

APPENDIX C

Documents Prepared by
Floor Leaders of Workshops

Equal population in redistricting

Prepared for Frederick County Charter Review Commission Oct. 17, 2019 workshop - Submitted by Walter Olson Oct. 16, 2019

MEMO – Equal population in redistricting

PROPOSAL TO BE CONSIDERED: In redistricting section (Charter section: Art. 2, Sec. 214 (c)), add language defining “substantially equal in population.”

This was proposed by Councilmember Hagen in his submission, Sept. 3, 2019. The relevant portion of his letter:

The current charter requires that "any Council District established in accordance with this section shall be compact, contiguous, substantially equal in population, and have common interests as a result of geography, occupation, history, or existing political boundaries."

But, if you obtain and review the actual population numbers for each council district, you will see that "substantially equal in population" is not specific enough. I think most people would be surprised to learn about the degree of differences in the populations of our first/current council districts (as and when they were established).

I would ask the charter review commission to consider language that would require the districts to be as close in population as the current precincts would enable or allow. And I certainly hope that is something we apply more rigorously as part of the upcoming re-districting (which will change district lines to some degree, given uneven population growth in the county).

BACKGROUND

The Frederick County Charter, like many other county charters, 1) created an initial set of districts to serve in the first years of Charter government by enumerating which precincts would compose each district; 2) created a redistricting process to assume the function of adjusting the lines of council districts to reflect population changes, as is required after the Census every ten years.

In language typical of other county charters, it declared that districts should be made “substantially equal in population.” This reflects the one-person-one-vote principle as well as basic fairness: if one district has substantially more people in it than another, people in the overpopulated district have less of a voice per person.

As Councilmember Hagen points out, it is not clear how well the initial enumeration of districts reflected a “substantially equal” standard. While the average number of 2012 registered voters per district was 29,632, the number of voters in each original district varied from as low as 26,149 (12 percent below the average) to as high as 32,597 (10 percent over). Some or conceivably all of this difference might be owing to the fact that the recognized standard for determining what is substantially equal population is not the count of registered voters but that of total population, including children, non-citizens, persons who are legally entitled to register as voters but do not do so, and so forth. Changes in population between 2010, the census year, and 2012 might also account for at least a bit of the difference. But another possible explanation is that the Charter’s initial districting did create larger population differences between districts than was strictly necessary.

That initial map, of course, will soon be a thing of the past. Following the 2020 Census, there will be a redrawing of new lines that must follow a “substantially equal in population” standard. What does “substantially equal” mean?

In practice, those who draw state and local maps often follow a rule of thumb that courts will strike down (if challenged) as not substantially equal a plan with more than a 10 percent difference in total population between the largest and smallest districts. Another way to put it is that they will tolerate population variances of roughly + or – 5 percent from the average, but not more.

What courts will tolerate, however, is not necessarily what is best practice. The leeway in the 10 percent spread (+ or – 5) standard can be, and historically in many places has been, exploited for the political advantage of those drawing the lines, including parties and candidates. The question then becomes whether it is possible to draft a tighter standard that does not unduly sacrifice other desirable qualities such as compactness, keeping communities together within a district, or avoiding unneeded splits of precincts.

Here are two possible approaches:

Numerical standards. One approach is to reduce the allowed population spread from 10 percent (+ or – 5) to a smaller number. Colorado, for example, holds legislative districts to a spread half as big, of 5 percent (+ or – 2.5 percent). Among its other recommendations, the Maryland Redistricting Reform Commission recommended that districts in the General Assembly not exceed a spread of 2 percent (+ or – 1 percent).

Verbal standards. Alternatively, it can be specified that population of the districts be made as nearly equal “as possible” or “as reasonably possible.” The difference between these two wordings is important because the more absolute the language, the more likely that some other desirable objective, such as compactness or not splitting precincts, will have to be sacrificed to make a count come out exactly. More complicated wordings are also possible.

FREDERICK COUNTY’S SITUATION

Because registered-voter data was conveniently available for the general election of November 2018 that is what I used in for an informal simulation of how easy it might be to attain numerical standards. The difference between total-population and registered-voter data, while important for some purposes and for the drawing of a valid map, is less so in exploring the general nature of the problem discussed below.

While there are more than 80 precincts in Frederick County, some are very small and the number of polling places is below 70. This means that the average council district has about 12-15 polling places. Many precincts have 2500-3000 voters and some have more than 4000, while the average council district as of November has 34,585 registered voters. In other words, adding or removing a single precinct from a district will often raise or lower its count of voters by 7 or 8 percent or more.

Experimenting with a spreadsheet based on the current precinct setup and a base of registered voters (see attachment), I nonetheless found it reasonably easy to stay within a 6 percent spread (+ or – 3) without material loss of compactness or need to split precincts. (Starting with the current map, and reassigning four polling places between districts, did the trick, although only as an exercise since a real map would need to draw on TP figures rather than RV.) On the other hand, as Chairman Slater foresaw in our earlier discussion, getting the spread down as low as 2 percent (+ or – 1) would definitely require splitting at least a couple of precincts. The consequences of splitting precincts are something we should discuss and would involve, e.g. the need to print more kinds of variant ballots.

RESOURCES AND FURTHER READING:

<http://www.ncsl.org/research/redistricting/redistricting-criteria.aspx>

[http://www.ncsl.org/documents/legismgt/How To Draw Maps.pdf](http://www.ncsl.org/documents/legismgt/How_To_Draw_Maps.pdf)

List of Frederick County precincts, polling places, and assignment to council districts:

<https://frederickcountymd.gov/DocumentCenter/View/296033/FREDERICK-COUNTY-POLLING-PLACES---with-CD-LD-Council-Dist---2018-General-Election---8-2-2017?bidId=>

Frederick County general election results 2018 (source for number of registered voters in each precinct):

<https://frederickcountymd.gov/DocumentCenter/View/309814/Official-Results-Report---Precincts?bidId=>

Map of council districts:

https://frederickcountymd.gov/DocumentCenter/View/295919/CouncilCounty_34x44?bidId=

County Executive who fails to comply with the existing requirement to devote full time attention to the position

Prepared for Frederick County Charter Review Commission Oct. 17, 2019 workshop - Submitted by Walter Olson Oct. 16, 2019

At our Dec. 19 meeting we will consider the suggestion made by County Executive Jan Gardner Nov. 4 that we add a provision to the Charter prescribing consequences, such as loss of office, for a County Executive who fails to comply with the existing requirement to devote full time attention to the position. Here are materials and arguments relating to that question.

MINUTES FROM NOV. 4 MEETING - RELEVANT EXCERPT

County Executive Gardner Charter Revision Suggestion – Overall, County Executive Gardner felt that there does not need to be too many changes made to the Charter. However, she suggested a change could be made in Section 405(b). The current Charter language states:

405(b) The Executive shall devote full-time to the duties of the office. The Executive may not participate in any private occupation for compensation. During the term of office, the Executive may not hold any other office of profit.

Currently, there are no consequences for failing to comply with this item in the Charter. County Executive Gardner proposed that there should be a discussion of some kind of repercussion.

CURRENT FREDERICK COUNTY CHARTER 405 (b) LANGUAGE ON QUALIFICATIONS OF COUNTY EXEC

(b) The Executive shall devote full-time to the duties of the office. The Executive may not participate in any private occupation for compensation. During the term of office, the Executive may not hold any other office of profit.

OTHER COUNTIES COMPARISON ON QUALIFICATIONS OF COUNTY EXEC

Of other charter counties, only Harford (Sec. 305) does not have a full-time requirement for its County Executive. (It does provide that its CE may not hold any other job with government.)

All other charter counties, like Frederick, require the CE to devote full time to the duties of the office. Cecil and Montgomery join Frederick in adding language about how the CE "shall not participate in any other private occupation for compensation."

* * *

It is common for charters to provide county councils with the power to remove a county executive for reasons of physical or mental incapacity, for committing some crimes, or, less often, for failing to perform the duties of the office. Only Anne Arundel County provides for removal of a CE for failing to comply with the requirement of devoting full time to the work, upon a supermajority (5 of 7) vote of its council. See Secs. 404 (a) (1) and 401:

ANNE ARUNDEL CHARTER LANGUAGE -- REMOVAL OF COUNTY EXEC FOR
NONCOMPLIANCE WITH FULL TIME REQUIREMENT

Sec. 404. Conviction or failure to perform duties.

(a) The office of the County Executive may be declared vacant by ordinance of the County Council with an affirmative vote of not less than five (5) members [of 7 total -- ed.] if, during his elected term, the County Executive:

(1) fails to meet the requirements of Section 401 of this Article;

(2) is found guilty of, or pleads nolo contendere to, and is convicted of, a felony or a crime involving moral turpitude or misfeasance of malfeasance in office; or

(3) fails to perform or is incapable of performing the duties of his office for 180 consecutive days.

(b) A vacancy occurring under subsection (a) shall be filled in the manner provided in Section 402 of this Article.

(c) To the fullest extent allowed by law, a County Executive removed from office under subsection (a) (2) may be ineligible to receive post-employment County benefits earned as a result of his tenure as County Executive, subject to an ordinance enacted by the County Council providing for the conditions of removal and reinstatement of benefits.

(Bill No. 76-72; Res. No. 32-12)

Editor's note – The 2012 amendment substantially revised the provisions governing the removal of the County Executive from office, and added the provision regarding ineligibility to receive post-employment County benefits.

[Sec. 401, referenced above, requires that the County Executive, in addition to being a county voter and resident not less than twenty-five years of age, "shall devote full time to the duties of the office."]

* * *

ARGUMENTS FOR ADOPTING NEW LANGUAGE

The requirement that a county executive devote full time to county responsibilities is important, appearing in nearly every charter. But there is at present no way to enforce it. Courts are unlikely to step in and that leaves us currently with an honor system.

ARGUMENTS AGAINST ADOPTING NEW LANGUAGE

There may be no easy test for what is or is not full time attention. Most of us would want flexibility for family medical emergencies, for example -- how long an absence from Winchester Hall should count? Does it matter that many job duties can be accomplished remotely? And what if a CE is running for some other office, such as governor or senator -- doesn't that cut into full time attention

too? Even with a supermajority requirement such as 5 of 7, a council at political odds with a CE might use such a provision to yank his or her chain.

POSSIBLE OPTIONS IN PRESCRIBING CONSEQUENCES

Removal from office (declaring office vacant) is the most obvious possible consequence, but there might be others. Some charters provide for fines or even criminal penalties for officials who violate charter provisions. Another possibility would be a warn-and-cure arrangement in which the council could vote the CE to be out of compliance owing to an outside involvement and he or she would have 30 or 60 days to discontinue that involvement absent which the council could declare the office vacant.

District Voter Counts Report

District : COUNCILMANIC DISTRICT - COUNCIL DISTRICT 5,COUNCILMANIC DISTRICT - COUNCIL DISTRICT 1,COUNCILMANIC DISTRICT - COUNCIL DISTRICT
 3,COUNCILMANIC DISTRICT - COUNCIL DISTRICT 4,COUNCILMANIC DISTRICT - COUNCIL DISTRICT 2 Status : Active County Regd. Date Upto : 9/20/2019

	TOTAL	DEM	REP	BAR	UNA	OTHERS
COUNCILMANIC DISTRICT						
COUNCIL DISTRICT 1	38895	13852	15395	3	9287	358
COUNCIL DISTRICT 2	40273	12723	17315	4	9860	371
COUNCIL DISTRICT 3	31514	15572	8298	3	7299	342
COUNCIL DISTRICT 4	35558	16029	10767	3	8333	426
COUNCIL DISTRICT 5	32282	8931	16089	2	6953	307
TOTAL	178522	67107	67864	15	41732	1804

<u>Council District #</u>	<u>Voter Registration</u>	<u># of Votes Cast</u>	<u># of Precincts in District</u>	<u>2012 % Turnout</u>
1	31281	21102	16	67.46%
2	32597	22631	15	69.43%
3	26149	15023	16	57.45%
4	29119	17637	14	60.57%
5	29013	19789	13	68.21%
Grand Total	148159	96182	74	64.92%

2012 Frederick County Election Results

LBE	PRECINCT	PARTY	POLL_VOTERS	TOTAL_ELIGIBLE_VOTERS	PERCENT_TURNOUT
Frederick	001-001	DEM	1017	1495	68.03
Frederick	001-001	GRN	7	8	87.5
Frederick	001-001	LIB	10	15	66.67
Frederick	001-001	OTH	3	3	100
Frederick	001-001	REP	1267	1772	71.5
Frederick	001-001	UNA	550	942	58.39
Frederick	001-002	DEM	643	1012	63.54
Frederick	001-002	GRN	2	5	40
Frederick	001-002	LIB	8	14	57.14
Frederick	001-002	REP	564	793	71.12
Frederick	001-002	UNA	368	605	60.83
Frederick	002-001	DEM	849	1448	58.63
Frederick	002-001	GRN	4	11	36.36
Frederick	002-001	LIB	7	19	36.84
Frederick	002-001	OTH	2	4	50
Frederick	002-001	REP	409	669	61.14
Frederick	002-001	UNA	348	598	58.19
Frederick	002-002	DEM	263	477	55.14
Frederick	002-002	GRN	6	8	75
Frederick	002-002	LIB	2	3	66.67
Frederick	002-002	REP	180	310	58.06
Frederick	002-002	UNA	107	200	53.5
Frederick	002-003	DEM	755	1385	54.51
Frederick	002-003	GRN	8	19	42.11
Frederick	002-003	LIB	8	16	50
Frederick	002-003	OTH	2	3	66.67
Frederick	002-003	REP	454	819	55.43
Frederick	002-003	UNA	308	610	50.49
Frederick	002-004	DEM	742	1247	59.5
Frederick	002-004	GRN	7	16	43.75
Frederick	002-004	LIB	11	16	68.75
Frederick	002-004	REP	372	611	60.88
Frederick	002-004	UNA	320	622	51.45
Frederick	002-005	DEM	368	638	57.68
Frederick	002-005	GRN	3	5	60
Frederick	002-005	LIB	2	4	50
Frederick	002-005	REP	285	452	63.05
Frederick	002-005	UNA	148	258	57.36
Frederick	002-006	DEM	685	1101	62.22
Frederick	002-006	GRN	1	3	33.33
Frederick	002-006	LIB	6	13	46.15
Frederick	002-006	OTH	2	3	66.67
Frederick	002-006	REP	613	891	68.8
Frederick	002-006	UNA	327	560	58.39
Frederick	002-007	AME	1	1	100
Frederick	002-007	DEM	745	1272	58.57

Frederick	002-007	GRN	4	7	57.14
Frederick	002-007	LIB	7	16	43.75
Frederick	002-007	REP	619	955	64.82
Frederick	002-007	UNA	322	589	54.67
Frederick	002-008	DEM	666	1289	51.67
Frederick	002-008	GRN	6	9	66.67
Frederick	002-008	LIB	6	9	66.67
Frederick	002-008	REP	571	982	58.15
Frederick	002-008	UNA	386	697	55.38
Frederick	002-009	DEM	587	990	59.29
Frederick	002-009	GRN	8	15	53.33
Frederick	002-009	LIB	3	6	50
Frederick	002-009	REP	318	564	56.38
Frederick	002-009	UNA	255	452	56.42
Frederick	002-010	DEM	923	1693	54.52
Frederick	002-010	GRN	3	6	50
Frederick	002-010	LIB	10	16	62.5
Frederick	002-010	OTH	1	2	50
Frederick	002-010	REP	728	1178	61.8
Frederick	002-010	UNA	458	803	57.04
Frederick	002-011	AME	0	1	0
Frederick	002-011	DEM	652	1259	51.79
Frederick	002-011	GRN	7	12	58.33
Frederick	002-011	LIB	7	7	100
Frederick	002-011	OTH	1	3	33.33
Frederick	002-011	REP	320	637	50.24
Frederick	002-011	UNA	217	487	44.56
Frederick	002-012	DEM	359	568	63.2
Frederick	002-012	GRN	2	5	40
Frederick	002-012	LIB	1	2	50
Frederick	002-012	OTH	1	1	100
Frederick	002-012	REP	224	341	65.69
Frederick	002-012	UNA	167	309	54.05
Frederick	002-013	AME	1	1	100
Frederick	002-013	DEM	769	1430	53.78
Frederick	002-013	GRN	3	9	33.33
Frederick	002-013	LIB	8	15	53.33
Frederick	002-013	OTH	1	1	100
Frederick	002-013	REP	419	740	56.62
Frederick	002-013	UNA	335	656	51.07
Frederick	002-014	DEM	377	579	65.11
Frederick	002-014	GRN	0	1	0
Frederick	002-014	LIB	3	8	37.5
Frederick	002-014	REP	310	434	71.43
Frederick	002-014	UNA	194	334	58.08
Frederick	002-015	DEM	655	1321	49.58
Frederick	002-015	GRN	5	5	100

Frederick	002-015	LIB	4	8	50
Frederick	002-015	OTH	1	1	100
Frederick	002-015	REP	677	1198	56.51
Frederick	002-015	UNA	336	710	47.32
Frederick	002-016	DEM	566	878	64.46
Frederick	002-016	GRN	3	5	60
Frederick	002-016	LIB	12	15	80
Frederick	002-016	OTH	0	1	0
Frederick	002-016	REP	334	506	66.01
Frederick	002-016	UNA	246	448	54.91
Frederick	002-017	DEM	545	977	55.78
Frederick	002-017	GRN	1	5	20
Frederick	002-017	LIB	6	10	60
Frederick	002-017	OTH	2	4	50
Frederick	002-017	REP	219	391	56.01
Frederick	002-017	UNA	232	425	54.59
Frederick	002-018	DEM	357	552	64.67
Frederick	002-018	GRN	2	3	66.67
Frederick	002-018	LIB	1	4	25
Frederick	002-018	OTH	1	2	50
Frederick	002-018	REP	415	575	72.17
Frederick	002-018	UNA	210	335	62.69
Frederick	003-001	DEM	372	583	63.81
Frederick	003-001	GRN	4	6	66.67
Frederick	003-001	LIB	0	4	0
Frederick	003-001	OTH	1	1	100
Frederick	003-001	REP	696	951	73.19
Frederick	003-001	UNA	237	374	63.37
Frederick	003-002	DEM	616	983	62.67
Frederick	003-002	GRN	3	5	60
Frederick	003-002	LIB	8	11	72.73
Frederick	003-002	OTH	0	1	0
Frederick	003-002	REP	1150	1581	72.74
Frederick	003-002	UNA	338	563	60.04
Frederick	003-003	DEM	412	629	65.5
Frederick	003-003	GRN	5	9	55.56
Frederick	003-003	LIB	4	10	40
Frederick	003-003	REP	732	1031	71
Frederick	003-003	UNA	257	436	58.94
Frederick	004-001	DEM	139	202	68.81
Frederick	004-001	GRN	4	6	66.67
Frederick	004-001	LIB	1	2	50
Frederick	004-001	OTH	1	1	100
Frederick	004-001	REP	327	412	79.37
Frederick	004-001	UNA	74	125	59.2
Frederick	005-001	DEM	664	1023	64.91
Frederick	005-001	GRN	3	7	42.86

