THE COMMISSION MAY SET ANY CHARGE THAT IT CONSIDERS REASONABLE FOR ALL CONNECTIONS TO ITS WATER SYSTEM MADE OUTSIDE OF THE SANITARY DISTRICT.

(3) IN SETTING THE CHARGE THE COMMISSION SHALL TAKE INTO CONSIDERATION THE GENERAL TAX AND FRONT FOOT BENEFIT CHARGE IMPOSED IN THE SANITARY DISTRICT.

(4) THE COMMISSION HAS THE SAME AUTHORITY OVER CONNECTIONS MADE TO THE COMMISSION'S WATER SYSTEM OUTSIDE THE SANITARY DISTRICT AS IT HAS IN THE SANITARY DISTRICT.

(E) WATER SUPPLY TO CITY OF LAUREL.

(1) ON REQUEST BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAUREL, THE COMMISSION SHALL FURNISH WATER FROM THE PATUXENT RIVER SUPPLY TO THE CITY.

(2) THE SERVICE RATE FOR THE WATER SUPPLIED BY THE COMMISSION TO THE CITY OF LAUREL SHALL BE AT THE ACTUAL COST OF SUPPLYING THE WATER TO THE CITY'S WATER SYSTEM.

(3) THE MAYOR AND CITY COUNCIL OF THE CITY OF LAUREL MAY CONSTRUCT A SYSTEM TO RECEIVE WATER FROM THE COMMISSION TO THE NEAREST CONVENIENT POINT TO THE COMMISSION'S PATUXENT RIVER SUPPLY.

(4) THE CONNECTION POINT BETWEEN THE COMMISSION'S SYSTEM AND THE CITY'S WATER SYSTEM MUST BE AT OR NEAR THE COMMISSION'S DAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–104(a)(3) and (4) and (b)(1) and (2).

In the introductory language of subsection (a)(1) of this section, the reference to a service rate "for water" is added for clarity.

In subsection (a)(2) of this section, the reference to a "minimum or" ready to serve charge is added for consistency throughout this section.

In subsection (c)(1) of this section, the reference to setting the water service rate "at an amount" the Commission considers necessary and reasonable is added for clarity.

Also in subsection (c)(1) of this section, the reference to a "unit of government" is substituted for the former reference to an "agency" for consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In subsections (c)(2) and (d)(3) of this section, the references to a charge "imposed" are substituted for the former references to a charge "levied" for consistency throughout this title.

In subsections (d) and (e) of this section, the references to water "system[s]" are substituted for the former references to water "mains" for consistency throughout this division.

In subsection (d)(1) of this section, the reference to "pay for the extension out of its funds" is substituted for the former reference to "make these extensions out of the general proceeds of its funds" for brevity and clarity.

Also in subsection (d)(1) of this section, the former phrase "as may, in its judgment" is deleted as unnecessary.

In subsection (d)(4) of this section, the former reference to "power" is deleted as implicit in the reference to "authority".

In subsection (e)(1) of this section, the reference to furnishing water "[o]n request by the Mayor and City Council of the City of Laurel" is substituted for the former reference to furnishing water "that the Mayor and City Council of Laurel may want" for clarity.

Also in subsection (e)(1) of this section, the former reference to water supplied "for the use of the water supply of the City of Laurel" is deleted as unnecessary.

In subsection (e)(2) of this section, the reference to the "service rate for the water supplied by the Commission to the City of Laurel" is added for clarity.

In subsection (e)(3) of this section, the reference to "receive water from the Commission" is substituted for the former reference to "for this purpose" for clarity.

Also in subsection (e)(3) of this section, the reference to the "Patuxent River supply" is substituted for the former reference to the "Patuxent water supply" for consistency within this subsection.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that former Art. 29, § 6–104(a)(3)(ii) and (iii), revised here as subsection (d) of this section, appears to apply to service rates. The source law is unclear as to whether this may also apply to connection charges. The Committee believes that this applies only to service rates, but the General Assembly may wish to clarify this subsection.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

25–503. SERVICE RATES FOR SEWER USAGE.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (C), (D), AND (E) OF THIS SECTION, THE COMMISSION SHALL IMPOSE A SEWER USAGE CHARGE, BASED ON THE WATER CONSUMPTION OF EACH PROPERTY, AGAINST ALL PROPERTIES CONNECTED TO THE COMMISSION'S SEWER SYSTEM TO PROVIDE FUNDS FOR:

(1) PAYMENT OF PRINCIPAL AND INTEREST FOR BONDS AUTHORIZED UNDER § 22–102(A) AND (B) OF THIS ARTICLE;

(2) MAINTENANCE OF THE SEWER SYSTEM AND DISPOSAL FACILITIES, INCLUDING THE OVERHEAD EXPENSE AND DEPRECIATION ALLOWANCE; AND

(3) PAYMENTS TO THE DISTRICT OF COLUMBIA FOR DISPOSAL OF SANITARY DISTRICT SEWAGE.

(B) RATE FOR FEDERAL, STATE, OR OTHER UNITS OF GOVERNMENT.

(1) THE COMMISSION SHALL IMPOSE A SEWER USAGE CHARGE AGAINST THE PROPERTY OF A FEDERAL, STATE, OR OTHER UNIT OF GOVERNMENT THAT IS:

(I) EXEMPT FROM FRONT FOOT BENEFIT CHARGES AND AD VALOREM TAXES IMPOSED UNDER THIS DIVISION; AND

(II) CONNECTED TO THE COMMISSION'S SEWER SYSTEM.

(2) IN SETTING THE CHARGE, THE COMMISSION SHALL TAKE INTO CONSIDERATION THE GENERAL TAX, THE FRONT FOOT BENEFIT CHARGE IMPOSED IN THE SANITARY DISTRICT, AND THE REGULAR SEWER USAGE CHARGE AS PROVIDED IN THIS SECTION.

(C) PROPERTIES NOT CONNECTED TO COMMISSION WATER SYSTEM.

(1) IF THE COMMISSION FURNISHES SEWER SERVICE TO A PROPERTY THAT IS NOT CONNECTED TO THE COMMISSION'S WATER SYSTEM, THE COMMISSION SHALL IMPOSE A SEWER USAGE CHARGE THAT:

(I) FAIRLY AND RATABLY COMPENSATES THE COMMISSION FOR THE USE OF THE SEWER SYSTEM; AND

(II) TAKES INTO CONSIDERATION THE SEWER USAGE ON THE PROPERTY AND THE SEWER USAGE CHARGE APPLICABLE TO SIMILAR PROPERTIES CONNECTED TO THE WATER SYSTEM.

(2) THE COMMISSION SHALL BILL FOR THE AMOUNT OF THE SEWER USAGE CHARGE UNDER THIS SUBSECTION MONTHLY, TWICE A YEAR, OR ONCE A YEAR.

(D) WATER NOT ENTERING THE SEWER SYSTEM.

(1) SUBJECT TO PARAGRAPHS (2) AND (5) OF THIS SUBSECTION, IF WATER FURNISHED BY THE COMMISSION TO A LOT OR PARCEL OF LAND IS USED EXCLUSIVELY FOR ANY PURPOSE THAT RESULTS IN THE WATER NOT ENTERING THE COMMISSION'S SEWER SYSTEM, THE COMMISSION MAY NOT IMPOSE A SEWER USAGE CHARGE TO THE OWNER, TENANT, OR OCCUPANT OF A LOT OR PARCEL OF LAND FOR THE AMOUNT OF THE WATER FURNISHED BY THE COMMISSION THAT DOES NOT ENTER THE COMMISSION'S SEWER SYSTEM.

(2) THE OWNER, TENANT, OR OCCUPANT OF A LOT OR PARCEL OF LAND EXEMPT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PAY THE COMMISSION:

(I) THE COST OF INSTALLING A SEPARATE METERED CONNECTION; AND

(II) AN ANNUAL AMOUNT EQUAL TO THE COMMISSION'S ANNUAL WATER SERVICE CHARGE FOR THE SIZE OF THE METER INSTALLED.

(3) THE COMMISSION SHALL DETERMINE THE LOCATION FOR THE INSTALLATION OF THE REQUIRED METER.

(4) THE COMMISSION MAY ADOPT REGULATIONS REGARDING THE MAINTENANCE AND CONTROL OF THE METER.

(5) THE SEWER USAGE CHARGE FOR PROPERTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON THE TOTAL AMOUNT OF WATER USED AS DETERMINED UNDER § 25–502(A) AND (B) OF THIS SUBTITLE, LESS THE AMOUNT OF SEPARATELY METERED WATER.

(E) COMMERCIAL, INDUSTRIAL, OR MULTIRESIDENTIAL PROPERTY.

(1) A COMMERCIAL, INDUSTRIAL, OR MULTIRESIDENTIAL PROPERTY MAY USE A SEPARATE METERED CONNECTION AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, EVEN THOUGH A PORTION OF THE SEPARATELY METERED WATER ENTERS THE SEWER SYSTEM OF THE COMMISSION, PROVIDED THAT THE OWNER, TENANT, OR OCCUPANT OF THE PROPERTY REQUESTS TO BE BILLED ACCORDING TO A FORMULA DETERMINED BY THE COMMISSION.

(2) THE FORMULA DETERMINED BY THE COMMISSION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) CREDIT THE OWNER, TENANT, OR OCCUPANT FOR SEPARATELY METERED WATER NOT ENTERING THE SEWER SYSTEM OF THE COMMISSION; AND

(II) BE CONSISTENT WITH:

1. MANUFACTURERS' ENGINEERING STANDARDS FOR THE CLASS OF EQUIPMENT USING THE SEPARATELY METERED WATER SUPPLIED BY THE COMMISSION; OR

2. INDUSTRY STANDARDS FOR THE CLASS OF OPERATIONS USING THE SEPARATELY METERED WATER SUPPLIED BY THE COMMISSION.

(3) THE SEWER USAGE CHARGE FOR PROPERTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON THE SUM OF:

(I) THE TOTAL AMOUNT OF WATER USED AS DETERMINED UNDER § 25–502(A) AND (B) OF THIS SUBTITLE, LESS THE AMOUNT OF SEPARATELY METERED WATER; AND

(II) THE AMOUNT OF SEPARATELY METERED WATER AS ADJUSTED BY THE FORMULA DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

(F) MUNICIPAL CONTRACTS NOT AFFECTED.

THIS SECTION MAY NOT BE CONSTRUED TO INVALIDATE AN EXISTING CONTRACT BETWEEN THE COMMISSION AND A MUNICIPALITY LOCATED IN THE SANITARY DISTRICT WITHOUT THE CONSENT OF THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–110(d)(1) through (4) and (7).

In the introductory language of subsection (a) of this section, the phrase "shall impose" is substituted for the former phrase "shall be empowered and directed to make" for brevity.

Also in the introductory language of subsection (a) of this section, the phrase "to provide funds for" is substituted for the former phrase "[f]or the purpose of" for clarity.

In subsection (a)(1) of this section, the reference to the "payment of principal and interest for bonds" is substituted for the former reference to "retiring the bonds … and the payment of interest thereon" for brevity and consistency with other similar provisions in this division.

In subsection (a)(2) of this section, the former reference to "paying for the cost of the" maintenance of the sewer system is deleted as surplusage.

Also in subsection (a)(2) of this section, the former reference to a "proper" depreciation allowance is deleted as surplusage.

In the introductory language of subsections (b) and (c)(1) of this section, the word "impose" is substituted for the former word "make" for clarity and consistency. Similarly, in subsection (b)(2) of this section, the word "imposed" is substituted for the former word "levied".

In subsection (b)(1) of this section, the reference to a "unit of government" is substituted for the former reference to an "agency" for consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In subsection (b)(1)(i) of this section, the phrase "imposed under this division" is substituted for the former phrase "imposed under the provisions of Chapter 122 of the Acts of the General Assembly of Maryland of 1918, and amendments thereto" for brevity.

In subsection (b)(2) of this section, the former phrase "with full authority to change the same [the charge] from time to time" is deleted as implicit in the references to "impose" and "[i]n setting the charge".

In subsection (c)(1)(i) of this section, the former reference to use of the sewer system "by such property" is deleted as unnecessary.

In subsection (c)(1)(ii) of this section, the reference to "sewer usage on the property" is substituted for the former reference to "usage made of the sewerage system by such property" for brevity.

Also in subsection (c)(1)(ii) of this section, the former reference to "fixing the charge for properties not connected to the water system" is deleted as unnecessary.

Also in subsection (c)(1)(ii) of this section, the former reference to "like" properties is deleted as included in the reference to "similar" properties.

In subsection (c)(2) of this section, the phrase "[t]he Commission shall bill for the amount of the sewer usage charge under this subsection" is added for clarity.

In subsection (d)(1) of this section, the reference to "the amount of the water furnished by the Commission that does not enter the Commission's sewer system" is substituted for the former reference to "the water so used" for clarity.

Also in subsection (d)(1) of this section, the former phrase "[e]xcept as provided in subparagraph (ii) of this paragraph" is deleted as unnecessary.

In subsection (d)(2)(ii) of this section, the former reference to a meter "for measuring the water so used" is deleted as unnecessary.

In subsection (d)(3) of this section, the reference to "the required meter" is substituted for the former reference to "which metered connection" for clarity.

Also in subsection (d)(3) of this section, the former reference to installation of the metered connection "upon such payment" is deleted as unnecessary.

In subsection (d)(4) of this section, the reference to the Commission "adopt[ing] regulations regarding the maintenance and control of the meter" is substituted for the former reference to the "meter connection … shall thereafter be maintained and exclusively controlled by the WSSC under such rules and regulations as the WSSC may adopt" for brevity.

In subsection (f) of this section, the reference to "invalidat[ing]" an existing contract is substituted for the former reference to "authority to repudiate" an existing contract for clarity and consistency with § 25–507(a) of this subtitle.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

25–504. BILLING.

(A) ESTIMATED BILLS.

THE COMMISSION:

(1) MAY PROVIDE FOR THE BILLING AND COLLECTION OF THE WATER AND SEWER USAGE CHARGES ON AN ESTIMATED BASIS FOR PERIODS OF 6 MONTHS OR LESS, BASED ON THE HISTORICAL DAILY AVERAGE CONSUMPTION CALCULATED FROM ACTUAL PREVIOUS USAGE;

(2) SHALL READ THE METER AT LEAST ONCE EVERY 6 MONTHS; AND

(3) (I) SHALL BASE THE FINAL BILL FOR THE 6–MONTH PERIOD ON THE ACTUAL CONSUMPTION ADJUSTED BY PREVIOUS ESTIMATES, IF THE METER HAD NOT BEEN READ BECAUSE IT WAS INACCESSIBLE;

(II) SHALL BASE THE FINAL BILL FOR THE 6–MONTH PERIOD ON THE HISTORICAL DAILY AVERAGE CONSUMPTION, CALCULATED FROM ACTUAL PREVIOUS USAGE, IF A FINAL READING CANNOT BE MADE BECAUSE:

1. THE METER MALFUNCTIONED;

2. THE METER HAD BEEN TAKEN OUT OF SERVICE FOR REPAIRS, MAINTENANCE, OR WATER SYSTEM RELINING PURPOSES; OR

3. THERE WAS THEFT OF SERVICE;

(III) MAY MODIFY THE HISTORICAL DAILY AVERAGE CONSUMPTION CALCULATION BASED ON APPROPRIATE EVIDENCE SUBMITTED BY THE OWNER; AND

(IV) MAY NOT BASE A FINAL BILL ON ESTIMATED USAGE FOR TWO CONSECUTIVE 6–MONTH PERIODS.

(B) PAYMENT DUE DATE.

(1) THE COMMISSION SHALL BILL FOR THE AMOUNT OF WATER AND SEWER USAGE CHARGES TO EACH PROPERTY SERVED MONTHLY, FOUR TIMES A YEAR, OR TWICE A YEAR, AS THE COMMISSION DETERMINES.

(2) ON RECEIPT EACH BILL IS PAYABLE TO THE COMMISSION.

(C) LATE PAYMENT.

(1) A LATE PAYMENT CHARGE OF 5% OF THE UNPAID CHARGES SHALL BE ADDED AND COLLECTED AS PART OF THE BILL IF:

(I) THE COMMISSION SENDS OUT A BILL FOR WATER AND SEWER USAGE CHARGES IN THE REGULAR COURSE OF BUSINESS;

(II) FOR A SERVICE PERIOD OF LESS THAN 3 MONTHS, THE BILL IS NOT PAID 20 DAYS FROM THE DATE OF SENDING; OR

(III) FOR A SERVICE PERIOD OF 3 MONTHS OR MORE, THE BILL IS NOT PAID 30 DAYS FROM THE DATE OF SENDING.

(2) THE LATE PAYMENT CHARGE IS IN ADDITION TO AND NOT IN SUBSTITUTION FOR OR DEROGATION OF ANY OTHER RIGHT OR REMEDY GRANTED TO THE COMMISSION BY ANY OTHER LAW.

(D) TERMINATION OF SERVICE.

(1) IF A BILL IS NOT PAID WITHIN 30 DAYS AFTER THE DATE OF SENDING, AFTER LEAVING WRITTEN NOTICE ON THE PREMISES OR MAILING NOTICE TO THE OWNER'S LAST KNOWN ADDRESS, THE COMMISSION SHALL TURN OFF THE WATER TO THE PROPERTY.

(2) THE WATER MAY NOT BE TURNED ON AGAIN UNTIL THE BILL, ANY LATE PAYMENT PENALTY CHARGES AS AUTHORIZED BY LAW, AND THE COST INCURRED IN SHUTTING OFF AND RESTORING THE WATER SUPPLY ARE PAID.

(E) COLLECTION.

IF A BILL IS NOT PAID WITHIN 60 DAYS AFTER THE DATE OF SENDING, THE BILL SHALL BE COLLECTED AGAINST THE OWNER OF THE PROPERTY SERVED IN THE SAME MANNER AS OTHER DEBTS ARE COLLECTED IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(F) MUNICIPAL CONTRACTS NOT AFFECTED.

THE PROVISIONS OF SUBSECTIONS (B), (D), AND (E) OF THIS SECTION THAT RELATE SOLELY TO SEWER USAGE CHARGES MAY NOT BE CONSTRUED TO INVALIDATE AN EXISTING CONTRACT BETWEEN THE COMMISSION AND A MUNICIPALITY LOCATED IN THE SANITARY DISTRICT WITHOUT THE CONSENT OF THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–110(d)(6) and (7) and 6–104(b)(3) and (4).

In subsection (a)(2) of this section, the reference to at least "once" is added for clarity.

In subsection (b)(1) of this section, the reference to "water and sewer usage charges" is substituted for the former reference to "these charges" for clarity.

Also in subsection (b)(1) of this section, the phrase "[t]he Commission shall bill" is substituted for the former phrase "[b]ills for the amount … shall be sent" for brevity and clarity.

Also in subsection (b)(1) of this section, the former reference to property "connected to the sewerage system" is deleted as unnecessary.

In subsection (b)(2) of this section, the reference to each bill being payable "to the Commission" is substituted for the former reference to each bill being payable "at the office of the WSSC" for clarity.

In subsection (c)(1) and (2) of this section, the references to a "late payment charge" are substituted for the former references to an "additional late payment charge" and "additional charge" for clarity.

In subsection (d)(1) of this section, the reference to turning off the water "to the property" is substituted for the former reference to turning off the water "from the property in question" for clarity and brevity.

In subsection (e) of this section, the reference to "Montgomery County and Prince George's County" is substituted for the former reference to the "respective counties" for clarity.

Also in subsection (e) of this section, the former reference to the bill being sent "by the WSSC" is deleted as unnecessary.

In subsection (f) of this section, the reference to "invalidat[ing]" an existing contract is substituted for the former reference to "authority to repudiate" an existing contract for clarity and consistency with § 25–507(a) of this subtitle.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101

25–505. ACQUISITION OF PROPERTY.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ACQUIRING AUTHORITY" MEANS THE STATE, MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, OR ANY MUNICIPALITY OR UNIT OF THE STATE, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY.

(3) "BILL FOR WATER AND SEWER USAGE CHARGES" INCLUDES, IF APPLICABLE, THE LATE PAYMENT PENALTY PROVIDED UNDER § 25–504(C) OF THIS SUBTITLE.

(B) DUTIES OF ACQUIRING AUTHORITY.

(1) BEFORE ACQUIRING PROPERTY IN THE SANITARY DISTRICT, AN ACQUIRING AUTHORITY SHALL:

(I) DETERMINE IF ANY BILL FOR WATER AND SEWER USAGE CHARGES IS OUTSTANDING AGAINST THE PROPERTY; AND

(II) REQUIRE THE PAYMENT OF ANY OUTSTANDING BILL FOR WATER OR SEWER CHARGES ON THE PROPERTY BEFORE ACQUIRING THE PROPERTY.

(2) IF A BILL FOR WATER AND SEWER USAGE CHARGES IS NOT PAID BEFORE AN ACQUIRING AUTHORITY ACQUIRES THE PROPERTY, THE ACQUIRING AUTHORITY SHALL:

(I) DEDUCT THE AMOUNT OF THE BILL FROM THE PURCHASE PRICE OF THE PROPERTY; AND

(II) PAY THE AMOUNT OF THE BILL OVER TO THE COMMISSION.

(3) IF THE BILL FOR WATER OR SEWER USAGE CHARGES IS NOT PAID WHEN THE ACQUISITION OF THE PROPERTY IS COMPLETED, THE ACQUIRING AUTHORITY:

(I) IS RESPONSIBLE FOR THE BILL; AND

(II) SHALL PAY THE BILL TO THE COMMISSION ON DEMAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–104(c).

In subsection (a)(2) of this section, the reference to a "unit" is substituted for the former reference to a "commission, board, or agency" for consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In the introductory language of subsection (b)(2) of this section, the reference to a bill for water and sewer usage charges "not [being] paid" is substituted for the former reference to the "previous property owner … not pay[ing]" the bill for consistency within this subsection.

In subsection (b)(3) of this section, the former reference to a bill not being paid "by oversight, mistake, or any other reason" is deleted as unnecessary because it is all inclusive.

Defined terms: "Commission" § 16–101

"Municipality" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

25–506. SERVICE TO CHARITABLE INSTITUTIONS.

(A) "CHARITABLE INSTITUTION" DEFINED.

IN THIS SECTION, "CHARITABLE INSTITUTION" MEANS AN INSTITUTION:

(1) THAT IS LOCATED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY; AND

(2) WHOSE PURPOSE IS PRIMARILY CHARITABLE.

(B) WATER AND SEWER USAGE.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF A CHARITABLE INSTITUTION DOES NOT DISCRIMINATE AGAINST THE ENTRANCE OR CARE OF RESIDENTS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, THE COMMISSION:

(1) SHALL SUPPLY WITHOUT COST UP TO 100 GALLONS OF WATER PER DAY FOR EACH RESIDENT OF THE CHARITABLE INSTITUTION; AND

(2) MAY NOT CHARGE THE CHARITABLE INSTITUTION A FEE FOR SEWER USAGE FOR THE WATER SUPPLIED UNDER ITEM (1) OF THIS PARAGRAPH.

(C) CHARGES AUTHORIZED.

(1) THE CHARITABLE INSTITUTION SHALL INSTALL AND MAINTAIN A WATER METER AT ITS OWN COST.

(2) THE COMMISSION MAY CHARGE THE CHARITABLE INSTITUTION FOR:

(I) THE COST OF READING THE WATER METER; AND

(II) SEWER USAGE AND WATER USED IN EXCESS OF 100 GALLONS PER DAY FOR EACH RESIDENT OF THE CHARITABLE INSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–105(a).

