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Calvert and St. Mary's Counties

Budget & Taxation Committee



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Senate Bill 639 – Historic St. Mary's City Commission Reform Act of 2023

Dear Chairman Barnes and Members of the Committee:

I am writing to introduce Senate Bill 639, the Historic St. Mary's City Commission Reform Act of 2023. It is a great honor to represent the birthplace of our State and to work with so many people to grow and improve St. Mary's City. During these efforts, however, the Delegate who represents St. Mary's City and I became concerned with several matters relating to the Commission, particularly their response to community members who had come forward with questions about the management of Historic St. Mary's City and the grounds that they are responsible for. The Commission is an independent agency that is not part of a larger unit of State government. Therefore, it became necessary for us as legislators to provide oversight regarding their actions and response to these concerns.

This effort has already resulted in three significant actions being taken. First, almost the entire membership of the Commission was replaced with new appointees over the last two years. Second, the General Assembly enacted legislation to expand the Open Meetings Act which provided more transparency over the Commission's meetings. Finally, last year's budget included language that initiated an independent audit of the Commission's operations, as it was clear that their internal efforts to respond to these concerns were insufficient.

The audit report was released earlier this month and shows the level of mismanagement that has been occurring at Historic St. Mary's City in recent years. I have been in discussions with representatives of the Commission regarding what they have learned from this process so that we could have a legislative response to this issue this year. I am confident that the Commission will respond to the concerns raised by the audit promptly and fully, and part of this bill requires them to report about their progress in addressing its recommendations. However, it is important to enact long-term reforms and address deficiencies in the current statutory structure of the Commission that have become apparent during this process.

This bill makes several changes to the existing statute which, to my knowledge, has not been comprehensively reviewed since it was enacted in 1997. There is a need for the Commission to formalize and regularly review their operating procedures to comply with State law, follow best practices, and ensure that the investment that the State has made in St. Mary's City is being used in the most effective and efficient manner possible. It is also necessary to ensure that the Commission, which is in large part comprised of members appointed by the Governor and confirmed by the Senate to oversee the operations of Historic St. Mary's City, is in control of its operations by enacting guardrails to govern the relationship that the Commission has with the Historic St. Mary's City Foundation and any other affiliated nonprofits that it may choose to work with.

Senate Bill 639 makes changes to their membership and clarifies provisions regarding their election of officers and meetings. This bill adds one representative of the Native American community chosen in consultation with the Maryland Commission on Indian Affairs to the Commission and makes the two members of the public selected by the President and the Speaker voting members of the Commission, while converting the Foundation's ex officio member to non-voting status. It also requires that their officers be chosen from among their appointed members and adds

language permitting the Commission to hold additional meetings beyond the current required minimum of two virtually at its discretion.

This legislation also makes reforms to the Commission's operating policies and provisions related to agreements with State entities and affiliated nonprofit organizations. Senate Bill 639 requires the Commission to develop and publish written policies regarding their operating procedures, including policies regarding procurement, human resources, payroll, cash management, fleet management, and property management. It adds to their duties a requirement to develop a comprehensive maintenance plan and update it not less than once every three years. This bill will also require that any agreement with St. Mary's College of Maryland for the College to perform administrative tasks be by contract and not by mutual agreement, and that any operating agreement that the Commission has with another unit of State government or an affiliated nonprofit shall be in writing, approved for form and legal sufficiency by the Attorney General, reviewed annually, and enacted or renewed for no more than three years at a time.

Most importantly, Senate Bill 639 enacts provisions to govern the relationship between the Commission and any affiliated nonprofit, including the Historic St. Mary's City Foundation. This language mirrors existing affiliated nonprofit statutes for institutes of higher education and the Maryland Stadium Authority. They also provide that no funds can be accepted from an affiliated foundation unless the nonprofit is independently audited annually, and state that funds given to the Commission by an affiliated nonprofit cannot include conditions on the use of the funds unless the original donor includes conditions on how the funds are to be used.

This bill passed the Senate 43-0 and is nearly identical to House Bill 1042 as presented to you earlier this session with the amendment referenced during that hearing. Senate Bill 639 also includes additional language clarifying that its provisions may not impair a presently existing obligation or contract right. I respectfully request a favorable report on Senate Bill 639. Thank you for your consideration of this legislation and for your continued attention to this important part of my district.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey", with a stylized flourish at the end.

Senator Jack Bailey