Frederick	005-001	LIB	13	16	81.25
Frederick	005-001	OTH	0	1	0
Frederick	005-001	REP	1057	1455	72.65
Frederick	005-001	UNA	346	626	55.27
Frederick	006-001	DEM	267	380	70.26
Frederick	006-001	GRN	3	5	60
Frederick	006-001	LIB	2	2	100
Frederick	006-001	OTH	1	1	100
Frederick	006-001	REP	608	794	76.57
Frederick	006-001	UNA	148	236	62.71
Frederick	007-001	DEM	522	763	68.41
Frederick	007-001	GRN	4	6	66.67
Frederick	007-001	LIB	3	4	75
Frederick	007-001	OTH	2	4	50
Frederick	007-001	REP	605	858	70.51
Frederick	007-001	UNA	279	440	63.41
Frederick	007-002	DEM	1047	1470	71.22
Frederick	007-002	GRN	2	5	40
Frederick	007-002	LIB	4	5	80
Frederick	007-002	OTH	1	2	50
Frederick	007-002	REP	1008	1394	72.31
Frederick	007-002	UNA	734	1100	66.73
Frederick	007-003	DEM	495	748	66.18
Frederick	007-003	GRN	1	2	50
Frederick	007-003	LIB	4	7	57.14
Frederick	007-003	OTH	1	1	100
Frederick	007-003	REP	757	1028	73.64
Frederick	007-003	UNA	283	491	57.64
Frederick	007-004	DEM	453	660	68.64
Frederick	007-004	GRN	1	2	50
Frederick	007-004	LIB	1	2	50
Frederick	007-004	OTH	0	1	0
Frederick	007-004	REP	475	646	73.53
Frederick	007-004	UNA	254	400	63.5
Frederick	007-005	DEM	18	22	81.82
Frederick	007-005	REP	31	46	67.39
Frederick	007-005	UNA	10	17	58.82
Frederick	007-006	DEM	1	2	50
Frederick	008-001	DEM	335	519	64.55
Frederick	008-001	GRN	1	2	50
Frederick	008-001	LIB	3	5	60
Frederick	008-001	REP	640	841	76.1
Frederick	008-001	UNA	180	304	59.21
Frederick	009-001	DEM	500	733	68.21
Frederick	009-001	GRN	5	8	62.5
Frederick	009-001	LIB	9	12	75
Frederick	009-001	OTH	0	2	0

Frederick	009-001	REP	906	1253	72.31
Frederick	009-001	UNA	376	580	64.83
Frederick	009-002	DEM	690	975	70.77
Frederick	009-002	GRN	0	3	0
Frederick	009-002	LIB	3	8	37.5
Frederick	009-002	OTH	2	4	50
Frederick	009-002	REP	1115	1517	73.5
Frederick	009-002	UNA	424	702	60.4
Frederick	009-003	DEM	262	429	61.07
Frederick	009-003	GRN	3	5	60
Frederick	009-003	LIB	2	3	66.67
Frederick	009-003	REP	373	551	67.7
Frederick	009-003	UNA	163	271	60.15
Frederick	009-004	DEM	664	935	71.02
Frederick	009-004	GRN	4	6	66.67
Frederick	009-004	LIB	2	5	40
Frederick	009-004	OTH	4	5	80
Frederick	009-004	REP	1129	1533	73.65
Frederick	009-004	UNA	423	660	64.09
Frederick	009-005	DEM	293	449	65.26
Frederick	009-005	GRN	0	1	0
Frederick	009-005	LIB	2	6	33.33
Frederick	009-005	OTH	1	2	50
Frederick	009-005	REP	442	589	75.04
Frederick	009-005	UNA	173	304	56.91
Frederick	009-006	DEM	627	997	62.89
Frederick	009-006	GRN	2	9	22.22
Frederick	009-006	LIB	8	14	57.14
Frederick	009-006	OTH	0	1	0
Frederick	009-006	REP	816	1176	69.39
Frederick	009-006	UNA	365	616	59.25
Frederick	009-007	DEM	726	1088	66.73
Frederick	009-007	GRN	9	13	69.23
Frederick	009-007	LIB	8	18	44.44
Frederick	009-007	OTH	1	2	50
Frederick	009-007	REP	1133	1594	71.08
Frederick	009-007	UNA	510	815	62.58
Frederick	009-008	DEM	280	413	67.8
Frederick	009-008	GRN	3	4	75
Frederick	009-008	LIB	4	4	100
Frederick	009-008	OTH	1	1	100
Frederick	009-008	REP	318	459	69.28
Frederick	009-008	UNA	144	263	54.75
Frederick	010-001	DEM	223	356	62.64
Frederick	010-001	GRN	1	1	100
Frederick	010-001	LIB	5	5	100
Frederick	010-001	REP	575	788	72.97

Frederick	010-001	UNA	150	258	58.14
Frederick	011-001	DEM	361	546	66.12
Frederick	011-001	GRN	0	1	0
Frederick	011-001	LIB	5	6	83.33
Frederick	011-001	REP	807	1104	73.1
Frederick	011-001	UNA	230	385	59.74
Frederick	012-001	DEM	519	812	63.92
Frederick	012-001	GRN	4	4	100
Frederick	012-001	LIB	7	9	77.78
Frederick	012-001	OTH	0	2	0
Frederick	012-001	REP	628	845	74.32
Frederick	012-001	UNA	300	501	59.88
Frederick	012-002	DEM	1	1	100
Frederick	013-001	DEM	768	1156	66.44
Frederick	013-001	GRN	6	6	100
Frederick	013-001	LIB	14	21	66.67
Frederick	013-001	OTH	3	3	100
Frederick	013-001	REP	1082	1503	71.99
Frederick	013-001	UNA	474	807	58.74
Frederick	013-002	DEM	25	33	75.76
Frederick	013-002	REP	51	65	78.46
Frederick	013-002	UNA	16	23	69.57
Frederick	013-003	DEM	44	72	61.11
Frederick	013-003	GRN	1	1	100
Frederick	013-003	LIB	0	1	0
Frederick	013-003	REP	59	82	71.95
Frederick	013-003	UNA	20	48	41.67
Frederick	014-001	DEM	659	939	70.18
Frederick	014-001	GRN	4	7	57.14
Frederick	014-001	LIB	8	13	61.54
Frederick	014-001	OTH	1	2	50
Frederick	014-001	REP	1121	1444	77.63
Frederick	014-001	UNA	374	563	66.43
Frederick	014-002	DEM	94	144	65.28
Frederick	014-002	GRN	2	2	100
Frederick	014-002	LIB	1	2	50
Frederick	014-002	REP	163	240	67.92
Frederick	014-002	UNA	39	67	58.21
Frederick	015-001	DEM	520	743	69.99
Frederick	015-001	GRN	1	6	16.67
Frederick	015-001	LIB	8	8	100
Frederick	015-001	OTH	1	1	100
Frederick	015-001	REP	950	1320	71.97
Frederick	015-001	UNA	286	481	59.46
Frederick	015-002	DEM	585	875	66.86
Frederick	015-002	GRN	2	2	100
Frederick	015-002	LIB	7	12	58.33

Frederick	015-002	REP	1091	1477	73.87
Frederick	015-002	UNA	342	564	60.64
Frederick	016-001	DEM	618	915	67.54
Frederick	016-001	GRN	6	11	54.55
Frederick	016-001	LIB	9	11	81.82
Frederick	016-001	OTH	2	2	100
Frederick	016-001	REP	1052	1453	72.4
Frederick	016-001	UNA	405	626	64.7
Frederick	017-001	DEM	260	384	67.71
Frederick	017-001	GRN	1	2	50
Frederick	017-001	LIB	2	4	50
Frederick	017-001	OTH	1	1	100
Frederick	017-001	REP	573	765	74.9
Frederick	017-001	UNA	145	246	58.94
Frederick	018-001	DEM	873	1257	69.45
Frederick	018-001	GRN	4	10	40
Frederick	018-001	LIB	14	18	77.78
Frederick	018-001	OTH	2	2	100
Frederick	018-001	REP	1611	2155	74.76
Frederick	018-001	UNA	533	860	61.98
Frederick	018-002	DEM	387	599	64.61
Frederick	018-002	GRN	2	4	50
Frederick	018-002	LIB	6	9	66.67
Frederick	018-002	OTH	1	1	100
Frederick	018-002	REP	904	1236	73.14
Frederick	018-002	UNA	284	474	59.92
Frederick	019-001	AME	1	1	100
Frederick	019-001	DEM	199	289	68.86
Frederick	019-001	GRN	2	2	100
Frederick	019-001	LIB	0	1	0
Frederick	019-001	OTH	0	1	0
Frederick	019-001	REP	501	660	75.91
Frederick	019-001	UNA	137	215	63.72
Frederick	020-001	DEM	411	619	66.4
Frederick	020-001	GRN	3	8	37.5
Frederick	020-001	LIB	1	4	25
Frederick	020-001	OTH	0	1	0
Frederick	020-001	REP	709	959	73.93
Frederick	020-001	UNA	189	334	56.59
Frederick	021-001	DEM	438	763	57.4
Frederick	021-001	GRN	0	3	0
Frederick	021-001	LIB	2	5	40
Frederick	021-001	REP	733	1103	66.46
Frederick	021-001	UNA	238	411	57.91
Frederick	021-002	DEM	384	634	60.57
Frederick	021-002	GRN	3	3	100
Frederick	021-002	LIB	6	12	50

Frederick	021-002	OTH	1	3	33.33
Frederick	021-002	REP	408	633	64.45
Frederick	021-002	UNA	219	367	59.67
Frederick	021-003	DEM	245	440	55.68
Frederick	021-003	LIB	1	6	16.67
Frederick	021-003	OTH	2	3	66.67
Frederick	021-003	REP	346	550	62.91
Frederick	021-003	UNA	125	247	50.61
Frederick	021-004	DEM	395	709	55.71
Frederick	021-004	GRN	0	4	0
Frederick	021-004	LIB	4	8	50
Frederick	021-004	REP	401	686	58.45
Frederick	021-004	UNA	185	347	53.31
Frederick	022-001	DEM	266	377	70.56
Frederick	022-001	GRN	2	2	100
Frederick	022-001	LIB	1	4	25
Frederick	022-001	OTH	0	1	0
Frederick	022-001	REP	406	539	75.32
Frederick	022-001	UNA	119	194	61.34
Frederick	022-002	DEM	2	2	100
Frederick	022-002	REP	1	2	50
Frederick	023-001	DEM	813	1318	61.68
Frederick	023-001	GRN	4	12	33.33
Frederick	023-001	LIB	2	10	20
Frederick	023-001	OTH	1	2	50
Frederick	023-001	REP	995	1392	71.48
Frederick	023-001	UNA	407	702	57.98
Frederick	023-002	DEM	6	37	16.22
Frederick	023-002	REP	15	47	31.91
Frederick	023-002	UNA	2	11	18.18
Frederick	024-001	DEM	395	600	65.83
Frederick	024-001	GRN	5	8	62.5
Frederick	024-001	LIB	6	8	75
Frederick	024-001	REP	561	789	71.1
Frederick	024-001	UNA	199	327	60.86
Frederick	024-002	DEM	217	397	54.66
Frederick	024-002	GRN	2	6	33.33
Frederick	024-002	LIB	0	3	0
Frederick	024-002	OTH	1	1	100
Frederick	024-002	REP	273	414	65.94
Frederick	024-002	UNA	131	219	59.82
Frederick	024-003	DEM	143	224	63.84
Frederick	024-003	GRN	2	2	100
Frederick	024-003	LIB	1	3	33.33
Frederick	024-003	REP	167	225	74.22
Frederick	024-003	UNA	61	100	61
Frederick	024-004	DEM	1	2	50

Frederick	024-004	REP	5	6	83.33
Frederick	024-004	UNA	1	3	33.33
Frederick	024-005	DEM	204	357	57.14
Frederick	024-005	GRN	1	1	100
Frederick	024-005	LIB	1	1	100
Frederick	024-005	REP	229	345	66.38
Frederick	024-005	UNA	90	180	50
Frederick	025-001	DEM	743	1176	63.18
Frederick	025-001	GRN	10	14	71.43
Frederick	025-001	LIB	12	17	70.59
Frederick	025-001	OTH	7	8	87.5
Frederick	025-001	REP	694	1023	67.84
Frederick	025-001	UNA	399	686	58.16
Frederick	026-001	DEM	814	1192	68.29
Frederick	026-001	GRN	4	7	57.14
Frederick	026-001	LIB	7	12	58.33
Frederick	026-001	OTH	2	2	100
Frederick	026-001	REP	1002	1455	68.87
Frederick	026-001	UNA	370	604	61.26
Frederick	026-002	DEM	652	982	66.4
Frederick	026-002	GRN	5	11	45.45
Frederick	026-002	LIB	4	10	40
Frederick	026-002	REP	887	1247	71.13
Frederick	026-002	UNA	375	628	59.71
TOTAL			95798	148160	64.66

From: [Walter Olson](#)
To: [Redmond, Lee](#); [Stephen Slater](#)
Subject: Recall proposal and Maryland constitution
Date: Sunday, November 17, 2019 2:03:50 PM

[EXTERNAL EMAIL]

Among the recently received citizen proposals we will soon be considering for workshop is one to enable citizen recall of county officials. Recall campaigns have been mounted recently in such municipalities as Brunswick and Bowie.

I inquired about this with a lawyer for the county who told me that although officials of municipalities in Maryland are subject to recall when the municipal charter so permits, the Maryland Constitution as it has been interpreted by the state Attorney General's office does not permit recall of county officials.

I did a few minutes of searching which turned up the following 1995 AG opinion, which appears to confirm what he says:

<http://www.marylandattorneygeneral.gov/Opinions%20Documents/1995/80oag17.pdf>

Thanks -- W.O.

Maryland Counties - Budget Processes

By Commissioner Lisa Jarosinski
December 19, 2019

ANNE ARUNDEL

After the public hearing specified in the preceding section, the **County Council may decrease or delete any items in the budget except those required by the public general laws of this State and except any provision for debt service on obligations then outstanding or for estimated cash deficits.** The County Council shall have **no power** to change the form of the budget as submitted by the County Executive, to alter the revenue estimates except to correct mathematical errors, or to **increase** any expenditure recommended by the County Executive for current or capital purposes. In any year except a year during which members of the County Council will be elected, the County Council may completely fund for the next two ensuing fiscal years those capital projects designated in the capital budget proposed by the County Executive which are designated to be completely funded for two fiscal years pursuant to Section [705](#) of this Charter. If the County Executive proposes amendments to the budget so as to increase items in the budget or add items to the budget, the Chairman of the County Council shall give reasonable public notice of the proposed amendments and hold a public hearing on the amendments, provided that the County Council may waive the public hearing by a vote of five members. The adoption of the budget shall be by the affirmative vote of not less than four members of the County Council on an ordinance to be known as the Annual Budget and Appropriation Ordinance of Anne Arundel County. The County Council may, at the same time or thereafter from time to time during the ensuing fiscal year, adopt bond issue authorization ordinances providing the means of financing such capital projects as are to be financed from borrowing in the ensuing fiscal year. All of said ordinances shall be exempt from the executive veto. The Annual Budget and Appropriation Ordinance shall be adopted by the County Council on or before the fifteenth day of the last month of the fiscal year currently ending; and if the County Council fails to do so, the proposed budget submitted by the County Executive shall stand adopted, and funds for the expenditures proposed in the current expense budget shall stand appropriated as fully and to the same extent as if favorable action thereon had been taken by the County Council.

BALTIMORE COUNTY

After the public hearing specified in the preceding section, **the county council may decrease or delete any item in the budget except those required by the public general laws of this state and** except any provision for debt service on obligations then outstanding or for estimated cash deficits. The county council shall have **no power** to change the form of the budget as submitted by the county executive, to alter the revenue estimates except to correct mathematical errors, or to **increase** any expenditure recommended by the county executive for current or capital purposes. The adoption of the budget shall be by the affirmative vote of a majority of the total number of county council members established by this Charter on an ordinance to be known as the

Annual Budget and Appropriation Ordinance of Baltimore County. With respect to county borrowing heretofore or hereafter approved by the voters as provided by [section 718](#) of this article (notwithstanding any contrary provisions of borrowing ordinances heretofore approved by the voters), the county council, at any time, or from time to time, after adoption of the budget or amendments thereto as provided by [section 716](#) of this article, shall adopt bond issue authorization ordinances authorizing the issuance of bonds at one time, or from time to time, to provide the means of financing capital projects included in the budget as amended to the extent the same are to be financed from borrowing. All of said ordinances shall be exempt from the executive veto. The Annual Budget and Appropriation Ordinance shall be adopted by the county council on or before the first day of the last month of the fiscal year currently ending, and if the county council fails to do so, the proposed budget submitted by the county executive shall stand adopted, and funds for the expenditures proposed in the current expense budget shall stand appropriated as fully and to the same extent as if favorable action thereon had been taken by the county council.

CECIL COUNTY

Action on the budget by the Council.

(a)

After the public hearing or hearings, the Council may decrease or delete any items in the budget, except those required by the laws of this state and provisions for debt service on obligations then outstanding or for estimated cash deficits. The Council shall have no power to change the form of the budget as submitted by the Executive or to alter revenue estimates, except to correct mathematical errors.

(b)

The adoption of the budget shall be by the affirmative vote of not less than three members of the Council in a law enacted not later than June 15, which shall be known as the "Annual Budget and Appropriations Ordinance of Cecil County." If a budget is not approved by the Council by June 15, then the budget as submitted by the Executive shall become law.

[Amended 11-4-2014]

(c)

After July 1, the Annual Budget and Appropriation Ordinance may, upon request of the Executive, be amended by resolution approved by the affirmative vote of not less than three members of the Council. The Council may, but is not required to, hold a public hearing prior to taking action on a proposed budget amendment.

[Amended 11-4-2014]

DORCHESTER COUNTY – NO COUNTY EXECUTIVE

Action on the Budget by the Council.

(a)

After the public hearings, the Council may **increase, decrease or delete** any items in the Budget except those required by the laws of this State, and except any provisions for debt service on obligations then outstanding or for estimated cash deficits.

(b)

The adoption of the Budget shall be by the affirmative vote of not less than three members of the full Council in a law enacted not later than May 31 and to be known as the "Annual Budget and Appropriations Ordinance of Dorchester County".

HARFORD COUNTY

Section 512 **Action on the budget by the Council.**

(a)

After the public hearings, the Council may **decrease or delete** any items in the budget except those required by the laws of this state or of this County, and except any provisions for debt service on obligations then outstanding or for estimated cash deficits. The Council shall have **no power** to change the form of the budget as submitted by the County Executive, or to alter the revenue estimates except to correct mathematical errors, or to **increase** any expenditure recommended by the County Executive for current expense or capital purposes.

(b)

The adoption of the current expense budget and the capital budget shall be by the affirmative vote of at least four members of the Council by a law to be known as the Annual Budget and Appropriation Ordinance. Any borrowing to finance capital projects must be authorized by an existing law of the General Assembly of Maryland or by a law of the Council adopted in accordance with this Charter.

(c)

The Annual Budget and Appropriation Ordinance shall be adopted by the Council not later than 15 calendar days prior to the beginning of each fiscal year, and if the Council fails to do so, the proposed current expense budget, as submitted by the County Executive and as may have been amended by the Council shall stand adopted, and funds for the expenditures proposed in the current expense budget shall stand appropriated as fully and to the same extent as if favorable actions thereon had been taken by the Council.

HOWARD COUNTY

Section 606. - Action on the annual budget and appropriation ordinance by the County Council.

After the public hearing specified in the preceding section, the Council may **decrease or delete any items in the budget ordinance except those required by the**

public general laws of this State and except any provisions for debt service on obligations then outstanding or for estimated cash deficits. The Council shall have **no power** to change the form of the budget as submitted by the Executive, to alter the revenue estimates **or to increase** any expenditure recommended by the Executive for current or capital purposes except: 1) as expressly provided in State law; 2) to appropriate funds to the retiree obligations trust, the contingency reserve, or the contingency reserve capital project; and 3) to correct arithmetic errors. The adoption of the budget ordinance, which shall include only the current expense budget and the capital budget, shall be by the affirmative vote of not less than a majority of the Council on an ordinance to be known as the Annual Budget and Appropriation Ordinance of Howard County. The capital program, as defined in this Charter, shall be adopted by the Council by its separate resolution. Any borrowing to finance capital projects must be authorized by an existing law of the General Assembly of Maryland or by a law of the Council adopted in accordance with the Charter. The Council may adopt from time to time bond issue authorization ordinances pursuant to an enabling law or laws then in force and effect to provide the means of financing such capital projects as are to be financed from borrowing. Such bond issue authorization ordinances are not subject to referendum and shall take effect from the date of their enactment. All of said ordinances referred to in this section shall be exempt from the executive veto. The Annual Budget and Appropriation Ordinance shall be adopted by the Council on or before the first day of the last month of the fiscal year currently ending, and if the Council fails to do so, the proposed current expense budget submitted by the Executive shall stand adopted, and funds for the expenditures proposed in the current expense budget shall stand appropriated as fully and to the same extent as if favorable action thereon had been taken by the Council.

