

HOUSE BILL 778

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EMERGENCY BILL

3lr0547

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

Introduced and read first time: February 8, 2023

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Maryland–National Capital Park and Planning**
3 **Commission – Commissioner Requirements and Open Meetings**
4 **(Montgomery County Planning Trust and Transparency Act of 2023)**

5 **MC/PG 105–23**

6 FOR the purpose of altering the appointment process, salary authorization process, and
7 terms for commissioners appointed to the Maryland–National Capital Park and
8 Planning Commission from Montgomery County; requiring the County Executive of
9 Montgomery County to appoint one member of the Commission who shall serve as
10 the chair or vice chair of the Commission and chair of the Montgomery County
11 Planning Board; requiring certain public hearings and acceptance of public
12 testimony on each appointment to the Commission from Montgomery County;
13 prohibiting the chair of the Board from engaging in certain employment; authorizing
14 and establishing procedures for the Montgomery County Executive or Montgomery
15 County Council to discipline a commissioner from Montgomery County under certain
16 circumstances; prohibiting a commissioner from Montgomery County from engaging
17 in certain political activities while the commissioner serves on the Commission;
18 prohibiting a former commissioner from Montgomery County from working for
19 certain compensation for a certain period of time after the commissioner leaves office;
20 requiring a commissioner from Montgomery County to complete certain training at
21 certain times; requiring the Board to publish agendas of open meetings along with
22 certain other materials on its website at certain times; requiring the Board to
23 approve meeting minutes in a certain manner under certain circumstances; and
24 generally relating to requirements for the members of the Maryland–National
25 Capital Park and Planning Commission from Montgomery County and meetings of
26 the Montgomery County Planning Board.

27 BY repealing and reenacting, without amendments,
28 Article – Land Use
29 Section 15–101

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2012 Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
Article – Land Use
Section 15–102, 15–103(a), 15–105, 15–106, 15–108, 15–120(b), and 20–202(e)
Annotated Code of Maryland
(2012 Volume and 2022 Supplement)

BY adding to
Article – Land Use
Section 15–103.1 and 15–121 through 15–123
Annotated Code of Maryland
(2012 Volume and 2022 Supplement)

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

Article – Land Use

15–101.

(a) There is a Maryland–National Capital Park and Planning Commission.

(b) The Commission is a body politic and corporate and is an agency of the State.

15–102.

(a) (1) The Commission consists of 10 members.

(2) Of the 10 members of the Commission:

(i) five shall be residents and registered voters of Montgomery
County; and

(ii) five shall be residents and registered voters of Prince George’s
County.

(3) (i) [Subject] **EXCEPT AS PROVIDED IN § 15–103.1 OF THIS
SUBTITLE, AND SUBJECT** to the approval of the County Executive, the County Council
shall appoint each commissioner from Montgomery County.

(ii) Subject to the approval of the County Council, the County
Executive shall appoint each commissioner from Prince George’s County.

(b) Each commissioner shall be an individual of ability, experience, and integrity.

(c) (1) Of the commissioners from each county, not more than three shall be members of the same political party.

(2) A commissioner may not be selected as representing or supporting any special interest.

(d) (1) The term of a commissioner is 4 years and begins on June 15.

(2) The terms of commissioners are staggered as required by the terms provided for commissioners on October 1, 2012.

(3) At the end of a term, a commissioner continues to serve until a successor is appointed and qualifies.

(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 qualifies.

(5) A commissioner who is appointed to fill a vacancy for an unexpired term shall be a member of the same political party as the commissioner who vacated the office.

(6) [(i) Except as provided in subparagraph (ii) of this paragraph, a] A commissioner appointed from Montgomery County may not be appointed for [three] MORE THAN TWO consecutive full terms.

[(ii) A commissioner appointed from Montgomery County may be appointed for a maximum of three consecutive full terms as a member of the Commission if the commissioner is designated as chair of the Montgomery County Planning Board during the commissioner's second term in office.]

15–103.

(a) (1) [In Montgomery County,] EXCEPT AS PROVIDED IN § 15–103.1 OF THIS SUBTITLE, THIS SUBSECTION APPLIES ONLY TO COMMISSIONERS APPOINTED BY THE MONTGOMERY COUNTY COUNCIL.

(2) BY AN AFFIRMATIVE VOTE OF EIGHT OF ITS MEMBERS, the MONTGOMERY County Council shall make an appointment to the Commission from a list of applicants.

