

**HB 778 - MoCo\_Boucher\_FAV\_Senate (GA 23).pdf**

Uploaded by: Kathleen Boucher

Position: FAV



# Montgomery County

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HB 778

DATE: March 30, 2023

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

**ASSIGNED TO:** Education, Energy, and the Environment

**CONTACT PERSON:** Kathleen Boucher (kathleen.boucher@montgomerycountymd.gov)

**POSITION:** Support

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**Montgomery County – Bicounty Agencies –  
Commissioner Discipline, Disclosures, Training, and Ethics  
MC/PG 105-23**

This bill makes a variety of changes to State law governing the five Commissioners of the Maryland-National Capital Park and Planning Commission (M-NCPPC) who serve on the Montgomery County Planning Board ("Planning Board member"), including removal and discipline of members, outside employment, political activities, revolving door policy, and training.

*Removal and Discipline:* Under current law, the County Council, by majority vote, may remove a Planning Board member after holding a public hearing and issuing a written statement outlining the cause for removal. The bill expands that provision to allow the Council to discipline a member using the same process.

*Outside Employment:* The bill prohibits the Planning Board Chair from engaging in any other full-time employment.

*Political Solicitations:* The bill prohibits a Planning Board member from soliciting from any individual or entity with business before the Commission: (1) a financial contribution for any political candidate, political organization, or ballot question; or (2) an endorsement of or opposition to a political candidate.

*Revolving Door:* The bill prohibits a former Planning Board member, for one year after the member leaves office, from assisting or representing another party for compensation in a matter that was the subject of an action before the Planning Board while the member served on the Board.

*Training:* The bill requires all Planning Board members to complete training on the following topics within three months following appointment: (1) the Open Meetings Act; (2) the State ethics law; and (3) the policies and practices of M-NCPPC regarding ethics, drug- and alcohol-free work place, and workplace harassment and intimidation. Within the same time period, members must also complete the education course for planning officials in Maryland conducted by the Maryland Department of Planning.

*County Position:* The County Executive and County Council support this bill as a vehicle to enhance transparency and public trust in the work of the Montgomery County Planning Board. In particular, it serves the public interest to: (1) prohibit outside employment for a full-time Planning Board Chair with a salary of almost \$230,000; (2) avoid conflicts of interest that could undermine public trust by requiring a cooling off period before a former Board member represents parties before the Board; (3) mandate enhanced training on the topics outlined above; and (4) ensure that Board members do not engage in the types of political activities referenced above that could undermine their objectivity and independence. We respectfully request that the Education, Energy, and Environment Committee give the bill a favorable report.

# **HB778 - Favorable with Amendments - Farber Testimo**

Uploaded by: Amanda Farber

Position: FWA

**HB778**  
**Montgomery County – Bicounty Agencies –**  
**Commissioner Discipline, Disclosures, Training, and Ethics**  
FAVORABLE WITH AMENDMENTS  
Education, Energy, and the Environment Committee  
Senate Hearing Date: March 30, 2023  
Testimony submitted by: Amanda Farber

The Maryland-National Park and Planning Commission (M-NCPPC) was established nearly 100 years ago by an act of the Maryland General Assembly in 1927 to provide long-range planning, and park acquisition and development. (To put that in perspective, the Montgomery County Council wasn't established until 1949; the County did not have a County Executive until 1970.)

Fast forward to September 2020 - the new Wheaton headquarters opened for the Montgomery Planning Department, Montgomery Planning Board, and Montgomery Parks - all part of M-NCPPC. According to the agency website, the design of the new building was intended to...

***“symbolize the transparency of civic process... and the civic mindedness of government.”***

But the physical symbol of the building is meaningless without public trust in the transparency of processes and decisions which occur *inside* of that building. There are many truly excellent, dedicated professional planning staff at the Park and Planning Commission, but an imbalance of power and limited State and Council oversight (often replaced by necessity with citizen oversight) has led to a general erosion of trust and transparency in the agency. HB 778 starts to correct certain issues – but more can and should be done. For now I would urge the legislature to consider the following:

- HB778 would allow an applicant for M-NCPPC to submit certain financial statements to the Montgomery County Council electronically. The public should also be able to electronically access certain financial disclosure statements for appointed members – as they can for members of this legislative body – and not have to drive to the State Ethics Commission in Annapolis to obtain copies. During the latest round of Planning Board appointments, copies of the disclosure statements were not available to the public through the Council, had not been provided to the County's Chief Administrative Office, and had not been forwarded to the Executive Office at M-NCPPC. Allowing streamlined electronic access of this information would allow for more transparency (and less driving).
- MNCPPC should be required to publish their list of registered lobbyists on their website (as is practice for Montgomery County, Prince Georges County, WSSC, and the State). MNCPPC was not in compliance with State ethics and lobbying laws until raised by citizen oversight recently in 2021. As of now, a citizen must go through the MPIA process to access the list.
- In 2015, Bill 652 created a carve out for the Montgomery County Planning Chair to potentially serve an additional term. There should be a return to the prior language that a Montgomery County Commissioner may not be appointed for more than 2 consecutive terms (as is the case in Prince George's County) which would help limit consolidation of power.