MONTGOMERY COUNTY

The Council may add to, delete from, **increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefor not later than June 1 of the year in which it is submitted.**

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that

exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of all current Councilmembers, the Council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section. This limit does not apply to revenue from: (1) newly constructed property, (2) newly rezoned property, (3) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year, (4) property that has undergone a change in use, and (5) any development district tax used to fund capital improvement projects. (Election of 11-7-78; election of 11-6-84; election of 11-6-90; election of 11-3-92; election of 11-8-94; election of 11-3-98; election of 11-4-08; election of 11-6-18.)

Sec. 306. Item Veto or Reduction.

Upon approval of the budget, it shall be delivered within three days to the County Executive who within ten days **thereafter may disapprove or reduce any item contained** in it. If the County Executive disapproves or reduces any item in the budget, it shall be returned to the Council with the reasons for the disapproval or reduction in writing. The Council may, not later than June 30 of that year, reapprove any item over the disapproval or reduction of the County Executive by the affirmative vote of **six members, except that the affirmative vote of five members shall be required in the case of the budgets of the Council, the Fire and Rescue Commission, the Fire Departments and Rescue Squads, the Housing Opportunities Commission and Montgomery College.** (Election of 11-4-80; election of 11-2-82; election of 11-4-86; election of 11-8-88; election of 11-3-92.)

PRINCE GEORGE'S COUNTY

Section 809. - Public Budget Hearings and Action on the Budget by the Council.

Upon receipt of the proposed County budget, the Clerk of the Council shall cause to be published a notice of the place and time of at least two public hearings on the budget by the Council. Such public notice shall be published in the County newspapers of record and in media for public notice as defined in Section 1008 of this Charter. The Council may hold such other preliminary hearings on the budget for the purpose of obtaining information as it may determine, but no action shall be taken by the Council on the budget except in public session. **After the final public budget hearing, the Council may not add new items but may increase, decrease, or delete items in the budget except those required by the laws of this State or of this County, and except any provisions for debt service on obligations then outstanding or for estimated cash deficits.** The Council shall have no power to change the form of the budget as submitted by the Executive or to alter the revenue estimates except to correct mathematical errors, or, by a vote of two-thirds of the members of the full County Council, adjust the revenue estimates by an increase or decrease of no more than one percent (1%). The adoption of the operating budget, the capital budget and the capital program shall be by the affirmative vote of not less than a majority of the full Council by a law to be known as the Annual Budget and Appropriation Ordinance of Prince George's County. The Annual Budget and Appropriation Ordinance shall be adopted by

the Council on or before June 1 of each fiscal year, and if the Council fails to do so, the proposed operating budget submitted by the County Executive shall stand adopted, and funds for the expenditures proposed in the current expense budget shall stand appropriated as fully and to the same extent as if favorable action thereon had been taken by the Council.

TALBOT COUNTY – NO COUNTY EXECUTIVE

Section 612 Action on the Budget by the Council (a) After the public hearings, the Council may increase, decrease or delete any items in the budget except those required by the laws of this state and except any provisions for debt service on obligations then outstanding or for estimated cash deficits. (b) The passage of the current expense budget and the capital budget shall be by the affirmative vote of not less than a majority of the full Council in a law to be known as the Annual Budget and Appropriation Ordinance of Talbot County. (c) The Annual Budget and Appropriation Ordinance shall be passed by the Council on or before June 1 of each year, to be effective on the first day of the fiscal year to which it applies. (d) Any borrowing to finance capital projects must be authorized by an existing enabling law of the General Assembly of Maryland or by an enabling law of the Council enacted separately from the budget law. An enabling law of the Council is subject to the referendum provisions of Section 217 of this Charter. The Council may pass bond issue authorization ordinances pursuant to an enabling law or laws then in effect to provide the means of financing capital projects to be financed from borrowing. Bond issue authorization ordinances are not subject to the referendum provisions of Section 217 of this Charter.

WICOMICO COUNTY

After the public hearing, the Council may **decrease or delete any items in the** budget except those required by the laws of this state or of this county, and except any provisions for debt service on obligations then outstanding or for estimated cash deficits. The Council shall have **no power** to change the form of the budget as submitted by the County Executive, or to alter the revenue estimates except to correct mathematical errors, **or to add any items to the budget or to increase any expenditure** recommended by the County Executive for current expense or capital purposes. In the event the Council decreases or deletes any item(s) and the Executive and Council do not agree upon the expenditure of the surplus, then upon adoption of the budget the surplus shall be placed in the undesignated fund balance for future appropriation.

Budget Timeline

By Commissioner Lisa Jarosinski
December 19, 2019

Frederick County Budget Timeline

September to December – Gather requests – base budget requests due to Budget Office

December – County Executive has public hearing about the budget

January – March

Work sessions with agencies and departments

Operating requests from BOE, FCC, FCPL

March – County Executive holds second public hearing

April 15 – presentation of the budget to the council

Public Hearing held by the County Council

Budget approval not later than May 31

Anne Arundel – 45 days

Baltimore County – 45 days

Cecil County – 75 days

Frederick County – 45 days

Harford County - 60 days

Howard County – 45 days

Montgomery County – 75 days

Prince George's County – 75 days

Wicomico County – 45 days

Most of the counties are fairly consistent with the budget process. Frederick County's budgeting process begins in October for the operating budget and in September for the Capital Improvement budget.

The County Executive is required to hold two public hearings on the proposed budget – one in December and one in March. It is, therefore, reasonable that the proposed budget be submitted by April 15.

The council then has about 45 days to review the budget proposal as well as hold another public hearing. The Council only meets on Tuesday nights and has limited time on the agenda for budget discussions because of other pressing matters. Council might consider budget-only meetings at

other times. There is an entire week set aside for reviews of Division budgets, but they have never used all five days.

By Commissioner Lisa Jarosinski
December 19, 2019

Item 23: Require CE to provide mandatory weekly budget progress reports beginning January 1 of each year. CM Blue:

"The spring 2019-budget proceedings for the FY 2020 budget, was my first experience with the County budget process. I found that the amount of time allotted in the Charter for review, understanding, and deliberation of the entire budget was insufficient. I realize that changing the date the council receives the budget and the date of approving the budget, April 15 and May 31, would not be prudent. Therefore, I propose language added to the Charter in Article 5, Section 503, to make it mandatory for the county executive to provide weekly budget progress reports to the council beginning January 1 of each year. This will allow the council to be informed about the budget prior to receiving the finalized version on April 15."

I think CM Blue is looking to know more about the budget through updates of some sort. Based upon the feedback, the County has changed their protocol.

The staff is providing quarterly budget variance reports. And, at almost every Council meeting they are now doing an "interim budget review" with every Division of the County Government. This is intended to increase the Council's basic working knowledge of each Division so they can have more productive discussions after they receive the budget on April 15th.

The reviews provide a fairly good overview of the department and what they do, as well as their goals for the future.

Option 1: Propose that the County meet CM Blue's request by providing a weekly budget report.

Option 2: Propose that the County provide more frequent reports than quarterly but less frequently than weekly – maybe monthly?

Option 3: Let the council work with the new administrative process in place and make no changes to the Charter at this time.

Item 24: Require additional public meeting(s) than the two provided in this section to allow for additional public input into the budget process.

Below are the comments from CM Hagen regarding additional public meeting(s):

“For example, when all the county council can do is set the tax rate and make cuts to the budget drafted by the county executive, it seems to me that the public hearings should include the county executive, not only the council. And/or that, with regard to the budget process, perhaps the county executive should be required to have more public hearings, and/or a later one, than the two (in December and March) that are required of the county executive in the current charter.

Also...I can't help but wonder if the charter should require a public meeting (or two, during the lengthy, complex and important budget process) between the full council and the county executive to discuss priorities, ask and answer questions, etc?”

As I read CM Hagen's comments, he is asking for three things:

- The County Executive should attend the Council Budget Public hearing
- The County Executive should hold more than two Public hearings
- The County Executive and the County Council should have a public meeting or two between the Council and the Executive to discuss the budget.

I see the needs outlined as two-fold – one for more budget information and one for more public participation.

Currently, almost all of the Council members have taken up the offer to meet with the County Executive to discuss the budget while it is being formulated to express their desires and concerns.

Budget input is received from the public via e-mails, phone calls, and letters. The county also does an on-line budget survey each year. The survey is publicized and allows people to submit budget requests and priorities.

See Budget Timeline Document.

Option 1: Require the CE to hold an additional meeting – making three for the public- December, February, and March. Require the CE to attend the Council's public budget hearing. Require the Council and the CE to have a joint public meeting to discuss the proposed budget in early May. This option would meet all of the requests of CM Hagen.

Option 2: Require the CE to attend the Council's public hearing as the CE is responsible for creating the budget.

Option 3: Require the Council and the CE to have a joint public meeting to discuss the budget.

Option 4: Let the Council and the CE work with the new administrative processes that have been put in place, encourage the public to participate, and make no changes to the Charter language.

Item 26 – Extend time for CC to act on budget resolution. CM Otis:

“Suggestion 2 – move timeline for Council's budget review up two weeks. See Section 506(d) – change date from May 31 to June 15. This will allow for additional time for the Council Members to be able to thoroughly review the budget, ask questions and allow time for answers from the Administration. The current time frame (deadline May 15) is extremely tight. Note: The final budget is

enacted on July 1 of each year. This extension for the Council still provides over two weeks for any changes.”

First – let me know that I believe CM Otis’s comment in () deadline of May 15 is a typo. I believe he meant to say May 31 as that is the current deadline.

See Budget Timeline Document for discussion.

Option 1: Move the deadline to June 15 as requested.

Option 2: Move the deadline for the receipt of the Budget by the Council up to April 1 – putting the two extra weeks on the front end.

Option 3: Leave the Charter language as is in regards to dates and time frames and see if the quarterly budget reports and Division overviews help the process.

Item 25 – Grant to CC power to transfer/add funds to sections of county budget (perhaps with a supermajority).

Review Maryland Counties Budgets document for discussion – (percentages)

All the counties with a Charter form of government except Montgomery and Prince George’s are as Frederick’s where the Council can only delete or decrease items in the budget.

Montgomery allows the Council to make changes and then those changes are subject to a veto and then possible veto override by the council.

Prince George’s County allows the Council to make changes and those changes are not subject to veto by the executive.

Option 1: Adopt a system like that of Montgomery County that allows the Council to increase, decrease or delete that are then subject to a veto and veto override.

Option 2: Adopt a system like that of Prince George’s County that allows the Council to increase, decrease, or delete without being subject to veto.

Option 3: Adopt a system that allows the Council to increase, decrease, or delete but subject to supermajority, veto, and veto override.

Option 4: Continue to work on process and coordination and make no current changes.

Item 39 – Budget provisions making clear distinctions between Operating Budget, Capital Budget, and Capital improvement Plan (CIP) and specifying “Divisions” to more accurately reflect structure of County Government, etc. County Budget Director

Following are the suggestions from the Budget Director. We can work through them and discuss.

Charter sections involving budget

104. Definitions

(a) The term "Agency" means any agency, division, department, office, board, commission or administrative entity of the Frederick County Government.

(d) The term "Budget" means the package of materials consisting of the Operating Budget, the Capital Budget, the Capital Improvement Program, and the budget message.

(e) The term "Capital Budget" means the plan to receive and expend funds for capital projects during the next fiscal year. The Capital Budget shall be appropriated in the Annual Budget and Appropriations Ordinance.

(f) The term "Capital Improvement Program" means the plan to receive and expend funds for capital projects during the next fiscal year and the next succeeding five fiscal years. The Capital Improvement Program is not appropriated in the Annual Budget and Appropriations Ordinance.

(g) The term "Capital Project" means any physical betterment or improvement; any preliminary studies and surveys related to a physical betterment and improvement; and the acquisition, renovation, remodeling and construction of any property for public use of a long-term or permanent nature, including by a lease-purchase agreement.

() The term "Sub-project" means one or more discrete projects managed under the heading of a Capital Project.

(n) The term "Frederick County Government" means the officers, personnel, divisions, departments, agencies, offices, boards, commissions, and other entities that are subject collectively to the powers of local self-government and home rule as are now or may be provided or necessarily implied by this Charter, Article XI-A of the Maryland Constitution, and Article 25A of the Annotated Code of Maryland.

(s) The term "Operating Budget" means the plan to receive and expend funds for charges incurred for operation, maintenance, interest, debt service payments and other charges for the next fiscal year. The Operating Budget shall be appropriated in the Annual Budget and Appropriations Ordinance. It includes the plan to raise and receive all manner of funds from all sources, including property taxes, for current needs and for annual appropriations for current projects.

307. Effective Date of Laws

(a) The Annual Budget and Appropriations Ordinance shall take effect on the first day of the fiscal year to which it applies. All other laws, except for expedited legislation, shall take effect sixty calendar days after enactment, except in the event a law provides for a later effective date or is referred to the voters under Section 308 of this Charter.

402. County Executive Powers and Duties

(b) preparing and submitting to the Council the annual County Budget;

(c) preparing and submitting to the Council and the public within six months after the close of the fiscal year, an annual report on the activities and accomplishments of the County government, including a comprehensive annual financial statement;

502. Fiscal Year and Tax Year

The fiscal or budget year and the tax year of the Government begins on the first day of July and ends on the thirtieth day of June of the succeeding year.

503. Preparation of the County Budget

(a) Not later than April 15 of each year, the Executive shall prepare and submit a proposed Budget to the Council for the ensuing fiscal year. The proposed Budget shall present a complete financial plan for the Government reflecting anticipated revenues from all sources, expenditures, and any surplus or deficit in the General or special funds of the Government.

(b) During preparation of the Budget, the Executive shall hold at least two public hearings to receive public comment. One hearing shall be held in December to receive proposals for inclusion in the Budget. The other shall be held in March to receive comments on budget requests. The Executive shall provide sufficient notice of the public hearings and shall cause to be published in at least one newspaper of general circulation in the County a notice of the date, time and place of each public hearing. If the Executive determines that no such newspaper exists in the County, the Executive shall use whatever media it deems most suited to satisfy the public notice requirements of this section. The Executive shall prepare a draft Budget and make it available to the public prior to the March hearing date.

(c) The proposed Budget shall be reproduced and made available to the public.

504. Budget Message

The budget message shall contain supporting summary tables and explain the proposed Operating Budget, the Capital Budget, and the Capital Improvement Program both in terms of finances and of work to be done. It shall outline the proposed financial policies of the Government for the ensuing fiscal year and describe the important features of the proposed Budget. It shall indicate any major changes in financial policies and in expenditures, appropriations and revenues as compared with the current fiscal year, and shall set forth the reasons for the changes.

505. Public Budget Hearing

Upon submission of the proposed Budget, the Council shall cause to be published in at least one newspaper of general circulation in the County, a notice of the date, time and place of at least one public hearing on the Budget by the Council. If the Council determines that no such newspaper exists in the County, the Council shall use whatever media it deems most suited to satisfy the public notice requirements of this Section. No final budget action may be taken by the Council until after a public hearing has been held, and then only in open, public session.

506. Action on the Budget by the Council

(a) After a public hearing, the Council may decrease or delete any items in the Budget, except those required by State law, by provisions for debt service on obligations then outstanding or for estimated cash deficits. The Council shall have no power to change the form of the Budget as submitted by the Executive,

to alter revenue estimates, or to increase any expenditure recommended by the Executive, unless expressly provided in State law and except to correct mathematical errors.

(b) Except as provided in subsection (c) of this section, any change in the proposed Budget to decrease or delete an item in the Budget made pursuant to subsection (a) of this section shall constitute a change of substance requiring that a public hearing be held following the posting of a fair summary of the change plus the date, time and place of the public hearing. This notice must be posted on the County website at least two days in advance of the public hearing.

(c) A decrease or deletion of one or more items in the Budget may not constitute a change of substance in the proposed Budget if the decrease or deletion constitutes less than a one percent change in the total Budget or less than a fifty percent decrease in any one line item in the Budget.

(d) The adoption of the Budget shall be by the affirmative vote of not less than four members of the Council in a law enacted not later than May 31, which shall be known as the "Annual Budget and Appropriations Ordinance of Frederick County." If the Council fails to adopt the Budget by May 31 pursuant to this subsection, the proposed Budget as submitted by the Executive shall become law.

507. Tax Levy and Balanced Budget

After enacting the Annual Budget and Appropriations Ordinance, the Council shall levy the amount of taxes required by the Budget to ensure that the Budget is balanced so that proposed revenues equal proposed expenditures.

509. Transfer of Appropriations

(a) The Executive may transfer unencumbered appropriations in the Operating Budget within the same ~~division department, agency, or office and within the same fund~~. On the recommendation of the Executive, the Council may transfer unencumbered appropriations in the Operating Budget between ~~divisions departments, agencies and offices within the same fund~~.

(b) A transfer may not be made between the Operating Budget and Capital Budget appropriations. The Executive may transfer unencumbered appropriations between a Capital Project and its sub-projects. On the recommendation of the Executive, the Council may transfer appropriations between Capital Projects within the same fund provided the Council neither creates nor abandons any Capital Projects except in accordance with Section 512 of this Charter.

(c) Notwithstanding any provisions of this section, the Council may provide by law for inter-fund cash borrowing in the same fiscal year to meet temporary cash requirements. Nothing contained in this section may be construed to prevent reimbursement among funds for services rendered.

510. Supplemental Appropriations

On the recommendation of the Executive, the Council may make supplemental appropriations from any contingency appropriations in the Budget; from revenues received from anticipated sources but in excess of budget estimates; or from revenues received from sources not anticipated in the Budget.

511. Emergency Appropriations

To meet an Emergency, as that term is defined in this Charter, the Council may make emergency appropriations from the sources provided in Section 510 of this Charter. To the extent unappropriated revenues are unavailable to meet the Emergency, the Council by law may authorize the issuance of emergency notes, which may be renewed from time to time. Emergency notes and renewals issued pursuant to this section may not be paid later than the last day of the next fiscal year succeeding that in which the emergency appropriation was made.

512. Lapsed Appropriations

Unless otherwise provided by law and except for grant appropriations or grant funds deposited in special accounts dedicated to specific functions, activities or purposes, all unexpended and unencumbered appropriations in the Operating Budget at the end of the fiscal year shall revert into the treasury. No appropriation for a Capital Project in the Capital Budget may revert until the purpose for which the appropriation was made is accomplished or abandoned; but any Capital Project shall be considered abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation.

513. Amendment to Capital Budget after Adoption of the Budget

Upon recommendation of the Executive ~~and after a public hearing~~ and an affirmative vote of at least four council members, the Council may amend the Annual Budget and Appropriations Ordinance to provide funds for a Capital Project not previously appearing in the Capital Budget for the fiscal year. If the Capital Project has not previously appeared in a Capital Improvement Program, a public hearing is required before the Council vote. The amendment may not increase the total amount of appropriations for the fiscal year, unless such increased appropriations shall be funded from revenues received in excess of those budgeted, ~~or from unanticipated revenues, or bonds within affordability limits~~ not previously budgeted in the Annual Budget and Appropriations Ordinance for the fiscal year.

514. Composition and Limitation upon County Funds

(a) All revenues and receipts from special services or benefit charges; special taxes or assessments imposed upon special taxing areas for special or particular services, purposes or benefits; funds held by the County as trustee or agent; special grants; or bond proceeds shall be paid into and appropriated from special funds created for such purposes and may not be used for any other purpose except the purpose for which a fund was created. All other revenues and receipts of the County from taxes, grants, State revenues and other receipts shall be paid into and appropriated from the general fund, which is the primary fund for the financing of current expenses for the conduct of Government business.

(b) With the recommendation of the Executive, the Council, by the Annual Budget and Appropriation Ordinance, or by other legislative act, may provide for the establishment of working capital or revolving funds for the financing of central stores, equipment pools, or other services common to the agencies of the Government.