[(2)] (3) The list shall be:

(i) completed at least 3 weeks before an appointment is made; and

(ii) made available to the public.

(4) (I) THE COUNTY COUNCIL SHALL HOLD PUBLIC HEARINGS ON

EACH APPOINTMENT TO THE COMMISSION.

**(II) THE COUNTY COUNCIL SHALL ACCEPT PUBLIC TESTIMONY
AT A HEARING HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

[(3)] (5) If the County Council does not appoint an individual whose name appears on the list or if no name appears on the list, the County Council shall provide for the preparation of a second list and follow the procedures under [paragraph (2)] **PARAGRAPHS (3) AND (4)** of this subsection.

[(4)] (6) Within 3 days after making an appointment, the County Council shall submit the name of the appointee to the County Executive.

[(5)] (7) (I) Within 30 days after the appointment is submitted, the County Executive shall approve or disapprove the appointment.

[(6)] (II) An appointment that is not disapproved by the County Executive in accordance with this subsection is deemed to be approved.

[(7)] (III) If the County Executive disapproves an appointment, the County Executive shall return the appointment to the County Council with the reasons for the disapproval stated in writing.

[(8)] (IV) By [the affirmative] A UNANIMOUS vote of [nine of] its members, the County Council may appoint a commissioner over the disapproval of the County Executive.

15-103.1.

(A) THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

(B) THE COUNTY EXECUTIVE SHALL APPOINT ONE MEMBER TO THE COMMISSION WHO SHALL SERVE AS THE:

(1) CHAIR OR VICE CHAIR OF THE COMMISSION, IN ACCORDANCE WITH § 15-106 OF THIS SUBTITLE; AND

(2) CHAIR OF THE MONTGOMERY COUNTY PLANNING BOARD.

(C) THE REQUIREMENTS OF § 15-103(A)(4) OF THIS SUBTITLE APPLY TO A COMMISSIONER APPOINTED UNDER THIS SECTION.

15-105.

(a) (1) (I) [The] WITH THE APPROVAL OF THE COUNTY EXECUTIVE,

1 **THE** Montgomery County Council may remove **OR DISCIPLINE** any commissioner
2 appointed from Montgomery County before the expiration of the commissioner's term.

3 **(II) WITH THE APPROVAL OF AN AFFIRMATIVE VOTE OF EIGHT**
4 **MEMBERS OF THE COUNTY COUNCIL, THE COUNTY EXECUTIVE MAY REMOVE OR**
5 **DISCIPLINE ANY COMMISSIONER APPOINTED FROM MONTGOMERY COUNTY**
6 **BEFORE THE EXPIRATION OF THE COMMISSIONER'S TERM.**

7 (2) With the approval of a majority of the members of the County Council,
8 the County Executive of Prince George's County may remove any commissioner appointed
9 from Prince George's County before the expiration of the commissioner's term.

10 (b) (1) Except as provided in paragraph (2) of this subsection, before a
11 commissioner may be removed **OR DISCIPLINED** under subsection (a) of this section:

12 (i) the cause for removal **OR DISCIPLINARY ACTION** shall be stated
13 in writing; and

14 (ii) a public hearing shall be held on the removal **OR DISCIPLINARY**
15 **ACTION.**

16 (2) In Prince George's County, the commissioner sought to be removed may
17 waive in writing the public hearing held by the County Council.

18 **(3) IN MONTGOMERY COUNTY, THE COMMISSIONER SOUGHT TO BE**
19 **REMOVED OR DISCIPLINED MAY PARTICIPATE IN THE PUBLIC HEARING.**

20 15-106.

21 (a) [The County Executive of Prince George's County, with the approval of a
22 majority of the members of the County Council, and the Montgomery County Council, with
23 the approval of the County Executive in accordance with subsection (b) of this section, shall
24 each designate a commissioner for the position of chair or vice chair.]