In subsections (b)(1) and (c)(2)(ii) of this section, the term "resident" is substituted for the former term "inmate" for clarity.

In subsection (b)(2) of this section, the reference to the Commission "not charg[ing] the charitable institution a fee for sewer usage for the water supplied under item (1) of this paragraph" is substituted for the former reference to the Commission "[n]ot mak[ing] a sewer usage charge for or on the account of item (1) of this paragraph" for clarity.

In subsection (c)(2)(ii) of this section, the former reference to charging "the current rate" for water is deleted as implicit in the reference to charging for "water used".

Defined term: "Commission" § 16–101

25–507. CHARGES TO STATE AND LOCAL GOVERNMENTS.

(A) CONSTRUCTION OF SECTION.

THIS SECTION MAY NOT BE CONSTRUED TO INVALIDATE A CONTRACT BETWEEN THE COMMISSION AND A MUNICIPALITY LOCATED IN THE SANITARY DISTRICT WITHOUT THE CONSENT OF THE MUNICIPALITY.

(B) RATE IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE COMMISSION SHALL CHARGE AND COLLECT ITS SERVICE RATE FOR WATER, INCLUDING A READY TO SERVE CHARGE, FOR ALL WATER USED BY:

(1) THE STATE;

(2) MONTGOMERY COUNTY;

(3) PRINCE GEORGE'S COUNTY; AND

(4) A MUNICIPALITY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(C) EXCEPTION FOR FIRE DEPARTMENT OR RESCUE SQUAD.

NOTWITHSTANDING ANY OTHER LAW, A FIRE DEPARTMENT OR RESCUE SQUAD THAT IS RECOGNIZED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY OR THAT IS MAINTAINED AND OPERATED BY A MUNICIPALITY IN

MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY IS EXEMPT FROM ALL COMMISSION WATER AND SEWER USAGE CHARGES AND METER SERVICE CHARGES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–105(b).

In subsection (a) of this section, the phrase "[t]his section may not be construed to invalidate" is substituted for the former phrase "[t]his subsection does not invalidate" for clarity and consistency with §§ 25–503(f) and 25–504(f) of this subtitle.

In the introductory language of subsection (b) of this section, the reference to "service rate for water" is substituted for the former reference to "usual water rate" for clarity and consistency within this subtitle.

In subsections (b)(4) and (c) of this section, the term "municipality" is substituted for the former reference to "municipal authority" for clarity and consistency within this division.

In subsection (c) of this section, the reference to "Commission" rates and charges is added for accuracy.

Also in subsection (c) of this section, the reference to any "other law" is substituted for the former reference to any "law or ordinance to the contrary" for brevity.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

25–508. PRINCE GEORGE'S COUNTY OMBUDSMAN; INTERRUPTION OF SERVICES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(B) OFFICE ESTABLISHED.

THERE IS AN OFFICE OF PRINCE GEORGE'S COUNTY OMBUDSMAN IN THE COMMISSION.

(C) APPOINTMENT.

THE PRINCE GEORGE'S COUNTY EXECUTIVE, WITH THE APPROVAL OF THE PRINCE GEORGE'S COUNTY COUNCIL, SHALL APPOINT AN OMBUDSMAN.

(D) SALARY; BENEFITS.

(1) (I) PRINCE GEORGE'S COUNTY SHALL:

1. PAY THE OMBUDSMAN'S SALARY;

2. PROVIDE TO THE OMBUDSMAN ANY BENEFITS AVAILABLE TO OTHER EMPLOYEES OF PRINCE GEORGE'S COUNTY; AND

3. PROVIDE FUNDING FOR THE OFFICE OF THE OMBUDSMAN.

(II) THE COUNTY MAY PAY FOR ANY LEGAL EXPENSES INCURRED BY THE OMBUDSMAN, AS PROVIDED IN THE COUNTY BUDGET.

(2) THE PRINCE GEORGE'S COUNTY COUNCIL SHALL DETERMINE THE SALARY OF THE OMBUDSMAN.

(3) WHILE HOLDING OFFICE, THE OMBUDSMAN MAY PARTICIPATE IN ANY COMMISSION PROGRAM OF GROUP HEALTH, LIFE, OR DISABILITY INSURANCE TO THE SAME EXTENT AND UNDER THE SAME TERMS AS OTHER COMMISSION OFFICERS AND EMPLOYEES.

(E) REPRESENTATION.

THE OMBUDSMAN MAY REPRESENT THE INTERESTS OF A PRINCE GEORGE'S COUNTY RESIDENTIAL OR COMMERCIAL CUSTOMER WHO FILES A WRITTEN CLAIM WITH THE COMMISSION FOR:

(1) A REFUND OF A PAYMENT ON A BILL FOR WATER AND SEWER USAGE CHARGES THAT EXCEEDS THE AMOUNT THAT IS PROPERLY AND LEGALLY PAYABLE; OR

(2) A REDUCTION IN A BILL FOR WATER AND SEWER USAGE CHARGES THAT EXCEEDS THE AMOUNT THAT IS PROPERLY AND LEGALLY PAYABLE THAT HAS NOT YET BEEN PAID.

(F) DUTIES.

THE OMBUDSMAN:

(1) SHALL:

(I) RECEIVE A COPY OF, AND REVIEW, ANY WRITTEN CLAIM FILED WITH THE COMMISSION UNDER § 25–106(B) OF THIS TITLE;

(II) INVESTIGATE THE MERITS OF THE CLAIM;

(III) ATTEND ANY HEARING HELD IN ACCORDANCE WITH § 25–106(C)(2) OF THIS TITLE AND PRESENT ANY FINDINGS AND RECOMMENDATIONS ON THE MERITS OF THE CLAIM DURING THE HEARING; AND

(IV) PREPARE A WRITTEN STATEMENT OF FINDINGS AND RECOMMENDATIONS ON THE CLAIM AND PROVIDE COPIES OF THE STATEMENT TO THE COMMISSION AND THE CLAIMANT; AND

(2) MAY REPRESENT THE CUSTOMER IN ANY APPEAL PROCESS.

(G) INTERRUPTION OF SERVICE.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS DIVISION, AS TO PRINCE GEORGE'S COUNTY RESIDENTIAL CUSTOMERS, IF ALL UNDISPUTED BILLS FOR WATER AND SEWER USAGE CHARGES ARE PAID WHEN DUE, THE COMMISSION MAY NOT INTERRUPT SERVICE DURING THE PENDENCY OF A WRITTEN CLAIM FILED FOR A REDUCTION IN A BILL FOR WATER AND SEWER USAGE CHARGES THAT EXCEEDS THE AMOUNT THAT IS PROPERLY AND LEGALLY PAYABLE.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of this section.

Subsections (b) through (g) of this section are new language derived without substantive change from former Art. 29, § 6–112.

In subsection (d)(1)(i)2 of this section, the reference to "provid[ing] to the Ombudsman" benefits is added for clarity.

Also in subsection (d)(1)(i)2 of this section, the former reference to "fringe" benefits is deleted as unnecessary.

In subsection (d)(2) of this section, the former reference to the requirements that the "initial salary of the Ombudsman shall be equal to the People's Zoning Counsel of Prince George's County" is deleted as obsolete.

In subsections (e) and (g) of this section, the references to "a bill for water and sewer usage charges that exceeds the amount that is properly and legally payable" are substituted for the former reference to an "excessive" bill for accuracy and consistency with terminology used in § 25–106 of this title.

In subsection (f)(2) of this section, the reference to the "customer" is substituted for the former reference to the "resident" for consistency within this section.

Defined term: "Commission" § 16–101

TITLE 26. WATER SYSTEMS IN ANNE ARUNDEL COUNTY AND HOWARD COUNTY.

SUBTITLE 1. ANNE ARUNDEL COUNTY.

26–101. AUTHORITY TO FURNISH WATER FOR CORRECTIVE INSTITUTION OF DISTRICT OF COLUMBIA AND ANNE ARUNDEL COUNTY.

THE COMMISSION AND ANNE ARUNDEL COUNTY MAY ENTER INTO A CONTRACT FOR THE COMMISSION TO CONSTRUCT, OPERATE, AND MAINTAIN A WATER SYSTEM IN ANNE ARUNDEL COUNTY FOR THE PURPOSE OF SUPPLYING WATER TO:

(1) THE CORRECTIVE INSTITUTION OF THE DISTRICT OF COLUMBIA, AS AUTHORIZED BY CHAPTER 434 OF THE ACTS OF 1953, OR ITS SUCCESSOR, IF ANY; AND

(2) RESIDENTS OF ANNE ARUNDEL COUNTY WHO MAY BE REASONABLY SERVED FROM THE WATER SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 14–101.

In the introductory language of this section, the reference to "Anne Arundel County" is substituted for the former reference to "the Anne Arundel County Sanitary Commission" because the Anne Arundel County Sanitary Commission no longer exists. It became part of the county

government structure in the Anne Arundel County Department of Public Works.

In item (1) of this section, the reference to the corrective institution "as authorized by Chapter 434 of the Acts of 1953, or its successor, if any" is substituted for the former reference to "known as the District Children's Center" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that item (1) of this section may be duplicative of authority in § 17–204 of this division, which authorizes the Commission to enter into certain contracts with the District of Columbia and other federal, state, county, or municipal authorities.

Defined term: "Commission" § 16–101

26–102. ADDITIONAL POWERS OF THE COMMISSION.

TO CARRY OUT THIS SUBTITLE, THE COMMISSION MAY:

(1) ENTER ON A PUBLIC ROADWAY AS PROVIDED IN § 27–101 OF THIS ARTICLE WITHOUT RECEIVING A PERMIT FROM OR PAYING A FEE TO ANNE ARUNDEL COUNTY;

(2) ACQUIRE PROPERTY IN ANNE ARUNDEL COUNTY IN THE SAME WAY AS PROVIDED FOR ACQUIRING PROPERTY IN PRINCE GEORGE'S COUNTY IN TITLE 21, SUBTITLE 2 OF THIS ARTICLE; AND

(3) ADOPT REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 14–102.

In item (3) of this section and throughout this title, the former reference to "rules" is deleted as unnecessary in light of the use of the word "regulations". *See* General Revisor's Note to division.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that item (2) of this section authorizes the Commission to acquire property in Anne Arundel County in the same way as provided for acquiring property in Prince George's County in Title 21, Subtitle 2 of this article. Title 21, Subtitle 2 of this article sets forth the quick take condemnation procedures for acquisition of property by the Commission in Prince George's County.

Those provisions are authorized by Art. III, § 40C of the Maryland Constitution. Absent constitutional authority, the General Assembly may not enact legislation granting quick take authority. Currently there is no constitutional authority for the General Assembly to authorize quick take condemnation in Anne Arundel County. Therefore, the General Assembly may wish to clarify this provision.

Defined terms: "Commission" § 16–101
"Public roadway" § 16–101

26–103. TAMPERING WITH SYSTEM.

EXCEPT AS PROVIDED IN COMMISSION REGULATIONS, A PERSON MAY NOT USE, HANDLE, TAMPER WITH, OBSTRUCT, INTERFERE WITH, DEFACE, OR DESTROY ANY PART OF THE WATER SYSTEM CONSTRUCTED BY THE COMMISSION UNDER THIS SUBTITLE, INCLUDING PIPES, FITTINGS, FIREPLUGS, PUMPS, ENGINES, APPLIANCES, WIRES, OR OTHER FIXTURES OR EQUIPMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 14–103.

The reference to the "water" system is added for accuracy and consistency within this title.

Defined terms: "Commission" § 16–101
"Person" § 16–101

SUBTITLE 2. HOWARD COUNTY.

26–201. AUTHORITY TO FURNISH WATER FOR HOWARD COUNTY.

THE COMMISSION MAY CONSTRUCT, OPERATE, AND MAINTAIN A WATER SYSTEM TO THE HOWARD COUNTY BOUNDARY LINE TO SUPPLY WATER TO THE RESIDENTS OF HOWARD COUNTY.

REVISOR'S NOTE: This section formerly was Art. 29, § 15–101.

The only change is in style.

Defined term: "Commission" § 16–101

26–202. CONTRACTS.

(A) IN GENERAL.

THE COMMISSION MAY CONTRACT WITH HOWARD COUNTY AND ANY PERSON TO FURNISH WATER.

(B) AGREEMENT TO FEES.

THE PARTIES TO A CONTRACT UNDER THIS SECTION MAY DETERMINE BY AGREEMENT THE COSTS, RENTALS, SERVICE CHARGES, OR OTHER FEES ENTERED INTO UNDER THE CONTRACT.

(C) DETERMINATION OF CHARGES BY PUBLIC SERVICE COMMISSION.

(1) IF THE COMMISSION AND ANY PERSON WHO WANTS WATER SERVICE CANNOT AGREE ON THE REASONABLENESS OF THE CHARGE FOR THE SERVICE, THE PUBLIC SERVICE COMMISSION MAY DETERMINE THE AMOUNT OF THE CHARGE.

(2) THE PUBLIC SERVICE COMMISSION'S DETERMINATION IS FINAL AND BINDING ON ALL PARTIES CONCERNED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–102.

In subsection (a) of this section, the reference to "contract[ing]" is substituted for the former reference to "enter[ing] into any contract or agreement" for brevity.

Also in subsection (a) of this section, the former reference to the "Department of Public Works" is deleted as unnecessary.

In subsection (b) of this section, the reference to the "parties to a contract under this section" is substituted for the former reference to the "WSSC, the Howard County Department of Public Works, and any person" for clarity and brevity.

Also in subsection (b) of this section, the reference to the "contract" is substituted for the former reference to the "agreement" for consistency within this subtitle.

Defined terms: "Commission" § 16–101
"Person" § 16–101

26–203. MAINTENANCE AND OPERATION OF SYSTEM.

(A) IN GENERAL.

THE COMMISSION MAY CONTRACT WITH THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS FOR THE MAINTENANCE AND OPERATION OF PARTS OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM THAT ARE SUPPLIED FROM THE COMMISSION'S WATER SYSTEM.

(B) CONTROL OF WATER SYSTEMS; COLLECTION OF FEES AND CHARGES.

IF THE CONTRACT UNDER SUBSECTION (A) OF THIS SECTION REQUIRES THE COMMISSION TO MAINTAIN AND OPERATE PARTS OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM:

(1) THE OPERATING CONTROL OF THOSE PARTS OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM BELONGS EXCLUSIVELY TO THE COMMISSION; AND

(2) THE COMMISSION SHALL COLLECT FEES AND CHARGES INCIDENT TO THE MAINTENANCE AND OPERATION OF THE WATER SYSTEM OR THE USE OF WATER IN ACCORDANCE WITH § 25–504(B), (C), AND (D) OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–103.

In subsection (a) of this section, the reference to "contract[ing]" is substituted for the former reference to "enter[ing] into any contract or agreement" for brevity.

In the introductory language of subsection (b) of this section, the reference to "the contract under subsection (a) of this section" is substituted for the former reference to "this contract or agreement" for clarity.

In subsection (b)(1) of this section, the reference to the operating control "of those parts of the Howard County Department of Public Works' water system" is substituted for the former reference to the operating control "of the water systems or portions of the water systems of the Howard County Department of Public Works" for brevity.

In subsection (b)(2) of this section, the former reference to collecting "all" fees and charges is deleted as unnecessary.

Defined term: "Commission" § 16–101

26–204. REGULATIONS.

(A) IN GENERAL.

IF HOWARD COUNTY IS SUPPLIED WITH WATER FROM THE COMMISSION'S SYSTEM, THE COMMISSION MAY ADOPT REGULATIONS REQUIRING:

(1) THE USE OF WATER SAVING DEVICES;

(2) CURTAILING OF WATER USE DURING WATER RESTRICTION PERIODS; AND

(3) COMPLIANCE WITH HEALTH REQUIREMENTS OF THE COMMISSION'S PLUMBING REGULATIONS.

(B) COMPLIANCE WITH REGULATIONS BY HOWARD COUNTY.

HOWARD COUNTY SHALL COMPLY WITH THE REGULATIONS ADOPTED BY THE COMMISSION FOR THOSE PARTS OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM SUPPLIED WITH WATER BY THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–104.

In subsection (a)(1) of this section, the reference to "the use of" water saving devices is added for clarity.

In subsection (b) of this section, the reference to regulations "adopted by the Commission" is substituted for the former reference to "these" regulations for clarity.

Also in subsection (b) of this section, the reference to the Howard County "Department of Public Works" water system is added for consistency within this subtitle.

Defined term: "Commission" § 16–101

26–205. TAMPERING WITH SYSTEM.

EXCEPT AS PROVIDED IN COMMISSION REGULATIONS, A PERSON MAY NOT USE, HANDLE, TAMPER WITH, OBSTRUCT, OR INTERFERE WITH ANY PART OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM THAT IS SUPPLIED WITH WATER FROM THE COMMISSION'S WATER SYSTEM,

INCLUDING PIPES, FITTINGS, FIREPLUGS, PUMPS, ENGINES, APPLIANCES, WIRES, OR OTHER FIXTURES OR EQUIPMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–105.

Defined terms: "Commission" § 16–101
"Person" § 16–101

26–206. DISPOSAL OF SEWAGE IN PATUXENT RIVER DRAINAGE AREA.

(A) IN GENERAL.

THE COMMISSION MAY PROVIDE A SEWAGE COLLECTION AND DISPOSAL SYSTEM FOR THE PATUXENT RIVER DRAINAGE AREA IN HOWARD COUNTY.

(B) CONTRACT FOR DISPOSAL.

(1) THE COMMISSION MAY CONTRACT WITH HOWARD COUNTY REGARDING:

(I) SEWAGE DISPOSAL; AND

(II) THE TERMS AND CONDITIONS ON WHICH SEWAGE DISPOSAL SERVICE MAY BE PERFORMED.

(2) THE COST OF SEWAGE DISPOSAL UNDER THIS SECTION MAY NOT BE APPORTIONED OR LEVIED ON ANY PROPERTY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–106.

In subsection (b)(1) of this section, the reference to "contract[ing]" is substituted for the former reference to "enter[ing] into any contract or agreement" for brevity.

In subsection (b)(1)(ii) of this section, the reference to "sewage disposal" service is added for clarity.

Defined term: "Commission" § 16–101

TITLE 27. HIGHWAYS AND STREETS.

27–101. POWERS AND DUTIES OF COMMISSION.

(A) IN GENERAL.

THE COMMISSION MAY:

(1) ENTER ON A PUBLIC ROADWAY TO INSTALL, MAINTAIN, AND OPERATE THE COMMISSION SYSTEM; AND

(2) CONSTRUCT A WATER MAIN, SEWER, OR AN APPURTENANCE OF A WATER MAIN OR SEWER IN A PUBLIC ROADWAY IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, SUBJECT TO THE REGULATION AND PERMIT PROVISIONS OF §§ 27–102 AND 27–108 OF THIS TITLE.

(B) DISTURBED PUBLIC ROADWAY.

WHEN THE COMMISSION DISTURBS A PUBLIC ROADWAY, THE COMMISSION SHALL:

(1) NOTIFY THE STATE, COUNTY, OR MUNICIPALITY THAT HAS AUTHORITY OVER THE PUBLIC ROADWAY OF THE COMMISSION'S PLANS;

(2) REPAIR AND LEAVE THE PUBLIC ROADWAY IN THE SAME OR A SUPERIOR CONDITION TO THAT EXISTING BEFORE THE PUBLIC ROADWAY WAS DISTURBED; AND

(3) PAY ALL COSTS FOR RETURNING THE PUBLIC ROADWAY TO THE SAME OR SUPERIOR CONDITION.

(C) REGULATORY AUTHORITY — OVERHEAD UTILITIES.

IN ADDITION TO THE AUTHORITY OVER THE CONSTRUCTION AND LOCATION OF UNDERGROUND CONSTRUCTION IN THE SANITARY DISTRICT, THE COMMISSION MAY REGULATE THE CONSTRUCTION OF AN OVERHEAD LINE, POLE, OR OTHER PUBLIC UTILITY ALONG A PUBLIC ROADWAY IN THE SANITARY DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 10–101 and 10–104(a).

In subsection (a)(2) of this section, the reference to § "27–108 of this title" is substituted for the former erroneous cross–reference to former § "10–103 of this title".

In subsection (b)(3) of this section, the reference to the "same or superior" condition is substituted for the former reference to the condition "required by paragraph (2) of this subsection" for brevity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

27–102. SPECIAL RIGHT OF ENTRY PROCEDURES.

(A) REGULATIONS — ADOPTION.

IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY ADOPT REGULATIONS CONCERNING THE COMMISSION'S ENTRY INTO OR USE OF A PUBLIC ROADWAY FOR WHICH A PERMIT IS REQUIRED.

(B) REGULATIONS — PROVISIONS; ADMINISTRATION.

THE REGULATIONS ADOPTED UNDER THIS SECTION:

(1) SHALL BE ADOPTED AFTER CONSULTATION WITH THE COMMISSION;

(2) MAY INCLUDE PROVISIONS FOR THE REVIEW AND APPROVAL OF THE REQUIRED PERMITS TO BE ISSUED BY THE COMMISSION UNDER § 27–108 OF THIS TITLE FOR THE CONSTRUCTION OR LOCATION OF PIPES, CONDUITS, TRACKS, LINES, POLES, OR FACILITIES OF A PUBLIC UTILITY IN THE PUBLIC ROADWAYS OF THE COUNTY;

(3) SUBJECT TO REASONABLE PROVISIONS FOR CONTROL BY THE COUNTY OF THE CONSTRUCTION, DISTURBING, OR REPAIR OF THE PUBLIC ROADWAY, MAY NOT:

(I) BE ADMINISTERED SO AS TO CONSTITUTE A TAKING OF A FRANCHISE RIGHT THAT A PUBLIC SERVICE COMPANY OR A UTILITY COMPANY HAS IN A PUBLIC ROADWAY; AND

(II) DIVEST THE COMMISSION OF ITS RIGHT TO USE A PUBLIC ROADWAY FOR THE INSTALLATION OF A COMMISSION FACILITY;

(4) SUBJECT TO THIS TITLE, MAY NOT PROHIBIT THE INSTALLATION IN A PUBLIC ROADWAY OF A FACILITY BEING CONSTRUCTED BY THE COMMISSION TO PROVIDE SERVICE TO THE SANITARY DISTRICT IN THE OTHER COUNTY; AND

(5) MAY NOT BE INCONSISTENT WITH THIS TITLE.

(C) REVIEW AND APPROVAL PROCEDURES.

(1) THE REVIEW AND APPROVAL PROCEDURES AUTHORIZED BY SUBSECTION (B)(2) OF THIS SECTION:

(I) MAY REQUIRE REVIEW AND APPROVAL BY THE COUNTY BEFORE THE COMMISSION ISSUES THE PERMIT; AND

(II) MAY NOT RESULT IN ANY COST TO THE COMMISSION OR TO THE PUBLIC UTILITY.

(2) A PERMIT ISSUED BY THE COMMISSION UNDER § 27–108 OF THIS TITLE IS NOT EFFECTIVE UNLESS THE APPROPRIATE COUNTY APPROVES THE PERMIT.

(D) NOTIFICATION OF CONSTRUCTION.