(c) Notwithstanding other provisions of this section, upon recommendation of the Executive, the Council may establish a reserve fund for permanent public improvements. The Annual Budget and Appropriation Ordinance may dedicate cash surpluses, taxes, and other sources of revenue not otherwise appropriated to this reserve fund.

(d) Nothing in this Charter may be construed to prevent the making of contracts, leases, or other obligations that provide for the payment of funds at a time beyond the end of the fiscal year in which these contracts are made, provided the nature of these transactions reasonably requires the making of these contracts, leases or other obligations. The Council shall authorize by law any contract, lease, or other obligation in excess of \$20,000 that would obligate the County to appropriate funds in the Operating Budget for more than a single fiscal year. The amount of \$20,000 for such contracts, leases or obligations may be revised by law from time to time, but no more frequently than annually, and may not be less than \$20,000.

End

Compensation Review

Prepared for Frederick County Charter Review Commission Oct. 28, 2019 workshop
Submitted by Dylan Diggs Oct. 25, 2019

PROPOSALS TO BE CONSIDERED: Proposals to increase the County Council salary; Proposals to increase the County Executive salary; Proposals to provide County Council President a stipend; Proposals to provide County Council benefits.

Before continuing, it is important to note that much of the issues to be considered are outside the purview of the Charter Review Commission. Rather duties for adjusting compensation for the County Council and the County Executive are assigned to the Compensation Review Commission. This commission is governed by Article 25, Subsection 5(AA), of the Annotated Code of Maryland and will be addressing these issues in the following year for Council review. That said, given that these issues were related and raised by so many stakeholders, this issue was moved to workshop and warrants some further informed discussion. As such, below are some of the comparative numbers on these issues, the debate that has been brought to the Commission and some potential actions surrounding the compensation issues that the Commission may decide to address.

Proposal to Increase the County Council Salary (Charter Language Art. 2, Sec. 207)

The issue of the County Council salary was raised by a number of stakeholders, including council members, original charter review commissioner members, elected officials and citizens coming from various angles on the issue.

Current council members are given a salary of \$22,500 according to the Charter language, "For the performance of public duties under this Charter, each council member shall receive a Salary of \$ 22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget."

Compared to other Maryland charter counties, this current salary is 46 percent of the average and 62.5 percent of the median salaries of other counties governed by charters. Some of this is represented by the distinction between counties that consider their council members as part time officials or full time officials. In this sense, there are three rough classes of officials. There are the "clear full time" official in Montgomery and Prince George's counties that set their council members as high end earners over \$100,000. The second is the "medium range" officials in Baltimore and Howard counties where salaries are set within the range of \$60,000-\$70,000. The final grouping (arguably classified into two subsections) include those under \$40,000 that are clear part time officials. The final group constitutes the vast majority of council member earners in Maryland under charter government. Among these part time salaries, the Frederick

County council member salary is 94 percent of the average well above Dorchester, Talbot and Wicomico counties, but below Anne Arundel, Cecil and Harford counties.

Issue Summary: With the above information and further analysis in the attached budget tab, these are the following issues that come to mind and have been brought up to the council.

- *Cost Neutral Charter Government:* As was raised by many citizens in public comment and original charter board members, the Charter was initially sold as cost neutral. As voters recently supported charter government with this understanding, all bodies should be aware of the impact of potential budget spiral resulting from government operations and compensation.
- *Attracting Quality Candidates/Barriers to Participation:* The converse argument to keeping costs low, is that Frederick County should be wary of essentially doing democracy on the cheap and reduce barriers to getting a diversity of candidates. A number of individuals have suggested that the amount of compensation provided for the Council can be a barrier to attracting candidates who might otherwise make more in other sectors or those who might not have the means to accept lower pay. That said, this would require further research to really realize if there is a qualitative loss as a result of the current compensation.
 - Some have also noted that the workload of a councilmember is considerable and raising the salary might represent more just compensation for work provided. The resulting work-to-pay ratio may be a further barrier to participation.
 - On the other hand, others have noted the benefits of these barriers to participation. Council members under the Charter were initially designed as citizen legislators with publically-spirited intention and there was some interest in disincentivizing “career politicians” or other monetary drivers for participation.

Action: The rest of the issues on the table may be for the Commission to debate further. That said, as noted earlier, there currently is a commission with the authority to fully analyze this issue and develop recommendations for action. They will have to take into account comparative costs, interests, goals and increases in living costs. It was suggested that having the current salary in the language might be confusing once salaries do change. That may be true, as many Charters do have their initial salary in the language. This can be disorienting to the untrained eye. However, the reason for this is in the Annotated Code, “The commission may recommend an increase or decrease in the compensation paid to members of the county council, but in no event may compensation or allowances be less than provided in the charter of the respective counties.” To fit this, the Charter sets the baseline amount, or a minimum wage, for salary compensation in this language for future iterations of the salary review commission to build upon or not.

Proposal to Increase the County Executive Salary (Charter Language Art. 4, Sec. 406 (a))

Similar to the issue of the County Council salaries, the annual pay was raised by a number of stakeholders, including council members, original charter review commissioner members, elected officials and citizens coming from various angles on the issue. Many of the same issues related to the abovementioned proposal related to this and in most cases these were combined in proposals.

Currently, the County Executive is assigned a salary of \$95,000. This is much closer to the minimum pay for county executives under charter governments. Only two counties,

Cecil and Wicomico, pay their executives less. Furthermore, if the current salary is 45 percent of the highest paid executive and 61.5 percent of the average.

Issue Summary: As noted above, many of the issues surrounding this issue are shared with the council member salaries. In some ways they are heightened due to the nature of the job and that is less comparatively competitive with other charter counties in Maryland.

- *Cost Neutral Charter Government:* Given how much this was raised as a benefit of charter government, it would be prudent to be careful about raising costs so soon after elections.
- *Attracting Quality Candidates/Barriers to Participation:* This is heightened due to some of the aforementioned issues; however the most important reminder is that the county executive, unlike the county council was not envisioned as a part time job. There are benefits to establishing a competitive salary in order to avoid corruption, attracting quality candidates and providing just compensation. That said, there are also important considerations that surround whether the County would want candidates that may be driven toward the position due to its monetary pay out.

Action: According to the Charter, this is fully within the purview of the Compensation Review Commission, which can provide further analysis in more detail on the County Executive and the path forward for salary compensation.

Proposal to provide the County Council President an additional stipend Art. 2, Sec. 210 (and/or Sec. 207)

Currently there is no distinction between the County Council President and their compensation and that of the other members. This is textually similar to most other Charters, though there are some that do articulate a difference between compensation for the Council President and other members. However, while it might be textually similar, most charters do give their Council Presidents at least some monetary boost or stipend. Only Cecil County operates like Frederick in providing none. Dorchester, Talbot

and Wicomico do provide a modest stipend for the president (\$1,000 for the two former ones and \$2,000 for the latter county). The other charter counties in Maryland provide a more sizable boost.

Issue Summary:

- *Disparity in Duty:* There is a disparity between the president's duties and those of their peers on the Council. Many interviewed by the Commission noted the significant workload that faces the president. This returns to some questions about just compensation for work done.
- *Incentives:* This returns to a central question for some to question whether or not monetary advantage for the position incentivizes members to angle for it when they might not be willing to do so otherwise. This might be exacerbated when member salary is lower and that extra support becomes more significant to the

overall salary. Some have countered that the amount would be still be so small, that the monetary incentive does not make up for the workload disincentive.

Action: Most charters do not address this difference, but their salary review commissions have addressed the issue. As the main role of the charter setting that salary number is establishing the minimum wage for members, this may have the effect of providing more options for the commission to choose to increase the president's salary or opt to not have a distinction based on their research and analysis. The Harford County Charter does, however, have language that addresses the president differently on this issue, stating "The President of the Council shall receive compensation of six thousand, five hundred dollars per annum. The compensation of the President of the Council and the other Council members may be changed by law passed by an affirmative vote of at least five members of the Council." If the Charter Review Commission does opt to build in the structure of the Charter this distinction between the compensation for the president and the other members, then this might be an option.

However, there does seem to be sufficient room for the salary commission to move on this issue.

Proposal to Allow the Compensation Review Commission to Provide Benefits for Council Members (Art. 2, Sec. 207).

Per our understanding of the current Charter language, the salary provided to council members can be the only compensation for their work for the council. The exact language that addresses this is "The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget." As such, this language prevents council members from receiving benefits, such as healthcare, pensions, etc.

Currently, three county charters do provide benefits for council members. These are Baltimore, Howard and Montgomery counties. Notably, these are also some of the higher salaried council members in the state and are also arguably considered full-time members. Caroline and Somerset counties also provide benefits. Beyond

pensions and healthcare, some of these counties also provide a vehicle, computer and cell (or cell stipend).

Something to consider regarding providing benefits to council members is that it comes with notable cost. I asked our staff to provide some numbers to this. These numbers are assuming Council Members are granted access to fringe benefits the same way county employees are currently, but they provide a bit of a back-of-the-envelope math to assess the financial impact of this decision. The spreadsheet is attached and will be included at the end of this memo.

To fully understand this, it might be helpful to understand the current cost of the Council. This is relevant not only to this discussion, but to concerns from some members of the public about whether the Council would be cost neutral. Currently the individual costs of each council member is \$25,235, which accounts for their salary, payroll taxes and annual individual expenses. If you multiply this appropriately for a seven-member council,

that should amount to a cost of \$176,645 in total. This does not account for shared costs between the council members.

Individually, fringe benefits would amount to \$23,408 when taking into account the current county staff health insurance, pension, retiree health, life, dental and unemployment insurance. Thus if council members were given benefits, this would amount to an individual total cost of \$48,643 or a total County Council cost of \$340,501 annually. That would represent a \$163,856 increase in the Council's annual cost (not accounting for shared costs).

Issue Summary:

- *Cost Increase:* With the above information, one of the bigger impacts of allowing council members to have benefits is the linked costs to it. I'll mention again that the above costs are back of the napkin estimates based on some assumptions. This might change if the benefit package is changed and likely would change as benefits increase (or decrease with cost). Regardless, it does come with a price tag and one that is almost double the individual salary of the council members. If we accept the reasoning that a proportion of voters supported Charter government with the understanding that the change would be budget neutral, and there is some evidence to support this, providing benefits would influence that equation.
- *Barriers to Entry:* Related to the salary conversation, it was argued that the absence of benefits may deter quality candidates, or those needed access to healthcare, from running for county council. As Council Member Fitzwater suggested, the current salary is not a "family-sustaining wage" and lacking a benefits package that could provide support to member's health and family support, this could create a barrier to entry.
- *Part-Time Position:* This also reiterates issues raised above, but the council was originally designed to be a part time position. Potentially more than the other proposals related to compensation, the benefits issue might most influence the

perception of council members as part-time or full-time positions. Montgomery County, on the other hand, clearly declares that council members are full time jobs. The commission might want to discuss the direction of this, but the original intent was to keep council members as citizen legislators.

Action: If the Commission does decide to address this, the resulting action would need to include removing or clarifying the language “The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget” by adjusting it to more “The Salary shall be in compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget.” Notably, this would be a decision to provide the Compensation Review Commission the power to provide and adjust benefits. The Commission could also more clearly state that the Compensation Review Commission has that power or may mandate that benefits are provided, but the body can discuss if we have the appropriate resources to make that determination at this point. The other option, as it is in all of the above actions, would be to potentially log these factors and the pursuing discussion for further discussion and analysis by future commissions. As has been discussed in the past, given that this is the first iteration of the Charter Review Commission and we have a limited sample of iterations of Charter government, it might be prudent to avoid alterations that may have unknown ripple effects at this juncture.

Salary and Benefits Budget	
Individual Costs	Amount
<i>Salary</i>	\$22,500.00
<i>Payroll Taxes</i>	\$1,735.00
<i>Annual Individual Expenses</i>	\$1,000.00
Individual Costs Total	\$25,235.00
Council Total Accounted Costs (current)	\$176,645.00
Fringe Benefits*	
<i>Health Insurance</i>	\$15,143.00
<i>Pension</i>	\$3,015.00
<i>OPEB (Retiree Health)</i>	\$5,064.00
<i>Life Insurance</i>	\$75.00
<i>Dental Insurance</i>	\$60.00
<i>Unemployment Insurance</i>	\$51.00
Benefits Individual Total	\$23,408.00
Benefits Overall Total	\$163,856.00

Overall Costs with Benefits	
Individual Overall Total	\$48,643.00
Total Council Overall Costs (including all seven CMs)	\$340,501.00
Additional Analysis	
Benefits % of current cost	92.76%

Ref.	Charter Section	Topic	Nature of Change	Person Suggested	Date to CRC	CRC Action
1	Art. 1, Sec. 104 (a)	Definition of "Agency"	Add phrase "including all entities; however structural, that utilize the County's financial system" "funded by county taxes"	3 members of the public	8/29/2019	Tabled on 9/5/19 (7-0)
2	Art. 2, Sec. 203	Council to Act as a Body	Add to CC the ability to create standing committees	CM Keegan-Ayer (for) OCBM Kresslein (against) 3 members of the public (for)	7/26/2019 8/1/2019 8/29/2019	Moved to workshop on 9/5/19 (7-0)
3	Art. 2, Sec. 204 (c) (and Sec. 201)	Election of County Council	Abolish 2 At-Large CM positions (and reduce CC from 7 to 5 District CMs)	OCBM Aquilino (for) OCBM Kresslein (against) CM Hagen (against)	8/1/2019 8/1/2019 9/3/2019	Rejected by CRC on 9/5/19 (0-7)
4	Art. 2, Sec. 204 (e)	Election of County Council	Create staggered terms for CM so all not elected in gubernatorial election cycles	OCBM Aquilino	8/1/2019	Rejected by CRC on 9/5/19 (0-7)
5	Art. 2, Sec. 205 (c)	Qualifications for County Council	Prohibit CMs from serving as employees of Board of Education due to perceived conflict of interest	OCBM Mackintosh (for) 2 members of the public (for) 1 member of the public (against)	8/1/2019 8/20/2019 8/6/2019	Moved to workshop on 9/5/19 (3-4)
6	Art. 2, Sec. 207	Council Member Salary	Increase CM salary	CM Donald (for) CM Hagen (for) fmr CM Otis (for) OCBM Kresslein (for) OCBM French (for) OCBM Aquilino (against) OCBM Mackintosh (against) OCBM Hoover (against) OCBM Holtzinger (against) Sen. Young (for) 3 members of the public (for)	7/22/2019 9/3/2019 7/25/2019 8/1/2019 8/1/2019 8/1/2019 8/1/2019 8/1/2019 8/1/2019 9/7/2019 9/21/2019	Moved to workshop on 10/3/19 (7-0)
7	Art. 2, Sec. 207	Council Member Salary	Allow benefits for CMs	CM Fitzwater OCBM Kresslein	8/20/2019 8/1/2019	Moved to workshop on 10/3/19 (7-0)
8	Art. 2, Sec. 209	Vacancies of the County Council	Hold Special Election if vacancy occurs during first two years of term of CM	CM McKay CM Hagen	7/29/2019 9/3/2019	Moved to workshop on 10/3/19 (7-0)

9	Art. 2, Sec. 210 (and/or Sec. 207)	Officers of the County Council	CC President shall receive additional stipend (suggested \$1000-2000) to compensate for extra time commitment	CM Fitzwater	8/20/2019	<u>Moved to workshop on 10/3/19 (7-0)</u>
10	Art. 2, Sec. 210 (and Sec. 201 and 204)	Officers of the County Council	CC President Elected At-Large and go to 6 Districts (similar to Harford County)	CM Dacey (for) CM Hagen (against)	8/1/2019 9/3/2019	<u>Rejected by CRC on 10/3/19 (0-7)</u>
11	Art. 2, Sec. 211	Investigations by the Council	Change issuance of a subpoena possible with vote of five CM instead of six	fmr CM Otis 3 members of the public (for)	7/25/2019 9/21/2019	<u>Moved to workshop on 10/3/19 (7-0)</u>
12	Art. 2, Sec. 211	Investigations by the Council	Add power for investigations to be delegated to a standing or ad hoc committee of the Council	3 members of the public	8/29/2019	<u>Rejected by CRC on 10/3/19 (0-7)</u>
13	Art. 2, Sec. 212 (b)	Non-Interference	Change the words "the Council" to "a Council Member" to allow individual CMs to request info from CE and CE staff	CM Fitzwater	8/20/2019	<u>Moved to workshop on 10/3/19 (7-0)</u>
14	Art. 2, Sec. 212 (b)	Non-Interference	Add to language requiring CE to provide information re: constituent issues and increase communication between CE and	CM Hagen fmr CM Otis OCBM Kresslein OCBM Holtzinger	9/3/2019 7/25/2019 8/1/2019 8/1/2019	<u>Moved to workshop on 10/3/19 (7-0)</u>
15	Art. 2, Sec. 213	Council Assistance	Add to CC staff a Budget Director and Staff Attorney independent of CE and County Attorney	CM Donald (for) CM Dacey (for) CM Hagen (mentions) OCBM Holtzinger (against)	7/22/2019 8/1/2019 9/3/2019 8/1/2019	<u>Moved to workshop on 10/3/19 (7-0)</u>
15A	Art. 2, Sec. 213 (or Art. 3, Sec. 301)	Council Assistance	Add a position of Ombudsman (or standing committee for arbitration) to settle disputes between citizens and County Government before redress in Circuit Court	3 members of the public	8/29/2019	<u>Rejected by CRC on 10/3/19 (0-7)</u>
16	Art. 2, Sec. 214 (c)	Redistricting	Modify language to more closely define "substantially equal in population"	CM Hagen	9/3/2019	<u>Moved to workshop on 10/3/19 (7-0)</u>

17	Art. 4, Sec. 402 (f)	County Executive Powers and Duties (Mr. Daniels requested an opinion from the County Attorney specifying whether the section applies to FCSSO MOUs/MOAs)	Clarify whether Sec. 402 (f) requires the CE to sign any contracts entered into by the FCSSO that require the expenditure of county funds (i.e.: MOA between DHS/ICE and FCSSO re: Sec. 287 (g))	2 members of the public	8/1/2019	Tabled on <u>10/3/19 (5-2)</u>
18	Art. 4, Sec. 405 (b)	Qualifications of the County Executive	Prohibit CE from holding any other public office, etc. (make Sec. 405 (b) language agree with Sec. 205 (c))	OCBM Mackintosh	8/1/2019	Rejected by CRC on <u>10/3/19 (0-7)</u>
19	Art. 4, Sec. 406 (a)	Compensation of the County Executive	Increase the salary of the CE	OCBM Kresslein (for) OCBM Holtzinger (for) OCBM Mackintosh (against) OCBM Hoover (against) OCBM Aquilino (against) Sen. Young (for) 3 members of the public (for)	8/1/2019 8/1/2019 8/1/2019 8/1/2019 8/1/2019 9/7/2019 9/21/2019	Moved to workshop on <u>10/3/19 (7-0)</u>
20	Art. 4, Sec. 408	Vacancies of the County Executive	Hold Special Election if vacancy occurs during first two years of term of CE	CM McKay CM Hagen	7/29/2019 9/3/2019	Moved to workshop on <u>10/3/19 (7-0)</u>
21	Art. 4, Sec. 408 (b)	Vacancies of the County Executive	Appointed CE should be of same party as departing CE (align with provisions for vacant CM in Sec. 209 (b) for CC)	CM Keegan-Ayer	7/29/2019	Moved to workshop on <u>10/3/19 (7-0)</u>
22	Art. 4, Sec. 414 (a)	Plan of Organization	Add the word "budgetary" to provision	3 members of the public	9/21/2019	Rejected by CRC on <u>10/3/19 (0-7)</u>
23	Art. 5, Sec. 503	Preparation of the County Budget	Require the CE to provide mandatory weekly budget progress reports beginning January 1 of each year	CM Blue	8/9/2019	Moved to workshop on <u>10/3/19 (6-1)</u>
24	Art. 5, Sec. 503 (b)	Preparation of the County Budget	Require an additional public meeting(s) than the two provided in this section to allow for additional public input into the budget process	CM Hagen	9/3/2019	Moved to workshop on <u>10/3/19 (7-0)</u>