25 **(1) EACH COUNTY SHALL DESIGNATE A COMMISSIONER FOR THE**
26 **POSITION OF CHAIR AND VICE CHAIR OF THE COMMISSION AS PROVIDED IN THIS**
27 **SECTION.**

28 **(2) IN PRINCE GEORGE'S COUNTY, THE COUNTY EXECUTIVE, WITH**
29 **THE APPROVAL OF THE MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL,**
30 **SHALL DESIGNATE A COMMISSIONER FOR THE POSITION OF CHAIR OR VICE CHAIR.**

31 **(3) IN MONTGOMERY COUNTY, THE COUNTY EXECUTIVE SHALL**
32 **APPOINT A COMMISSIONER FOR THE POSITION OF CHAIR OR VICE CHAIR IN**
33 **ACCORDANCE WITH § 15-103.1 OF THIS SUBTITLE.**

(b) [(1) Within 3 days after making a designation, the Montgomery County Council shall submit the name of the designee to the County Executive.

(2) Within 30 days after the designation is submitted, the County Executive shall approve or disapprove the designation.

(3) If the County Executive disapproves a designee, the County Executive shall return the name of the designee to the County Council with the reasons for the disapproval stated in writing.

(4) By the affirmative vote of eight of its members, the County Council may designate a commissioner for the position of chair or vice chair over the disapproval of the County Executive.

(5) A designation that has not been disapproved by the County Executive in accordance with this subsection is deemed to be approved.

(c)] The Commission shall elect a chair and vice chair from the commissioners designated in accordance with [subsections (a) and (b)] **SUBSECTION (A)** of this section.

[(d)] (C) (1) The chair shall:

(i) preside at meetings of the Commission; and

(ii) perform the other customary duties of the office.

(2) The vice chair shall preside in the absence of the chair.

(3) The chair and vice chair of the Commission also serve as chairs of their respective county planning boards.

15–108.

(a) (1) (i) Each commissioner other than the chair is entitled to an annual salary of \$5,600.

(ii) [The] **IN PRINCE GEORGE’S COUNTY, THE** chair of the Commission is entitled to an annual salary of \$6,100.

(III) 1. IN MONTGOMERY COUNTY, THE CHAIR OF THE COMMISSION IS ENTITLED TO AN ANNUAL SALARY SET BY THE COUNTY EXECUTIVE WITH THE APPROVAL OF THE COUNTY COUNCIL.

2. IF THE COUNTY COUNCIL DOES NOT TAKE ACTION ON A SALARY AUTHORIZATION UNDER THIS SUBPARAGRAPH WITHIN 30 DAYS AFTER

1 **THE AUTHORIZATION IS SUBMITTED, THE COUNTY EXECUTIVE MAY AUTHORIZE THE**
2 **SALARY WITHOUT THE APPROVAL OF THE COUNTY COUNCIL.**

3 (2) All salaries shall be paid monthly from the administrative tax collected
4 by the Commission under § 18–307 of this article.

5 (3) (i) Subject to subparagraph (ii) of this paragraph, each
6 commissioner is entitled to an annual expense allowance not exceeding \$2,400, in
7 accordance with rules and regulations the Commission adopts.

8 (ii) A commissioner shall submit a voucher showing the expenses.

9 (b) (1) [(i) With the approval of the County Executive of Montgomery
10 County, the] **THE** County [Council] **EXECUTIVE** may authorize an appropriate
11 supplementary salary for the commissioner [designated by Montgomery County to serve
12 on a full-time basis] **APPOINTED BY THE COUNTY EXECUTIVE UNDER § 15–103.1 OF**
13 **THIS SUBTITLE.**

14 [(ii) If the County Executive fails to approve a supplementary salary
15 authorization by the County Council within 30 days after the authorization is submitted,
16 the County Council, by an affirmative vote of eight of its members, may authorize the
17 supplementary salary without the approval of the County Executive.]

18 (2) On the recommendation of the County Executive of Prince George's
19 County, the County Council may authorize an appropriate supplementary salary for the
20 commissioner designated by Prince George's County to serve on a full-time basis.

21 (3) Any supplementary salary authorized under **PARAGRAPH (2) OF** this
22 subsection shall be paid from the administrative tax collected by the Commission under §
23 18–307 of this article.

24 **(C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
25 **MEANINGS INDICATED.**

26 **(II) “EMPLOYMENT” MEANS ENGAGING IN AN ACTIVITY FOR**
27 **COMPENSATION, INCLUDING THE ACTIVE SALE OR PROMOTION FOR SALE OF**
28 **INTELLECTUAL PROPERTY PRODUCED BY THE COMMISSIONER.**

29 **(III) “INTELLECTUAL PROPERTY” INCLUDES BOOKS,**
30 **NEWSPAPER, MAGAZINE, OR JOURNAL ARTICLES, VIDEOS, CRAFTS, AND ARTWORK.**

31 **(2) THE COMMISSIONER APPOINTED BY THE COUNTY EXECUTIVE OF**
32 **MONTGOMERY COUNTY UNDER § 15–103.1 OF THIS SUBTITLE MAY NOT ENGAGE IN**
33 **ANY OTHER EMPLOYMENT WHILE SERVING ON THE BOARD.**

1 15–120.