(1) THE COMMISSION:

(I) SHALL GIVE A COUNTY ADVANCE NOTICE OF THE DATE, TIME, AND EXTENT TO WHICH THE COMMISSION PLANS TO CUT INTO A PUBLIC ROADWAY, SIDEWALK, OR OTHER PUBLIC PROPERTY OF THE COUNTY; AND

(II) IF REQUIRED BY A REGULATION ADOPTED UNDER THIS SECTION, SHALL:

1. SUBMIT A COPY OF PROPOSED CONSTRUCTION PLANS TO THE COUNTY BEFORE CONSTRUCTION BEGINS; AND

2. APPLY FOR AND OBTAIN A PERMIT FROM THE COUNTY AT NO COST TO THE COMMISSION.

(2) THE COUNTY SHALL PROMPTLY PROCESS THE COMMISSION'S PERMIT APPLICATION.

(3) THE ISSUANCE OF A PERMIT UNDER THIS SECTION CONSTITUTES APPROVAL OF THE COMMISSION'S PROPOSED CONSTRUCTION AS SPECIFIED IN THE PERMIT.

(4) IF THE CONSTRUCTION UNDER THIS SECTION IS AN EMERGENCY, THE COMMISSION SHALL NOTIFY THE APPROPRIATE COUNTY AS SOON AS PRACTICAL AFTER THE CUT.

(E) FINAL REPAIR COSTS.

ON PRIOR NOTICE, THE COUNTY MAY:

(1) MAKE ALL NECESSARY FINAL REPAIRS TO RESTORE PROPERTY TO A CONDITION SATISFACTORY TO THE COUNTY; AND

(2) CHARGE ALL COSTS FOR THE FINAL REPAIRS TO THE COMMISSION OR TO THE PUBLIC UTILITY THAT MADE THE ENTRY ON THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–102.

In subsection (a) of this section, the former reference to "reasonable" regulations is deleted as unnecessary in light of the requirement that regulations must be reasonable in order to be valid. *See Comptroller of Treas. v. M. E. Rockhill, Inc.* 205 MD. 226, 233 (1954).

Also in subsection (a) of this section, the former phrase "for their respective county" is deleted as unnecessary since regulations adopted by a county can be enforced only in that county.

In the introductory language of subsections (b) and (d)(1)(ii) of this section, the former references to "rule[s]" are deleted as unnecessary in light of the use of the word "regulations". *See* General Revisor's Note to division.

In the introductory language of subsection (b) of this section, the former reference to regulations adopted under this section "by the County Executive and County Council of either county" is deleted as unnecessary.

In subsections (b)(2) and (c)(2) of this section, the former erroneous cross–references to former § "10–103" of this title are deleted.

In subsection (d)(4) of this section, the reference to notifying the "appropriate" county is added for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that there may be an anomaly in the requirements regarding the county review and approval procedures under former Art. 29, § 10–102(c)(1)(i) and (2), revised as subsection (c)(1)(i) and (2) of this section. Subsection (c)(1)(i) of this section states that the review and approval procedures adopted by either Montgomery or Prince George's counties may include provisions for the review and approval of the construction or location permits required to be issued by the Commission as referenced in former Art. 29, § 10–102(b)(5), revised as subsection (b)(2) of this section. However, subsection (c)(2) of this section states that a permit issued by the Commission for these functions is not effective unless the appropriate county approves the permit. While the statute establishes that county review and approval of the permits is optional, it also prohibits the Commission from proceeding unless it obtains county approval, effectively making county review and approval mandatory, not discretionary. The General Assembly may wish to amend these provisions to establish mandatory review and approval by the counties, since review and approval appear to be required in practice.

Defined terms: "Commission" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101

27–103. EFFECT OF §§ 27–101 AND 27–102.

(A) CONTRACTING AUTHORITY.

SECTIONS 27–101 AND 27–102 OF THIS TITLE DO NOT LIMIT THE COMMISSION'S AUTHORITY TO ENTER INTO CONTRACTS OR AGREEMENTS WITH A UNIT OF FEDERAL, STATE, COUNTY, OR MUNICIPAL GOVERNMENT OR WITH THE DISTRICT OF COLUMBIA CONCERNING THE MATTERS DESCRIBED IN §§ 27–101 AND 27–102 OF THIS TITLE, IF THE AGREEMENT OR CONTRACT IS NECESSARY, ADVISABLE, OR EXPEDIENT IN CONNECTION WITH THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE COMMISSION'S WATER AND SEWER SYSTEMS.

(B) STATE HIGHWAY ADMINISTRATION.

SECTIONS 27–101 AND 27–102 OF THIS TITLE DO NOT IMPAIR THE RIGHTS OF THE STATE HIGHWAY ADMINISTRATION CONCERNING COMMISSION OR UTILITY USE OF A STATE HIGHWAY, INCLUDING A ROAD THAT IS CONSTRUCTED IN WHOLE OR IN PART WITH FEDERAL FUNDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–103.

In subsection (b) of this section, the reference to a "State highway" is substituted for the former reference to a "highway of the State system" for brevity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"State" § 16–101

27–104. SUBMISSION OF SYSTEM REPAIR PLANS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "HOMEOWNER CORPORATION" MEANS A HOMEOWNER ASSOCIATION WITH 5,000 OR MORE MEMBERS THAT HAS:

(I) FILED A WRITTEN REQUEST WITH THE COMMISSION TO RECEIVE THE INFORMATION REQUIRED BY THIS SECTION; AND

(II) PROVIDED THE COMMISSION WITH A MAP OF THE HOMEOWNER CORPORATION'S GEOGRAPHIC BOUNDARIES.

(3) "SYSTEM REPAIR" MEANS WORK TO INSTALL, MAINTAIN, OR OPERATE THE COMMISSION SYSTEM THAT INVOLVES CUTTING INTO A PUBLIC ROADWAY, SIDEWALK, OR OTHER IMPROVEMENT ON PUBLIC PROPERTY OF A COUNTY OR MUNICIPALITY LOCATED IN THE SANITARY DISTRICT.

(B) SYSTEM REPAIR PLANS — PREPARATION.

(1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE COMMISSION SHALL SUBMIT TO EACH COUNTY, MUNICIPALITY, AND HOMEOWNER CORPORATION LOCATED IN THE SANITARY DISTRICT A PLAN OF SYSTEM REPAIRS SCHEDULED FOR THE NEXT 3 YEARS.

(2) THE COMMISSION SHALL SUBMIT THE PLAN OF SCHEDULED SYSTEM REPAIRS TO THE PERSON DESIGNATED BY THE COUNTY, MUNICIPALITY, OR HOMEOWNER CORPORATION.

(C) SYSTEM REPAIR PLANS — REQUIRED ITEMS.

FOR EACH SCHEDULED SYSTEM REPAIR, THE PLAN SHALL INCLUDE:

(1) THE ANTICIPATED SYSTEM REPAIR DATE AND TIME;

(2) THE SYSTEM REPAIR LOCATION; AND

(3) AN ANALYSIS OF THE IMPACT THAT THE SYSTEM REPAIR WILL HAVE ON THE AFFECTED COUNTIES, MUNICIPALITIES, AND HOMEOWNER CORPORATIONS.

(D) CONSULTATION REQUIRED.

BEFORE SUBMITTING THE PLAN OF SYSTEM REPAIRS, THE COMMISSION SHALL CONSULT WITH THE AFFECTED COUNTIES, MUNICIPALITIES, AND HOMEOWNER CORPORATIONS LOCATED IN THE SANITARY DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–107.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Person" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101

27–105. REIMBURSEMENT — RELOCATION OR REMOVAL OF COMMISSION FACILITIES.

(A) NOTIFICATION BY COUNTY.

(1) IF A COUNTY REQUIRES THE RELOCATION OR REMOVAL OF A COMMISSION FACILITY, THE COUNTY SHALL GIVE NOTICE TO THE COMMISSION OF THE REQUIREMENT WITHIN A REASONABLE TIME.

(2) ON RECEIVING NOTICE, THE COMMISSION SHALL PROVIDE THE COUNTY WITH AN ESTIMATE OF THE COST OF REMOVING OR RELOCATING THE FACILITY.

(3) ON COMPLETION OF THE REMOVAL OR RELOCATION OF THE FACILITY, THE COMMISSION SHALL PROVIDE THE COUNTY WITH AN ITEMIZED STATEMENT OF THE ACTUAL COST OF REMOVAL OR RELOCATION.

(B) PAYMENT REQUIRED.

(1) FOR THE RELOCATION OR REMOVAL OF A FACILITY FOR WHICH THE COMMISSION IS REQUIRED TO PAY BECAUSE OF ANY ROAD CONSTRUCTION OR IMPROVEMENT REQUIRED BY EITHER MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, THE GOVERNING BODY OF THE COUNTY IN WHICH THE CONSTRUCTION OR IMPROVEMENT IS MADE SHALL PAY ONE–HALF OF THE ACTUAL COST OF THE CONSTRUCTION OR IMPROVEMENT IN THAT COUNTY.

(2) (I) UNLESS THE COUNTY DISPUTES A CHARGE IN THE ITEMIZED STATEMENT OF ACTUAL COSTS, THE COUNTY SHALL PAY THE COSTS WITHIN 6 MONTHS AFTER RECEIPT OF THE STATEMENT.

(II) IF THE ITEMIZED STATEMENT AS SUBMITTED OR FINALLY AGREED ON IS NOT PAID WITHIN 6 MONTHS AFTER SUBMISSION OR AGREEMENT, THE ITEMIZED STATEMENT SHALL BEAR 6% INTEREST UNTIL PAID.

(C) COST DISPUTES.

(1) IF THERE IS A DISPUTE OVER A CHARGE IN THE ITEMIZED STATEMENT OF ACTUAL COSTS, WITHIN 3 MONTHS AFTER RECEIPT OF THE STATEMENT, THE DISPUTE SHALL BE REFERRED TO AN ARBITRATOR SELECTED BY THE COMMISSION AND THE COUNTY.

(2) IF THE COMMISSION AND THE COUNTY DO NOT AGREE ON AN ARBITRATOR, THE COMMISSION AND THE COUNTY SHALL EACH APPOINT AN ARBITRATOR, WHO JOINTLY SHALL APPOINT A THIRD ARBITRATOR.

(3) IF A DISPUTE GOES TO ARBITRATION, THE ITEMIZED STATEMENT AS FINALLY DETERMINED SHALL BEAR 6% INTEREST AFTER 6 MONTHS FROM THE DATE OF THE FINDING BY THE ARBITRATOR OR ARBITRATORS UNTIL THE STATEMENT IS PAID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–106.

In subsection (a)(1) and (2) of this section, the former references to the "appropriate" county are deleted as unnecessary.

In subsection (b)(1) of this section, the reference to "the governing body of the county in which the construction or improvement is made" being required to pay the cost is substituted for the former reference to "Montgomery County or Prince George's County" being required to pay the cost for clarity.

Also in subsection (b)(1) of this section, the reference to the actual cost "of the construction or improvement" is added for clarity.

In subsection (c)(1) of this section, the reference to a charge "in the itemized statement of actual costs" is substituted for the former reference to a charge "made by the WSSC" for clarity.

Also in subsection (c)(1) of this section, the reference to an arbitrator "selected by the Commission and the county" is substituted for the former reference to an arbitrator "who is satisfactory to both the WSSC and the county" for clarity.

In subsection (c)(3) of this section, the reference to the "itemized statement as finally determined" is substituted for the former reference to the "statement" for clarity.

Also in subsection (c)(3) of this section, the phrase "until the statement is paid" is added for clarity and consistency with subsection (b)(2)(ii) of this section.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that there may be an inconsistency regarding when interest attaches to the costs assessed for road construction or improvements required by either Montgomery or Prince George's counties that involve removal or relocation of Commission facilities. Under former Art. 29, § 10–106(b)(4), revised as subsection (b)(2)(i) of this section, the county must pay the charges assessed by the Commission within 6 months after "receipt of the statement", unless the charges are disputed. However, former Art. 29, § 10–106(b)(7), revised as subsection (b)(2)(ii) of this section, goes on to state that if the itemized statement is not paid within 6 months after "submission or agreement" then the statement will bear 6% interest until paid. The General Assembly may wish to address this inconsistency.

Defined terms: "Commission" § 16–101
"County" § 16–101

27–106. CONTRACTORS — NOTICE REQUIRED.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CONSTRUCTION CONTRACTOR" MEANS A PERSON THAT PERFORMS OR IS HIRED TO PERFORM ROAD CONSTRUCTION WORK.

(3) "ROAD CONSTRUCTION WORK" MEANS THE CONSTRUCTION, REPAIR, PAVING, REPAVING, OR GRADING OF A PUBLIC ROADWAY.

(B) CONSTRUCTION NOTIFICATION — REQUIRED.

BEFORE BEGINNING ROAD CONSTRUCTION WORK ON A PUBLIC ROADWAY IN THE SANITARY DISTRICT IN WHICH A WATER, SEWER, OR STORMWATER MANAGEMENT STRUCTURE IS INSTALLED, A CONSTRUCTION CONTRACTOR SHALL GIVE NOTICE TO THE COMMISSION AND THE COUNTY OF THE PROPOSED CONSTRUCTION WORK.

(C) CONSTRUCTION NOTIFICATION — CONTENTS.

THE NOTICE:

(1) SHALL INCLUDE THE PROPOSED CONSTRUCTION SCHEDULE AND INFORMATION ABOUT THE LOCATION OF CONSTRUCTION TO ACCOMPLISH THE PURPOSES OF THIS SECTION;

(2) EXCEPT IN EMERGENCY ROAD REPAIR SITUATIONS, SHALL BE GIVEN TO THE COMMISSION AND THE COUNTY AT LEAST 7 DAYS BEFORE ROAD CONSTRUCTION WORK BEGINS; AND

(3) IN AN EMERGENCY ROAD REPAIR SITUATION, SHALL BE GIVEN TO THE COMMISSION AND THE COUNTY AS PROMPTLY AS FEASIBLE UNDER THE EMERGENCY SITUATION.

(D) COMMISSION STRUCTURES — DISTURBANCE PROHIBITED.

UNLESS ALLOWED BY THE COMMISSION OR THE COUNTY, AS APPROPRIATE, A PERSON MAY NOT DISTURB, REMOVE, PAVE OVER, OR REPAVE OVER A MANHOLE, VALVE, FITTING, OR OTHER COMMISSION WATER OR SEWER STRUCTURE OR COUNTY STORMWATER MANAGEMENT STRUCTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–108.

In subsection (a)(2) of this section, the former reference to "engaged" is deleted as included in the reference to "hired".

Defined terms: "Commission" § 16–101
"County" § 16–101
"Person" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101

27–107. REMOVAL OF OBSTRUCTIONS.

(A) UNDERGROUND CONSTRUCTION — PLAN REQUIRED.

(1) BEFORE A PERSON BEGINS UNDERGROUND CONSTRUCTION IN A PUBLIC ROADWAY IN THE SANITARY DISTRICT, THE PERSON SHALL FILE WITH THE COMMISSION A CONSTRUCTION PLAN THAT SHOWS THE LOCATION AND DEPTH OF THE PROPOSED MAIN, CONDUIT, OR PIPE IN THE PUBLIC ROADWAY.

(2) CONSTRUCTION MAY NOT BEGIN BEFORE THE COMMISSION APPROVES THE PLAN.

(3) UNLESS THE COMMISSION APPROVES THE CHANGE, A CHANGE MAY NOT BE MADE IN THE PHYSICAL LOCATION OF THE MAIN, CONDUIT, OR PIPE SHOWN ON THE PLAN.

(B) INTERFERING CONDUIT, MAIN, OR PIPE.

(1) THE COMMISSION MAY REMOVE OR CHANGE THE LOCATION OF A CONDUIT, MAIN, OR PIPE THAT INTERFERES WITH THE OPERATION OF THE COMMISSION'S WATER AND SEWER SYSTEMS IF:

(I) THE CONDUIT, MAIN, OR PIPE IS CONSTRUCTED WITHOUT THE COMMISSION'S APPROVAL; OR

(II) THE PHYSICAL LOCATION OF THE CONDUIT, MAIN, OR PIPE IS CHANGED FROM THAT SHOWN ON THE PLAN APPROVED BY THE COMMISSION.

(2) THE PERSON THAT CONSTRUCTED THE INTERFERING CONDUIT, MAIN, OR PIPE, OR THE PERSON'S SUCCESSOR, SHALL PAY THE EXPENSES OF THE REMOVAL OR CHANGE IN LOCATION.

(3) THE COMMISSION IS NOT LIABLE FOR DAMAGE TO THE INTERFERING CONDUIT, MAIN, OR PIPE BECAUSE OF CONSTRUCTION OR MAINTENANCE OF THE COMMISSION'S WATER AND SEWER SYSTEMS.

(C) ADJUSTMENT, ACCOMMODATION, OR REMOVAL OF OBSTRUCTION.

(1) IF A PERSON HAS A BUILDING, CONDUIT, PIPE, TRACK, OR OTHER PHYSICAL OBSTRUCTION ON A PUBLIC ROADWAY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY THAT BLOCKS OR IMPEDES THE COMMISSION'S WATER OR SEWER SYSTEM, ON REASONABLE NOTICE FROM THE COMMISSION, THE PERSON SHALL PROMPTLY ADJUST, ACCOMMODATE, OR REMOVE THE OBSTRUCTION AT THE PERSON'S EXPENSE AND IN A MANNER THAT FULLY MEETS THE COMMISSION'S NEEDS.

(2) THE COMMISSION MAY CONDEMN AN EASEMENT IN A FRANCHISE OR RIGHT IN ACCORDANCE WITH TITLE 21, SUBTITLE 1 OF THIS ARTICLE.

(D) FEES.

THE COMMISSION MAY CHARGE A REASONABLE FEE FOR ANY PERMIT THAT THE COMMISSION IS REQUIRED TO OBTAIN AND FOR ENGINEERING SERVICES THAT THE COMMISSION IS REQUIRED TO PERFORM UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–105.

In subsection (a)(1) of this section, the former references to a "public service corporation" are deleted as included in the defined term "person".

In subsection (a)(3) of this section, the reference to the Commission approving "the change" is added for clarity.

Also in subsection (a)(3) of this section, the reference to "the main, conduit, or pipe" is substituted for the former reference to "anything" for clarity.

In subsection (b)(2) and (3) of this section, the references to the "interfering" conduit, main, or pipe are added for clarity.

In subsection (d) of this section, the reference to a permit "that the Commission is required to obtain" is added for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101

27–108. OTHER PUBLIC UTILITIES CONSTRUCTION.

(A) PERMIT REQUIRED.

A PERSON MAY NOT ERECT A POLE OR OTHER STRUCTURE IN THE SANITARY DISTRICT FOR THE PURPOSE OF CARRYING WIRES OVERHEAD WITHOUT FIRST OBTAINING A PERMIT FROM THE COMMISSION.

(B) FILING OF CONSTRUCTION PLANS; FEES.

THE COMMISSION MAY:

(1) REQUIRE THAT PLANS FOR THE LOCATION OR CONSTRUCTION OF THE POLE OR STRUCTURE BE FILED WITH THE COMMISSION; AND

(2) CHARGE A REASONABLE FEE FOR THE PERMIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–104(b) and (c).

In subsection (a) of this section, the reference to a pole or other structure "in the sanitary district" is added for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

TITLE 28. MISCELLANEOUS PROVISIONS.

SUBTITLE 1. IN GENERAL.

28–101. EXEMPTION FROM ROADSIDE TREE PLANTING OR CARE FEES.

THE COMMISSION IS EXEMPT FROM THE PAYMENT OF ANY FEE OR CHARGE UNDER § 5–403(B) AND (C) OF THE NATURAL RESOURCES ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–103.

The former reference to "the State Forestry Act" is deleted as unnecessary.

Defined term: "Commission" § 16–101

SUBTITLE 2. POLICE FORCE.

28–201. COMMISSION POLICE FORCE.

(A) ESTABLISHED.

THERE IS A COMMISSION POLICE FORCE.

(B) POWERS.

(1) A COMMISSION POLICE OFFICER MAY EXERCISE THE POWERS OF A LAW ENFORCEMENT OFFICER IN THE STATE ON PROPERTY THAT IS OWNED, LEASED, OR OPERATED BY OR UNDER THE CONTROL OF THE COMMISSION.

(2) A COMMISSION POLICE OFFICER MAY NOT EXERCISE LAW ENFORCEMENT POWERS ON ANY OTHER PROPERTY UNLESS THE OFFICER IS:

(I) ENGAGED IN FRESH PURSUIT OF A SUSPECTED OFFENDER;

(II) REQUESTED OR AUTHORIZED TO DO SO IN A POLITICAL SUBDIVISION BY THE CHIEF EXECUTIVE OFFICER OR CHIEF POLICE OFFICER OF THE POLITICAL SUBDIVISION;

(III) NEEDED FOR THE ORDERLY FLOW OF TRAFFIC TO AND FROM PROPERTY OWNED, LEASED, OR OPERATED BY OR UNDER THE CONTROL OF THE COMMISSION; OR

(IV) ORDERED TO DO SO BY THE GOVERNOR.

(C) REGULATIONS.

(1) AFTER CONSULTING WITH THE SECRETARY OF STATE POLICE AND THE POLICE TRAINING COMMISSION, THE COMMISSION SHALL ADOPT

REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING STANDARDS FOR CHARACTER, TRAINING, EDUCATION, HUMAN RELATIONS, EXPERIENCE, AND JOB PERFORMANCE FOR COMMISSION POLICE OFFICERS.

(2) TO THE EXTENT PRACTICABLE, THE COMMISSION SHALL ADOPT STANDARDS THAT ARE SIMILAR TO THE STANDARDS OF THE DEPARTMENT OF STATE POLICE.

(3) STANDARDS ADOPTED ON OR AFTER OCTOBER 1, 2002, ON MINIMUM HIRING QUALIFICATIONS OF COMMISSION POLICE OFFICERS DO NOT AFFECT THE STATUS OF AN INDIVIDUAL WHO WAS A QUALIFIED COMMISSION SPECIAL POLICE OFFICER ON OCTOBER 1, 2002.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–108.

In subsection (b)(2)(ii) of this section, the reference to an officer of the "political" subdivision is added for consistency and clarity.

In subsection (c)(1) of this section, the reference to the "Secretary of State Police" is substituted for the former obsolete reference to the "Superintendent of the Department of State Police" for accuracy and to reflect statutory changes to the Department of State Police.

Also in subsection (c)(1) of this section, the former reference to "Maryland" Police Training Commission is deleted to use the proper title of the Police Training Commission as established under PS § 3–202.

Defined terms: "Commission" § 16–101
"State" § 16–101

TITLE 29. PROHIBITED ACTS; PENALTIES.

29–101. COMMISSION INFRACTIONS — GENERALLY.

(A) DEFINITIONS.