25	Art. 5, Sec. 506	Action on the Budget by the Council	Grant to CC power to transfer/add funds to sections of county budget (perhaps with a supermajority)	CM Donald (for) CM McKay (for) CM Keegan-Ayer (for) CM Dacey (for) CM Blue (for) CM Fitzwater (mentioned) CM Hagen (for limited) fmr CM Otis (for) OCBM Kresslein (against) OCBM Mackintosh (against) 3 members of the public (for)	7/22/2019 7/29/2019 7/26/2019 8/1/2019 8/9/2019 8/20/2019 9/3/2019 7/25/2019 8/1/2019 8/1/2019 9/21/2019	Moved to workshop on 10/3/19 (7-0)
26	Art. 5, Sec. 506 (d)	Action on the Budget by the Council	Extend time for CC to act on the budget resolution	fmr CM Otis	7/25/2019	Moved to workshop on 10/3/19 (7-0)
27	n/a	Board of Education Vacancies (See MD Code, Educ., Sec. 3-5B-01(d)(2))	Provide a more open and transparent process for BoE vacancies to include public hearings and input from CC	CM Blue	8/9/2019	Tabled on 10/3/19 (5-2)
28	n/a	Abolish Charter	Abolish Charter and Return to BOCC form of government	fmr CM Delauter OCBM Holtzinger 2 members of the public	7/17/2019 8/1/2019 8/6/2019	Rejected by CRC on 10/3/19 (0-7)
29	n/a	Create County Police Force	Remove law enforcement responsibilities from the FCSO and create a County Police Force	Sen. Young (for) 1 member of the public (against)	9/17/2019 9/5/2019	Rejected by CRC on 10/3/19 (0-7)
		CE = County Executive				
		CM = Council Member				
		CC = County Council				
		OCBM = Original Charter Board Mbr FCSO = Frederick County Sheriff's Office				

Type of Change	Commenter	Recommendation	Summed up opinion	For/Against	Relevant issues	Charter Language	Direct Language
Increase CM salary	Jerry Donald	At this point I'd like to inject two facts that, at first glance, would appear to have nothing to do with this issue. One, I have well over 200 meetings a year, receive hundreds of emails, invitations to attend events or do things I like (swear your inquiry). The Council President probably has three times the number of meetings that I have. Two, the job pays \$22,500 per year. Other counties have full time Council Members and much larger staffs. I am not asking for that. I am simply telling you what I think will need to be done if you decide the Council is able to move money within the budget. Commission established every four years to review the Council's Salary. Nevertheless, I want to go on record as saying that the current Council salaries are too low. I absolutely get that it was a goal of the original charter writing committee to have part-time citizen legislators, and I support that goal. But any realistic and fair-minded evaluation of the work load and responsibilities of the county members (at least of they are doing their homework, attending a reasonable number of commission meetings, events, etc., reading and responding to correspondence, and more) should suggest that the salary level ought to be at least modestly higher...if for no other reason than to improve the chances of meeting the goal of attracting and electing citizen legislators. in support of increasing (either in print) in support of increasing in salary for the CE and Council members, "given the nature and increasing compensation for the county executive and council members." The Charter Board did not think the voters would vote for the Charter if the salaries were higher. Mr. French wonders if the salaries are high enough to attract quality candidates. She does not feel the salaries of the county executive and council members should be raised. On the topic of the county executive and county council salaries, it was not the intention of the Charter Board to set up a "bat and switch". By this, he meant that the Charter was not to be approved and then the elected officials' compensation changed. Mr. Hoover stated that the Charter Board wanted the county executive and council salaries to be cost neutral and they did not envision changes to the salaries to be made this year. He encourages the Commission not to make any big changes to the Charter. According to Mr. Holtzinger, the compensation for the county executive and council members should be increased along the county executive's salary, it was then the Frederick County Board of Supervisors. Frederick County Board of Supervisors provides health insurance benefits for their County Council Members. The low salary combined with no health insurance results in severely limiting the citizens who are able to run for these positions. There is obviously a cost factor here, but I think it is worth looking into the possibility of adding these benefits for Council Members. Frederick County Board of Supervisors and other county boards get it. The salary limits who can run as it is not a family sustaining salary. At MACO, one found out that many counties provide it.	Council members have a large workload with \$22,500 per year salary.	Supports	Workload	Art. 2, Sec. 207	For the performance of public duties under this Charter, each Council member shall receive a Salary of \$ 22,500 per annum. A Council member may not receive annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not include reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 23A Subsection 3(A) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.
Increase CM salary	Kel Hazen	Current salaries are too low to attract and elect citizen legislators.	Supports	Attracting candidates	Art. 2, Sec. 207	\$ 22,500 per annum.	
Increase CM salary	Ron Young	Supports increasing in salary for the CE and Council members, "given the nature and increasing compensation for the county executive and council members." The Charter Board did not think the voters would vote for the Charter if the salaries were higher. Mr. French wonders if the salaries are high enough to attract quality candidates. She does not feel the salaries of the county executive and council members should be raised. On the topic of the county executive and county council salaries, it was not the intention of the Charter Board to set up a "bat and switch". By this, he meant that the Charter was not to be approved and then the elected officials' compensation changed. Mr. Hoover stated that the Charter Board wanted the county executive and council salaries to be cost neutral and they did not envision changes to the salaries to be made this year. He encourages the Commission not to make any big changes to the Charter. According to Mr. Holtzinger, the compensation for the county executive and council members should be increased along the county executive's salary, it was then the Frederick County Board of Supervisors.	Increase salary	Supports	Art. 2, Sec. 207	\$ 22,500 per annum.	
Increase CM salary	OCBM French	Supports increasing in salary for the CE and Council members, "given the nature and increasing compensation for the county executive and council members." The Charter Board did not think the voters would vote for the Charter if the salaries were higher. Mr. French wonders if the salaries are high enough to attract quality candidates. She does not feel the salaries of the county executive and council members should be raised. On the topic of the county executive and county council salaries, it was not the intention of the Charter Board to set up a "bat and switch". By this, he meant that the Charter was not to be approved and then the elected officials' compensation changed. Mr. Hoover stated that the Charter Board wanted the county executive and council salaries to be cost neutral and they did not envision changes to the salaries to be made this year. He encourages the Commission not to make any big changes to the Charter. According to Mr. Holtzinger, the compensation for the county executive and council members should be increased along the county executive's salary, it was then the Frederick County Board of Supervisors.	Increase salary	Supports	Art. 2, Sec. 207	\$ 22,500 per annum.	
Increase CM salary	OCBM Aquino	Supports increasing in salary for the CE and Council members, "given the nature and increasing compensation for the county executive and council members." The Charter Board did not think the voters would vote for the Charter if the salaries were higher. Mr. French wonders if the salaries are high enough to attract quality candidates. She does not feel the salaries of the county executive and council members should be raised. On the topic of the county executive and county council salaries, it was not the intention of the Charter Board to set up a "bat and switch". By this, he meant that the Charter was not to be approved and then the elected officials' compensation changed. Mr. Hoover stated that the Charter Board wanted the county executive and council salaries to be cost neutral and they did not envision changes to the salaries to be made this year. He encourages the Commission not to make any big changes to the Charter. According to Mr. Holtzinger, the compensation for the county executive and council members should be increased along the county executive's salary, it was then the Frederick County Board of Supervisors.	Increase salary	Supports	Art. 2, Sec. 207	\$ 22,500 per annum.	
Increase CM salary	OCBM Holtzinger	Supports increasing in salary for the CE and Council members, "given the nature and increasing compensation for the county executive and council members." The Charter Board did not think the voters would vote for the Charter if the salaries were higher. Mr. French wonders if the salaries are high enough to attract quality candidates. She does not feel the salaries of the county executive and council members should be raised. On the topic of the county executive and county council salaries, it was not the intention of the Charter Board to set up a "bat and switch". By this, he meant that the Charter was not to be approved and then the elected officials' compensation changed. Mr. Hoover stated that the Charter Board wanted the county executive and council salaries to be cost neutral and they did not envision changes to the salaries to be made this year. He encourages the Commission not to make any big changes to the Charter. According to Mr. Holtzinger, the compensation for the county executive and council members should be increased along the county executive's salary, it was then the Frederick County Board of Supervisors.	Increase salary	Supports	Art. 2, Sec. 207	\$ 22,500 per annum.	
Salary Benefits	OCBM French	Reassessing the prohibition of council member benefits Many counties provide health insurance benefits for their County Council Members. The low salary combined with no health insurance results in severely limiting the citizens who are able to run for these positions. There is obviously a cost factor here, but I think it is worth looking into the possibility of adding these benefits for Council Members. Frederick County Board of Supervisors and other county boards get it. The salary limits who can run as it is not a family sustaining salary. At MACO, one found out that many counties provide it.	Private benefits	Attracting candidates	Art. 2, Sec. 207	\$ 22,500 per annum. A Council member may not receive annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not include reasonable and necessary expenses as may be provided in the Budget.	
Salary Benefits	Fitzwater	Frederick County Board of Supervisors and other county boards get it. The salary limits who can run as it is not a family sustaining salary. At MACO, one found out that many counties provide it.	Limiting officers able to run for the position	Attracting candidates	Art. 2, Sec. 210 (and/or Sec. 207)	\$ 22,500 per annum. A Council member may not receive annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not include reasonable and necessary expenses as may be provided in the Budget.	
Council President	Fitzwater	I think some consideration should be given to the idea that the Council President receive an additional stipend above and beyond the Council Member salary. This position requires a good deal of extra work and coordination with no compensation. I believe several other counties do this, and even if it is just one or two thousand dollars, it would be something to recognize the extra commitment this position requires.	Increase president salary	Workload			

Compensation of t OCIM Kreslain	Increasing compensation for the county executive and council members				Art. 4, Sec. 406 (a)	(a) Subject to subsection (b) of this section, the Executive shall receive a Salary of \$ 95,000. In addition to Salary, the Executive shall be entitled to receive Allowances and Fringe Benefits as those terms are defined in this Charter. The Executive may not accrue annual leave or be entitled to any payment in lieu thereof. (b) The Compensation Review Commission established pursuant to Section 307 of this Charter shall review the Executive's Salary and make recommendations to the Council. The Council shall have the power to increase the Salary by the affirmative vote of not less than four council members. To reduce the Salary, the affirmative vote of not less than five council members is required. In no event shall the Salary be reduced to a figure lower than that provided in subsection (a) of this section except by supermajority vote. The Salary of the Executive may not be increased or reduced during his or her current term.
Compensation of t OCIM Heibinger Frederick City mayor	According to Mr. Heibinger, the compensation for the county executive and council members should be increased during the county executive's salary is less than the intention of the Charter Board to set up a "trait and switch". By this, he meant that the Charter was not to be approved and then the elected official's compensation	Supports	Workload		Art. 4, Sec. 406 (a)	the Executive shall receive a Salary of \$ 95,000
Compensation of t OCIM Madonitz	Mr. Hoover stated that the Charter Board wanted the county executive and council salaries to be cost neutral and they did not envision changes to the salaries to be made this soon. He encourages the Commission not to make many big changes to the Charter.	Supports	Attracting candidates		Art. 4, Sec. 406 (a)	the Executive shall receive a Salary of \$ 95,000
Compensation of t OCIM Hoover	She does not feel the salaries of the county executive and council members should be raised.	Against	Costs		Art. 4, Sec. 406 (a)	the Executive shall receive a Salary of \$ 95,000
Compensation of t OCIM Aquilino	Supports increases in salary for the CE and Council members, "given the nature and importance of the job, including the time and task required."	Against	Too soon		Art. 4, Sec. 406 (a)	the Executive shall receive a Salary of \$ 95,000
Compensation of t Sen. Young		Supports	Workload		Art. 4, Sec. 406 (a)	the Executive shall receive a Salary of \$ 95,000

Salary and Benefits Budget	
Individual Costs	Amount
Salary	\$22,500.00
Payroll Taxes	\$4,735.00
Annual Individual Expenses	\$1,000.00
Individual Costs Total	\$28,235.00
Council Total Accounted Costs (current)	\$176,645.00
Fringe Benefits*	
Health Insurance	\$15,143.00
Pension	\$3,015.00
OPES (Retiree Health)	\$5,064.00
Life Insurance	\$75.00
Dental Insurance	\$60.00
Unemployment Insurance	\$31.00
Benefits Individual Total	\$23,408.00
Benefits Overall Total	\$169,856.00
Overall Costs with Benefits	
Individual Overall Total	\$48,643.00
Total Council Overall Costs (including all seven CME)	\$340,501.00
Additional Analysis	
Benefits % of current cost	92.76%

*Assuming Council Members are granted access to fringe benefits the same way county employees are, you can assume these costs per individual. Anti-point cost. Health coverage is optional. Some employees refuse the benefit. For those who participate there is a cost range depending on the personal coverage they select. This amount is an average used in budgeting. There are age and time-in-service requirements to become eligible to receive a pension. Given the term limits in the Charter it is reasonable to assume very few Council Members would ever actually receive a pension benefit. With constraints similar to the pension notes above.

May require further research whether (using an election qualifies somebody to receive a benefit.)

Compensation Review Commission, Article 25, Subsection Executive Compensation

Charter	Compensation Language
Anne Arundel	<p>Each member of the County Council shall be paid for the performance of his duties as provided in this Charter the sum of Twenty-one Hundred Dollars (\$2,100.00) per annum. Such salary shall be in full compensation for all services required by law or by this Charter to be performed by the members of the County Council. No member of the County Council shall be entitled to any other allowance of any kind, except that, subject to approval of the Council, he may be allowed his actual necessary expenses incurred in representing the County beyond the geographical boundaries thereof.</p> <p>Compensation and allowances to be paid to members of the county council shall be set as provided in 19-302 of the local Government Article of the Annotated Code of Maryland, as amended.</p> <p>Each Council member shall receive as compensation and allowances for the performance of public duties under this Charter the sum of not less than \$25,000 per annum. A Council member shall not accrue annual leave or be entitled to any payment in lieu thereof. The compensation and allowances shall be in full compensation for all services performed by members of the Council as required by this Charter, but shall not preclude reasonable and necessary expenses as may be provided in the budget. The County Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's compensation and allowances in accordance with the provisions of Article 25, Subsection 5 (AA), of the Annotated Code of Maryland.</p>
Cecil	<p>For the performance of public duties under this Charter, each council member shall receive a Salary of \$ 22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. <u>The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget.</u> The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendations, but it may not increase any recommended item.</p> <p>Each member of the Council shall receive as compensation and allowances for the performance of public duties under this Charter the sum of not less than seventy-eight Hundred Dollars (\$7,800) per annum and shall not accrue annual leave or be entitled to any payment in lieu thereof. The compensation and allowances shall be in full compensation for all services required by this Charter to be performed by the members of the Council, but shall not preclude reasonable and necessary expenses as may be provided in the budget. The County Council shall establish a Compensation Review Commission every four years to review the Council's compensation and allowances in accordance with the provision of Article 25A Subsection 5(AA) of the Annotated Code of Maryland.</p> <p>The Council shall prescribe by law the compensation for its members. Membership on the Council shall be considered a full-time position for the purpose of determining compensation. No change in the compensation of members of the Council shall become effective during the term of office of the Council involving the change.</p>
Frederick	<p>Subject to subsection (b) of this section, the Executive shall receive a Salary of \$ 95,000. In addition to Salary, the Executive shall be entitled to receive Allowances and Fringe Benefits as those terms are defined in this Charter. The Executive may not accrue annual leave or be entitled to any payment in lieu thereof.</p> <p>(b) The Compensation Review Commission established pursuant to Section 207 of this Charter shall review the Executive's Salary and make recommendations to the Council. The Council shall have the power to increase the Salary by the affirmative vote of not less than four council members. To reduce the Salary, the affirmative vote of not less than five council members is required. In no event shall the Salary be reduced to a figure lower than that provided in subsection (a) of this section except by amendment thereto. The Salary of the Executive may not be increased or reduced during his or her current term.</p>
Howard	<p>The ordinance making any change in the salary paid to members of the county council shall be ordinance prior to the election for the members of the next succeeding council and take effect only for the members of the next succeeding council.</p>
Montgomery	<p>Subject to subsection (b) of this section, the Executive shall receive a Salary of \$ 95,000. In addition to Salary, the Executive shall be entitled to receive Allowances and Fringe Benefits as those terms are defined in this Charter. The Executive may not accrue annual leave or be entitled to any payment in lieu thereof.</p> <p>(b) The Compensation Review Commission established pursuant to Section 207 of this Charter shall review the Executive's Salary and make recommendations to the Council. The Council shall have the power to increase the Salary by the affirmative vote of not less than four council members. To reduce the Salary, the affirmative vote of not less than five council members is required. In no event shall the Salary be reduced to a figure lower than that provided in subsection (a) of this section except by amendment thereto. The Salary of the Executive may not be increased or reduced during his or her current term.</p>

Compensation Review

Prepared for Frederick County Charter Review Commission Oct. 28, 2019 workshop
Submitted by Dylan Diggs Oct. 25, 2019

PROPOSALS TO BE CONSIDERED: Proposals to increase the County Council salary; Proposals to increase the County Executive salary; Proposals to provide County Council President a stipend; Proposals to provide County Council benefits.

Before continuing, it is important to note that much of the issues to be considered are outside the purview of the Charter Review Commission. Rather duties for adjusting compensation for the County Council and the County Executive are assigned to the Compensation Review Commission. This commission is governed by Article 25, Subsection 5(AA), of the Annotated Code of Maryland and will be addressing these issues in the following year for Council review. That said, given that these issues were related and raised by so many stakeholders, this issue was moved to workshop and warrants some further informed discussion. As such, below are some of the comparative numbers on these issues, the debate that has been brought to the Commission and some potential actions surrounding the compensation issues that the Commission may decide to address.

Proposal to Increase the County Council Salary (Charter Language Art. 2, Sec. 207)

The issue of the County Council salary was raised by a number of stakeholders, including council members, original charter review commissioner members, elected officials and citizens coming from various angles on the issue.

Current council members are given a salary of \$22,500 according to the Charter language, "For the performance of public duties under this Charter, each council member shall receive a Salary of \$ 22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget."

Compared to other Maryland charter counties, this current salary is 46 percent of the average and 62.5 percent of the median salaries of other counties governed by charters. Some of this is represented by the distinction between counties that consider their council members as part time officials or full time officials. In this sense, there are three rough classes of officials. There are the "clear full time" official in Montgomery and Prince George's counties that set their council members as high end earners over \$100,000. The second is the "medium range" officials in Baltimore and Howard counties where salaries are set within the range of \$60,000-\$70,000. The final grouping (arguably classified into two subsections) include those under \$40,000 that are clear part time officials. The final group constitutes the vast majority of council member earners in Maryland under charter government. Among these part time salaries, the Frederick

County council member salary is 94 percent of the average well above Dorchester, Talbot and Wicomico counties, but below Anne Arundel, Cecil and Harford counties.

Issue Summary: With the above information and further analysis in the attached budget tab, these are the following issues that come to mind and have been brought up to the council.

- *Cost Neutral Charter Government:* As was raised by many citizens in public comment and original charter board members, the Charter was initially sold as cost neutral. As voters recently supported charter government with this understanding, all bodies should be aware of the impact of potential budget spiral resulting from government operations and compensation.
- *Attracting Quality Candidates/Barriers to Participation:* The converse argument to keeping costs low, is that Frederick County should be wary of essentially doing democracy on the cheap and reduce barriers to getting a diversity of candidates. A number of individuals have suggested that the amount of compensation provided for the Council can be a barrier to attracting candidates who might otherwise make more in other sectors or those who might not have the means to accept lower pay. That said, this would require further research to really realize if there is a qualitative loss as a result of the current compensation.
 - Some have also noted that the workload of a councilmember is considerable and raising the salary might represent more just compensation for work provided. The resulting work-to-pay ratio may be a further barrier to participation.
 - On the other hand, others have noted the benefits of these barriers to participation. Council members under the Charter were initially designed as citizen legislators with publically-spirited intention and there was some interest in disincentivizing “career politicians” or other monetary drivers for participation.