2 (b) (1) (i) [This] **EXCEPT AS PROVIDED IN § 15–108(C)(2) OF THIS**
3 **SUBTITLE, THIS** subsection does not prohibit a commissioner from having or holding a
4 private investment, business, or professional interest, unless the interest is or reasonably
5 may be in conflict with the proper performance of the commissioner’s duty.

6 (ii) A private investment, business, or professional interest is
7 presumed to be in conflict with the proper performance of the commissioner’s duty if the
8 commissioner or the commissioner’s spouse, parent, child, brother, or sister:

9 1. jointly or severally owns more than 3% of the invested
10 capital or capital stock of any entity involved in the decision being made by the
11 commissioner, Commission, or county planning board on which the commissioner serves;
12 or

13 2. receives a total combined compensation of more than
14 \$5,000 a year from any person involved in the decision being made by the commissioner,
15 Commission, or county planning board on which the commissioner serves.

16 (2) This subsection does not apply to or include:

17 (i) an interest or investment in land geographically remote from the
18 land involved in the decision;

19 (ii) the ownership of real property on which the commissioner
20 maintains a primary residence; or

21 (iii) a possibility of reverter, a mortgage, or other security interest in
22 real property not otherwise described in this subsection.

23 (3) A commissioner may not:

24 (i) decide, or participate in, a decision in which the commissioner
25 has a financial interest, whether as an owner, member, partner, officer, employee,
26 stockholder, or other participant of or in any private business or professional enterprise,
27 that will be affected by the decision; or

28 (ii) knowingly participate in a decision affecting the financial
29 interest, jointly or severally, of a person related to the commissioner or the commissioner’s
30 spouse, parent, child, brother, or sister.

31 **15–121.**

32 (A) **IN THIS SECTION, “CANDIDATE”, “CONTRIBUTION”, AND “POLITICAL**
33 **COMMITTEE” HAVE THE MEANINGS STATED IN § 1–101 OF THE ELECTION LAW**

1 **ARTICLE.**

2 **(B) THIS SECTION APPLIES ONLY:**

3 **(1) TO COMMISSIONERS APPOINTED FROM MONTGOMERY COUNTY;**
4 **AND**

5 **(2) FROM THE DATE OF A COMMISSIONER'S APPOINTMENT UNTIL THE**
6 **END OF THE COMMISSIONER'S TENURE ON THE COMMISSION.**

7 **(C) (1) A COMMISSIONER MAY NOT, FOR THE BENEFIT OF AN INDIVIDUAL**
8 **HOLDING A STATE OR LOCAL ELECTED OFFICE OR A CANDIDATE FOR A STATE OR**
9 **LOCAL ELECTED OFFICE, ENGAGE IN THE FOLLOWING ACTIVITIES:**

10 **(I) SOLICITING OR TRANSMITTING A POLITICAL**
11 **CONTRIBUTION FROM ANY PERSON, INCLUDING A POLITICAL COMMITTEE;**

12 **(II) SERVING ON A FUND-RAISING COMMITTEE OR A POLITICAL**
13 **COMMITTEE;**

14 **(III) ACTING AS A TREASURER FOR A CANDIDATE OR AN**
15 **OFFICIAL OR AS TREASURER OR CHAIR OF A POLITICAL COMMITTEE;**

16 **(IV) ORGANIZING OR ESTABLISHING A POLITICAL COMMITTEE**
17 **FOR THE PURPOSE OF SOLICITING OR TRANSMITTING CONTRIBUTIONS FROM ANY**
18 **PERSON;**

19 **(V) FORWARDING TICKETS FOR FUND-RAISING ACTIVITIES, OR**
20 **OTHER SOLICITATIONS FOR POLITICAL CONTRIBUTIONS, TO A POTENTIAL**
21 **CONTRIBUTOR; OR**

22 **(VI) OPENLY CAMPAIGNING OR VOLUNTEERING FOR A**
23 **CAMPAIGN.**

24 **(2) THIS SECTION DOES NOT PROHIBIT A COMMISSIONER FROM:**

25 **(I) MAKING A PERSONAL POLITICAL CONTRIBUTION;**

26 **(II) INFORMING ANY ENTITY OF A POSITION TAKEN BY A**
27 **CANDIDATE OR AN OFFICIAL; OR**

28 **(III) ENGAGING IN OTHER ACTIVITIES NOT SPECIFICALLY**
29 **PROHIBITED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

(3) A COMMISSIONER MAY NOT BE A CANDIDATE FOR A PUBLIC OFFICE WHILE SERVING ON THE COMMISSION.