IN THIS SECTION, "ENFORCEMENT OFFICIAL" MEANS AN EMPLOYEE OF THE COMMISSION AUTHORIZED BY THE COMMISSION TO ISSUE A CITATION FOR A COMMISSION INFRACTION UNDER THIS SECTION.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO THE VIOLATIONS OF THE FOLLOWING:

(1) REGULATIONS GOVERNING SEWER CLEANING ADOPTED UNDER § 24–201 OF THIS ARTICLE;

(2) REGULATIONS GOVERNING PLUMBING ADOPTED UNDER § 17–403, TITLE 24, SUBTITLE 1, § 26–102, OR § 26–204 OF THIS ARTICLE;

(3) REGULATIONS GOVERNING EROSION AND SEDIMENT CONTROL FOR UTILITY CONSTRUCTION ADOPTED UNDER § 17–403 OF THIS ARTICLE AND § 4–105 OF THE ENVIRONMENT ARTICLE;

(4) REGULATIONS GOVERNING GAS FITTING ADOPTED UNDER § 17–404 OF THIS ARTICLE;

(5) REGULATIONS GOVERNING REQUIRED PERMITS FOR PUBLIC UTILITY CONSTRUCTION ADOPTED UNDER §§ 27–101, 27–107, AND 27–108 OF THIS ARTICLE;

(6) REGULATIONS GOVERNING THE COMMISSION PRETREATMENT PROGRAM ADOPTED UNDER § 17–403 OF THIS ARTICLE AND § 9–332 OF THE ENVIRONMENT ARTICLE; OR

(7) ANY OTHER REGULATION ADOPTED IN ACCORDANCE WITH § 17–406 OF THIS ARTICLE.

(C) VIOLATION OF REGULATIONS; FINES.

(1) (I) A PERSON WHO VIOLATES ANY PROVISION OF A REGULATION LISTED IN SUBSECTION (B) OF THIS SECTION HAS COMMITTED A COMMISSION INFRACTION AND ON DELIVERY OF A CITATION BY THE COMMISSION UNDER SUBSECTION (D)(1) OF THIS SECTION SHALL PAY TO THE COMMISSION A CIVIL FINE IN THE AMOUNT OF:

1. FOR A FIRST VIOLATION OF THE REGULATION, $250;

2. FOR A SECOND VIOLATION OF THE REGULATION, $500;

3. FOR A THIRD VIOLATION OF THE REGULATION, $750; AND

4. FOR A FOURTH OR SUBSEQUENT VIOLATION, $1,000.

(II) EACH DAY THAT A VIOLATION OF THE REGULATION REMAINS UNCORRECTED IS A SEPARATE COMMISSION INFRACTION SUBJECT TO AN ADDITIONAL CITATION AND FINE IN THE AMOUNT OF $250.

(2) (I) THE PAYMENT DUE DATE FOR THE FINE MAY NOT BE LESS THAN 10 OR MORE THAN 20 CALENDAR DAYS AFTER THE DATE OF DELIVERY OF THE CITATION.

(II) THE RECIPIENT OF THE CITATION MAY PAY THE FINE BEFORE THE PAYMENT DUE DATE SPECIFIED IN THE CITATION.

(D) CITATIONS.

(1) AFTER VERIFYING A COMMISSION INFRACTION THE ENFORCEMENT OFFICIAL SHALL DELIVER THE CITATION TO ANY PERSON CHARGED WITH COMMITTING THE COMMISSION INFRACTION IN ACCORDANCE WITH THE ENFORCEMENT PROCEDURES OF THE REGULATIONS.

(2) THE CITATION SHALL BE ON A FORM ADOPTED BY THE COMMISSION AND SHALL INCLUDE:

(I) THE DATE OF DELIVERY OF THE CITATION;

(II) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(III) THE SPECIFIC PROVISION OF THE REGULATIONS THAT HAS BEEN VIOLATED;

(IV) THE NATURE OF THE COMMISSION INFRACTION;

(V) THE LOCATION AND TIME THAT THE COMMISSION INFRACTION OCCURRED;

(VI) THE AMOUNT OF THE CIVIL FINE ASSESSED FOR THE COMMISSION INFRACTION;

(VII) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO THE COMMISSION;

(VIII) A STATEMENT THAT EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE COMMISSION INFRACTION SUBJECT TO ADDITIONAL CITATION;

(IX) THE NAME, BUSINESS ADDRESS, TITLE, AND TELEPHONE NUMBER OF THE ENFORCEMENT OFFICIAL WHO ISSUED THE CITATION; AND

(X) NOTICE OF THE PERSON'S RIGHT TO A TRIAL FOR THE COMMISSION INFRACTION AND INSTRUCTIONS AND TIME LIMITS FOR THAT ELECTION.

(E) TRIAL.

(1) A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION UNDER THIS SECTION MAY ELECT TO STAND TRIAL BY FILING WITH THE COMMISSION A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL.

(2) THE NOTICE OF INTENT TO STAND TRIAL SHALL BE GIVEN AT LEAST 5 DAYS BEFORE THE PAYMENT DUE DATE SPECIFIED IN THE CITATION.

(3) ON RECEIPT OF THE NOTICE OF INTENT TO STAND TRIAL, THE COMMISSION SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND A COPY OF THE NOTICE OF INTENT TO STAND TRIAL THAT WAS FILED BY THE PERSON WHO RECEIVED THE CITATION.

(4) ON RECEIPT OF THE CITATION AND THE NOTICE OF INTENT TO STAND TRIAL, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT AND COMMISSION OF THE TRIAL DATE.

(5) THE DISTRICT COURT SHALL REMIT TO THE COMMISSION ALL FINES, PENALTIES, OR FORFEITURES THE COURT COLLECTS FOR COMMISSION INFRACTIONS.

(F) FAILURE TO PAY FINE.

(1) IF A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION FAILS TO PAY THE FINE BY THE PAYMENT DUE DATE SPECIFIED IN THE CITATION AND FAILS TO FILE A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL FOR THE OFFENSE:

(I) THE PERSON IS LIABLE FOR THE ASSESSED FINE; AND

(II) THE COMMISSION SHALL SEND A NOTICE OF THE COMMISSION INFRACTION TO THE PERSON'S LAST KNOWN ADDRESS.

(2) (I) IF THE FINE IS NOT PAID WITHIN 35 DAYS AFTER THE DATE OF THE NOTICE, THE COMMISSION MAY REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT, WHICH MAY INCLUDE THE FILING OF A DEMAND FOR JUDGMENT ON AFFIDAVIT.

(II) ON RECEIPT OF THE REQUEST FOR ADJUDICATION, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(3) IF THE DEFENDANT FAILS TO RESPOND TO THE SUMMONS AND THE COMMISSION HAS MADE A PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT, THE DISTRICT COURT SHALL ENTER JUDGMENT AGAINST THE DEFENDANT IN FAVOR OF THE COMMISSION IN THE AMOUNT THEN DUE.

(G) INFRACTION CIVIL OFFENSE; NOT CRIMINAL CONVICTION.

(1) FOR THE PURPOSE OF THIS SECTION, A COMMISSION INFRACTION IS A CIVIL OFFENSE.

(2) THE ADJUDICATION OF A COMMISSION INFRACTION:

(I) IS NOT A CRIMINAL CONVICTION; AND

(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(H) PROCEDURE FOR INFRACTIONS IN DISTRICT COURT.

IN A PROCEEDING FOR A COMMISSION INFRACTION BEFORE THE DISTRICT COURT, THE VIOLATION SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT PROVIDED FOR MUNICIPAL INFRACTIONS UNDER ARTICLE 23A, § 3(B)(7), (10), AND (12) THROUGH (15) OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 18–104(g), 18–104.2(a)(1) and (c) through (h), the second sentence of § 18–104.1(b)(1), and, as it related to Commission infractions, § 18–104.2(b)(1).

Subsection (b) of this section is revised as a scope provision for clarity.

In subsection (b)(7) of this section, the reference to "any other regulation adopted in accordance with § 17–406 of this article" is added to clarify the intent of former Art. 29, § 18–104.2(c)(1) which provided that "[a]ny person who violates any provision of the regulations [authorized under § 18–104.2(b)] is guilty of a WSSC infraction". This catchall provision is added so that if there is another regulation adopted under that same authority, a violation of the regulation could be included as a Commission infraction even if not specifically listed in subsection (b) of this section.

In subsection (c) of this section, the references to a violation "of the regulation" are added for clarity.

In the introductory language of subsection (c)(1)(i) of this section, the reference to a person having "committed" a Commission infraction is substituted for the former reference to a person being "guilty" of a Commission infraction for clarity.

In subsection (c)(1)(i) of this section, the former references to a civil "monetary" fine are deleted as redundant.

In subsections (c)(2)(i) and (f)(1) of this section, the references to the "payment due date" are substituted for the former references to the "date for payment" for clarity. Similarly, in subsection (e)(2) of this section, the reference to the "payment due date" is substituted for the former reference to the "day of payment".

In subsection (d)(1) of this section, the reference to any person "charged with" committing the Commission infraction is substituted for the former reference to any person "whom the enforcement official adjudges to be responsible for" committing the Commission infraction for brevity and to clarify that the enforcement official cannot adjudge anyone responsible.

In subsections (d)(2)(iv), (v), and (x) and (f)(1)(ii) of this section, the references to the "Commission infraction" are substituted for the former references to the "violation" to conform to terminology used throughout this section.

In subsection (d)(2)(vi) of this section, the reference to the fine assessed "for the Commission infraction" is added for clarity.

In subsection (d)(2)(x) of this section, the reference to a person's "right to a trial" is substituted for the former reference to a person's "right to elect to stand trial" for brevity.

In subsection (e)(2) of this section, the former reference to the notice being given "by the person" is deleted as unnecessary.

In subsection (e)(3) of this section, the reference to a "copy of the" notice of intent to stand trial is added to clarify that the original notice need not be sent.

In subsection (f)(1)(ii) of this section, the former reference to a "formal" notice is deleted as surplusage.

In subsection (f)(2)(i) of this section, the phrase "[i]f a fine is not paid" is substituted for the former phrase "[i]f the citation has not been satisfied" to use more modern terminology.

In subsection (f)(2)(ii) of this section, the requirement that the District Court schedule the trial and summons the defendant "[o]n receipt of the request for adjudication" is added for clarity.

In subsection (f)(3) of this section, the reference to "the District Court" entering the judgment is added for clarity.

In subsection (g)(1) of this section, the former phrase "for any purpose" is deleted as surplusage.

Former Art. 29, § 18–104.2(a)(2), (3), and (4) which defined "[r]egulations", "[r]epeated infraction", and "WSSC infraction", respectively, are deleted as unnecessary.

The balance of former Art. 29, § 18–104.2 that is not revised in this section is revised in § 17–406 of this article.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the reference to "penalties, or forfeitures" in subsection (e)(5) of this section may be unnecessary. There is no authorization elsewhere relating to any penalties or forfeitures that may be imposed for a Commission infraction. The General Assembly may wish to amend this provision.

Defined terms: "Commission" § 16–101
"Person" § 16–101

29–102. COMMISSION INFRACTIONS — WATERSHED REGULATIONS.

(A) VIOLATION OF REGULATIONS; FINES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES A WATERSHED REGULATION ADOPTED

UNDER § 17–403 OF THIS ARTICLE HAS COMMITTED A COMMISSION INFRACTION.

(2) A COMMISSION INFRACTION DOES NOT INCLUDE A VIOLATION OF A WATERSHED REGULATION DECLARED BY LAW TO BE A CRIMINAL OFFENSE.

(3) THE COMMISSION MAY:

(I) ESTABLISH A SCHEDULE OF PRESET FINES FOR EACH CONVICTION OF A COMMISSION INFRACTION UNDER THIS SECTION;

(II) IMPOSE A PRESET FINE NOT TO EXCEED $50 FOR EACH CONVICTION OF A COMMISSION INFRACTION UNDER THIS SECTION; AND

(III) IMPOSE A PRESET FINE NOT TO EXCEED $100 FOR A REPEAT OFFENSE.

(4) THE RECIPIENT OF A CITATION FOR A COMMISSION INFRACTION SHALL PAY THE FINE TO THE COMMISSION WITHIN 20 CALENDAR DAYS AFTER THE RECEIPT OF THE CITATION.

(B) CITATIONS.

(1) (I) A COMMISSION POLICE OFFICER MAY ISSUE A CITATION TO ANY PERSON CHARGED WITH COMMITTING A COMMISSION INFRACTION.

(II) THE COMMISSION SHALL:

1. RETAIN A COPY OF THE CITATION; AND

2. INCLUDE ON THE CITATION A CERTIFICATION ATTESTING TO THE TRUTH OF THE MATTER SPECIFIED IN THE CITATION.

(2) THE CITATION ALSO SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE NATURE OF THE COMMISSION INFRACTION;

(III) THE LOCATION AND TIME THAT THE COMMISSION INFRACTION OCCURRED;

(IV) THE AMOUNT OF THE CIVIL FINE ASSESSED FOR THE COMMISSION INFRACTION;

(V) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO THE COMMISSION; AND

(VI) NOTICE OF THE PERSON'S RIGHT TO A TRIAL FOR THE COMMISSION INFRACTION.

(C) TRIAL.

(1) A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION UNDER THIS SECTION MAY ELECT TO STAND TRIAL BY FILING WITH THE COMMISSION A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL.

(2) THE NOTICE OF INTENT TO STAND TRIAL SHALL BE GIVEN AT LEAST 5 DAYS BEFORE THE PAYMENT DUE DATE SPECIFIED IN THE CITATION.

(3) ON RECEIPT OF THE NOTICE OF INTENT TO STAND TRIAL, THE COMMISSION SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND A COPY OF THE NOTICE OF INTENT TO STAND TRIAL THAT WAS FILED BY THE PERSON WHO RECEIVED THE CITATION.

(4) ON RECEIPT OF THE CITATION AND THE NOTICE OF INTENT TO STAND TRIAL, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT OF THE TRIAL DATE.

(5) THE DISTRICT COURT SHALL REMIT TO THE COMMISSION ALL FINES, PENALTIES, OR FORFEITURES THE COURT COLLECTS FOR COMMISSION INFRACTIONS.

(D) FAILURE TO PAY FINE.

(1) IF A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION FAILS TO PAY THE FINE BY THE PAYMENT DUE DATE SPECIFIED IN THE CITATION AND FAILS TO FILE A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL FOR THE OFFENSE, THE COMMISSION SHALL SEND A NOTICE OF THE COMMISSION INFRACTION TO THE PERSON'S LAST KNOWN ADDRESS.

(2) A PERSON WHO FAILS TO PAY THE FINE WITHIN 15 DAYS AFTER THE DATE OF THE NOTICE IS LIABLE FOR AN ADDITIONAL FINE NOT TO EXCEED TWICE THE ORIGINAL FINE.

(3) (I) IF THE FINE IS NOT PAID WITHIN 35 DAYS AFTER THE DATE OF THE NOTICE, THE COMMISSION MAY REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT, WHICH MAY INCLUDE THE FILING OF A DEMAND FOR JUDGMENT ON AFFIDAVIT.

(II) ON RECEIPT OF THE REQUEST FOR ADJUDICATION, THE DISTRICT COURT PROMPTLY SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(4) IF THE DEFENDANT FAILS TO RESPOND TO THE SUMMONS AND THE COMMISSION HAS MADE A PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT, THE DISTRICT COURT SHALL ENTER JUDGMENT AGAINST THE DEFENDANT IN FAVOR OF THE COMMISSION IN THE AMOUNT THEN DUE.

(E) AMOUNT OF FINE.

A PERSON FOUND BY THE DISTRICT COURT TO HAVE COMMITTED A COMMISSION INFRACTION SHALL PAY A FINE NOT TO EXCEED:

(1) $50 FOR A FIRST OFFENSE; OR

(2) $100 FOR A REPEAT OFFENSE.

(F) INFRACTION CIVIL OFFENSE; NOT CRIMINAL CONVICTION.

(1) FOR THE PURPOSE OF THIS SECTION, A COMMISSION INFRACTION IS A CIVIL OFFENSE.

(2) THE ADJUDICATION OF A COMMISSION INFRACTION:

(I) IS NOT A CRIMINAL CONVICTION; AND

(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(G) PROCEDURE FOR INFRACTIONS IN DISTRICT COURT.

IN A PROCEEDING FOR A COMMISSION INFRACTION BEFORE THE DISTRICT COURT, THE VIOLATION SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT PROVIDED FOR MUNICIPAL INFRACTIONS UNDER ARTICLE 23A, § 3(B)(7), (10), AND (12) THROUGH (15) OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 18–104(f) and 18–104.1(b).

In subsection (a)(1) of this section, the former reference to "rule" is deleted as unnecessary in light of the use of the word "regulation[s]". *See* General Revisor's Note to division.

In subsections (a)(3)(i) and (ii) and (c)(1) of this section, the references to a Commission infraction "under this section" are added for clarity.

In subsection (a)(3)(iii) of this section, the former reference to imposing a fine on "[r]epeat offenders" is deleted as unnecessary in light of the reference to imposing a fine for a "repeat offense".

In subsection (b)(1)(i) of this section, the reference to any person "charged with" committing a Commission infraction is substituted for the former reference to any person "whom they adjudge to be" committing a Commission infraction for brevity and to clarify that the police officer cannot adjudge anyone to be committing an infraction.

Also in subsection (b)(1)(i) of this section, the former reference to a "special" police officer is deleted for consistency with § 28–201 of this article.

In the introductory language to subsection (b)(1)(ii) of this section, the reference to the "Commission" is substituted for the former reference to the "issuing authority" for clarity.

In subsection (b)(1)(ii)2 of this section, the reference to the matter "specified in the citation" is substituted for the former reference to the matter "therein set forth" for clarity.

Also in subsection (b)(1)(ii)2 of this section, the former reference to the certification "of the issuing authority" is deleted as surplusage.

In subsection (b)(2)(iv) of this section, the reference to a "civil" fine is added for clarity and consistency with § 29–101 of this title.

In subsection (b)(2)(vi) of this section, the reference to the citation containing "notice of" a person's right to stand trial is added for clarity and consistency with § 29–101 of this title.

Also in subsection (b)(2)(vi) of this section, the reference to a person's "right to a trial" is substituted for the former reference to a person's "right to elect to stand trial" for brevity.

In subsection (c)(1) of this section, the reference to a citation for a Commission infraction "under this section" is added for clarity and consistency with § 29–101 of this title. Similarly, the reference to a person "filing" notice is added.

Also in subsection (c)(1) of this section, the former reference to standing trial "for the offense" is deleted as unnecessary.

In subsections (c)(2) and (d)(1) of this section, the references to the "payment due date" are substituted for the former references to the "date of payment" for clarity.

In subsection (c)(3) of this section, the reference to a "copy of the" notice of intent to stand trial is added to clarify that the original notice need not be sent.

In subsection (c)(4) of this section, the reference to the receipt of the "notice of intent to stand trial" is added for accuracy and consistency with § 29–101 of this title.

In subsection (c)(5) of this section, the former reference to "violations of" Commission infractions is deleted as surplusage.

In subsection (d)(1) of this section, the requirement that the "Commission" send a notice is added for clarity.

Also in subsection (d)(1) of this section, the former reference to a "formal" notice is deleted as surplusage.

Also in subsection (d)(1) of this section, the former reference to the fine "for the infraction" is deleted as unnecessary.

Also in subsection (d)(1) of this section, the reference to the "person's" last known address is substituted for the former reference to the "owner's" last known address for clarity.

In subsection (d)(2) of this section, the reference to a person "fail[ing] to pay the fine" is substituted for the former reference to a "citation … not be[ing] satisfied" to use more modern terminology. Similarly, in subsection (d)(3)(i) of this section, the reference to a "fine" that "is not paid" is substituted for the former reference to a "citation" that "has not been satisfied".

In subsection (d)(3)(i) of this section, the reference to 35 days after "the date of the notice" is added for clarity.

In subsection (d)(3)(ii) of this section, the requirement that the District Court schedule the trial and summons the defendant "[o]n receipt of the request for adjudication" is added for clarity.

In subsection (d)(4) of this section, the reference to "the District Court" entering the judgment is added for clarity.

In subsection (e)(1) of this section, the reference to a $50 fine "for a first offense" is added for clarity.

In subsection (f)(2) of this section, the former reference to a Commission infraction "as defined in this section" is deleted as surplusage. Similarly, in subsection (f)(2)(i) of this section, the former reference to a criminal conviction "for any purpose" is deleted.

In subsection (g) of this section, the phrase "the violation shall be prosecuted" is substituted for the former phrase "the District Court shall prosecute the violation" for clarity and consistency with § 29–101 of this title.

The balance of former Art. 29, § 18–104.1 that is not revised in this section is revised in § 17–405 of this article.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that in subsection (c)(5) of this section the District Court is required to notify the defendant of the trial date, but the District Court is not required to notify the Commission of the trial date. The Committee wishes to draw the attention of the General Assembly to this discrepancy and notes that the failure of the District Court to notify both parties to the action may result in a dismissal of the action. The General Assembly may wish to address this discrepancy.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for consideration by the General Assembly, that the reference to "penalties, or forfeitures" in subsection (c)(5) of this section may be unnecessary. There is no authorization elsewhere relating to any penalties or forfeitures that may be imposed for a Commission infraction. The General Assembly may wish to amend this provision.

Defined terms: "Commission" § 16–101
"Person" § 16–101

29–103. VIOLATION OF COMMISSION PRETREATMENT PROGRAM.

(A) "COMMISSION PRETREATMENT PROGRAM" DEFINED.

IN THIS SECTION, "COMMISSION PRETREATMENT PROGRAM" MEANS ANY PROGRAM ADOPTED UNDER THE AUTHORITY OF § 9–332 OF THE ENVIRONMENT ARTICLE AND § 17–403 OF THIS ARTICLE TO:

(1) MEET NATIONAL AND LOCAL PRETREATMENT REQUIREMENTS; AND

(2) ELIMINATE THE CONTRIBUTION OF EACH POLLUTANT DISCHARGED FROM AN INDUSTRIAL USER INTO A PUBLICLY OWNED TREATMENT WORKS THAT:

(I) CAUSES PASS THROUGH OR INTERFERENCE WITH THE PUBLICLY OWNED TREATMENT WORKS; OR

(II) CONTAMINATES SEWAGE SLUDGE.

(B) COMPLAINT.

(1) THE COMMISSION MAY ISSUE A WRITTEN COMPLAINT IF THE COMMISSION HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON HAS VIOLATED A PROVISION OF THE COMMISSION PRETREATMENT PROGRAM.

(2) A COMPLAINT ISSUED UNDER THIS SUBSECTION SHALL:

(I) SPECIFY THE PROVISION OF THE COMMISSION PRETREATMENT PROGRAM THAT ALLEGEDLY HAS BEEN VIOLATED; AND

(II) STATE THE ALLEGED FACTS THAT CONSTITUTE THE VIOLATION.

(C) ADMINISTRATIVE ORDER.

(1) AFTER OR CONCURRENTLY WITH SERVICE OF A COMPLAINT UNDER THIS SECTION, THE COMMISSION MAY ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE PERSON TO WHOM THE ORDER IS DIRECTED TO:

(I) TAKE CORRECTIVE ACTION WITHIN A TIME SET IN THE ORDER;

(II) FILE WITH THE COMMISSION A WRITTEN REPORT ABOUT THE ALLEGED VIOLATION;

(III) APPEAR AT A HEARING BEFORE THE COMMISSION AT A TIME AND PLACE THE COMMISSION SETS TO ANSWER THE CHARGES IN THE ORDER; OR

(IV) FILE A WRITTEN REPORT AND APPEAR AT A HEARING BEFORE THE COMMISSION AT A TIME AND PLACE THE COMMISSION SETS TO ANSWER THE CHARGES IN THE ORDER.

(2) ANY ORDER ISSUED UNDER THIS SUBSECTION IS EFFECTIVE IMMEDIATELY WHEN IT IS SERVED.

(D) SERVICE OF COMPLAINT OR ORDER.