Action: The rest of the issues on the table may be for the Commission to debate further. That said, as noted earlier, there currently is a commission with the authority to fully analyze this issue and develop recommendations for action. They will have to take into account comparative costs, interests, goals and increases in living costs. It was suggested that having the current salary in the language might be confusing once salaries do change. That may be true, as many Charters do have their initial salary in the language. This can be disorienting to the untrained eye. However, the reason for this is in the Annotated Code, “The commission may recommend an increase or decrease in the compensation paid to members of the county council, but in no event may compensation or allowances be less than provided in the charter of the respective counties.” To fit this, the Charter sets the baseline amount, or a minimum wage, for salary compensation in this language for future iterations of the salary review commission to build upon or not.

Proposal to Increase the County Executive Salary (Charter Language Art. 4, Sec. 406 (a))

Similar to the issue of the County Council salaries, the annual pay was raised by a number of stakeholders, including council members, original charter review commissioner members, elected officials and citizens coming from various angles on

the issue. Many of the same issues related to the abovementioned proposal related to this and in most cases these were combined in proposals.

Currently, the County Executive is assigned a salary of \$95,000. This is much closer to the minimum pay for county executives under charter governments. Only two counties, Cecil and Wicomico, pay their executives less. Furthermore, the current salary is 45 percent of the highest paid executive and 61.5 percent of the average.

Issue Summary: As noted above, many of the issues surrounding this issue are shared with the council member salaries. In some ways they are heightened due to the nature of the job and that is less comparatively competitive with other charter counties in Maryland.

- *Cost Neutral Charter Government:* Given how much this was raised as a benefit of charter government, it would be prudent to be careful about raising costs so soon after elections.
- *Attracting Quality Candidates/Barriers to Participation:* This is heightened due to some of the aforementioned issues; however the most important reminder is that the county executive, unlike the county council was not envisioned as a part time job. There are benefits to establishing a competitive salary in order to avoid corruption, attracting quality candidates and providing just compensation. That said, there are also important considerations that surround whether the County would want candidates that may be driven toward the position due to its monetary pay out.

Action: According to the Charter, this is fully within the purview of the Compensation Review Commission, which can provide further analysis in more detail on the County Executive and the path forward for salary compensation.

Proposal to provide the County Council President an additional stipend Art. 2, Sec. 210 (and/or Sec. 207)

Currently there is no distinction between the County Council President and their compensation and that of the other members. This is textually similar to most other Charters, though there are some that do articulate a difference between compensation for the Council President and other members. However, while it might be textually similar, most charters do give their Council Presidents at least some monetary boost or stipend. Only Cecil County operates like Frederick in providing none. Dorchester, Talbot

and Wicomico do provide a modest stipend for the president (\$1,000 for the two former ones and \$2,000 for the latter county). The other charter counties in Maryland provide a more sizable boost.

Issue Summary:

- *Disparity in Duty:* There is a disparity between the president's duties and those of their peers on the Council. Many interviewed by the Commission noted the

significant workload that faces the president. This returns to some questions about just compensation for work done.

- *Incentives*: This returns to a central question for some to question whether or not monetary advantage for the position incentivizes members to angle for it when they might not be willing to do so otherwise. This might be exacerbated when member salary is lower and that extra support becomes more significant to the overall salary. Some have countered that the amount would be still be so small, that the monetary incentive does not make up for the workload disincentive.

Action: Most charters do not address this difference, but their salary review commissions have addressed the issue. As the main role of the charter setting that salary number is establishing the minimum wage for members, this may have the effect of providing more options for the commission to choose to increase the president's salary or opt to not have a distinction based on their research and analysis. The Harford County Charter does, however, have language that addresses the president differently on this issue, stating "The President of the Council shall receive compensation of six thousand, five hundred dollars per annum. The compensation of the President of the Council and the other Council members may be changed by law passed by an affirmative vote of at least five members of the Council." If the Charter Review Commission does opt to build in the structure of the Charter this distinction between the compensation for the president and the other members, then this might be an option.

However, there does seem to be sufficient room for the salary commission to move on this issue.

Proposal to Allow the Compensation Review Commission to Provide Benefits for Council Members (Art. 2, Sec. 207).

Per our understanding of the current Charter language, the salary provided to council members can be the only compensation for their work for the council. The exact language that addresses this is "The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget." As such, this language prevents council members from receiving benefits, such as healthcare, pensions, etc.

Currently, three county charters do provide benefits for council members. These are Baltimore, Howard and Montgomery counties. Notably, these are also some of the higher salaried council members in the state and are also arguably considered full-time members. Caroline and Somerset counties also provide benefits. Beyond

pensions and healthcare, some of these counties also provide a vehicle, computer and cell (or cell stipend).

Something to consider regarding providing benefits to council members is that it comes with notable cost. I asked our staff to provide some numbers to this. These numbers are assuming Council Members are granted access to fringe benefits the same way county employees are currently, but they provide a bit of a back-of-the-envelope math to assess the financial impact of this decision. The spreadsheet is attached and will be included at the end of this memo.

To fully understand this, it might be helpful to understand the current cost of the Council. This is relevant not only to this discussion, but to concerns from some members of the public about whether the Council would be cost neutral. Currently the individual costs of each council member is \$25,235, which accounts for their salary, payroll taxes and annual individual expenses. If you multiply this appropriately for a seven-member council, that should amount to a cost of \$176,645 in total. This does not account for shared costs between the council members.

Individually, fringe benefits would amount to \$23,408 when taking into account the current county staff health insurance, pension, retiree health, life, dental and unemployment insurance. Thus if council members were given benefits, this would amount to an individual total cost of \$48,643 or a total County Council cost of \$340,501 annually. That would represent a \$163,856 increase in the Council's annual cost (not accounting for shared costs).

Issue Summary:

- *Cost Increase:* With the above information, one of the bigger impacts of allowing council members to have benefits is the linked costs to it. I'll mention again that the above costs are back of the napkin estimates based on some assumptions. This might change if the benefit package is changed and likely would change as benefits increase (or decrease with cost). Regardless, it does come with a price tag and one that is almost double the individual salary of the council members. If we accept the reasoning that a proportion of voters supported Charter government with the understanding that the change would be budget neutral, and there is some evidence to support this, providing benefits would influence that equation.
- *Barriers to Entry:* Related to the salary conversation, it was argued that the absence of benefits may deter quality candidates, or those needed access to healthcare, from running for county council. As Council Member Fitzwater suggested, the current salary is not a "family-sustaining wage" and lacking a benefits package that could provide support to member's health and family support, this could create a barrier to entry.
- *Part-Time Position:* This also reiterates issues raised above, but the council was originally designed to be a part time position. Potentially more than the other proposals related to compensation, the benefits issue might most influence the

perception of council members as part-time or full-time positions. Montgomery County, on the other hand, clearly declares that council members are full time jobs. The commission might want to discuss the direction of this, but the original intent was to keep council members as citizen legislators.

Action: If the Commission does decide to address this, the resulting action would need to include removing or clarifying the language "The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget" by adjusting it to more "The Salary shall be in compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget." Notably,

this would be a decision to provide the Compensation Review Commission the power to provide and adjust benefits. The Commission could also more clearly state that the Compensation Review Commission has that power or may mandate that benefits are provided, but the body can discuss if we have the appropriate resources to make that determination at this point. The other option, as it is in all of the above actions, would be to potentially log these factors and the pursuing discussion for further discussion and analysis by future commissions. As has been discussed in the past, given that this is the first iteration of the Charter Review Commission and we have a limited sample of iterations of Charter government, it might be prudent to avoid alterations that may have unknown ripple effects at this juncture.

Salary and Benefits Budget	
Individual Costs	Amount
<i>Salary</i>	\$22,500.00
<i>Payroll Taxes</i>	\$1,735.00
<i>Annual Individual Expenses</i>	\$1,000.00
Individual Costs Total	\$25,235.00
Council Total Accounted Costs (current)	\$176,645.00
Fringe Benefits*	
<i>Health Insurance</i>	\$15,143.00
<i>Pension</i>	\$3,015.00
<i>OPEB (Retiree Health)</i>	\$5,064.00
<i>Life Insurance</i>	\$75.00
<i>Dental Insurance</i>	\$60.00
<i>Unemployment Insurance</i>	\$51.00
Benefits Individual Total	\$23,408.00
Benefits Overall Total	\$163,856.00

Overall Costs with Benefits	
Individual Overall Total	\$48,643.00
Total Council Overall Costs (including all seven CMs)	\$340,501.00
Additional Analysis	
Benefits % of current cost	92.76%

Compensation Review

Prepared for Frederick County Charter Review Commission Dec. 11, 2019 workshop

Submitted by Dylan Diggs December 11, 2019

PROPOSALS TO BE CONSIDERED: Add to language requiring CE to provide information re: constituent issues and increase communication between CE and CC.

Proposal to Increase the Communication Between the County Executive and Council through the Non-Interference Clause Art. 2, Sec. 212 (b))

The issue of the non-interference clause has come up from a number of stakeholders, including council members and original charter review commissioner members. There was some expressed frustration with the communication between the County Executive and the Council Members. As Kresslein noted, the council members should be able to request basic information (or have reasonable access to information) from the administration staff. This sentiment was reiterated by a number of original CRC members and council members.

Constituent Services and Access to Information: Much of this derives from a demand that is placed on Council Members from the public to serve a role in the constituent services of the County to serve as both a resource and advocate to citizens regarding issues in the community and service delivery challenges, among other things. As Commissioner Miller said in our minutes, “an elected council member should be able to obtain information needed to assist a constituent or for legislative purposes. She added that this should happen in a timely manner. The flow of information should work for everyone not just for those who are in line with the county executive.”

Communication Policy: This hit its peak in the former council, where the process that created some barriers to this communication was designed to protect Administration staff from harassment from Council Members. As such, the Council has created and revised a communication policy between the Council and the County Executive to help facilitate a healthy communication. It was also further communicated that having each Council Member having direct access to department heads can create problems. After all, department heads can only have one boss, and that should reside within the County Executive hierarchy.

Continued Issues: Despite this, there remain concerns. As Council Member Fitzwater pointed out, it is the duty of the Executive to provide any information that is requested by the Council in writing for the purpose of introducing and evaluating legislation or to engage in the review and monitoring of Government programs, activities, and policy implementation. Council Member Hagen also stated that “The council is at the mercy of the county executive with the distribution of information,” suggesting that direct communication with the department and division heads would be helpful. Council Member

McKay suggested that “there is a difference between asking for information to be created and asking for information that already exists.”

Other Charters: After a review of Maryland’s peer Charters, the issue of non-interference comes up often, highlighting the importance of there being a barrier to protect

administration staff. Most create some kind of barrier between the Council and department heads. Some specify that communication can only occur with the Executive. Some, such as Anne Arundel, specify that this barrier exists only in the case of inquiry. Most detail that the Council should not be able to influence or order administration staff in any way, similar to Frederick's language.

Frederick's language derives primarily from the Cecil County's language, however, with the non-interference clause, Frederick's language is more detailed. Cecil's language says, "Neither the Council nor any of its members shall appoint, dismiss or give directions to any individual employee of the Executive Branch of the government." While, Frederick's begins similarly, it also expands this by stating:

(b) Notwithstanding subsection (a) of this section, it shall be the duty of the Executive to provide any information that is requested by the Council in writing for the purpose of introducing and evaluating legislation or to engage in the review and monitoring of Government programs, activities, and policy implementation.

While it is unique among other Charters, above Frederick language helps to establish an expectation that there should be a reasonable line of communication for the purposes of inquiry.

Council vs. Council Members: One of the remaining challenges that Council Member Fitzwater raised, is that the Charter refers to the Council as a body in this language. On one hand this can be helpful in preventing Department Heads from receiving too many requests from multiple members. As was noted, this can be onerous and could be abused to a level that might be considered harassment. On the other hand, funneling requests as the council has the potential to (1) bottleneck information and (2) in a contentious political environment, this could lead to a detrimental situation where the majority party has disproportionate access to information. The latter is potentially the most concerning regarding the Charter as there should be some expectation for respecting and protecting minority rights through governing institutions.

Action: We have a few issues on the table for consideration with regard to the non-interference clause:

- We can leave it the same. They have a communication policy that sets up a current process. The Charter can have a role in institutionalizing processes, especially if they relate to fundamental principles, but there is a value in allowing these actors to continue to grow and iterate.
 - We can adopt Council Member Fitzwater's recommendation to adjust the language to expand the right to submit a request for information beyond the Council to Council Members to the following: "Notwithstanding subsection (a) of this section, it shall be the duty of the Executive to provide any information that is requested by the Council, **and its members**, in writing for the purpose of introducing and evaluating legislation or to engage in the review and monitoring of Government programs, activities, and policy implementation.
3. The CRC can also expand on this to codify a need for further communication but also maintain protections for administrative staff. Here is a scaled up version of the language changes that we could pursue:

“(a) **Except for the purposes of inquiry**, Neither the Council nor any of its members shall appoint, dismiss, or give directions to any individual employee of the Executive Branch of the Government, except as may be provided by State law or this Charter.

Notwithstanding subsection (a) of this section, it shall be the duty of the Executive to provide any information, **in a timely manner**, that is requested by the Council, **and its members**, in writing for the purpose of introducing and evaluating legislation or to engage in the review and monitoring of Government programs, activities, and policy implementation.”

From: [Black, Bryon](#)
To: [Charter Review](#); [April Miller](#); [Cherney, Ragen](#); [Dylan Diggs](#); [John Daniels](#); [Lisa Jarosinski](#); [Mathias, John](#); [Paul Gilligan](#); [Redmond, Lee](#); [Stephen Slater](#); [Walter Olson](#)
Subject: Disparity of Pay for Council President
Date: Tuesday, November 5, 2019 8:55:08 AM
Attachments: [20191105084743811.pdf](#)

Charter Review Commission Members,

During the October 24th meeting you asked for an opinion on the authority to grant a disparity of pay for the Council President. The short answer is that there is no prohibition to the Council President receiving a higher salary than other Council members or from receiving a stipend.

Maryland Constitution Article XI-A, section 6 gives the County voters the authority to set the number, compensation, and powers of the Council, which has been accomplished through the enactment of the Charter.

The Local Government Code §10-302, authorizes the establishment of a compensation review commission by the County which "shall submit to the county legislative body its recommendation for the compensation and allowances for members of the county legislative body." This provision does not draw any distinction between the Council members but also does not state the compensation must be equal.

A review of 2018 data provided by the Maryland Association of Counties shows that of the 11 Charter counties only Frederick and Cecil provide the same compensation for the president as the other Council members. A chart of the amounts paid is attached.

To compensate the Council President at a higher rate than other members would require an amendment to Charter §207 providing the authorization for the disparity in pay.

Bryon

Bryon C. Black
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From: Charter Review <CharterReview@FrederickCountyMD.gov>

Sent: Tuesday, November 5, 2019 8:41 AM

To: [April Miller](mailto:aprilmiller@comcast.net) <aprilmiller@comcast.net>; [Black, Bryon](mailto:BBlack@FrederickCountyMD.gov) <BBlack@FrederickCountyMD.gov>; [Cherney, Ragen](mailto:RCherney@FrederickCountyMD.gov) <RCherney@FrederickCountyMD.gov>; [Dylan Diggs](mailto:dylidiggs@gmail.com) <dylidiggs@gmail.com>; [John Daniels](mailto:johndaniels64@gmail.com) <johndaniels64@gmail.com>; [Lisa Jarosinski](mailto:lisajaro@aol.com) <lisajaro@aol.com>; [Mathias, John](mailto:JMathias@FrederickCountyMD.gov) <JMathias@FrederickCountyMD.gov>; [Paul Gilligan](mailto:pauljgilligan@comcast.net) <pauljgilligan@comcast.net>; [Redmond, Lee](mailto:LRedmond@FrederickCountyMD.gov) <LRedmond@FrederickCountyMD.gov>; [Stephen Slater](mailto:sgslawslate@comcast.net) <sgslawslate@comcast.net>; [Walter Olson](#)

<walterkolson@gmail.com>

Subject: FW: FOR THE RECORD (with attachment)

From: Karl Bickel <KarlBickel@comcast.net>

Sent: Tuesday, November 5, 2019 8:19 AM

To: Charter Review <CharterReview@FrederickCountyMD.gov>

Subject: FW: FOR THE RECORD (with attachment)

[EXTERNAL EMAIL]

Charter Review Commission,

For the record, I just want to provide some clarification regarding an inaccurate statement the Sheriff made during the public comment portion of your October 28th meeting. The Sheriff referenced Memorandums of Understanding, "35 to 40" and specifically with the Washington County Sheriff's Office. I presume that the Sheriff would be aware of the Annotated Code of Maryland Criminal Procedures under § 2-105, Mutual aid agreements, as well as his request for specific approval of the County Executive, the County Council and the required signatures on the Washington County Agreement. The request for the County Executive's signature and the MOU with Washington County containing the County Executive's signature is attached for your review.

The relevant portions of Annotated Code of Maryland Criminal Procedures under § 2-105. Mutual aid agreements, reads:

Title 2. Law Enforcement Procedures; Arrest Process Subtitle 1. Definitions; General Provisions Effective: March 27, 2019 MD Code, Criminal Procedure, § 2-105

Governing body defined

(a) In this section, "governing body" means:

- (1) the county executive and county council of a charter county with a county executive;
- (2) the county council of a charter county with no county executive;
- (3) the board of county commissioners of a county; or
- (4) the mayor and council, by whatever name known, of a municipal corporation.

Circumstances for going beyond county or municipal borders

(b) By action as in the regular routine for legislative enactment, the governing body of a county or municipal corporation may determine the circumstances under which the police officers and other officers, agents, and employees of the county or municipal corporation, together with all necessary equipment, may lawfully go or be sent beyond the boundaries of the county or municipal corporation to any place within or outside the State.

This section is new language derived without substantive change from former Art. 27, § 602B.

Subsection (a) of this section is revised as a definition of "governing body" to provide a shorthand method to refer to the entities included in the term "governing body" for

purposes of this section. It is based on the list in the first sentence of former Art. 27, § 602B(a) of enumerated entities that may authorize police and others to go or be sent beyond the territorial limits of the jurisdiction.

Here are additional MOUs as well as video links to County Council meetings in which the Sheriff sought Council approval for MOUs.

Additional Mutual Aid Agreement information:

29 Mutual Aid Agreement, Baltimore City,

<https://www.frederickcountymd.gov/documentcenter/view/283264>

30 Mutual Aid Agreement, Brunswick Police,

<https://www.frederickcountymd.gov/documentcenter/view/300158>

31 Mutual Aid Agreement, Washington County,

<https://www.frederickcountymd.gov/documentcenter/view/302138>

<https://www.frederickcountymd.gov/DocumentCenter/View/319342/0604-Frederick-County-Sheriffs-Office-and-Mount-Airy-MOU-and-Resolution-for-Mutual-Aid-Agreement---C-Jenkins---Sheriffs-Office>

Video links to council meetings:

1. June 2019: http://frederick.granicus.com/MediaPlayer.php?view_id=9&clip_id=6922
2. December 2018: http://frederick.granicus.com/MediaPlayer.php?view_id=9&clip_id=6256&meta_id=91273

In regard to another point raised by Ms. Miller, concerning the applicability of Subsection 402 (g) to the Board of Education (BOE), the County Code specifically exempts the BOE from the county purchasing procedures under Article II, Purchasing.

§ 1-2-16. DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

AGENCY. Any service area, division, department, board or commission of the county, including all entities, however structured, that utilize the county's financial system, except the County Board of Education and Frederick Community College.

I believe that it is important that the record be accurate if the public is to have confidence in the hard work that the Charter Review Commission is doing.

Thank you very much for your service on the Commission.