15-122.

A FORMER COMMISSIONER FROM MONTGOMERY COUNTY MAY NOT ASSIST OR REPRESENT ANOTHER PARTY FOR COMPENSATION IN A MATTER THAT WAS THE SUBJECT OF ACTION BEFORE THE MONTGOMERY COUNTY PLANNING BOARD WHILE THE COMMISSIONER SERVED ON THE BOARD FOR 1 CALENDAR YEAR FROM THE DATE THE COMMISSIONER LEAVES OFFICE.

15-123.

DURING THE FIRST YEAR OF EACH TERM OF THE COMMISSIONER, A COMMISSIONER FROM MONTGOMERY COUNTY SHALL SUCCESSFULLY COMPLETE:

(1) THE TRAINING REQUIRED UNDER § 3-213 OF THE GENERAL PROVISIONS ARTICLE;

(2) A COURSE RELATING TO HARASSMENT; AND

(3) A COURSE ON DIVERSITY, EQUITY, AND INCLUSION AND THE IMPACTS OF IMPLICIT BIAS.

20-202.

(e) (1) This subsection applies only to the Montgomery County Planning Board.

(2) The Board shall:

(i) PUBLISH AND MAINTAIN ON ITS WEBSITE THE AGENDA OF THE OPEN MEETING, TOGETHER WITH A SUMMARY OF ANY FINALIZED DOCUMENTS, WRITTEN TESTIMONY FROM THE PUBLIC, AND OTHER MATERIALS THAT THE BOARD WILL VOTE ON AT THE OPEN MEETING:

1. AT LEAST 72 HOURS BEFORE EACH MEETING; OR

2. IF THE MEETING IS BEING HELD DUE TO AN EMERGENCY, A NATURAL DISASTER, OR ANY OTHER UNANTICIPATED SITUATION, AS FAR IN ADVANCE OF THE MEETING AS PRACTICABLE;

(II) stream live video or live teleconference audio or other audio of

the open meetings of the Board;

[(ii)] (III) maintain on its website a complete and unedited archived recording of each open meeting that is livestreamed in accordance with this subsection; and

[(iii)] (IV) notwithstanding § 3–306(b)(2)(i) of the General Provisions Article:

1. prepare minutes of each meeting as soon as practicable after the meeting; and

2. publish and maintain on its website the minutes of each open meeting prepared in accordance with this subsection.

(3) (I) THE BOARD SHALL APPROVE MEETING MINUTES IN A TIMELY MANNER.

(II) EACH OPEN MEETING AGENDA SHALL INCLUDE CONSIDERATION OF THE MEETING MINUTES FROM THE MOST RECENT MEETING.

(III) THE REQUIREMENT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH DOES NOT APPLY TO THE AGENDA OF AN EMERGENCY MEETING IF CONSIDERATION OF THE MEETING MINUTES FROM THE MOST RECENT MEETING IS NOT PRACTICABLE BECAUSE OF THE NEED TO HOLD AN EMERGENCY MEETING.

(4) The inability of the Board to comply with paragraph **[(2)(i) and (ii)] (2)(II) AND (III)** of this subsection due to technical failure that entirely prevents or otherwise affects the quality of the live video or audio streaming of a meeting of the Board does not affect the validity of any action taken by the Board during the meeting if:

(i) the Board otherwise complies with this subsection and the Open Meetings Act; and

(ii) the inability to comply is not due to willful action by the Board.

[(4)] (5) In addition to complying with the minutes requirements of the Open Meetings Act under § 3–306 of the General Provisions Article, if the Board is unable to comply with paragraph **[(2)(i)] (2)(II)** of this subsection, the Board shall make good-faith efforts to record an open meeting by video or audio and maintain on its website a complete and unedited archived recording of the meeting.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.