(1) A COMPLAINT OR ORDER ISSUED BY THE COMMISSION UNDER THIS SECTION SHALL BE SERVED ON THE PERSON TO WHOM THE COMPLAINT OR ORDER IS DIRECTED:

(I) PERSONALLY; OR

(II) BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO THE PERSON'S LAST KNOWN ADDRESS AS SHOWN ON THE COMMISSION'S RECORDS.

(2) IF SERVICE IS MADE BY CERTIFIED MAIL, THE PERSON WHO MAILS THE DOCUMENT SHALL FILE WITH THE COMMISSION VERIFIED PROOF OF MAILING.

(3) IF THE COMMISSION IS UNABLE WITH DUE DILIGENCE TO SERVE PROCESS UNDER PARAGRAPH (1) OF THIS SUBSECTION, A COMPLAINT OR ORDER SHALL BE SERVED BY PUBLICATION REASONABLY TAILORED TO PROVIDE ACTUAL NOTICE TO THE PERSON TO WHOM THE COMPLAINT OR ORDER IS DIRECTED.

(4) AN ORDER ISSUED UNDER THIS SECTION THAT REQUIRES FILING OF A REPORT, ATTENDANCE AT A HEARING, OR BOTH SHALL BE SERVED AT LEAST 10 DAYS BEFORE THE EARLIER OF:

(I) THE TIME SET FOR THE HEARING, IF ANY; OR

(II) THE TIME SET FOR THE FILING OF THE REPORT, IF ANY.

(E) HEARING.

(1) WITHIN 10 DAYS AFTER BEING SERVED WITH AN ORDER UNDER SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION, THE PERSON SERVED MAY REQUEST IN WRITING A HEARING BEFORE THE COMMISSION.

(2) THE COMMISSION SHALL GIVE NOTICE AND HOLD A HEARING UNDER THIS SECTION IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(3) IN CONNECTION WITH A HEARING CONDUCTED UNDER THIS SECTION, THE COMMISSION, ON ITS OWN INITIATIVE OR AT THE REQUEST OF THE PERSON TO WHOM THE COMPLAINT OR ORDER IS DIRECTED, MAY:

(I) SUBPOENA ANY PERSON OR EVIDENCE THAT IS ESSENTIAL FOR PROPER CONSIDERATION AT THE HEARING; AND

(II) ORDER A WITNESS TO GIVE EVIDENCE.

(4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR ORDER ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE COMMISSION OR THE PERSON TO WHOM THE COMPLAINT OR ORDER IS DIRECTED, A CIRCUIT COURT MAY COMPEL:

(I) OBEDIENCE TO THE ORDER OR SUBPOENA; OR

(II) TESTIMONY OR THE PRODUCTION OF EVIDENCE.

(F) HEARING OFFICER.

THE COMMISSION MAY DESIGNATE A HEARING OFFICER TO CONDUCT A HEARING REQUIRED UNDER THIS SECTION AND ISSUE THE FINAL ORDER AND DECISION OF THE COMMISSION.

(G) FINAL ORDER.

(1) UNLESS THE PERSON SERVED WITH A CORRECTIVE ACTION ORDER UNDER SUBSECTION (C)(1)(I) OF THIS SECTION MAKES A REQUEST FOR A HEARING IN ACCORDANCE WITH SUBSECTION (E)(1) OF THIS SECTION, THE ORDER IS A FINAL ORDER.

(2) IF THE PERSON SERVED WITH A CORRECTIVE ACTION ORDER UNDER SUBSECTION (C)(1)(I) OF THIS SECTION MAKES A REQUEST FOR A HEARING IN ACCORDANCE WITH SUBSECTION (E)(1) OF THIS SECTION, THE

ORDER BECOMES A FINAL CORRECTIVE ORDER IN ACCORDANCE WITH THE DECISION OF THE COMMISSION FOLLOWING THE HEARING.

(3) IF THE COMMISSION ISSUES AN ORDER UNDER SUBSECTION (C)(1)(II), (III), OR (IV) OF THIS SECTION, THE COMMISSION MAY NOT ISSUE AN ORDER THAT REQUIRES CORRECTIVE ACTION UNTIL AFTER THE LATER OF:

(I) THE CONCLUSION OF THE HEARING, IF ANY; OR

(II) THE REVIEW OF THE REPORT, IF ANY.

(4) AFTER THE TIME PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF THE COMMISSION FINDS THAT A VIOLATION OF THE COMMISSION PRETREATMENT PROGRAM HAS OCCURRED, THE COMMISSION SHALL ISSUE AN ORDER THAT REQUIRES CORRECTION OF THE VIOLATION WITHIN THE TIME SET IN THE ORDER.

(5) AN ORDER ISSUED UNDER PARAGRAPH (4) OF THIS SUBSECTION IS A FINAL CORRECTIVE ORDER AND THE PERSON TO WHOM THE ORDER IS DIRECTED IS NOT ENTITLED TO A HEARING BEFORE THE COMMISSION AS A RESULT OF THE ORDER.

(6) IF THE TERMS OF THE FINAL CORRECTIVE ORDER ARE VIOLATED OR IF A VIOLATION IS NOT CORRECTED WITHIN THE TIME SET IN THE ORDER, THE COMMISSION SHALL TAKE ACTION TO SECURE COMPLIANCE WITH A FINAL CORRECTIVE ORDER, INCLUDING FILING SUIT TO REQUIRE CORRECTION OF THE VIOLATION.

(H) INJUNCTION.

IN AN ACTION FOR AN INJUNCTION UNDER § 29–104 OF THIS TITLE TO ENFORCE THE COMPLIANCE WITH OR RESTRAIN THE VIOLATION OF A PROVISION OF THE COMMISSION PRETREATMENT PROGRAM OR AN ADMINISTRATIVE ORDER ISSUED UNDER THIS SECTION:

(1) A FINDING OF THE COMMISSION AFTER A HEARING IS PRIMA FACIE EVIDENCE OF EACH FACT THE COMMISSION DETERMINES; AND

(2) ON A SHOWING THAT A PERSON IS VIOLATING OR IS ABOUT TO VIOLATE A PROVISION OF THE COMMISSION PRETREATMENT PROGRAM OR AN ADMINISTRATIVE ORDER ISSUED UNDER THIS SUBSECTION, THE COURT SHALL

GRANT THE INJUNCTION WITHOUT REQUIRING A SHOWING OF A LACK OF AN ADEQUATE REMEDY AT LAW.

(I) PENALTIES.

(1) IN ADDITION TO ANY OTHER JUDICIAL REMEDY AND AFTER AN OPPORTUNITY FOR A HEARING, THE COMMISSION MAY IMPOSE A PENALTY FOR A VIOLATION OF A PROVISION OF THE COMMISSION PRETREATMENT PROGRAM STATED IN THE COMPLAINT OR AN ADMINISTRATIVE ORDER ISSUED UNDER THIS SECTION.

(2) THE COMMISSION SHALL PROVIDE THE PERSON SUBJECT TO A PENALTY UNDER PARAGRAPH (1) OF THIS SUBSECTION A WRITTEN NOTICE STATING THAT:

(I) THE COMMISSION INTENDS TO ASSESS A PENALTY AGAINST THE PERSON;

(II) THE PERSON MAY REQUEST IN WRITING A HEARING BEFORE THE COMMISSION NO LATER THAN 10 DAYS AFTER RECEIPT OF THE NOTICE; AND

(III) THE FAILURE TO FILE A WRITTEN REQUEST FOR A HEARING NO LATER THAN 10 DAYS AFTER RECEIPT OF THE NOTICE SHALL BE CONSIDERED A WAIVER OF THE RIGHT TO A HEARING.

(3) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION:

(I) MAY NOT EXCEED $1,000 FOR EACH VIOLATION OR $50,000 TOTAL; AND

(II) SHALL BE ASSESSED WITH CONSIDERATION GIVEN TO:

1. THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY THE VIOLATOR AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE CARE;

2. ANY ACTUAL OR POTENTIAL HARM TO HUMAN HEALTH OR TO THE ENVIRONMENT, INCLUDING INJURY TO OR IMPAIRMENT OF THE COMMISSION SEWAGE COLLECTION AND TREATMENT SYSTEMS OR THE NATURAL RESOURCES OF THE STATE;

3. THE DEGREE OF INTERFERENCE WITH OR INJURY TO THE GENERAL WELFARE, HEALTH, OR PROPERTY RIGHTS OF THE PUBLIC;

4. THE EXTENT TO WHICH THE GEOGRAPHIC LOCATION OF THE SYSTEM CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;

5. THE COST OF CLEANUP AND RESTORATION OF NATURAL RESOURCES;

6. THE AVAILABLE TECHNOLOGY FOR CONTROLLING, REDUCING, OR ELIMINATING THE CONDITIONS THAT CAUSED THE VIOLATION; AND

7. THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED BY THE VIOLATOR.

(4) EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.

(5) A PENALTY IMPOSED UNDER THIS SUBSECTION IS:

(I) PAYABLE TO THE COMMISSION; AND

(II) COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE COLLECTION OF DEBTS.

(6) IF A PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

(I) A LIEN IN FAVOR OF THE COMMISSION ON ANY PROPERTY, REAL OR PERSONAL, OF THE PERSON; AND

(II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(J) JUDICIAL REVIEW.

A PERSON AGGRIEVED BY A FINAL DECISION OF THE COMMISSION IN CONNECTION WITH AN ORDER ISSUED UNDER THIS SECTION MAY SEEK

JUDICIAL REVIEW AS PROVIDED FOR IN THE ADMINISTRATIVE PROCEDURE ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104.3(a) through (e)(3) and (e)(5) through (i).

In subsection (b)(1) of this section, the former reference to the person "to whom the complaint is directed" is deleted as surplusage.

In subsection (d)(1)(ii) of this section, the former reference to the complaint or order being served "bearing a postmark from the United States Postal Service" is deleted as implicit in the requirement that it be served "by certified mail".

In subsection (d)(3) of this section, the reference to "serv[ing] process" is substituted for the former reference to "effect[ing] service of process" for brevity.

In subsection (f) of this section, the reference to the "Commission" is substituted for the former reference to the "Agency" for clarity and accuracy.

In subsection (g)(3) of this section, the former reference to corrective action by "the person to whom the order is directed" is deleted as surplusage.

In subsection (g)(4) of this section, the former reference to the time "within which the WSSC may not issue a corrective order has passed" is deleted as surplusage.

In subsection (i)(1) of this section, the reference to a "judicial remedy" is substituted for the former reference to "remedies available at law or in equity" for clarity and brevity.

Also in subsection (i)(1) of this section, the former reference to a hearing "which may be waived by the person accused of a violation" is deleted as unnecessary in light of subsection (i)(2) of this section.

In subsection (j) of this section, the reference to "seek[ing] judicial review" is substituted for the former reference to "tak[ing] a direct judicial appeal" for accuracy.

Former Art. 29, § 18–104.3(e)(4), which provided for fees and mileage reimbursement for a subpoenaed witness, is deleted as obsolete because

fees and mileage reimbursement for witnesses in a civil action were repealed as part of Chapter 192, Acts of 2005.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Person" § 16–101
"State" § 16–101

29–104. PENALTIES — ENFORCEMENT BY INJUNCTION.

(A) IN GENERAL.

ON APPLICATION OF THE COMMISSION THAT IS VERIFIED BY OATH OF A MEMBER OR EMPLOYEE OF THE COMMISSION, THE CIRCUIT COURT OF A COUNTY, BY INJUNCTION, MAY:

(1) REQUIRE THE COMPLIANCE WITH OR RESTRAIN THE VIOLATION OF ANY ORDER, NOTICE, OR REGULATION OF THE COMMISSION UNDER THIS DIVISION;

(2) REQUIRE COMPLIANCE WITH OR RESTRAIN THE VIOLATION OR ATTEMPTED VIOLATION OF A PROVISION OF THIS DIVISION; OR

(3) REQUIRE THE ENTRY OF AN EMPLOYEE OR AGENT OF THE COMMISSION WITHIN A DESIGNATED AREA ON THE PRIVATE PREMISES AND INTO ANY BUILDING IN THE SANITARY DISTRICT WHERE THE COMMISSION SHOWS A VIOLATION OF THIS DIVISION.

(B) BOND BY COMMISSION NOT REQUIRED.

THE COURT MAY NOT REQUIRE THE COMMISSION TO POST A BOND.

(C) NONRESIDENT RESPONDENT.

IF THE RESPONDENT IN A PETITION FOR INJUNCTION UNDER THIS SECTION IS A NONRESIDENT OF THE STATE, SERVICE OF PROCESS SHALL BE MADE IN ACCORDANCE WITH THE MARYLAND RULES.

(D) PROVISIONS CONCERNING MONTGOMERY COUNTY.

AS TO §§ 27–101(A) AND (B), 27–102, AND 27–103 OF THIS ARTICLE:

(1) MONTGOMERY COUNTY MAY APPLY THE PROVISIONS OF THIS SECTION IF AN APPLICATION IS VERIFIED BY OATH OF AN EMPLOYEE OF MONTGOMERY COUNTY; AND

(2) THE COURT MAY NOT REQUIRE MONTGOMERY COUNTY TO POST A BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–105.

In the introductory language of subsection (a) of this section, the former reference to the circuit court "sitting in equity" is deleted as unnecessary.

In subsection (a)(1) of this section, the former reference to "rule" is deleted as unnecessary in light of the use of the word "regulation". *See* the General Revisor's Note to division.

In subsection (a)(2) of this section, the former reference to requiring compliance "by any person" is deleted as unnecessary.

In subsection (c) of this section, the reference to "service of" process is added for clarity.

Also in subsection (c) of this section, the reference to "this section" is substituted for the former reference to "this subsection" for accuracy.

Also in subsection (c) of this section, the former reference to service of process "by publication" is deleted as unconstitutional. This deletion is called to the attention of the General Assembly.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the Committee believes that subsection (a)(3) of this section is not intended to interfere with the Commission's authority under § 24–103(b) and Title 27 of this article to enter into certain premises and buildings in the sanitary district and to inspect certain construction projects.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for consideration by the General Assembly, that subsection (d) of this section does not appear to make any sense. The sections that it refers to authorize the Commission to enter on a public roadway to install the Commission's system and construct a water main or sewer, notify the State and local governments of the construction, and authorize the Commission to enter into contracts with other governmental entities regarding the construction and maintenance of the water and sewer systems. This does not appear to relate back to injunctive relief for

violations of Commission regulations and orders. A search through the legislative history revealed that former Art. 29, § 18–105 has existed in substantially the same posture since at least 1982. The General Assembly may wish to clarify this subsection.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

29–105. UNLAWFUL USE OF COMMISSION PROPERTY.

EXCEPT AS PROVIDED IN REGULATIONS ADOPTED BY THE COMMISSION, A PERSON MAY NOT USE, HANDLE, TAMPER WITH, OBSTRUCT, INTERFERE WITH, DEFACE, OR DESTROY ANY PROPERTY OWNED OR USED BY THE COMMISSION IN THE CONSTRUCTION OR OPERATION OF THE COMMISSION'S SYSTEMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–101.

The former reference to "rules" is deleted as unnecessary in light of the use of the word "regulations". *See* General Revisor's Note to division.

The former reference to property "including pipes, fittings, fireplugs, pumps, engines, appliances, wires, or other fixtures or equipment" is deleted as unnecessary in light of the comprehensive reference to "property".

Defined terms: "Commission" § 16–101
"Person" § 16–101

29–106. LEAVING DEAD ANIMALS OR FECAL MATTER UNBURIED.

(A) PROHIBITED.

A PERSON MAY NOT LEAVE UNBURIED FOR A PERIOD LONGER THAN 24 HOURS A DEAD ANIMAL OR FECAL MATTER IN THE SANITARY DISTRICT OR ON A WATERSHED FROM WHICH THE COMMISSION GETS ITS WATER SUPPLY.

(B) BURIAL BY COMMISSION; COSTS.

THE COMMISSION MAY BURY A DEAD ANIMAL OR FECAL MATTER LEFT UNBURIED MORE THAN 24 HOURS AND CHARGE THE COST OF THE BURIAL TO

THE OWNER OR THE PERSON ON WHOSE PROPERTY THE DEAD ANIMAL OR FECAL MATTER WAS FOUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–102.

In subsection (b) of this section, the references to a "dead" animal are added for clarity.

Also in subsection (b) of this section, the reference to an animal or fecal matter "left unburied more than 24 hours" is substituted for the former ambiguous phrase "[a]fter 24 hours" for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

29–107. CRIMINAL PENALTIES.

(A) IN GENERAL.

A PERSON WHO VIOLATES ANY OF THE FOLLOWING PROVISIONS IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH:

(1) § 17–403 OF THIS ARTICLE (COMMISSION REGULATIONS, EXCEPT FOR THOSE SPECIFIED IN SUBSECTION (C) OF THIS SECTION AND §§ 29–101(B) AND 29–102(A) OF THIS TITLE);

(2) TITLE 22, SUBTITLE 1 OF THIS ARTICLE (GENERAL OBLIGATION BONDS AND NOTES);

(3) § 23–102(A) OF THIS ARTICLE (CONSTRUCTION OF PRIVATE OR MUNICIPAL SYSTEMS);

(4) § 23–202 OF THIS ARTICLE (SERVICE CONNECTIONS);

(5) § 26–103 OF THIS ARTICLE (TAMPERING WITH COMMISSION SYSTEM IN ANNE ARUNDEL COUNTY);

(6) § 26–205 OF THIS ARTICLE (TAMPERING WITH COMMISSION SYSTEM IN HOWARD COUNTY);

(7) §§ 27–101(C) AND 27–108 OF THIS ARTICLE (PUBLIC UTILITIES CONSTRUCTION);

(8) § 29–105 OF THIS TITLE (UNLAWFUL USE OF COMMISSION PROPERTY, EXCEPT FOR THE REGULATIONS GOVERNING PUBLICLY OWNED WATERSHED PROPERTY); OR

(9) § 29-106 OF THIS TITLE (LEAVING DEAD ANIMALS OR FECAL MATTER UNBURIED).

(B) VIOLATION OF MINORITY BUSINESS ENTERPRISE PROGRAMS.

A PERSON WHO VIOLATES THE PROVISIONS OF TITLE 20, SUBTITLE 2 OF THIS ARTICLE AS THEY RELATE TO THE MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM BY COMMITTING A PROHIBITED ACT LISTED UNDER § 14–308 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, ON CONVICTION, IS SUBJECT TO THE PENALTIES PROVIDED UNDER THAT SECTION.

(C) VIOLATION OF EMERGENCY WATER USE RESTRICTIONS.

A PERSON WHO VIOLATES EMERGENCY WATER USE RESTRICTIONS ADOPTED IN ACCORDANCE WITH § 17–403 OF THIS ARTICLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500.

(D) VIOLATION OF PERSONNEL MANAGEMENT SYSTEM LAW.

A PERSON WHO VIOLATES TITLE 18, SUBTITLE 1 OF THIS ARTICLE (PERSONNEL MANAGEMENT) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500.

(E) VIOLATION OF ETHICS LAW.

A PERSON WHO VIOLATES § 19–102(B) OF THIS ARTICLE (ETHICS) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(F) SECOND OR SUBSEQUENT VIOLATIONS.

A PERSON MAY BE CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF A PROVISION OF THIS DIVISION II OR A REGULATION ADOPTED UNDER THIS DIVISION II.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104(a)(1) and (2), (4) through (6), and (8) through (11), (b), (d), (d–1), (e), and (h).

In subsection (a)(1) and (8) of this section, the former references to "rule[s]" are deleted as unnecessary in light of the use of the word "regulation[s]". *See* General Revisor's Note to division.

In subsection (b) of this section, the reference to the provisions of Title 20, Subtitle 2 "as they relate to the minority business enterprise utilization program" is added for accuracy.

Defined terms: "Commission" § 16–101
"Person" § 16–101

GENERAL REVISOR'S NOTE TO DIVISION

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of revision has been that, once something is said, it should be said in the same way every time. To that end, the Washington Suburban Sanitary Commission Law Review Committee conformed the language and organization of this division to that of previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Washington Suburban Sanitary Commission Law Review Committee that this bulk revision of the substantive Washington Suburban Sanitary Commission law of the State render no substantive change. The guiding principle of the preparation of this division is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

> The principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently, any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted)

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of this division in no way is intended to make any change to the substantive law of Maryland. This intent is further stated in uncodified language included in the enactment of this division. *See* § 8 of Ch. 37, Acts of 2010.

Throughout this division, as in other revised articles, the word "regulations" generally is substituted for former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This substitution conforms to the practice of the Division of State Documents.

Also throughout this division, for consistency and to avoid unnecessary confusion, the singular verb "adopt" is used in relation to rules or regulations, and verbs such as "prescribe" and "promulgate" are deleted.

In some provisions of this division, as in other revised articles, the term "unit" is substituted for former references to State and county entities such as an "agency", "authority", "board", and "commission". In revised articles of the Code, the term "unit" is used as the general term for an organization in the State and county government because it is broad enough to include all such entities.

The Washington Suburban Sanitary Commission Law Review Committee considered certain provisions contained in former Article 29 to be more suitable for revision in other articles.

The provisions relating to stormwater management in Montgomery County and Prince George's County are revised in Article 24 of the Code as a new title, Title 24. The provisions revised there include former Article 29, Title 3, Subtitle 2 and §§ 4–111A, 4–112, 6–106, and 18–104(a)(3) and (c).

Also former Art. 29, §§ 13–101 and 13–102, which provide for flood control and navigation in the valleys of the Anacostia River and its tributaries in Prince George's County and the use of certain lands acquired for flood control and navigation projects by the Maryland–National Capital Park and Planning Commission are transferred to Art. 28, §§ 9–101 and 9–102, respectively.

In some instances, the staff of the Department of Legislative Services may create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted during the 2010 Session on some provisions of this division.

Article 24 – Political Subdivisions – Miscellaneous Provisions

TITLE 24. STORMWATER MANAGEMENT.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

24–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–201(a)(1).

The only change is in style.

(B) BOND.

"BOND" MEANS A BOND, NOTE, OR OTHER EVIDENCE OF OBLIGATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–201(a)(2).

The reference to an "evidence of" obligation is added for clarity and consistency with similar provisions in other revised articles of the Code. *See, e.g.*, EC §§ 5–401 and 10–101, ED § 16–302.1, and PUC § 7–501.

(C) COMMISSION.

"COMMISSION" MEANS THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Washington Suburban Sanitary Commission".

(D) SANITARY DISTRICT.

"SANITARY DISTRICT" HAS THE SAME MEANING AS PROVIDED IN § 16–101 OF THE PUBLIC UTILITIES ARTICLE.

REVISOR'S NOTE: This subsection is new language added for clarity.

(E) STORMWATER MANAGEMENT.

(1) "STORMWATER MANAGEMENT" MEANS THE PLANNING, DESIGNING, ACQUISITION, CONSTRUCTION, DEMOLITION, MAINTENANCE, AND OPERATION OF FACILITIES, PRACTICES, AND PROGRAMS FOR THE CONTROL AND DISPOSITION OF STORM AND SURFACE WATER.

(2) "STORMWATER MANAGEMENT" INCLUDES FLOODPROOFING, FLOOD CONTROL, AND NAVIGATION PROGRAMS.

(3) IN PRINCE GEORGE'S COUNTY, "STORMWATER MANAGEMENT" ALSO MEANS THE PROTECTION, CONSERVATION, REGULATION,

CREATION, AND ACQUISITION OF PROPERTY DESCRIBED IN §§ 5–901(G) AND 16–101(J) OF THE ENVIRONMENT ARTICLE, CONSISTENT WITH FEDERAL AND STATE LAWS AND REGULATIONS ON THE SUBJECT OF NONTIDAL AND PRIVATE WETLANDS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–201(a)(3).