Karl

Karl W. Bickel

(301) 639-9665

KarlBickel@comcast.net

From: [Black, Bryon](#)
To: [Dylan Diggs](#); [Redmond, Lee](#)
Subject: FW: Spreadsheet Item 9 – Article 2, Section 210/207 (CC President Stipend)
Date: Tuesday, December 10, 2019 3:48:20 PM

From: Black, Bryon
Sent: Tuesday, December 10, 2019 1:17 PM
To: 'Dylan Diggs' <dyldiggs@gmail.com>
Subject: RE: Spreadsheet Item 9 – Article 2, Section 210/207 (CC President Stipend)

I believe the major difference surrounds tax treatment. A stipend is not considered wages so no tax withholding occurs, it is not subject to Social Security or Medicare taxes but is still considered taxable income for income tax purposes. A wage (salary) is subject to withholding, Social Security and Medicare taxes and is considered taxable income. The stipend paid to the President is considered a reimbursement for expenses whereas the salary is compensation.

Bryon

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From: Dylan Diggs <dyldiggs@gmail.com>
Sent: Tuesday, December 10, 2019 12:53 PM
To: Black, Bryon <BBlack@FrederickCountyMD.gov>
Cc: Redmond, Lee <LRedmond@FrederickCountyMD.gov>
Subject: Re: Spreadsheet Item 9 – Article 2, Section 210/207 (CC President Stipend)

[EXTERNAL EMAIL]

Thanks so much Byron,

Is there any substantive difference between the wording "stipend" and making the salary of the president higher?

Thanks!
Dylan

On Tue, Dec 10, 2019 at 11:08 AM Black, Bryon <BBlack@frederickcountymd.gov> wrote:

Commission Member Diggs

John was addressing this issue but is out of the office today. Without speaking for him I have the following thoughts on your questions.

If you are providing a stipend it would be wise to mention that is what is being provided:

"The president of the Council shall receive a stipend of an additional one thousand dollars (\$1,000.00) per annum."

If on the other hand you wish to provide a higher salary for the President then:

The annual salary of the President of the County Council shall be \$XXXX.

As for the alternative, the PG County Code provides:

The compensation of the Chair of the County Council shall be fixed at five percent (5%) per annum in excess of the compensation of the other Council members during such person's term as Chair.

I believe using language similar to this would better provide for the additional compensation and ensure that the president would only receive the additional sums while holding that office.

Bryon

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F 301-600-1161

From: Dylan Diggs <dylidiggs@gmail.com>

Sent: Monday, December 9, 2019 3:24 PM

To: Black, Bryon <BBlack@FrederickCountyMD.gov>; Redmond, Lee <LRedmond@FrederickCountyMD.gov>

Subject: Spreadsheet Item 9 – Article 2, Section 210/207 (CC President Stipend)

[EXTERNAL EMAIL]

Greetings Byron,

Ahead of our CRC meeting this week, I wanted to confirm that the language to provide a stipend to the president would be "The president of the Council shall receive an additional one thousand dollars (\$1,000.00) per annum." I took this from the Talbot County language. We can then adjust should the Commission make it \$1,000 or \$2,000.

To present an alternative to commission, we also discussed but opted not to do a percentage increase. If we did opt for a percentage, would the language just be, "The president of the Council shall receive an additional .05 percent of the Council salary per annum."

Thanks so much,

--

Dylan Diggs
Frederick, MD

Commissioner April Miller

Spreadsheet Item # 27 - Board of Education Vacancies

Provide a more open and transparent process for Board of Education vacancies to include public hearing and input from the County Council.



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Jan H. Gardner
County Executive

Gwen Romack, Chairman

Advisory Opinion No. 14-05

The Ethics Commission recently received requests for an advisory opinion from two newly elected County Council Members who are both employed by the Frederick County Board of Education as teachers. The spouse of one of the Council Members is also a teacher employed by the County Board of Education. In an effort to avoid any conflict of interest or the perception of a conflict of interest, the Council Members have requested guidance as to whether the Ethics Ordinance requires them to limit their participation in budget decisions affecting the Board of Education or in making decisions on how to fund that budget. As the issues raised in both opinion requests are identical, the Ethics Commission is jointly responding to both requests through this Advisory Opinion. For the reasons that follow, the Ethics Commission does not believe that the Council Members' participation in budget decisions involving the Board of Education or decisions on how to fund that budget would create either a conflict of interest under the Ethics Ordinance or the appearance of a conflict of interest.

The Ethics Commission has addressed similar conflict of interest issues in the past. At the time the earlier opinions were issued, however, Frederick County had a different form of government in which the executive and legislative functions were exercised by an elected Board of County Commissioners. The prior opinions were also based on an earlier version of the Ethics Ordinance that is different in some respects from the current Ethics Ordinance enacted in November 2011. With the adoption of the County Charter, which became effective on December 1, 2014, the County's executive functions are now entrusted to an elected County Executive and the legislative functions are entrusted to an elected seven member County Council. Under the County Charter, one of the County Council's primary duties is to vote on the annual County budget, including the budget for the Frederick County Board of Education. This is the Ethics Commission's first advisory opinion issued since the Charter has taken effect.

The County Council's role in the adoption of the Board of Education's budget is governed by State law and the County Charter. Under the State Education Article in the Maryland Code, the Board of Education first prepares its annual school budget. That budget must allocate the requested funding into several defined major categories. One of those major categories contains the requested funding for the salaries of Board employees, including teachers.¹ After the Board submits its budget to the County, the County Executive is required to specify whether funding for each major category has been denied in whole or reduced in part and state the reasons for making the changes.² The budget then goes to the County Council, which has the power to restore any denial or reduction made by the County Executive.³ The County Council must levy taxes to fund the budget.⁴

¹ Education Article, Maryland Annotated Code, Section 5-101(b)(2)(iii)1

² Section 5-102(c)(2)

³ Section 5-102(c)(3)

⁴ Section 5-104(a)

The County Charter also defines the County Council's role in the adoption of the County budget. The County Executive initially prepares a proposed budget, which must be submitted to the County Council by no later than April 15 each year.⁵ The Council may then decrease or delete any items in the budget, except those items required by State law, by provisions for debt service on outstanding obligations or for estimated cash deficits.⁶ The Council has no power to change the form of the budget, to alter revenue estimates or to increase any expenditure recommended by the County Executive, unless expressly provided in State law or necessary to correct mathematical errors.⁷ The County Council must hold a public hearing on the budget⁸ and adopt a budget by May 25.⁹ The Council's adoption of the budget occurs in a public session.¹⁰

As previously noted, the Ethics Commission has provided opinions in the past to members of the Board of County Commissioners after conflict of interest concerns were raised about the Commissioners' involvement in decisions having the potential to affect their family members. Ethics Opinion 91-1 addressed possible conflict of interest claims made against two County Commissioners who had relatives working for either the County or the Board of Education. The claims arose after the Commissioners voted to increase property taxes. A portion of the taxes could have been used to help fund raises for Board of Education and County employees. At that time, the Ethics Ordinance prohibited officials and employees from acting on behalf of the County in any matter that would, to their knowledge, "*have a direct financial impact, as distinguished from the public generally,*" on them or a defined close family member or business which with they were affiliated. Following guidance provided by the State Ethics Commission, this Ethics Commission rejected a strict construction of the Ordinance, noting that such a construction would require many officials throughout the State to disqualify themselves from voting on the school budget and tax matters, which are major responsibilities of those officials and would "in effect disenfranchise many citizen voters" if their elected representatives were forced to disqualify themselves from voting on such major matters. Taking into account the size of the County's budget and the large number of employees working for the County and the Board of Education, the Ethics Commission found that having relatives of the County Commissioners working for the Board of Education or the County did not trigger the "direct financial impact" conflict of interest provision, meaning that there was no conflict of interest.

Ethics Opinion 93-1 reaffirmed Opinion 91-1 and approved guidance provided by the County Attorney to the Vice President of the Board of County Commissioners in a memorandum dated February 2, 1993, which is included as an attachment to Opinion 93-1. The County Commissioner, who had an adult son employed by the Sheriff's Office, requested guidance on how the son's employment could impact decisions on which the Commissioner could vote. Once again, the guidance turned on the interpretation of the phrase "*a direct financial impact, as distinguished from the public generally*" in the Ethics Ordinance. The County Attorney concluded that the Commissioner could vote on the annual budget and the decision to set the

⁵ Charter Section 503

⁶ Charter Section 506

⁷ Charter Section 506

⁸ Charter Section 505

⁹ Charter Section 506

¹⁰ Charter Section 505

County's property tax rate. The following general guidelines were provided in the County Attorney's opinion:

The more people a particular action affects, the less likely it is to constitute "a direct financial impact, as distinguished from the public generally." If a personnel issue will have a direct financial impact on only Sheriff's employees, you should not participate. If the personnel issue affects a substantial number of County employees in addition to the Sheriff's employees, you may vote.

Your decision on whether to participate in a particular matter does not end with the mandatory provisions of the Ethics Ordinance. You should also consider whether your participation in a particular matter would cause an appearance of impropriety. You should also keep in mind that your duty to participate where not disqualified is equally as strong as your duty not to participate where disqualified.

The Ethics Commission concurs with the soundness of the earlier Ethics Commission opinions.

The Council Members have provided an opinion issued by the Maryland State Education Association (MSEA) in September 2014 addressing the potential for a conflict of interest when Board of Education employees are elected to serve on a County Council. While the opinion is not based specifically on Frederick County's Ethics Ordinance, the underlying principles and conclusions are the same. The opinion concludes that there is no conflict of interest precluding teachers from also serving on the County Council while so employed and that conflict of interest ordinances restricting the ability of officials or employees to participate in matters on behalf of a county that would have a "direct financial impact" on them or a close family member do not apply to Council Members' votes on budgets that include spending on teacher salaries. The opinion states as follows:

In the case of teachers employed in the county, a county council and its decision on the budget of the school system does not result in a direct financial impact on a teacher. This is due to the fact that salaries of teachers are set by the board of education in negotiations with the exclusive bargaining representative; and a county council member is limited to funding the school budget or reducing the allocations in the major budget categories. In other words, a county council does not directly set a teacher's salary; therefore, this provision is not implicated.

The MSEA opinion also concluded that an ethics provision precluding outside employment that would impair the impartiality or independence of judgment of local legislative officials would not likely apply because State law vests the Board of Education with the statutory authority to make decisions in all educational matters. In the event that such an issue did arise, the teacher/council member could avoid the conflict of interest by recusing himself or herself from that specific matter.

The conflict of interest provision in Section 1-7.1-5 that is pertinent to this advisory opinion is as follows:

§ 1-7.1-5. CONFLICTS OF INTEREST.

(C) *Participation prohibitions.* Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.^[11]

(2) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

(b) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

Taken literally, the Ethics Ordinance could be read to restrict the right of any County Council Member to vote on any matter that financially impacts him or her, the Council Member's family members or their employers, no matter how attenuated the impact. Such a construction would defy common sense. Council Members live in the County, pay taxes in the County and are frequently employed elsewhere in the County. As members of the community, they will often be financially affected by the decisions they make, as are large numbers of other residents in the County. The Ethics Commission has rejected that unduly restrictive approach in the past and it rejects that approach now, especially as it relates to actions taken by the Council with regard to approval of the budget or voting on how to fund the budget.

In determining whether a Council Member has a conflict of interest, the Commission will look to see how widespread the financial impact of a Council decision will be. Consistent with the guidance referenced above, the more people who will be affected by a particular Council action, the less likely it is that a Council Member's participation in that action will create a conflict of interest. Votes on the budget and funding for the budget affect most, if not all, persons living in the County. The fact that teacher salaries are included in the budget is not sufficient to create a conflict of interest that would preclude you from performing this major duty given to the County Council under the County Charter and State law. Similarly, the fact that your decisions on the budget and taxes will have an impact on your employer, the Board of Education, and family members does not create a conflict of interest due to the size of the budget and the number of persons affected.

¹¹ A "qualified relative" is a spouse, parent, child or sibling of the official or employee. (Section 1-7.1-5(A))

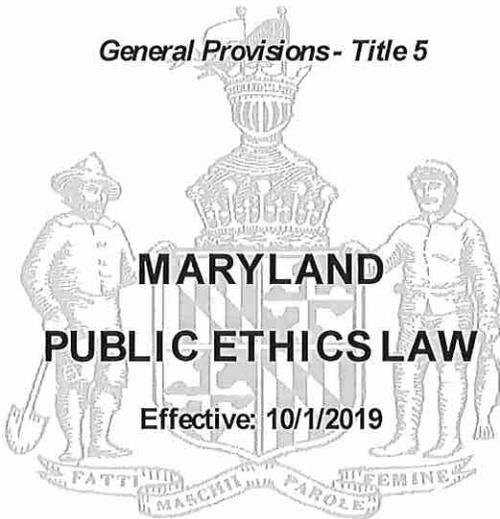
In conclusion, your employment as teachers for the Frederick County Board of Education will not create a conflict of interest when you vote on the budget and make decisions on how to fund the budget, nor will it create the appearance of impropriety on your part. If issues arise in the future that have the potential to affect you or a family member more directly and narrowly, you should consider whether your recusal is appropriate on a case-by-case basis. The Ethics Commission is available should you wish to seek guidance as specific questions arise.

The Ethics Commission thanks both County Council Members for seeking the Commission's guidance on the applicability of the Ethics Ordinance.

December 23, 2014
Date

/s/
Gwen Romack, Chair

General Provisions- Title 5



(For Information Purpose Only - Not an Official Copy)

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Article – General Provisions

Title 5. Maryland Public Ethics Law.

Subtitle 1. Definitions; General Provisions.

5-101. Definitions.

(a) *In general.* — In this title the following words have the meanings indicated unless:

- (1) the context clearly requires a different meaning; or
- (2) a different definition is adopted for a particular provision.

(b) *Advisory body.* — “Advisory body” means:

- (1) a governmental unit designated by the Court of Appeals to give advice with respect to the application or interpretation of Subtitles 5 and 6 of this title to a State official of the Judicial Branch;
- (2) the Joint Ethics Committee, for questions arising under Subtitle 5 of this title regarding a State official of the Legislative Branch; or
- (3) the Ethics Commission, for all other questions.

(c) *Bicounty commission.* — “Bicounty commission” means:

- (1) the Maryland–National Capital Park and Planning Commission;
- (2) the Washington Suburban Sanitary Commission; or
- (3) the Washington Suburban Transit Commission.

(d) *Board.* — “Board” means an executive unit composed of at least two members, all of whom are appointed and serve on a part–time basis.

(e) *Business entity.* — “Business entity” means a person engaged in business, whether profit or nonprofit, regardless of form.

(f) *Compensation.* — “Compensation” means money or any other valuable thing, regardless of form, received or to be received by a person from an employer for services rendered.

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(k) *Ethics Commission.* — “Ethics Commission” means the State Ethics Commission.

(l) *Executive action.* — “Executive action” means an act:

- (1) for which the Executive Branch of State government is responsible; and
- (2) that is taken by an official or employee of the Executive Branch.

(m) *Executive unit.* — (1) “Executive unit” means a department, agency, commission, board, council, or other body of State government that:

- (i) is established by law; and
- (ii) is not in the Legislative Branch or the Judicial Branch of State government.

(2) “Executive unit” includes:

(i) a county health department unless the officials and employees of the department are expressly designated as local officials in § 5-801 of this title;

- (ii) the office of the sheriff in each county; and
- (iii) the office of the State’s Attorney in each county.

(n) *Financial interest.* — “Financial interest” means:

(1) ownership of an interest as the result of which the owner has received within the past 3 years, is currently receiving, or in the future is entitled to receive, more than \$1,000 per year; or

- (2) (i) ownership of more than 3% of a business entity by:
 1. an official;
 2. an employee; or
 3. the spouse of an official or employee; or
- (ii) ownership of securities of any kind that represent, or are

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(g) *Employee.* — (1) “Employee” means an individual who is employed:

- (i) by an executive unit;
- (ii) by the Legislative Branch; or
- (iii) in the Judicial Branch.

(2) “Employee” does not include:

- (i) a public official; or
- (ii) a State official.

(h) *Employer.* — “Employer” means an entity that pays or agrees to pay compensation to another entity for services rendered.

(i) *Entity.* — “Entity” means:

- (1) a person; or
- (2) a government or instrumentality of government.

(j) *Entity doing business with the State.* — “Entity doing business with the State” means:

- (1) a regulated lobbyist;
- (2) an entity regulated by the executive unit of the applicable official or employee; or

(3) an entity that is a party to one or a combination of sales, purchases, leases, or contracts to, from, or with the State, or any unit of the State, involving consideration:

(i) of at least \$5,000 on a cumulative basis during the calendar year for which a statement required by Subtitle 6 of this title is filed, regardless of when the consideration is to be paid; and

(ii) which shall include, as of the award or execution of a contract or lease, the total consideration committed to be paid under the contract or lease, to the extent ascertainable when awarded or executed, regardless of the period over which payments are to be made.

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convertible into, ownership of more than 3% of a business entity by:

1. an official;
2. an employee; or
3. the spouse of an official or employee.

(o) *General Assembly.* — “General Assembly” includes a member, committee, or subcommittee of the General Assembly.

(p) *Gift.* — (1) “Gift” means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration.

(2) “Gift” does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with:

- (i) the Election Law Article; or
- (ii) any other State law regulating:
 1. the conduct of elections; or
 2. the receipt of political contributions.

(q) *Governmental unit.* — “Governmental unit” means a department, an agency, a commission, a board, a council, or any other body of State government that is established by law.

(r) *Honorarium.* — (1) “Honorarium” means the payment of money or anything of value for:

- (i) speaking to, participating in, or attending a meeting or other function; or
- (ii) writing an article that has been or is intended to be published.

(2) “Honorarium” does not include payment for writing a book that has been or is intended to be published.

(s) *Immediate family.* — “Immediate family” means an individual’s spouse and dependent children.

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(i) *Interest*. — (1) "Interest" means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition.

(2) "Interest" does not include:

(i) an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(ii) an interest in a time or demand deposit in a financial institution;

(iii) an interest in an insurance policy, endowment policy, or annuity contract under which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period;

(iv) a common trust fund or a trust that forms part of a pension or a profit-sharing plan that:

1. has more than 25 participants; and

2. is determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code or a qualified tuition plan established pursuant to Section 529 of the Internal Revenue Code; or

(v) a mutual fund or exchange-traded fund that is publicly traded on a national scale unless the mutual fund or exchange-traded fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual's governmental unit.

(u) *Joint Ethics Committee*. — "Joint Ethics Committee" means the Joint Committee on Legislative Ethics.

(v) *Legislative action*. — (1) "Legislative action" means an official action or nonaction relating to:

(i) a bill, a resolution, an amendment, a nomination, an appointment, a report, or any other matter within the jurisdiction of the General Assembly;

(ii) a bill presented to the Governor for signature or veto; or

(iii) testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government.

(2) "Legislative action" includes:

(i) introduction;

(ii) sponsorship;

(iii) consideration;

(iv) debate;

(v) amendment;

(vi) passage;

(vii) defeat;

(viii) approval; and

(ix) veto.

(w) *Legislative unit*. — "Legislative unit" means:

(1) the General Assembly;

(2) either house of the General Assembly;

(3) a standing committee of the General Assembly, provided that the presiding officer of the House of Delegates and the presiding officer of the Senate shall be deemed an ex officio member of any standing committee of the presiding officer's chamber; or

(4) a county or regional delegation of members of the General Assembly that is recognized by a presiding officer of the General Assembly.

(x) *Lobbying*. — "Lobbying" means performing any act that requires registration under § 5-702 of this title.

(y) *Local official*. — "Local official", subject to § 5-801 of this title, means an official, officer, or employee of a county or municipal corporation that the governing body of the county or municipal corporation determines is subject to Subtitle 8, Part II of this title.

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(z) *Member of household*. — "Member of household" means:

(1) if sharing an individual's legal residence, the individual's:

(i) spouse;

(ii) child;

(iii) ward;

(iv) financially dependent parent; or

(v) other financially dependent relative; or

(2) an individual's spouse, child, ward, parent, or other relative, over whose financial affairs the individual has legal or actual control.