- Lastly, while not originally considered as part of this bill, another issue related to trust, transparency, and process recently came to light and is worth noting. State law (Maryland Land Use Article, sections 15-101, 15-102, and 15-103) indicates that the County Executive may approve or disapprove a Council appointment to the Planning Board, and if the County Executive does not do so within 30-days then the appointment is deemed approved. Past Council staff memos also outline this process and indicate that *“Within three days of the appointment by the Council, the name of the appointees will be delivered to the County Executive, who shall within 30 days after the appointment, either approve or disapprove the appointment...Once the appointment process is completed, the appointee is sworn in by the Clerk of the Circuit Court.”* However, recently in Montgomery County, appointments were sworn in prior to the County Executive approval or disapproval and prior to the 30-day window. The legislature should take steps to ensure that the language in this section of the law is clear and followed.

I ask for and appreciate your support for HB778 and thank you for considering these additional comments.

A handwritten signature in cursive script that reads "Amanda Farber". The signature is written in black ink and is positioned above the typed name and address.

Amanda Farber  
7903 Kentucky Ave  
Bethesda, MD 20814

# **HB 778 (MC-PG 105-23) Position Statement LOI FINAL**

Uploaded by: Jordan BaucumColbert

Position: INFO



## **LETTER OF INFORMATION**

**Bill:** HB 778 – Montgomery Bicounty Agencies – Commissioners Discipline, Disclosures, Training and Ethics (105-23)

**Contact:** Debra Borden, General Counsel  
Jordan Baucum Colbert, Government Affairs Liaison

**Date:** March 30, 2023

**Re:** Letter of Information

Dear Chair Brian J. Feldman and Vice Chair Cheryl C. Kagan,

The Maryland-National Capital Park and Planning Commission (the “Commission”) has taken no position on this bill. However, the Commission respectfully requests that the Education, Energy, and the Environment Committee consider this information and include it in the record.

### **What the Bill Does**

This bill, as amended, authorizes the Montgomery County Commissioners, and Commissioner Applicants, to submit certain financial statements to the Montgomery County Council electronically. This bill prohibits a commissioner from soliciting or accepting from any person or entity with business before the Planning Board any financial contribution for any political candidate, political organization, or ballot question. It also prohibits a commissioner from soliciting any person with business before the Commission for an endorsement of, or opposition to, a political candidate. This bill as amended requires the Planning Board to report to the members of the Montgomery County Delegation on regulatory matters over which the Board has decision-making authority, including the ability of the Board to provide summaries of the substance of applications; information on required findings; information on any community concerns received by the Commission; and information on additional written testimony received by the Commission after the deadline for public testimony. The ability to perform various requirements shall be reported to the Montgomery County Delegation on or before December 31, 2023.

This bill also requires a commissioner to successfully complete appropriate training on Maryland Public Ethics Law and Commission policies on practices on ethics, drug and alcohol-free workplace and workplace harassment and intimidation within the first three months following appointment.

## I.

### **Trust and Transparency**

The Commission was established in 1927 to provide regional long-range planning, park acquisition and development. The Commission consists of two planning boards, one for Montgomery County and one for Prince George's County, comprised of five members each. Since its formation, the Commission has grown to become one of the most recognized leaders in land use planning, parks and recreation, all while achieving countless awards for innovation and stewardship. The Commission regularly evaluates its practices and is held responsible for its actions by elected officials in the counties it serves. The integrity of our mission to improve the well-being of over 2-million residents in both counties remains intact specifically because of the way the Commission is structured.

The Montgomery County Planning Board serves as citizen representatives for their communities in helping to plan, shape and maintain livable neighborhoods in the County. Under current law, five members of the Montgomery County Planning Board are appointed for staggered, four-year terms for no more than two full terms. Currently, the County Council appoints all of the board members, and the County Executive confirms the appointments.

In the past, when governance issues have arisen, the County Council has taken necessary steps to ensure the Montgomery County Planning Board operates effectively. If enacted, the Commission will continue to take necessary steps to ensure the integrity of the Planning Board. The Commission will also continue to provide timely information on regulatory matters over which the Board had decision-making authority as outlined within the bill.

## II.

### **Continuous Professional Development**

Awareness and understanding are integral to the Commission. To help our staff reduce exposure to business related risks, the Commission offers current programs and trainings in risk management, workplace safety and equal employment free from intimidation and harassment. In addition to risk management, workplace safety and equal employment, the Commission also offers equity, diversity and inclusion workshops and trainings for all employees to promote greater awareness, while utilizing effective strategies to improve cross-cultural communication. The Commission welcomes any effort to increase training and awareness by all stakeholders, including Commissioners, as that can only benefit the Commission as a whole.