In paragraphs (1) and (3) of this subsection, the former references to the defined term "includ[ing]" various types of activities are deleted as included in the references to the defined term "mean[ing]" those activities.

(F) STORMWATER MANAGEMENT DISTRICT.

"STORMWATER MANAGEMENT DISTRICT" MEANS A STORMWATER MANAGEMENT DISTRICT AUTHORIZED TO BE ESTABLISHED UNDER THIS TITLE.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–201(a)(4).

The former reference to an alternate defined term "district" is deleted as unnecessary because the complete term "stormwater management district" is used throughout this title.

The only other changes are in style.

24–102. SCOPE OF TITLE.

THIS TITLE APPLIES ONLY IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language added to clarify the scope of this title.

24–103. CONSTRUCTION OF TITLE.

(A) IN GENERAL.

THIS TITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS PURPOSES.

(B) IMPAIRMENT OF RIGHTS PROHIBITED.

THIS TITLE MAY NOT IMPAIR OR BE CONSTRUED TO IMPAIR THE RIGHTS AND PRIVILEGES VESTED IN THE HOLDERS OF BONDS ISSUED BY THE COMMISSION OR PRINCE GEORGE'S COUNTY FOR STORMWATER MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(i) and the second sentence of § 3–201(b).

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101

SUBTITLE 2. GENERAL POWERS AND DUTIES OF LOCAL JURISDICTION.

24–201. STORMWATER MANAGEMENT IN MONTGOMERY COUNTY.

(A) IN GENERAL.

(1) MONTGOMERY COUNTY MAY ESTABLISH A STORMWATER MANAGEMENT DISTRICT THAT INCLUDES THE LAND WITHIN ITS BOUNDARIES, EXCEPT FOR THE LAND WITHIN THE CITY OF TAKOMA PARK.

(2) WITHIN ITS STORMWATER MANAGEMENT DISTRICT, MONTGOMERY COUNTY SHALL PROVIDE EFFICIENT STORMWATER MANAGEMENT SERVICES TO THE RESIDENTS AND PROPERTY OWNERS OF THE STORMWATER MANAGEMENT DISTRICT WITH ADEQUATE FACILITIES FOR DEVELOPMENT AND PROMOTION OF SAFETY FOR LIFE AND PROPERTY.

(3) THE STORMWATER MANAGEMENT SERVICES SHALL INCLUDE THOSE FORMERLY PERFORMED BY THE COMMISSION.

(4) MONTGOMERY COUNTY MAY NOT EXERCISE STORMWATER MANAGEMENT AUTHORITY IN THE CITY OF TAKOMA PARK UNLESS THE CITY AND COUNTY OTHERWISE AGREE.

(B) SPECIAL TAXING DISTRICT AND AREAS.

(1) THE STORMWATER MANAGEMENT DISTRICT IS A SPECIAL TAXING DISTRICT FOR THE PURPOSE OF STORMWATER MANAGEMENT.

(2) MONTGOMERY COUNTY MAY ESTABLISH ONE OR MORE SPECIAL TAXING AREAS WITHIN ITS STORMWATER MANAGEMENT DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–202(a)(1) and (3) and (b)(2), (3), and (4).

In subsection (a)(2) of this section, the reference to the requirement that the county "provide efficient stormwater management services to the residents and property owners of the stormwater management district" is substituted for the former references to the requirement that the county "exercise within its boundaries all the rights, powers, and duties relating to stormwater management" and "exercise all the rights, powers, and responsibilities for stormwater management … in order to make available to the residents and property owners of the district an efficient, operating service" for brevity.

Also in subsection (a)(2) of this section, the former reference to the exception "provided in paragraphs (2) and (3)" is deleted as unnecessary in light of the exception "for land within the City of Takoma Park" stated in subsection (a)(1) of this section.

Also in subsection (a)(2) of this section, the former reference to the period "on and after July 1, 1987" is deleted as obsolete.

Also in subsection (a)(2) of this section, the former reference to stormwater management "as defined in this subtitle" is deleted as unnecessary.

In subsection (a)(3) of this section, the reference to services "performed" by the Commission is substituted for the former reference to services "exercised" by the Commission for clarity.

In subsection (a)(4) of this section, the reference to "stormwater management" authority is substituted for the former reference to "this" authority for clarity.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–202. STORMWATER MANAGEMENT IN PRINCE GEORGE'S COUNTY.

(A) IN GENERAL.

(1) PRINCE GEORGE'S COUNTY MAY ESTABLISH A STORMWATER MANAGEMENT DISTRICT THAT INCLUDES THE LAND WITHIN ITS BOUNDARIES, EXCEPT FOR THE LAND WITHIN THE CITY OF BOWIE.

(2) WITHIN ITS STORMWATER MANAGEMENT DISTRICT, PRINCE GEORGE'S COUNTY SHALL PROVIDE EFFICIENT STORMWATER MANAGEMENT SERVICES TO THE RESIDENTS AND PROPERTY OWNERS OF THE STORMWATER MANAGEMENT DISTRICT WITH ADEQUATE FACILITIES FOR DEVELOPMENT AND PROMOTION OF SAFETY FOR LIFE AND PROPERTY.

(3) THE STORMWATER MANAGEMENT SERVICES SHALL INCLUDE THOSE FORMERLY PERFORMED BY THE COMMISSION.

(4) PRINCE GEORGE'S COUNTY MAY NOT EXERCISE STORMWATER MANAGEMENT AUTHORITY IN THE CITY OF BOWIE UNLESS THE CITY AND COUNTY OTHERWISE AGREE.

(B) SPECIAL TAXING DISTRICT AND AREAS.

(1) THE STORMWATER MANAGEMENT DISTRICT IS A SPECIAL TAXING DISTRICT FOR THE PURPOSE OF STORMWATER MANAGEMENT.

(2) PRINCE GEORGE'S COUNTY MAY ESTABLISH ONE OR MORE SPECIAL TAXING AREAS WITHIN ITS STORMWATER MANAGEMENT DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–202(a)(1) and (2) and (b)(1), (3), and (4).

In subsection (a)(2) of this section, the reference to the requirement that the county "provide efficient stormwater management services to the residents and property owners of the stormwater management district" is substituted for the former reference to the requirement that the county "exercise within its boundaries all the rights, powers, and duties relating to stormwater management" and "exercise all the rights, powers, and responsibilities for stormwater management … in order to make available to the residents and property owners of the district an efficient, operating service" for brevity.

Also in subsection (a)(2) of this section, the former reference to the exception "provided in paragraphs (2) and (3)" is deleted as unnecessary in light of the exception "for land within the City of Bowie" stated in subsection (a)(1) of this section.

Also in subsection (a)(2) of this section, the former reference to the period "on and after July 1, 1987" is deleted as obsolete.

Also in subsection (a)(2) of this section, the former reference to stormwater management "as defined in this subtitle" is deleted as unnecessary.

In subsection (a)(3) of this section, the reference to services "performed" by the Commission is substituted for the former reference to services "exercised" by the Commission for clarity.

In subsection (a)(4) of this section, the reference to "stormwater management" authority is substituted for the former reference to "this" authority for clarity.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–203. AGREEMENTS WITH COMMISSION.

THE COMMISSION MAY ENTER INTO AGREEMENTS WITH MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY TO PERFORM STORMWATER MANAGEMENT ACTIVITIES ON BEHALF OF EACH COUNTY AS THE COUNTY CONSIDERS NECESSARY AND APPROPRIATE TO MAINTAIN EFFECTIVE STORMWATER MANAGEMENT PROGRAMS IN THE STORMWATER MANAGEMENT DISTRICT.

REVISOR'S NOTE: This section formerly was Art. 29, § 3–202(c).

The only changes are in style.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–204. POWERS SUPPLEMENTAL.

THE POWERS GRANTED UNDER THIS TITLE ARE IN ADDITION TO THOSE CONFERRED BY ANY OTHER LAW.

REVISOR'S NOTE: This section formerly was the first sentence of Art. 29, § 3–201(b).

The only changes are in style.

SUBTITLE 3. BONDING AUTHORITY.

24–301. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE IS AND SHALL BE CONSTRUED AS INDEPENDENT, ADDITIONAL, AND SUPPLEMENTAL AUTHORITY FOR MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, AND THE CITY OF TAKOMA PARK TO ISSUE BONDS FOR THE PURPOSES PROVIDED ON ENACTMENT OF AN ORDINANCE OR OTHER LEGISLATIVE ACT BY THE ISSUING AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(f).

The reference to the issuing "authority" is substituted for the former reference to the issuing "county or the City of Takoma Park" for brevity.

Defined term: "Bond" § 24–101

24–302. AUTHORITY TO ISSUE BONDS.

(A) IN GENERAL.

(1) MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, AND THE CITY OF TAKOMA PARK MAY ISSUE BONDS IN ANY AMOUNT THAT THEY CONSIDER NECESSARY TO PROVIDE FUNDS FOR THEIR RESPECTIVE PORTIONS OF THE STORMWATER MANAGEMENT PROGRAMS AND SYSTEMS AUTHORIZED UNDER THIS TITLE.

(2) THE PROCEEDS OF BONDS ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE USED FOR THE PLANNING, ACQUISITION, CONSTRUCTION, RECONSTRUCTION, ESTABLISHMENT, EXTENSION, ENLARGEMENT, DEMOLITION, OR PURCHASE OF FACILITIES, INCLUDING LAND, INTERESTS IN LAND, OR EQUIPMENT, FOR STORMWATER MANAGEMENT PROGRAMS AND SYSTEMS.

(B) EXCEPTIONS FOR BONDS OF TAKOMA PARK.

(1) (I) BONDS OF THE CITY OF TAKOMA PARK AUTHORIZED BY THIS TITLE MAY BE ISSUED IN CONJUNCTION WITH BONDS OF PRINCE GEORGE'S COUNTY AUTHORIZED BY THIS TITLE IN THE MANNER PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL OF THE CITY OF TAKOMA PARK AND THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, SUBJECT IN EACH CASE TO APPROVAL OF BOND COUNSEL FOR THE RESPECTIVE JURISDICTION.

(II) THE RESOLUTIONS MAY INCLUDE PROCEDURES FOR A JOINT OR COORDINATED OFFERING OR SALE OF THE BONDS.

(2) (I) PRINCE GEORGE'S COUNTY MAY ISSUE BONDS AUTHORIZED BY THIS TITLE PAYABLE FROM THE AD VALOREM TAXES AUTHORIZED BY § 24–403(A) OF THIS TITLE FOR THE BENEFIT OF THE CITY OF TAKOMA PARK FOR THE SAME PURPOSES FOR WHICH THE CITY OF TAKOMA PARK MAY ISSUE BONDS UNDER THIS TITLE IN CONNECTION WITH SYSTEMS LOCATED IN THE CITY OF TAKOMA PARK, SUBJECT TO THE APPROVAL OF BOND COUNSEL OF PRINCE GEORGE'S COUNTY.

(II) THE BONDS AUTHORIZED BY THIS PARAGRAPH SHALL BE APPROVED BY APPROPRIATE RESOLUTIONS OF THE CITY COUNCIL OF THE CITY OF TAKOMA PARK AND THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY.

(III) THE RESOLUTIONS SHALL PROVIDE FOR THE LENDING OF THE APPROPRIATE PORTION OF THE PROCEEDS OF THE BONDS BY PRINCE GEORGE'S COUNTY TO THE CITY OF TAKOMA PARK AND THE REPAYMENT OF THE LOAN BY THE CITY OF TAKOMA PARK TO PRINCE GEORGE'S COUNTY IN THE AMOUNTS AND AT THE TIMES NECESSARY TO ENABLE PRINCE GEORGE'S COUNTY TO MAKE ALL PAYMENTS OF PRINCIPAL OF AND INTEREST ON THE BONDS WHEN DUE, INCLUDING THE PROPORTIONATE PART OF ANY PRINCIPAL OF ANY OUTSTANDING SINKING FUND BONDS, AS DETERMINED BY THE TABLE OF REDEMPTION OF BONDS FOR BONDS ISSUED BY PRINCE GEORGE'S COUNTY FOR THE BENEFIT OF THE CITY OF TAKOMA PARK FOR STORMWATER MANAGEMENT UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(a)(1).

In subsections (a)(2) and (b)(1)(ii) and (iii) of this section, the former references to including "without limitation" are deleted in light of Art. 1, § 30, which states that "[t]he words 'includes' or 'including' mean, unless the context requires otherwise, includes or including by way of illustration and not by way of limitation".

In subsection (a)(1) of this section, the reference to stormwater "management" programs is added for consistency within this title.

Also in subsection (a)(1) of this section, the former reference to issuing bonds "from time to time" is deleted as unnecessary.

In subsection (a)(2) of this section, the reference to "stormwater management programs and systems" is substituted for the former reference to "the control and disposition of storm and surface waters,

including floodproofing, flood control, or navigation programs or other stormwater programs and systems" for brevity.

In subsection (b)(2)(i) of this section, the former reference to systems "including systems located within that portion of the City of Takoma Park located in Montgomery County" is deleted as obsolete because all of the City of Takoma Park is now located in Montgomery County.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the reason that former Art. 29, § 3–203(a)(1), revised in this section, is retained in this revision even though the City of Takoma Park is now wholly located within Montgomery County is that there are still outstanding bonds issued under this section. The General Assembly may wish to repeal this section once there are no further outstanding bonds.

Defined terms: "Bond" § 24–101
"Stormwater management" § 24–101

24–303. REQUIREMENTS FOR BONDS.

BONDS ISSUED UNDER THIS SUBTITLE:

(1) ARE GENERAL OBLIGATION BONDS OF THE ISSUING AUTHORITY THAT ARE FULLY REGISTERED AS TO BOTH PRINCIPAL AND INTEREST WHEN APPROVED BY ORDINANCE OR OTHER LEGISLATIVE ACT OF THE COUNTY OR CITY;

(2) SHALL BEAR INTEREST PAYABLE AT ANY TIME AND AT ANY ANNUAL RATE AS PROVIDED OR AUTHORIZED BY LEGISLATIVE ACT;

(3) MAY NOT MATURE LATER THAN 40 YEARS FROM THE DATE OF THEIR ISSUE;

(4) MAY BE MADE REDEEMABLE BEFORE MATURITY AT THE OPTION OF THE ISSUING AUTHORITY, AT ANY PRICE AND UNDER ANY TERMS AND CONDITIONS THAT ARE SET BEFORE THEIR ISSUANCE;

(5) SHALL HAVE ANY OTHER TERMS AND PROVISIONS AND BE OTHERWISE ISSUED AS PROVIDED OR AUTHORIZED BY LEGISLATIVE ACT; AND

(6) SHALL BE SOLD IN ANY MANNER, EITHER AT A PUBLIC OR PRIVATE NEGOTIATED SALE, AND ON ANY TERMS, AT, ABOVE, OR BELOW PAR, AS PROVIDED OR AUTHORIZED BY LEGISLATIVE ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(a)(2).

In items (1) and (4) of this section, the references to the issuing "authority" are substituted for the former references to the issuing "county or the City of Takoma Park" for brevity.

Defined term: "Bond" § 24–101

24–304. EXEMPTION FROM TAX.

BONDS ISSUED UNDER THIS SUBTITLE, A TRANSFER OF THE BONDS, THE INTEREST PAYABLE ON THE BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING ANY PROFIT REALIZED IN THE SALE OR EXCHANGE OF THE BONDS, SHALL BE EXEMPT FROM TAXATION BY THE STATE OR BY ANY OF ITS COUNTIES, MUNICIPALITIES, OR PUBLIC UNITS OF ANY KIND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(b).

The reference to bonds "issued under this subtitle" is added for clarity.

The reference to "counties" is substituted for the former reference to "political subdivisions" of the State for clarity in light of the reference to the only other type of political subdivision, "municipalities".

The former reference to the bonds being exempt from taxation "at all times" is deleted as unnecessary. Similarly, the former reference to the exemption from taxation "of every kind and nature whatsoever" is deleted.

Defined terms: "Bond" § 24–101
"County" § 1–101

24–305. EXEMPTION FROM OTHER PUBLIC DEBT REQUIREMENTS.

BONDS AUTHORIZED BY THIS SUBTITLE AND THE ISSUANCE AND SALE OF THE BONDS ARE EXEMPT FROM ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(c).

The reference to bonds "authorized by this subtitle" is added for clarity.

Defined term: "Bond" § 24–101

24–306. PLEDGE OF FULL FAITH AND CREDIT; PAYMENT FOR BONDS.

(A) IN GENERAL.

BONDS AUTHORIZED BY THIS SUBTITLE ARE, AND SHALL RECITE, AN IRREVOCABLE PLEDGE OF THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE ISSUING AUTHORITY TO THE PAYMENT OF THE MATURING PRINCIPAL OF AND INTEREST ON THE BONDS AS AND WHEN THE BONDS BECOME PAYABLE.

(B) BONDS PAYABLE FIRST FROM STORMWATER MANAGEMENT FUND.

THE BONDS SHALL BE PAYABLE FIRST FROM THE STORMWATER MANAGEMENT FUND OF THE ISSUING AUTHORITY.

(C) IMPOSITION OF TAXES IF FUND IS INSUFFICIENT.

TO THE EXTENT A STORMWATER MANAGEMENT FUND IS INSUFFICIENT TO PAY THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM, IF ANY, ON THE BONDS, THE ISSUING AUTHORITY SHALL IMPOSE AD VALOREM TAXES, UNLIMITED AS TO RATE OR AMOUNT, ON ALL ASSESSABLE PROPERTY WITHIN THE STORMWATER MANAGEMENT DISTRICT IN AN AMOUNT SUFFICIENT TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM, IF ANY, WHEN DUE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(d).

Throughout this section, the references to the issuing "authority" are substituted for the former references to the issuing "county or the City of Takoma Park" for brevity.

In subsection (c) of this section, the reference to the "stormwater management" district is added for clarity.

Also in subsection (c) of this section, the reference to a "stormwater management" fund is substituted for the former reference to "this" fund for clarity.

Also in subsection (c) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing]" a tax for consistency

with terminology used in the Tax – General Article and Tax – Property Article.

Defined terms: "Bond" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–307. EXEMPTION FROM OTHER PROVISIONS OF LAW.

NOTWITHSTANDING ANY LIMITATION OR OTHER PROVISION OF ANY CHARTER OR LOCAL LAW REGULATING THE CREATION OF PUBLIC DEBTS OR THE FINANCING OF CAPITAL PROJECTS, BONDS ISSUED UNDER THIS SUBTITLE, THE BORROWING THAT THE BONDS REPRESENT, THE PLEDGE OF THE FULL FAITH AND CREDIT OF THE ISSUING AUTHORITY OR ANY OTHER GUARANTEE OF THE ISSUING AUTHORITY, AND THE PROGRAMS OR PROJECTS BEING FINANCED ARE NOT SUBJECT TO:

(1) ANY REFERENDUM REQUIREMENT OF THE CHARTER OR OTHER LOCAL LAW OF THE AUTHORITY ISSUING THE BONDS OR IN WHICH THE PROGRAMS OR PROJECTS ARE LOCATED;

(2) ANY LIMITATION OF THE CHARTER OR LOCAL LAW ON THE RATE OF TAXATION OR THE AGGREGATE AMOUNT OF TAXES THAT MAY BE IMPOSED IN THE ISSUING AUTHORITY; OR

(3) ANY REQUIREMENT OF CHARTER OR LOCAL LAW AS TO THE FORM OR PUBLIC SALE OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(e).

Throughout this section, the references to the issuing "authority" are substituted for the former references to the issuing "county or the City of Takoma Park" for brevity.

In item (2) of this section, the reference to taxes that may be "imposed" is substituted for the former reference to taxes that may be "levied" for consistency with terminology used in the Tax – General Article and Tax – Property Article.

Defined term: "Bond" § 24–101

24–308. STORMWATER MANAGEMENT BONDS — VALIDITY.

(A) IN GENERAL.

BONDS ISSUED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY TO PROVIDE FUNDS FOR STORMWATER MANAGEMENT REMAIN VALID, BINDING, AND ENFORCEABLE IN ACCORDANCE WITH THEIR TERMS, INCLUDING ANY PROVISION FOR A MATURITY DATE BEYOND JUNE 30, 1990.

(B) RIGHTS AND OBLIGATIONS.

NOTWITHSTANDING THE REPEAL, EXPIRATION, OR TERMINATION SUBSEQUENT TO THE DATE OF ISSUANCE OF THE BONDS OF THE AUTHORITY UNDER WHICH THE BONDS WERE ISSUED, THE RIGHTS OF THE BONDHOLDERS AND THE RESPONSIBILITIES AND OBLIGATIONS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY WITH RESPECT TO THE BONDS MAY NOT BE IMPAIRED AND SHALL REMAIN IN FULL FORCE AND EFFECT.

(C) REPAYMENT AND TAX.

THE RESPONSIBILITY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY INCLUDES THE RESPONSIBILITY TO REPAY THE BONDS AND TO IMPOSE TAXES FOR OR OTHERWISE GUARANTEE THE PAYMENT OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–111A.

In subsection (c) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy" a tax for consistency with terminology used in the Tax – General Article and the Tax – Property Article.

Also in subsection (c) of this section, the former reference to responsibility "with respect to the bonds" is deleted as unnecessary.

Defined terms: "Bond" § 24–101
"Stormwater management" § 24–101

SUBTITLE 4. FUNDING.

24–401. CONSTRUCTION OF SUBTITLE.

(A) RIGHTS OF PRINCE GEORGE'S COUNTY AND CITY OF BOWIE.

THIS SUBTITLE DOES NOT IMPAIR THE RIGHTS OF PRINCE GEORGE'S COUNTY OR THE CITY OF BOWIE TO CONTRACT WITH EACH OTHER FOR THE PROVISION OF STORMWATER MANAGEMENT.

(B) RIGHTS OF PRINCE GEORGE'S COUNTY AND CITY OF TAKOMA PARK.

THIS SUBTITLE DOES NOT IMPAIR THE RIGHTS OF PRINCE GEORGE'S COUNTY OR THE CITY OF TAKOMA PARK TO CONTRACT WITH EACH OTHER, OR WITH OTHER PARTIES, FOR THE PROVISION OF STORMWATER MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(j) and (q).

Defined term: "Stormwater management" § 24–101

24–402. DEVELOPER OR OWNER CONTRIBUTIONS TO COST OF PROJECT.

(A) IN GENERAL.

(1) IN THE STORMWATER MANAGEMENT DISTRICT, PRINCE GEORGE'S COUNTY MAY REQUIRE AN OWNER OR DEVELOPER OF A SUBDIVISION OR TRACT OF LAND ON WHICH BUILDINGS ARE TO BE ERECTED TO CONTRIBUTE WHAT THE COUNTY DETERMINES TO BE A FAIR SHARE OF THE COST OF A STORMWATER MANAGEMENT PROJECT BEFORE THE COUNTY APPROVES OR CONSTRUCTS THE PROJECT.

(2) IN THE CITY OF BOWIE, THE CITY MAY REQUIRE AN OWNER OR DEVELOPER OF A SUBDIVISION OR TRACT OF LAND ON WHICH BUILDINGS ARE TO BE ERECTED TO CONTRIBUTE WHAT THE CITY DETERMINES TO BE A FAIR SHARE OF THE COST OF A STORMWATER MANAGEMENT PROJECT BEFORE THE CITY APPROVES OR CONSTRUCTS THE PROJECT.

