



Bill No. 17-06

Concerning: Amendment to Frederick County Code,

Chapter 1-7.1: Ethics

Introduced: March 21, 2017

Revised: _____ Draft No. _____

Enacted: _____

Effective: _____

Expires: _____

Frederick County Code, Chapter 1-7.1

Section(s) 3 and 4

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Bud Otis on behalf of County Executive Jan Gardner

AN ACT to: amend Frederick County Code Chapter 1-7.1: Ethics to establish an Independent Ethics Commission Nominating Committee; to set forth the eligibility requirements for appointments to the Committee, the composition of the Committee and the process for selecting its members; to describe the role of the Committee in the appointment process for Ethics Commission members; to define the duties of the Committee; to require the County Executive to select a nominee for appointment to the Ethics Commission from the applicants recommended by the Committee; and to allow the County Executive to appoint the Ethics Commission's alternate member to fill the unexpired term of a regular member without a referral to the Committee.

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter, 1-7.1 Section(s) 3 and 4

Other: _____

Boldface

Underlining

[Single boldface brackets]

* * *

Heading or defined term.

Added to existing law.

Deleted from existing law.

Existing law unaffected by bill.

Bill No. 17-06

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the County Code to amend Frederick County Code Chapter 1-7.1: Ethics to establish an Independent Ethics Commission Nominating Committee; to set forth the eligibility requirements for appointments to the Committee, the composition of the Committee and the process for selecting its members; to describe the role of the Committee in the appointment process for Ethics Commission members; to define the duties of the Committee; to require the County Executive to select a nominee for appointment to the Ethics Commission from the applicants recommended by the Committee; and to allow the County Executive to appoint the Ethics Commission's alternate member to fill the unexpired term of a regular member without a referral to the Committee.

NOW, THEREFORE, BE IT IN ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

Harold F. (Bud) Otis, President
County Council of Frederick County,
Maryland

§ 1-7.1-3. DEFINITIONS.

The words used in this chapter have their normal accepted meanings except as set forth below:

BUSINESS ENTITY.

(1) A corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.

(2) ***BUSINESS ENTITY*** does not include a governmental entity.

COMMISSION. The Frederick County Ethics Commission established pursuant to § 1-7.1-4 of this chapter.

COMMITTEE. The Independent Ethics Commission Nominating Committee established pursuant to § 1-7.1-4 of this chapter.

COMPENSATION.

(1) Any money or thing of value, regardless of form, received or to be received by any individual covered by this chapter from an employer for service rendered.

(2) For the purposes of § 1-7.1-8 of this chapter, if lobbying is only a portion of a person's employment, compensation means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.

COUNCIL MEMBER. A member of the County Council.

COUNTY COUNCIL. The County Council of Frederick County, Maryland.

COUNTY EXECUTIVE. The County Executive of Frederick County, Maryland.

ITALICS indicate matter that shall remain in effect.

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

Bill No. 17-06

ELECTED OFFICIAL. An individual who holds elective office as the County Executive or a County Council member.

GIFT.

(1) The transfer of anything of economic value regardless of the form without adequate and lawful consideration.

(2) ***GIFT*** does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of Election Law Art. §§ 13-101 *et seq.*, or any other provision of state or local law regulating the conduct of elections or the receipt of political campaign contributions.

IMMEDIATE FAMILY. A spouse and dependent children.

LOBBYING.

(1) Communicating in the presence of a County official or employee with the intent to influence any official action of that official or employee; or

(2) Engaging in activities with the express purpose of soliciting others to communicate with a County official or employee with the intent to influence that official or employee.

LOBBYIST. A person required to register and report expenses related to lobbying under § 1-7.1-8 of this chapter.

ITALICS indicate matter that shall remain in effect.

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

Bill No. 17-06

OFFICIAL. This includes an elected official, an official appointed to a county position by the County Executive or the County Council, a county employee and a member of a county board or commission:

- (1) Whether or not paid in whole or in part with County funds; and
- (2) Whether or not compensated.

PERSON. Includes an individual or business entity.

§ 1-7.1-4. ETHICS COMMISSION.

(A) *Appointments, terms, vacancies and compensation.*

(1) There is a Frederick County Ethics Commission that consists of 7 members appointed by the County Executive subject to confirmation by the Council.

(2) The appointments are for 3-year terms, except for the initial appointments of the sixth and seventh members, who will serve for a term set by the County, not to exceed 3 years. Members may be reappointed, but may not serve more than 2 full consecutive 3-year terms.

(3) The County Executive must appoint 1 alternate member, who is empowered to sit on the Commission in the absence of any member of the Commission. The alternate's term is 3 years.

(4) Vacancies are to be filled for the unexpired term of any member whose term becomes vacant.

ITALICS indicate matter that shall remain in effect.