(3) IN THE CITY OF TAKOMA PARK, THE CITY MAY REQUIRE AN OWNER OR DEVELOPER OF A SUBDIVISION OR TRACT OF LAND ON WHICH BUILDINGS ARE TO BE ERECTED TO CONTRIBUTE WHAT THE CITY COUNCIL DETERMINES TO BE A FAIR SHARE OF THE COST OF A STORMWATER MANAGEMENT PROJECT IN THE CITY'S JURISDICTION BEFORE THE CITY COUNCIL APPROVES THE PROJECT FOR CONSTRUCTION.

(4) IN MONTGOMERY COUNTY, EXCEPT FOR PROPERTY WITHIN THE CITY OF TAKOMA PARK, THE MONTGOMERY COUNTY COUNCIL MAY REQUIRE AN OWNER OR DEVELOPER OF A SUBDIVISION OR TRACT OF LAND ON

WHICH BUILDINGS ARE TO BE ERECTED TO CONTRIBUTE WHAT THE COUNTY COUNCIL DETERMINES TO BE A FAIR SHARE OF THE COST OF A STORMWATER MANAGEMENT PROJECT IN THE COUNTY'S JURISDICTION BEFORE THE COUNTY COUNCIL APPROVES THE PROJECT FOR CONSTRUCTION.

(5) BEFORE CONSTRUCTION BEGINS, THE CONTRIBUTION SHALL BE PAID IN CASH OR SECURED TO THE SATISFACTION OF THE APPROVING AUTHORITY.

(B) AUTHORITY TO CONSTRUCT.

MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, AND THE CITY OF TAKOMA PARK EACH MAY CONSTRUCT WITHIN ITS BOUNDARIES ANY PART OF AN APPROVED STORMWATER MANAGEMENT PROJECT IF THE OWNER OR DEVELOPER CONTRIBUTES A SHARE OF THE COST OF THE PROJECT CONSIDERED APPROPRIATE BY THE APPROVING AUTHORITY.

(C) INCLUSION OF ANTICIPATED CONTRIBUTIONS IN BUDGET.

MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, AND THE CITY OF TAKOMA PARK EACH SHALL INCLUDE IN ITS ANNUAL CAPITAL BUDGET FOR STORMWATER MANAGEMENT CAPITAL PROJECTS AN AMOUNT REPRESENTING ANTICIPATED CONTRIBUTIONS TO STORMWATER MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–204.

In subsection (a) of this section, the former references to "dwellings, apartments, stores, or other" buildings are deleted as surplusage.

In subsection (a)(3) and (4) of this section, the references to a "stormwater management" project are substituted for the former reference to a "drainage" project for accuracy and consistency throughout this title.

In subsection (b) of this section, the reference to "boundaries" is substituted for the former reference to "jurisdictions" for clarity and consistency within this title.

Also in subsection (b) of this section, the reference to the "owner or developer" is substituted for the former reference to the "interested person" for clarity.

In subsection (c) of this section, the reference to an annual "capital" budget is added for clarity.

Also in subsection (c) of this section, the reference to capital "projects" is substituted for the former reference to capital "improvements" for clarity.

Defined terms: "Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–403. COUNTY TAX AUTHORIZED.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY EACH MAY IMPOSE AN AD VALOREM TAX ON ALL PROPERTY ASSESSED FOR TAX PURPOSES WITHIN THE STORMWATER MANAGEMENT DISTRICT AT A RATE REQUIRED TO PRODUCE THE AMOUNT NEEDED TO PAY FOR:

(1) MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS IN THE STORMWATER MANAGEMENT DISTRICT THAT WERE MAINTAINED BY THE COMMISSION BEFORE JULY 1, 1987, AND SYSTEMS ESTABLISHED BY EACH COUNTY ON OR AFTER JULY 1, 1987;

(2) THE PRINCIPAL AND INTEREST THAT BECOMES DUE AND OWING TO THE BONDHOLDERS DURING THE FOLLOWING YEAR AND THE PROPORTIONATE PART OF THE PRINCIPAL OF ALL OUTSTANDING SINKING FUND BONDS, AS DETERMINED BY THE TABLE OF REDEMPTION OF BONDS FOR BONDS ISSUED BY:

(I) THE COMMISSION FOR STORMWATER MANAGEMENT; AND

(II) THE COUNTY FOR STORMWATER MANAGEMENT UNDER THIS TITLE; AND

(3) THE COST OF STORMWATER MANAGEMENT ACTIVITIES AND PRACTICES IN THE STORMWATER MANAGEMENT DISTRICT, AS APPROVED IN THE COUNTY'S ANNUAL STORMWATER MANAGEMENT BUDGET AND APPROPRIATIONS RESOLUTION FOR THE FOLLOWING FISCAL YEAR.

(B) CERTIFICATION OF AMOUNTS TO PAY FOR BONDS.

(1) THE COMMISSION SHALL CERTIFY ANNUALLY TO EACH COUNTY THE AMOUNT NECESSARY TO PRODUCE THE SUM REQUIRED TO PAY THE PRINCIPAL, INTEREST, AND OTHER OBLIGATIONS FOR THE CURRENT YEAR ON THE OUTSTANDING BONDS ISSUED BY THE COMMISSION TO PAY FOR STORMWATER MANAGEMENT PROJECTS WITHIN THE COUNTY'S STORMWATER MANAGEMENT DISTRICT.

(2) THE COUNTY SHALL PAY THE AMOUNT CERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(C) IMPOSITION AND COLLECTION OF TAXES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE TAXES AUTHORIZED BY THIS SECTION SHALL BE IMPOSED AND COLLECTED IN THE SAME MANNER, HAVE THE SAME PRIORITY, BEAR THE SAME INTEREST, AND BE TREATED IN ALL RESPECTS AS OTHER COUNTY TAXES.

(2) (I) NOTWITHSTANDING ANY PROVISION OF CHARTER OR OTHER LAW, THE TAXES MAY NOT BE SUBJECT TO A LIMITATION ON THE TAX RATE OR TAX REVENUES OF THE COUNTY.

(II) THE TAX REVENUES SHALL BE DEPOSITED AND MAINTAINED IN A SEPARATE STORMWATER MANAGEMENT FUND ESTABLISHED UNDER § 24–407 OF THIS SUBTITLE.

(III) THE TAX REVENUES DEPOSITED IN THE FUND SHALL BE IN ADDITION TO ALL OTHER COUNTY TAXES AND MAY NOT BE CONSIDERED COUNTY TAXES FOR THE PURPOSE OF APPLYING THE LIMITATIONS IN ARTICLE VIII, § 812 OF THE PRINCE GEORGE'S COUNTY CHARTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–205(a), (b), and (c) and 4–112(a) and (b).

In the introductory language of subsection (a) and in subsection (c)(1) of this section, the references to "impos[ing]" a tax are substituted for the former references to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

In the introductory language of subsection (a) of this section, the former reference to a "direct" ad valorem tax is deleted as unnecessary.

In subsection (c)(2)(ii) of this section, the reference to "§ 24–407 of" this subtitle is added for accuracy.

In subsection (c)(2)(iii) of this section, the reference to Article VIII, "§ 812" of the Prince George's County Charter is substituted for the former reference to Article VIII, "§ 817B" of the Prince George's County Code to reflect that the renumbering of that section in Prince George's County CB–68–2002, ratified November 5, 2002.

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–404. MONTGOMERY COUNTY — AD VALOREM TAX.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

(B) IN GENERAL.

THE MONTGOMERY COUNTY COUNCIL SHALL IMPOSE AN AD VALOREM TAX ON ALL PROPERTY ASSESSED FOR TAX PURPOSES IN:

(1) THE COUNTY; AND

(2) MUNICIPALITIES IN THE COUNTY.

(C) RATE.

(1) EXCEPT FOR THE CITY OF TAKOMA PARK, THE AD VALOREM TAX MAY NOT EXCEED:

(I) 0.4 CENT PER $100 OF THE ASSESSED VALUE OF REAL PROPERTY; OR

(II) 1 CENT PER $100 OF THE ASSESSED VALUE OF PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE.

(2) THE TAX SHALL BE IN AN AMOUNT NECESSARY TO PAY FOR THE MAINTENANCE OF:

(I) STORMWATER MANAGEMENT SYSTEMS IN THE PART OF THE SANITARY DISTRICT IN MONTGOMERY COUNTY THAT WERE PREVIOUSLY MAINTAINED BY THE COMMISSION; AND

(II) ON APPLICATION OF A MUNICIPALITY, ANY STORMWATER MANAGEMENT SYSTEM PREVIOUSLY MAINTAINED BY THE MUNICIPALITY.

(D) EXEMPTION OF MUNICIPALITY.

(1) IF A MUNICIPALITY DECIDES TO MAINTAIN ALL EXISTING STORMWATER MANAGEMENT SYSTEMS IN ITS BOUNDARIES, THE MUNICIPALITY SHALL NOTIFY THE COUNTY COUNCIL OF ITS INTENT TO MAINTAIN THE STORMWATER MANAGEMENT SYSTEMS BEFORE THE DATE ON WHICH THE COUNTY COUNCIL ADOPTS ITS ANNUAL BUDGET.

(2) IF THE CONDITIONS SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION ARE MET, ALL ASSESSABLE PROPERTIES IN THE MUNICIPALITY SHALL BE EXEMPT FROM THE TAX IMPOSED UNDER THIS SECTION.

(E) TRANSFER OF FACILITIES TO MONTGOMERY COUNTY.

(1) THE COUNTY SHALL MAINTAIN EVERY INTEREST IN STORMWATER EASEMENTS, STRUCTURES, AND OTHER PROPERTIES IN THE COUNTY, WHETHER OR NOT ESTABLISHED BY PLAT, THAT WERE TRANSFERRED BY DEED TO THE COUNTY.

(2) THE COMMISSION AND ANY MUNICIPALITY IN THE COUNTY SHALL ALLOW THE COUNTY TO ENTER AND EXIT OVER ANY FEES, LEASEHOLDS, EASEMENTS, OR RIGHTS–OF–WAY OF THE COMMISSION OR MUNICIPALITY TO MAINTAIN ANY STORMWATER EASEMENT, STRUCTURE, OR OTHER PROPERTY.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of this section.

Subsections (b) through (e) of this section are new language derived without substantive change from former Art. 29, § 6–106.

Throughout this section, the references to the defined term "stormwater management" are substituted for the former references to "storm drainage" for accuracy. Similarly, in subsection (e)(1) of this section, the reference to "stormwater" easements, structures, and other properties is substituted for the former reference to "surface drainage" easements, structures, and other properties, and in subsection (e)(2) of this section,

the reference to a "stormwater" easement, structure, or other property is substituted for the former reference to a "drainage" easement, structure, or other property.

In subsection (b) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and the Tax – Property Article.

Also in subsection (b) of this section, the former reference to a "direct" ad valorem tax is deleted as unnecessary.

In subsection (c)(1) of this section, the references to "assessed value" are substituted for the former references to "assessed valuation" for consistency with terminology used in other revised articles of the Code. *See, e.g.*, RP § 13–313(a)(2) and TP § 7–236.

In the introductory language of subsection (c)(2) of this section, the former reference to "the sums required" for maintenance is deleted as unnecessary.

In subsection (c)(2)(i) of this section, the reference to stormwater management systems in the county "that were" previously maintained by the Commission is substituted for the former reference to systems in the county "and" previously maintained by the Commission for clarity.

In subsection (d)(1) of this section, the reference to notification of a municipality's "intent to maintain the stormwater management systems" is added for clarity.

Also in subsection (d)(1) of this section, the word "shall" is substituted for the former word "may" to clarify that the municipality is required to give the notice before the specified date as a condition for receiving the exemption provided in subsection (d)(2) of this section.

Also in subsection (d)(1) of this section, the former reference to an "appropriations resolution" is deleted as implicit in the reference to the "annual budget".

In subsection (d)(2) of this section, the phrase "[i]f the conditions set forth in paragraph (1) of this subsection are met" is substituted for the former phrase "[i]n that event" for clarity.

Also in subsection (d)(2) of this section, the reference to the "tax imposed under this section" is substituted for the former reference to the "levy

made by the County Council for the future maintenance of its storm drainage" for clarity and brevity.

Also in subsection (d)(2) of this section, the former reference to property in "the boundaries of" the municipality is deleted as unnecessary.

In subsection (e)(1) of this section, the reference to properties "in the county" is added for clarity.

Also in subsection (e)(1) of this section, the former reference to storm water management easements, structures, and other properties, whether established by plat "for storm drainage use and purposes, that control and dispose of storm or surface water in Montgomery County" is deleted as unnecessary.

In subsection (e)(2) of this section, the reference to fees, leaseholds, easements, or rights–of–way "of the Commission or municipality" is added for clarity.

Defined terms: "Commission" § 24–101
"Sanitary district" § 24–101
"Stormwater management" § 24–101

24–405. TAX AUTHORIZED FOR THE CITY OF TAKOMA PARK.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE CITY OF TAKOMA PARK MAY IMPOSE AN AD VALOREM TAX ON ALL PROPERTY ASSESSED FOR TAX PURPOSES WITHIN THE CITY AT A RATE REQUIRED TO PRODUCE THE AMOUNT NEEDED TO PAY FOR:

(1) MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS IN THE CITY THAT WERE MAINTAINED BY THE COMMISSION BEFORE JULY 1, 1990, AND SYSTEMS ESTABLISHED BY THE CITY ON OR AFTER JULY 1, 1990;

(2) THE PRINCIPAL AND INTEREST THAT BECOMES DUE AND OWING TO:

(I) THE BONDHOLDERS DURING THE FOLLOWING YEAR AND THE PROPORTIONATE PART OF THE PRINCIPAL OF ALL OUTSTANDING SINKING FUND BONDS, AS DETERMINED BY THE TABLE OF REDEMPTION OF BONDS FOR BONDS ISSUED BY OR ON BEHALF OF THE CITY ON OR AFTER JULY 1, 1990, FOR STORMWATER MANAGEMENT UNDER THIS TITLE; AND

(II) PRINCE GEORGE'S COUNTY WITH RESPECT TO THE REPAYMENT OF ANY LOAN MADE BY THE COUNTY TO THE CITY OF TAKOMA PARK UNDER § 24–302(B) OF THIS TITLE; AND

(3) THE COST OF STORMWATER MANAGEMENT ACTIVITIES AND PRACTICES IN THE CITY, AS APPROVED IN THE CITY'S ANNUAL STORMWATER MANAGEMENT BUDGET AND APPROPRIATIONS RESOLUTION FOR THE FOLLOWING FISCAL YEAR.

(B) PAYMENTS IN LIEU OF TAXES.

IN LIEU OF THE AD VALOREM TAXES AUTHORIZED BY SUBSECTION (A) OF THIS SECTION, THE CITY OF TAKOMA PARK MAY ADOPT A STORMWATER MANAGEMENT UTILITY FEE SYSTEM OR USER CHARGES TO PAY THE COSTS OF STORMWATER MANAGEMENT ACTIVITIES AND PROJECTS BASED ON FACTORS SUCH AS LAND USE, AMOUNT OF RUNOFF, CONSERVATION, AND ENVIRONMENTAL AND OTHER CONSIDERATIONS.

(C) IMPOSITION AND COLLECTION OF TAXES OR FEES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE TAXES AUTHORIZED BY THIS SECTION SHALL BE IMPOSED AND COLLECTED IN THE SAME MANNER, HAVE THE SAME PRIORITY, BEAR THE SAME INTEREST, AND BE TREATED IN ALL RESPECTS AS OTHER TAXES IMPOSED BY THE CITY OF TAKOMA PARK.

(2) (I) NOTWITHSTANDING ANY PROVISION OF THE CHARTER, LAWS, OR ORDINANCES OF THE CITY OF TAKOMA PARK, THE TAXES MAY NOT BE SUBJECT TO A LIMITATION ON THE TAX RATE OR TAX REVENUES OF THE CITY.

(II) THE TAX REVENUES, USER CHARGES, AND UTILITY FEES SHALL BE DEPOSITED AND MAINTAINED IN A SEPARATE STORMWATER MANAGEMENT FUND ESTABLISHED UNDER § 24–408 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(k), (l), and (m).

In the introductory language of subsection (a) and in subsection (c)(1) of this section, the references to "impos[ing]" a tax are substituted for the former references to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

In the introductory language of subsection (a) and in subsection (b) of this section, the former references to a "direct" ad valorem tax are deleted as unnecessary.

In subsection (c)(2)(ii) of this section, the reference to "§ 24–408 of" this subtitle is added for accuracy.

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101

24–406. PROPERTY EXEMPT FROM OR NOT SUBJECT TO TAX OR FEES.

(A) PROPERTY EXEMPT FROM TAX OR FEES.

PROPERTY OWNED BY THE STATE OR A UNIT OF STATE GOVERNMENT, A COUNTY, A MUNICIPALITY, OR A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT THAT IS USED FOR PUBLIC PURPOSES SHALL BE EXEMPT FROM THE TAXES, USER CHARGES, AND UTILITY FEES IMPOSED UNDER THIS SUBTITLE.

(B) PROPERTY NOT SUBJECT TO TAX.

PROPERTY THAT IS NOT WITHIN A STORMWATER MANAGEMENT DISTRICT OR IS NOT OTHERWISE PROVIDED DIRECT OR INDIRECT STORMWATER MANAGEMENT SERVICES IN A STORMWATER MANAGEMENT DISTRICT MAY NOT HAVE A TAX IMPOSED BY THE COUNTY UNTIL THE COUNTY ACQUIRES, EXTENDS, OR BEGINS TO PROVIDE STORMWATER MANAGEMENT SERVICES, FACILITIES, OR PROGRAMS TO THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–205(d), (e), and (n) and 4–112(c) and (d).

In subsection (a) of this section, the former reference to an "agency" of the State is deleted as included in the reference to a "unit" of State government.

In subsection (b) of this section, the reference to "a tax imposed by the county" is substituted for the former reference to "the tax imposed" for clarity.

Also in subsection (b) of this section, the reference to a stormwater management "district" is substituted for the former reference to a stormwater management "area" for consistency within this title.

Defined terms: "Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–407. COUNTY STORMWATER MANAGEMENT FUND.

(A) REQUIREMENT TO ESTABLISH FUND.

ON ESTABLISHING A STORMWATER MANAGEMENT DISTRICT, MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY EACH SHALL:

(1) ESTABLISH A STORMWATER MANAGEMENT FUND; AND

(2) DEPOSIT IN THE FUND:

(I) RECEIPTS AND REVENUES FROM AN AD VALOREM TAX IMPOSED UNDER § 24–403 OF THIS SUBTITLE;

(II) FEES, CONTRIBUTIONS, AND RESERVE FUNDS COLLECTED BY THE COMMISSION BEFORE JULY 1, 1987, FOR STORMWATER MANAGEMENT ACTIVITIES IN THE STORMWATER MANAGEMENT DISTRICT AND TRANSFERRED TO THE COUNTY UNDER THIS TITLE; AND

(III) CHARGES, FEES, FEES–IN–LIEU, AND OTHER CONTRIBUTIONS RECEIVED FROM ANY PERSON OR GOVERNMENTAL UNIT IN CONNECTION WITH STORMWATER MANAGEMENT ACTIVITIES OR PRACTICES.

(B) USES OF FUND.

MONEY IN A COUNTY STORMWATER MANAGEMENT FUND SHALL BE USED ONLY TO PAY FOR THE COSTS OF STORMWATER MANAGEMENT AS SET FORTH IN § 24–403(A) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(f) and (g).

In the introductory language of subsection (a) of this section, the reference to "Montgomery County and Prince George's County" is substituted for the former reference to "a county" for accuracy.

In subsection (a)(2)(i) of this section, the reference to "§ 24–403 of" this subtitle is added for accuracy.

Also in subsection (a)(2)(i) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "lev[ying]" a tax for

consistency with terminology used in the Tax – General Article and Tax – Property Article.

In subsection (a)(2)(iii) of this section, the reference to a governmental "unit" is substituted for the former reference to a governmental "agency" for consistency within this title.

In subsection (b) of this section, the reference to "[m]oney in a county stormwater management fund" is substituted for the former reference to "[t]he stormwater management district fund" for clarity.

Also in subsection (b) of this section, the reference to money being "used" is substituted for the former reference to money being "disbursed" for consistency with terminology used in other revised articles of the Code. *See, e.g.*, EC §§ 2–122 and 3–411 and PUC § 10–112.

Defined terms: "Commission" § 24–101
"Person" § 1–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–408. TAKOMA PARK STORMWATER MANAGEMENT FUND.

(A) REQUIREMENT TO ESTABLISH FUND.

THE CITY OF TAKOMA PARK SHALL:

(1) ESTABLISH A STORMWATER MANAGEMENT FUND; AND

(2) DEPOSIT IN THE FUND:

(I) RECEIPTS AND REVENUES FROM ANY AD VALOREM TAX, USER CHARGE, OR UTILITY FEE IMPOSED UNDER § 24–405 OF THIS SUBTITLE;

(II) FEES, CONTRIBUTIONS, AND RESERVE FUNDS COLLECTED BY THE COMMISSION BEFORE JULY 1, 1990, FOR STORMWATER MANAGEMENT ACTIVITIES IN THE CITY AND TRANSFERRED TO THE CITY UNDER THIS TITLE; AND

(III) CHARGES, FEES, FEES–IN–LIEU, AND OTHER CONTRIBUTIONS RECEIVED FROM ANY PERSON OR GOVERNMENTAL UNIT IN CONNECTION WITH STORMWATER MANAGEMENT ACTIVITIES OR PRACTICES.

(B) USES OF FUND.

MONEY IN THE TAKOMA PARK STORMWATER MANAGEMENT FUND SHALL BE USED ONLY TO PAY FOR THE COSTS OF STORMWATER MANAGEMENT AS SET FORTH IN § 24–405(A) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(o) and (p).

In subsection (a)(2)(i) of this section, the reference to "§ 24–405 of" this subtitle is added for accuracy.

Also in subsection (a)(2)(i) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "lev[ying]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

In subsection (a)(2)(iii) of this section, the reference to a governmental "unit" is substituted for the former reference to a governmental "entity" for consistency within this title.

In subsection (b) of this section, the reference to "[m]oney in the Takoma Park" stormwater management fund is added for clarity.

Also in subsection (b) of this section, the reference to money being "used" is substituted for the former reference to money being "disbursed" for consistency with terminology used in other revised articles of the Code. *See, e.g.*, EC §§ 2–122 and 3–411 and PUC § 10–112.

Defined terms: "Commission" § 24–101
"Person" § 24–101
"Stormwater management" § 24–101

24–409. EFFECT OF ANNEXATION ON CITY OF BOWIE AND CITY OF TAKOMA PARK.

(A) REMOVAL FROM COUNTY DISTRICT.

IF LAND IN THE PRINCE GEORGE'S COUNTY STORMWATER MANAGEMENT DISTRICT IS ANNEXED BY THE CITY OF BOWIE OR THE CITY OF TAKOMA PARK, THE LAND IS NO LONGER PART OF THE COUNTY STORMWATER MANAGEMENT DISTRICT.

(B) RESPONSIBILITY OF ANNEXING MUNICIPALITY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE ANNEXING MUNICIPALITY SHALL ASSUME THE RESPONSIBILITY FOR STORMWATER MANAGEMENT IN THE ANNEXED AREA.

(2) PRINCE GEORGE'S COUNTY SHALL IMPOSE AND COLLECT FROM THE ANNEXED PROPERTY AN AD VALOREM TAX AT A RATE SUFFICIENT TO PAY THE PRINCIPAL, INTEREST, AND OTHER OBLIGATIONS ON OUTSTANDING BONDS ISSUED BY THE COMMISSION OR PRINCE GEORGE'S COUNTY FOR STORMWATER MANAGEMENT BEFORE THE ANNEXATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(h).

In subsection (b)(1) of this section, the reference to the annexing "municipality" is substituted for the former reference to the annexing "city" for accuracy.

In subsection (b)(2) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

SUBTITLE 5. MAINTENANCE.

24–501. RESPONSIBILITY FOR MAINTENANCE.

(A) IN GENERAL.

EACH COUNTY AND THE CITY OF TAKOMA PARK ARE RESPONSIBLE FOR THE MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS OR PARTS OF THE SYSTEMS LOCATED WITHIN ITS STORMWATER MANAGEMENT DISTRICT AND TRANSFERRED TO IT UNDER THIS TITLE.

(B) RIGHT OF COUNTY TO ENTER PROPERTY FOR MAINTENANCE.

THE COMMISSION AND ANY MUNICIPALITY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY SHALL ALLOW THE COUNTY TO ENTER AND EXIT OVER ANY OF THE FEES, LEASEHOLDS, EASEMENTS, OR RIGHTS–OF–WAY OF THE

COMMISSION OR THE MUNICIPALITY TO MAINTAIN ANY STORMWATER MANAGEMENT EASEMENT, STRUCTURE, OR OTHER PROPERTY.

REVISOR'S NOTE: This section formerly was Art. 29, § 3–202(e) and (f).

The only changes are in style.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–502. MAINTENANCE OF STORMWATER MANAGEMENT SYSTEM.

(A) MAINTENANCE BY COUNTY.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COUNTY WHERE THE PROJECT IS LOCATED SHALL MAINTAIN EVERY STORMWATER MANAGEMENT SYSTEM AND PART OF EVERY SYSTEM THAT:

(1) WAS CONSTRUCTED BY THE COMMISSION OR THE COUNTY OR ACCEPTED FOR MAINTENANCE BY THE COMMISSION OR THE COUNTY; AND

(2) IS LOCATED IN A STREET, ALLEY, PUBLIC WAY, OR PUBLIC SPACE.

(B) PROPERTY OWNED BY MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION OR STATE.

UNLESS THE COUNTY AGREES OTHERWISE:

(1) A STORMWATER MANAGEMENT SYSTEM THAT IS LOCATED ON REAL PROPERTY OWNED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION SHALL BE MAINTAINED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION; AND

(2) A STORMWATER MANAGEMENT SYSTEM OR FACILITY THAT IS LOCATED IN A ROAD MAINTAINED BY THE STATE HIGHWAY ADMINISTRATION SHALL BE MAINTAINED BY THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–206(a)(1) and the first sentence of (2).

In the introductory language of subsection (a) of this section, the reference to the county "where the project is located" is added for clarity.

Also in the introductory language of subsection (a) of this section, the clause "[e]xcept as provided in subsection (b) of this section" is added for clarity.

Also in the introductory language of subsection (a) of this section, the reference to every "stormwater management" system is substituted for the former reference to every "storm drainage" system for accuracy.

In subsection (a)(1) of this section, the former reference to a system that was accepted for maintenance "as of July 1, 1987" is deleted as obsolete.

In subsection (b)(1) of this section, the word "and" is substituted for the former word "or" for clarity.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101

24–503. MAINTENANCE BY CITY OF TAKOMA PARK.

ON OR AFTER JULY 1, 1990, THE CITY OF TAKOMA PARK SHALL MAINTAIN EVERY STORMWATER MANAGEMENT SYSTEM AND PART OF EVERY SYSTEM THAT:

(1) WAS CONSTRUCTED BY THE COMMISSION OR ACCEPTED FOR MAINTENANCE BY THE COMMISSION WITHIN THE CITY OF TAKOMA PARK BEFORE JULY 1, 1990; AND

(2) IS LOCATED IN A STREET, ALLEY, PUBLIC WAY, OR PUBLIC SPACE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 29, § 3–206(a)(2).

In the introductory language of this section, the reference to every "stormwater management" system is substituted for the former reference to every "storm drainage" system for accuracy.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101

SUBTITLE 6. APPROVAL OF PROJECTS.

24–601. REQUIREMENTS FOR APPROVAL OF PROJECTS.

(A) IN GENERAL.

IN THE REVIEW AND APPROVAL BY MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, OR THE CITY OF TAKOMA PARK OF THE REQUIREMENTS FOR STORM DRAINAGE OR STORMWATER MANAGEMENT, THE COUNTY OR CITY MAY REQUIRE THE OWNER OF LAND TO BE DEVELOPED TO:

(1) PROVIDE EASEMENT AREAS OR ON–SITE STORMWATER MANAGEMENT FACILITIES; AND

(2) AGREE TO CONSTRUCT THE NECESSARY FACILITIES OR PROVIDE FOR THE CONSTRUCTION BY POSTING A BOND IN AN AMOUNT SUFFICIENT TO CONSTRUCT THE STORMWATER MANAGEMENT FACILITIES THAT THE COUNTY OR CITY CONSIDERS NECESSARY.

(B) AGREEMENT WITH OWNER OR DEVELOPER.

(1) IF THE COUNTY OR THE CITY OF TAKOMA PARK DECIDES TO CONSTRUCT STORMWATER MANAGEMENT FACILITIES TO SERVE MORE THAN ONE DEVELOPMENT OR IF THE COUNTY OR CITY AGREES TO ENTER INTO AN AGREEMENT TO ALLOW THE OWNER OR DEVELOPER TO CONSTRUCT A STORMWATER MANAGEMENT SYSTEM, THE COUNTY OR CITY MAY ENTER INTO AN AGREEMENT WITH THE DEVELOPERS OF NEW DEVELOPMENTS FOR PAYMENT BY THE DEVELOPERS OF A FEE IN LIEU OF ON–SITE STORMWATER MANAGEMENT FACILITIES.

(2) THE FEE IN LIEU OF ON–SITE STORMWATER MANAGEMENT FACILITIES SHALL BE BASED ON AN EQUITABLE PRO RATA SHARE OF THE NET COST OF THE FACILITIES AFTER DEDUCTING ANY STATE OR FEDERAL GRANTS APPLIED TO THE CONSTRUCTION OF THE FACILITIES.

(C) OWNER'S BOND OR CONTRIBUTION TO COSTS.

THE COUNTY OR THE CITY OF TAKOMA PARK MAY REQUIRE THE OWNER'S BOND OR THE CONTRIBUTION OF A PRO RATA SHARE OF THE NET COST FOR THE CONSTRUCTION OF FACILITIES IN ADJACENT OR NEARBY LAND IN THE SAME DRAINAGE AREA THAT THE COUNTY OR CITY MAY DETERMINE WILL BE REQUIRED BECAUSE OF THE DEVELOPMENT OF THE OWNER'S LAND.

(D) RESTRICTIONS ON EASEMENTS.

EASEMENTS REQUIRED BY THE COUNTY OR THE CITY OF TAKOMA PARK SHALL HAVE THE RESTRICTIONS THAT THE COUNTY OR CITY MAY REQUIRE AS TO:

(1) GRADING; AND

(2) A PROHIBITION AGAINST THE LOCATION OF STRUCTURES, FENCES, OR PLANTINGS ON THE EASEMENT AREA.

(E) LIMITATIONS ON APPROVALS FOR SUBDIVISION OF LAND.

(1) THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION MAY NOT APPROVE A PLAT FOR SUBDIVISION OF LAND UNTIL IT ASCERTAINS FROM THE COUNTY, THE CITY OF BOWIE, OR THE CITY OF TAKOMA PARK, WHICHEVER IS APPROPRIATE, WHETHER OR NOT EASEMENT AREAS FOR STORMWATER MANAGEMENT FACILITIES ARE REQUIRED.

(2) IF EASEMENT AREAS ARE REQUIRED, THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION MAY NOT APPROVE THE PLAT FOR RECORDATION UNTIL THE EASEMENTS ARE INCLUDED ON THE PLAT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–206(b).

Throughout this section, the former references to "right–of–way" and "rights–of–way" are deleted as implicit in the references to "easement areas" and "easements".

Defined terms: "Bond" § 24–101
"Stormwater management" § 24–101

24–602. CONDITIONS FOR ADOPTION OF STORMWATER PLAN, SYSTEM, OR DESIGN.

(A) IN GENERAL.

MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, THE CITY OF TAKOMA PARK, AND ANY PERSON OR MUNICIPALITY MAY NOT ADOPT A STORMWATER MANAGEMENT PLAN, SYSTEM, OR DESIGN IN THESE JURISDICTIONS, INCLUDING A CAPITAL IMPROVEMENT PROGRAM FOR STORMWATER MANAGEMENT UNLESS:

(1) THE STORMWATER MANAGEMENT PLAN OR DESIGN IS IN ACCORDANCE WITH THE 6–YEAR CAPITAL IMPROVEMENT PROGRAM OF THE JURISDICTION RESPONSIBLE FOR STORMWATER MANAGEMENT IN THE AFFECTED AREA AND IS APPROVED BY THAT JURISDICTION; OR

(2) IT IS FOR THE PROTECTION OF AN INDIVIDUAL'S HOME AND HAS NO ADVERSE IMPACT ON OTHER PROPERTIES OR STORMWATER MANAGEMENT SYSTEMS.

(B) SUBMISSION OF STORMWATER MANAGEMENT PLAN, SYSTEM, OR DESIGN.

(1) (I) IF MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, OR THE CITY OF TAKOMA PARK PREPARES A STORMWATER MANAGEMENT PLAN, SYSTEM, OR DESIGN, OR IF A STORMWATER MANAGEMENT PLAN, SYSTEM, OR DESIGN HAS BEEN SUBMITTED TO MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, OR THE CITY OF TAKOMA PARK, THE CITY OR COUNTY SHALL SUBMIT A COPY OF THE PLAN, SYSTEM, OR DESIGN TO THE COMMISSION.

(II) AFTER THE SUBMISSION, THE COMMISSION SHALL HAVE A SPECIFIED, REASONABLE TIME TO REVIEW AND COMMENT ON THE PLAN, SYSTEM, OR DESIGN TO THE CITY OR COUNTY TO INDICATE ANY CONFLICTS IN THE PLAN, SYSTEM, OR DESIGN WITH THE EXISTING OR PLANNED WATER SUPPLY OR SANITARY SEWER SYSTEMS OF THE COMMISSION.

(III) THE STORMWATER MANAGEMENT SYSTEM OR DESIGN APPROVED BY MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, OR THE CITY OF TAKOMA PARK SHALL BE CONSISTENT WITH THE COMMISSION'S COMMENTS.

(2) (I) WHEN THE COMMISSION RECEIVES A COPY OF A PLAN FROM THE CITY OF BOWIE, THE COMMISSION PROMPTLY SHALL PROVIDE A COPY TO THE COUNTY COUNCIL AND COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY FOR REVIEW AND COMMENT.

(II) WHEN THE COMMISSION RECEIVES A COPY OF A PLAN FROM THE CITY OF TAKOMA PARK, THE COMMISSION PROMPTLY SHALL PROVIDE A COPY TO THE COUNTY COUNCIL AND COUNTY EXECUTIVE OF MONTGOMERY COUNTY FOR REVIEW AND COMMENT.

(3) WHEN PRINCE GEORGE'S COUNTY RECEIVES A PLAN THAT PROVIDES FOR DRAINAGE INTO A STORM DRAIN OR STORMWATER MANAGEMENT FACILITY OF THE CITY OF BOWIE OR ONTO ANY EASEMENT OF THE CITY OF BOWIE, THE COUNTY PROMPTLY SHALL PROVIDE A COPY OF THE PLAN TO THE CITY OF BOWIE FOR REVIEW AND COMMENT.

(C) RESTRICTION ON APPROVAL BY CITY OF BOWIE OR CITY OF TAKOMA PARK.

(1) IF THE COMMISSION OR PRINCE GEORGE'S COUNTY, AFTER REVIEWING A PLAN SUBMITTED BY THE CITY OF BOWIE, ADVISES THE CITY THAT THE COMMISSION OR COUNTY FINDS THAT CONSTRUCTION IN ACCORDANCE WITH THE PLAN WILL CAUSE STORMWATER RUNOFF PROBLEMS IN THE MAINTENANCE OF EXISTING FACILITIES OR CONSTRUCTION AND MAINTENANCE OF PLANNED FACILITIES, THE CITY MAY NOT AUTHORIZE CONSTRUCTION TO BEGIN UNTIL THE MATTER IS RESOLVED.

(2) IF THE COMMISSION OR MONTGOMERY COUNTY, AFTER REVIEWING A PLAN SUBMITTED BY THE CITY OF TAKOMA PARK, ADVISES THE CITY THAT THE COMMISSION OR COUNTY FINDS THAT CONSTRUCTION IN ACCORDANCE WITH THE PLAN WILL CAUSE STORMWATER RUNOFF PROBLEMS IN THE MAINTENANCE OF EXISTING FACILITIES OR CONSTRUCTION AND MAINTENANCE OF PLANNED FACILITIES, THE CITY MAY NOT AUTHORIZE CONSTRUCTION TO BEGIN UNTIL THE MATTER IS RESOLVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–207.

In the introductory language of subsection (a) of this section, the reference to a plan, system, or design "in these jurisdictions" is added for clarity.

In subsection (b)(1)(iii) of this section, the reference to the "stormwater management system or design approved by" a jurisdiction is substituted for the former reference to the "approval" by a jurisdiction for clarity.

Also in subsection (b)(1)(iii) of this section, the reference to "be[ing] consistent with the Commission's comments" is substituted for the former reference to "avoid[ing] any of the conflicts identified by the WSSC" for clarity.

In subsection (c) of this section, the former reference to "authoriz[ing] the issuance of a permit" is deleted as unnecessary in light of the reference to "authoriz[ing] construction" to begin.

Also in subsection (c) of this section, the former reference to the matter being resolved "by the parties or by the court" is deleted as unnecessary.

Defined terms: "Commission" § 24–101
"Person" § 1–101
"Stormwater management" § 24–101

SUBTITLE 7. TRANSFER OF PROPERTY.

24–701. TRANSFER OF PROPERTY.

(A) TRANSFER TO COUNTY.

ALL PROPERTY OF THE COMMISSION THAT THE COMMISSION AND THE APPLICABLE COUNTY MUTUALLY DETERMINE TO BE USED PRIMARILY FOR STORMWATER MANAGEMENT IS DEEMED TRANSFERRED EFFECTIVE JULY 1, 1987, TO THAT COUNTY AS PROVIDED IN THIS SECTION.

(B) TRANSFER TO CITY OF TAKOMA PARK.

ALL PROPERTY OF THE COMMISSION THAT THE COMMISSION AND THE CITY OF TAKOMA PARK MUTUALLY DETERMINE TO BE USED PRIMARILY FOR STORMWATER MANAGEMENT IS DEEMED TRANSFERRED EFFECTIVE JULY 1, 1990, TO THE CITY OF TAKOMA PARK AS PROVIDED IN THIS SECTION.

(C) EXECUTION OF INSTRUMENTS OF TRANSFER.

(1) THE COMMISSION SHALL EXECUTE INSTRUMENTS OF TRANSFER AS NECESSARY TO EVIDENCE THE TRANSFERS.

(2) ALL REAL AND PERSONAL PROPERTY, INCLUDING ALL FEES, LEASEHOLDS, EASEMENTS, RIGHTS–OF–WAY, BUILDINGS, FIXTURES, SYSTEMS, AND EQUIPMENT, OWNED OR HELD BY THE COMMISSION FOR THE PRIMARY PURPOSE OF STORMWATER MANAGEMENT IS TRANSFERRED TO THE COUNTY IN WHICH THE PROPERTY IS LOCATED OR AFFIXED OR TO THE CITY OF TAKOMA PARK IF THE PROPERTY IS LOCATED IN OR AFFIXED TO THE CITY OF TAKOMA PARK.

(3) ALL TANGIBLE AND INTANGIBLE PERSONAL PROPERTY, INCLUDING ALL EQUIPMENT, CONSTRUCTION MATERIALS, FEES, FEES–IN–LIEU, CONTRIBUTIONS, RESERVE FUNDS, SINKING FUNDS, CONTRACTS, AGREEMENTS, CLAIMS, DEMANDS, AND ACTIONS, OWNED OR HELD BY THE COMMISSION FOR

THE PRIMARY PURPOSE OF STORMWATER MANAGEMENT IS TRANSFERRED TO THE COUNTY IN WHICH IS LOCATED THE REAL PROPERTY TO WHICH THE PERSONAL PROPERTY RELATES OR TO THE CITY OF TAKOMA PARK IF THE REAL PROPERTY TO WHICH THE PERSONAL PROPERTY RELATES IS LOCATED IN THE CITY OF TAKOMA PARK OR, IF UNRELATED TO SPECIFIC PROPERTY, IS TRANSFERRED IN PROPORTION TO THE REAL PROPERTY ACREAGE TRANSFERRED TO EACH COUNTY OR TO THE CITY OF TAKOMA PARK UNDER THIS SECTION.

(D) RETENTION OF FUNDS BY COMMISSION.

NOTWITHSTANDING THIS SECTION, THE COMMISSION SHALL RETAIN SUFFICIENT FUNDS TO PAY FOR DEBT SERVICE ACCRUING BEFORE OCTOBER 1, 1987, ON OUTSTANDING BONDS ISSUED BY THE COMMISSION FOR STORMWATER MANAGEMENT AND THE UNDEPRECIATED COST OF THE MOVEABLE ASSETS TRANSFERRED.

(E) EFFECT OF TRANSFER OF PROPERTY.

(1) THE TRANSFER OF PROPERTY UNDER THIS SECTION DOES NOT IMPAIR IN ANY MANNER THE RIGHTS OF HOLDERS OF BONDS ISSUED BY THE COMMISSION FOR STORMWATER MANAGEMENT OR THE RESPONSIBILITY OF THE COMMISSION FOR THE REPAYMENT OF THE BONDS OR THE RESPONSIBILITY OF THE COUNTIES TO IMPOSE TAXES FOR OR OTHERWISE GUARANTEE THE REPAYMENT OF THE BONDS.

(2) THE CITY OF TAKOMA PARK IS NOT RESPONSIBLE FOR PAYMENT TO THE COMMISSION FOR DEBT SERVICE ON ANY BONDS ISSUED BY THE COMMISSION OUTSTANDING ON JUNE 30, 1990.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–202(d).

In subsection (c)(2) and (3) of this section, the former references to including "without limitation" are deleted in light of Art. 1, § 30, which states that "[t]he words 'includes' or 'including' mean, unless the context requires otherwise, includes or including by way of illustration and not by way of limitation".

In subsection (e)(1) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that although subsection (a) of this section specifies that certain property determined by the Commission and the applicable county to be primarily used for stormwater management is deemed transferred to be effective July 1, 1987, the transfer of certain property used for stormwater management in Montgomery County occurred in 1968.

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101

SUBTITLE 8. PROHIBITED ACTS; PENALTIES.

24–801. CRIMINAL PENALTIES.

(A) IN GENERAL.

(1) THIS SUBSECTION DOES NOT APPLY TO § 24–404 OF THIS TITLE.

(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON WHO VIOLATES THE PROVISIONS OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(B) VIOLATION OF STORMWATER MANAGEMENT MAINTENANCE PROVISIONS.

A PERSON WHO VIOLATES § 24–502, § 24–503, OR § 24–601 OF THIS TITLE (SPECIAL PROVISIONS APPLICABLE TO TAKOMA PARK AND PRINCE GEORGE'S COUNTY, EXCEPT THE CITY OF BOWIE) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING $500 OR BOTH.

(C) SECOND OR SUBSEQUENT VIOLATIONS.

A PERSON MAY BE CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF A PROVISION OF THIS TITLE OR A REGULATION ADOPTED UNDER THIS TITLE.

REVISOR'S NOTE: Subsections (a) and (b) of this section are new language derived without substantive change from former Art. 29, § 18–104(a)(3) and (4) and (c).

Subsection (c) of this section is new language patterned after former Art. 29, § 18–104(e).

In subsection (a)(1) of this section, the phrase "[t]his subsection does not apply to § 24–404 of this title" is added for accuracy because former Art. 29, § 18–104(a)(3) did not apply to the provisions revised in § 24–404 of this title.

In subsection (a)(2) of this section, the reference to "[e]xcept as provided in subsection (b) of this section" is added for clarity and accuracy.

Also in subsection (a)(2) of this section, the reference to "this title" is substituted for the former references to "[c]ontrol and disposition of surface waters … §§ 3–202 through 3–207" and "[b]onds and anticipation notes … §§ 4–101 through 4–112" for brevity.

In subsection (c) of this section, the former reference to "rule" is deleted as implicit in the reference to "regulation".

Defined terms: "Commission" § 24–101
"Person" § 1–101

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utility Companies

25–403.

(b) When determining the system development charge, under criteria established jointly and agreed on by the county councils, the county councils:

(1) shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed on by the county councils;

(2) may grant a full or partial exemption from the charge for**[**:

(i)**]** revitalization projects**[**; or

(ii) if the property is used primarily for recreational and educational programs and services to youth, property owned by a community–based organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and that has the primary mission and purpose of providing recreational and educational programs and services to youth, if the exemption amount does not exceed $80,000**]**; and

(3) may grant a full or partial exemption from the system development charge, under conditions set forth by the county councils, for:

(i) residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George's County;

(ii) residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

(iii) elderly housing other than that included in item (i) or (ii) of this item; or

(iv) properties used for manufacturing or biotechnology research and development.

SECTION 5. AND BE IT FURTHER ENACTED, That the new division designation "Division I. Public Services and Utilities" of Article – Public Utility Companies of the Annotated Code of Maryland be added to immediately precede Section 1–101.

SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 18–104(a)(7) of Article 29 – Washington Suburban Sanitary District of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

FLOOD CONTROL AND NAVIGATION BONDS – CRIMINAL PENALTY

[18–104.**] 1.**

[(a)**]** A person who violates **[**any of the following provisions**]** **ARTICLE 28, § 9–102 OF THE ANNOTATED CODE (FLOOD CONTROL AND NAVIGATION BONDS)** is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 30 days or both**[**:

(7) Flood control and navigation bonds ..... § 13–102**]**.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104(a)(7), as it relates to criminal penalties for a violation of a certain provision relating to flood control and navigation bonds.

Provisions authorizing the issuance of negotiable notes in former Art. 29, § 13–102 were repealed in Chapter 685, Acts of 1987. This provision is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

SECTION 7. AND BE IT FURTHER ENACTED, That Article – Public Utility Companies of the Annotated Code of Maryland be renamed to be Article – Public Utilities.

SECTION 8. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 9. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 10. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 11. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted in the former unit.

SECTION 12. AND BE IT FURTHER ENACTED, That the continuity of every commission, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 13. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the

term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 14. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 15. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2010 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 16. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of the termination provision specified in Chapter 423 of the Acts of the General Assembly of 2007. If that termination provision takes effect, § 25–403(b) of the Public Utility Companies Article as enacted by Section 3 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 17. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 16 of this Act, this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.