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

Bill No. 17-06

(5) Members serve without compensation, but the county governing body may provide for payment of necessary and proper expenses incurred while performing official duties.

(B) *Independent Ethics Commission Nominating Committee.*

(1) (a) Subject to the exception in subparagraph (1)(b), before the County Executive appoints a member or alternate member to the Commission, applicants for appointment must be interviewed and recommended for appointment by the Committee, as provided in this paragraph.

(b) When a Commission member vacates the member's position before the expiration of the member's term, the County Executive may appoint the alternate member to fill the unexpired term without a referral to the Committee for a recommendation.

(2) The Committee has five members, consisting of the following:

(a) A representative selected by the Frederick County League of Women Voters, who serves as the Chair of the Committee;

(b) A current member of the Ethics Commission selected by the Ethics Commission;

(c) The representative selected by the League of Women Voters will select an additional three members from a list of community organizations or agencies, which may include the following:

ITALICS indicate matter that shall remain in effect.

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

Bill No. 17-06

(i) A faculty member or dean from either Hood College or Mount St.

Mary's University;

(ii) A local religious or faith leader; or

(iii) A representative from the United Way.

(3) In order to serve on the Committee, members must meet the following standards:

(a) Have demonstrated a commitment to nonpartisanship;

(b) Have no plans to run for office;

(c) Have not served as an elected official, candidate, campaign chair or treasurer of a County or Municipal official campaign within the past four years; and

(d) Have not served on a political central committee for at least ten years.

(4) Committee members serve for a two-year term. A member continues to serve until a successor is selected. A member may serve for more than one term. The initial terms of the Committee members appointed under this paragraph must be staggered.

(5) The duties of the Committee include:

(a) Making its recommendations within 60 days from the deadline for receipt of applications;

(b) Establishing a methodology for evaluating applicants for Commission vacancies;

ITALICS indicate matter that shall remain in effect.

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

Bill No. 17-06

(c) Developing and implementing a plan to recruit additional applicants for Commission vacancies;

(d) Establishing procedures for interviewing applicants and establishing such other procedures as necessary for the Committee to carry out its duties;

(e) Recommending, to the extent possible, two names for each Commission vacancy; and

(f) Providing a report of the Committee's activities to the County Executive at the time the recommended nominees are presented. The report must include:

(i) The methodology used to evaluate the applicants;

(ii) A list of the interview questions;

(iii) Recommendation from the Committee about the process followed, including recommended procedural changes;

(iv) A summary of the overall process; and

(v) The basis for the Committee's recommendations.

(6) Committee recommendations to the County Executive require approval by four Committee members.

(7) The County Executive must select a nominee from the applicants recommended by the Committee.

ITALICS indicate matter that shall remain in effect.

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

Bill No. 17-06

(C) *Powers and duties.* The Commission shall:

- (1) Devise, receive, and maintain all forms required by this chapter;
- (2) Develop procedures and policies for advisory opinion requests, including the reconsideration of advisory opinions, and provide published advisory opinions to persons subject to this chapter regarding the applicability of the provisions of this chapter to them;
- (3) Develop procedures and policies for the processing of complaints to make appropriate determinations regarding complaints filed by any person alleging violations of this chapter; and
- (4) Conduct a public information program regarding the purposes and application of this chapter.

[(C)] (D) *Oaths and subpoenas.*

- (1) The Commission may:
 - (a) Administer oaths;
 - (b) Issue subpoenas to require any person to respond under oath to written questions; and
 - (c) Issue subpoenas for the attendance of witnesses to testify or to produce verified copies of records or other tangible objects.

ITALICS indicate matter that shall remain in effect.

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

Bill No. 17-06

(2) County officials and employees are expected to comply with all subpoenas from the Ethics Commission.

(3) A subpoena may be issued by the Commission upon the affirmative vote of 6 members, and after a majority of the Commission determines that a complaint has merit.

(4) A subpoena issued under this subsection may be judicially enforced.

~~[(D)]~~ (E) The County Attorney shall advise the Commission.

~~[(E)]~~ (F) The Commission shall certify to the State Ethics Commission on or before October 1 of each year that the County is in compliance with the requirements of Md. Code Ann., General Provisions Article, Title 5, Subtitle 8, for elected local officials.

~~[(F)]~~ (G) The Commission shall determine if changes to this chapter are required to be in compliance with the requirements of Md. Code Ann., General Provisions Article, Title 5, Subtitle 8, and shall forward any recommended changes and amendments to the county governing body for enactment.

~~[(G)]~~ (H) The Commission may adopt other policies and procedures to assist in the implementation of the Commission's programs established in this chapter.

ITALICS indicate matter that shall remain in effect.

Underlining indicates matter added to existing law.

~~[Single boldface brackets]~~ indicates matter deleted from existing law.

Bill No. 17-06