(aa) *Municipal corporation*. — "Municipal corporation" means a municipality governed by Article XI-E of the Maryland Constitution.

(bb) *Official*. — "Official" means either a State official or a public official.

(cc) *Political contribution*. — "Political contribution" means a contribution as defined in § 1-101 of the Election Law Article.

(dd) *Principal political party*. — "Principal political party" means the State Democratic Party or the State Republican Party.

(ee) *Procurement contract*. — "Procurement contract" has the meaning stated in § 11-101 of the State Finance and Procurement Article.

(ff) *Public official*. — "Public official" means an individual determined to be a public official under § 5-103 of this subtitle.

(gg) *Qualifying relative*. — "Qualifying relative" means a spouse, parent, child, brother, or sister.

(hh) *Regulated lobbyist*. — "Regulated lobbyist" means an entity that is required to register with the Ethics Commission under § 5-702(a) of this title.

(ii) *Respondent*. — "Respondent" means any of the following that is the subject of a complaint before the Ethics Commission:

(1) an official;

(2) an employee;

(3) a candidate for office as a State official;

(4) an entity subject to Subtitle 7 of this title; or

(5) an entity subject to § 5-512 of this title.

(jj) *School board*. — "School board" means a county board of education or, in Baltimore City, the Board of School Commissioners.

(kk) *School system*. — "School system" means the educational system under the authority of a school board.

(ll) *State official*. — "State official" means:

(1) a constitutional officer or officer-elect in an executive unit;

(2) a member or member-elect of the General Assembly;

(3) a judge or judge-elect of a court under Article IV, § 1 of the Maryland Constitution;

(4) a judicial appointee as defined in Maryland Rule 18-200.3;

(5) a State's Attorney;

(6) a clerk of the circuit court;

(7) a register of wills; or

(8) a sheriff.

(mm) *Superintendent*. — "Superintendent" means a county superintendent as defined in § 1-101 of the Education Article.

5-102. Legislative findings; policy; liberal construction.

(a) *Legislative findings*. — (1) The General Assembly of Maryland, recognizing that our system of representative government is dependent on maintaining the highest trust by the people in their government officials and employees, finds and declares that the people have a right to be assured that the

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impartiality and independent judgment of those officials and employees will be maintained.

(2) It is evident that the people's confidence and trust are eroded when the conduct of the State's business is subject to improper influence or even the appearance of improper influence.

(b) *Policy.* — For the purpose of guarding against improper influence, the General Assembly enacts this Maryland Public Ethics Law to require certain government officials and employees to disclose their financial affairs and to set minimum ethical standards for the conduct of State and local business.

(c) *Liberal construction of title.* — The General Assembly intends that this title, except its provisions for criminal sanctions, be construed liberally to accomplish this purpose.

5-103. Designation of individuals as public officials.

(a) *In general.* — The determination of whether an individual is a public official for the purposes of this title shall be made in accordance with this section.

(b) *Public officials of executive units.* — Except as provided in subsection (f) of this section, the following individuals in executive units are public officials:

(1) an individual who receives compensation at a rate equivalent to at least State grade level 16, or who is appointed to a board, if the Ethics Commission determines under § 5-208 of this title that:

(i) the individual, acting alone or as a member of an executive unit, has decision-making authority or acts as a principal advisor to an individual with decision-making authority:

1. in making State policy in an executive unit; or

2. in exercising quasi-judicial, regulatory, licensing, inspecting, or auditing functions; and

(ii) the individual's duties are not essentially administrative and ministerial;

(2) any other individual in an executive unit if the Ethics Commission determines that the individual, acting alone or as a member of the executive unit, has decision-making authority or acts as a principal advisor to an individual with decision-making authority in drafting specifications for, negotiating,

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(2) The Ethics Commission may exclude the individuals in a position in the Judicial Branch from inclusion as public officials under paragraph (1)(ii) of this subsection:

(i) on the recommendation of the State Court Administrator; and

(ii) if the Ethics Commission determines that the position does not have policy, policy advice, quasi-judicial, or procurement functions.

(e) *Bicounty commission members.* — A member of a bicounty commission is a public official.

(f) *Exceptions.* — The following are not public officials:

(1) a State official;

(2) an individual employed on a contractual basis unless the individual is:

(i) employed on a full-time basis for more than 6 months; and

(ii) designated as a public official under subsection (b)(1) or (c) of this section; and

(3) a part-time or full-time faculty member at a State institution of higher education:

(i) as to subsection (b)(2) of this section, only when the individual is acting in the capacity of a faculty member; and

(ii) as to any other provision of this section, unless the individual also:

1. is employed in another position that causes the individual to be designated as a public official; or

2. directly procures, directly influences, or otherwise directly affects the formation or execution of any State contract, purchase, or sale, as established by regulations adopted by the Ethics Commission and approved by the Joint Committee on Administrative, Executive, and Legislative Review.

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or executing contracts that commit the State or an executive unit to spend more than \$10,000 in a year;

(3) a member, appointee, or employee of the Maryland Stadium Authority;

(4) a member, appointee, or employee of the Canal Place Preservation and Development Authority;

(5) a member of the Emergency Medical Services Board; and

(6) except in counties in which a county council or board of county commissioners sits as a board of license commissioners or a liquor control board, a member or employee of a board of license commissioners or a liquor control board.

(c) *Public officials of Legislative Branch.* — Except as provided in subsection (f) of this section, an individual in the Legislative Branch is a public official if the individual:

(1) receives compensation at a rate equivalent to at least State grade level 16; and

(2) is designated a public official by order of the presiding officers of the General Assembly.

(d) *Public officials of Judicial Branch.* — (1) (i) In this paragraph, "individual in the Judicial Branch" includes an individual who is:

1. employed in the office of a clerk of court;

2. paid by a county to perform services in an orphan's court or circuit court;

3. employed by the Attorney Grievance Commission;

4. employed by the State Board of Law Examiners; or

5. employed by the Court of Appeals Standing Committee on Rules of Practice and Procedure.

(ii) Except as provided in paragraph (2) of this subsection or in subsection (f) of this section, an individual in the Judicial Branch is a public official if the individual receives compensation at a rate equivalent to at least State grade level 16.

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5-104. Administration of title.

(a) *In general.* — Except as provided in subsections (b) and (c) of this section and in § 5-871 of this title, this title shall be administered and implemented by the Ethics Commission.

(b) *Joint Ethics Committee.* — Subtitle 5. — The Joint Ethics Committee, acting as an advisory body, shall administer and implement Subtitle 5 of this title as it applies to members of the General Assembly.

(c) *Commission on Judicial Disabilities, Judicial Ethics Committee, or other designated body.* — Subtitles 5 and 6. — The Commission on Judicial Disabilities, the Judicial Ethics Committee, or another body designated by the Court of Appeals, acting as an advisory body, shall administer and implement Subtitles 5 and 6 of this title as those subtitles apply to State officials of the Judicial Branch.

5-105. Other laws.

(a) *In general.* — If another provision of law relating to conflicts of interest, financial disclosure, or lobbying is more stringent than this title, the other provision shall apply.

(b) *Exception.* — Title 3, Subtitle 1 of the Public Safety Article does not apply to activities carried out by the Ethics Commission under this title.

Subtitle 2. State Ethics Commission.

5-201. Established.

There is a State Ethics Commission.

5-202. Membership.

(a) *Composition; appointment of members.* — (1) The Ethics Commission consists of five members.

(2) The Governor shall appoint:

(i) with the advice and consent of the Senate, three members, at least one of whom shall be a member of the principal political party of which the Governor is not a member;

(ii) one member nominated by the President of the Senate; and

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(iii) one member nominated by the Speaker of the House.

(3) The Governor may reject a nominee of the President or of the Speaker only for cause.

(4) If the Governor rejects a nominee under paragraph (3) of this subsection, the appropriate presiding officer shall nominate another individual.

(5) A vacancy shall be filled in a manner consistent with this subsection.

(b) *Qualifications of members.* — A member of the Ethics Commission may not:

(1) hold elected or appointed office in, be an employee of, or be a candidate for office in:

(i) the federal government;

(ii) the State government;

(iii) a municipal corporation, county, or multicounty agency of the State; or

(iv) a political party; or

(2) be a regulated lobbyist.

(c) *Oath.* — Before taking office, each appointee to the Ethics Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) *Tenure; vacancies.* — (1) The term of a member is 5 years.

(2) The terms of members are staggered as required by the terms in effect for members of the Ethics Commission on October 1, 2013.

(3) A member may serve no more than two consecutive 5-year terms.

(4) A member who is appointed after a term has begun serves for the rest of the term.

(5) At the end of a term, a member may continue to serve until a successor is appointed and qualifies.

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(2) reimbursement for reasonable and necessary expenses incurred in the discharge of official duties.

(d) *Staff.* — (1) The Ethics Commission shall:

(i) appoint to serve at its pleasure:

1. an executive director;

2. a general counsel; and

3. a staff counsel; and

(ii) have other staff, including such counsel as may be required to advise persons who are subject to the jurisdiction of the Ethics Commission, in accordance with the State budget.

(2) The general counsel and the staff counsel of the Ethics Commission shall be individuals admitted to practice law in the State.

(e) *Assistance from Attorney General and Comptroller.* — The Ethics Commission may ask the Attorney General or Comptroller for professional assistance to assist in the performance of the Commission's functions.

5-205. Duties.

(a) *In general.* — The Ethics Commission shall:

(1) administer the provisions of this title, except as otherwise expressly provided in this title;

(2) create and provide forms for each document required by this title;

(3) retain as a public record each document filed with the Commission for at least 4 years after receipt;

(4) review periodically the adequacy of public ethics laws;

(5) (i) review each statement and report filed in accordance with Subtitle 6 or Subtitle 7 of this title; and

(ii) notify officials and employees submitting documents under Subtitle 6 of this title of any omissions or deficiencies; and

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(e) *Removal.* — (1) The Governor may remove a member for:

(i) neglect of duty;

(ii) misconduct in office;

(iii) a disability that makes the member unable to discharge the powers and duties of office; or

(iv) a violation of this title.

(2) Before removing a member, the Governor shall give the member:

(i) written notice of the charges; and

(ii) an opportunity to answer the charges.

5-203. Officers.

(a) *Chair.* — The Ethics Commission shall elect a chair from among its members.

(b) *Term of Office.* — (1) The term of the chair is 1 year.

(2) The chair may be reelected.

5-204. Quorum; meetings; compensation; staff.

(a) *Quorum.* — (1) A majority of the authorized membership of the Ethics Commission is a quorum.

(2) The Ethics Commission may act only on the affirmative vote of at least a majority of its authorized membership.

(b) *Meetings.* — The Ethics Commission shall meet at the call of the chair or a majority of the members then serving.

(c) *Compensation and reimbursement for expenses.* — Each member of the Ethics Commission is entitled to:

(1) compensation in accordance with the State budget; and

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(6) publish and make available to persons subject to this title, and to the public, information that explains the provisions of this title, the duties imposed by it, and the means for enforcing it.

(b) *Model provisions for local governments and school boards.* — (1) The Ethics Commission shall adopt by regulation model provisions for local governments and school boards on:

(i) conflicts of interest;

(ii) financial disclosure; and

(iii) regulation of lobbying.

(2) Model provisions adopted under paragraph (1) of this subsection may be:

(i) adopted by any local jurisdiction or school board; or

(ii) imposed on a local jurisdiction or school board in accordance with Subtitle 8 of this title.

(c) *List of entities doing business with the State.* — (1) The Ethics Commission shall:

(i) compile annually an alphabetized list of entities doing business with the State during the preceding calendar year; and

(ii) make the list available to individuals required to file a statement under Subtitle 6 of this title.

(2) The list prepared under paragraph (1) of this subsection shall be available for public inspection by March 1 of each year.

(3) On request of the Ethics Commission, an official or a unit of State government shall provide to the Commission in a timely manner any information necessary for the Commission to perform its duties under this subsection.

(d) *Training course for public officials.* — (1) The Ethics Commission shall provide a training course of at least 2 hours on the requirements of the Maryland Public Ethics Law for an individual who:

(i) fills a vacancy in a position that has been identified as a public official position under § 5-103 of this title; or

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(ii) serves in a position identified as a public official position under § 5-103 of this title.

(2) The individual shall complete the training course within 6 months of:

(i) filling a vacancy; or

(ii) a position being identified as a public official position.

(3) The training requirement under this subsection does not apply to an individual who:

(i) except for a member of a board of license commissioners or a liquor control board, is a public official only as a member of a commission, task force, or similar entity; or

(ii) has completed a training course provided by the Ethics Commission while serving in another public official position.

(e) *Training course for regulated lobbyists.* — (1) (i) The Ethics Commission shall provide a training course for regulated lobbyists and prospective regulated lobbyists at least twice each year on the provisions of the Maryland Public Ethics Law relevant to regulated lobbyists.

(ii) One training course shall be held each January.

(2) When a person initially registers as a regulated lobbyist, the Ethics Commission shall provide the person with information on the provisions of the Maryland Public Ethics Law relevant to regulated lobbyists.

(f) *Reports.* — Subject to § 2-1246 of the State Government Article, the Ethics Commission shall submit to the General Assembly:

(1) an annual report on its activities; and

(2) based on its investigations and studies, other special reports with recommendations for legislation as may be appropriate.

(Amendment effective July 1, 2019.)

5-205. Duties.

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business with the State during the preceding calendar year; and

(ii) make the list available to individuals required to file a statement under Subtitle 6 of this title.

(2) The list prepared under paragraph (1) of this subsection shall be available for public inspection by March 1 of each year.

(3) On request of the Ethics Commission, an official or a unit of State government shall provide to the Commission in a timely manner any information necessary for the Commission to perform its duties under this subsection.

(d) *Training course for public officials.* — (1) The Ethics Commission shall provide a training course of at least 2 hours on the requirements of the Maryland Public Ethics Law for an individual who:

(i) fills a vacancy in a position that has been identified as a public official position under § 5-103 of this title; or

(ii) serves in a position identified as a public official position under § 5-103 of this title.

(2) The individual shall complete the training course within 6 months of:

(i) filling a vacancy; or

(ii) a position being identified as a public official position.

(3) The training requirement under this subsection does not apply to an individual who:

(i) except for a member of a board of license commissioners or a liquor control board, is a public official only as a member of a commission, task force, or similar entity; or

(ii) has completed a training course provided by the Ethics Commission while serving in another public official position.

(e) *Training course for regulated lobbyists.* — (1) (i) The Ethics Commission shall provide a training course for regulated lobbyists and prospective regulated lobbyists at least twice each year on the provisions of the Maryland Public Ethics Law, including provisions related to discrimination and harassment, relevant to regulated lobbyists.

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(a) *In general.* — The Ethics Commission shall:

(1) administer the provisions of this title, except as otherwise expressly provided in this title;

(2) create and provide forms for each document required by this title;

(3) retain as a public record each document filed with the Commission for at least 4 years after receipt;

(4) review periodically the adequacy of public ethics laws;

(5) (i) review each statement and report filed in accordance with Subtitle 6 or Subtitle 7 of this title; and

(ii) notify officials and employees submitting documents under Subtitle 6 of this title of any omissions or deficiencies; and

(6) publish and make available to persons subject to this title, and to the public, information that explains the provisions of this title, the duties imposed by it, and the means for enforcing it.

(b) *Model provisions for local governments and school boards.* — (1) The Ethics Commission shall adopt by regulation model provisions for local governments and school boards on:

(i) conflicts of interest;

(ii) financial disclosure; and

(iii) regulation of lobbying.

(2) Model provisions adopted under paragraph (1) of this subsection may be:

(i) adopted by any local jurisdiction or school board; or

(ii) imposed on a local jurisdiction or school board in accordance with Subtitle 8 of this title.

(c) *List of entities doing business with the State.* — (1) The Ethics Commission shall:

(i) compile annually an alphabetized list of entities doing

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(ii) One training course shall be held each January.

(2) When a person initially registers as a regulated lobbyist, the Ethics Commission shall provide the person with information on the provisions of the Maryland Public Ethics Law relevant to regulated lobbyists.

(f) *Reports.* — Subject to § 2-1246 of the State Government Article, the Ethics Commission shall submit to the General Assembly:

(1) an annual report on its activities; and

(2) based on its investigations and studies, other special reports with recommendations for legislation as may be appropriate.

5-206. Regulations.

The Ethics Commission may adopt regulations to implement this title.

5-207. Oaths and subpoenas.

(a) *In general.* — The Ethics Commission and its staff counsel each may:

(1) administer oaths; and

(2) issue subpoenas for the attendance of witnesses to testify or to produce other evidence.

(b) *Judicial enforcement.* — A subpoena issued under subsection (a) of this section may be enforced judicially.

5-208. Determination of public official in executive agency.

(a) *Determination of Ethics Commission.* — With advice from the Secretary of Budget and Management and in accordance with § 5-103 of this title, the Ethics Commission shall determine whether an individual in an executive unit is a public official for the purposes of this title.

(b) *Secretary of Budget and Management to provide advice.* — The Secretary of Budget and Management shall provide advice under subsection (a) of this section to the Ethics Commission:

(1) annually; and

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- (2) at any other time on request of the Ethics Commission.

5-209. Exemptions from title.

(a) *In general.* — The Ethics Commission may exempt from this title or modify the requirements of this title for a board, a member of a board, or a municipal corporation if the Ethics Commission finds that, because of the nature of the board or the size of the municipal corporation, the application of this title to that board, member, or municipal corporation:

- (1) would be an unreasonable invasion of privacy;
- (2) would reduce significantly the availability of qualified individuals for public service; and
- (3) is not necessary to preserve the purposes of this title.

(b) *Request by executive unit involved.* — Subject to § 5-502(d) of this title, the Ethics Commission may grant an exemption to a board or member of a board only on written request of the executive unit of which the board is a part.

(c) *Availability of records.* — Notwithstanding any other provision of this title, the records of the Ethics Commission in any matter in which an exemption is granted under this title shall be available for public inspection.

5-210. Lobbyist Registration Fund.

(a) *Fund established.* — (1) There is a Lobbyist Registration Fund.

(2) The Fund consists of all fees collected under Subtitle 7 of this title.

(b) *Fund to be nonlapsing.* — (1) The Fund is a continuing, nonlapsing fund.

(2) Any balance remaining in the Fund at the end of any fiscal year shall revert to the General Fund of the State.

(c) *Administration of Fund.* — (1) (i) The State Treasurer shall hold the Fund separately.

(ii) The Comptroller shall account for the Fund.

(2) The Fund shall be invested and reinvested in the same manner as other State funds.

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(ii) to the fullest extent possible, any other information that may identify the entity.

(2) The identity of the entity that is the subject of the opinion may not be revealed.

5-304. Further opinion by Joint Ethics Committee.

(a) *Issuance.* — If the Ethics Commission issues an advisory opinion about a State official of the Legislative Branch as to a question arising under Subtitle 6 of this title, and if requested by the State official, the Joint Ethics Committee shall issue an advisory opinion on the matter in accordance with this subtitle.

(b) *Joint Ethics Committee opinion to prevail.* — The opinion of the Joint Ethics Committee prevails to the extent of any inconsistency.

Subtitle 4. Procedures for Complaint of Violation of Title.

5-401. Complaints — Filing; requirements.

(a) *Commencement of action.* — (1) Any entity may file with the Ethics Commission a written complaint alleging a violation of this title.

(2) A complaint filed under this subsection shall be:

- (i) signed; and
- (ii) made under oath.

(b) *On motion of Ethics Commission.* — The Ethics Commission on its own motion may issue a complaint alleging a violation of this title.

(c) *Copy to respondent.* — The Ethics Commission shall promptly transmit a copy of the complaint to the respondent.

5-402. Complaints — Referral.

(a) *In general.* — For further action after the filing of a complaint, the Ethics Commission promptly shall refer the complaint to:

(1) the Commission on Judicial Disabilities, if the complaint concerns a judge of a court established under Article IV, § 1 of the Maryland Constitution;

(3) Expenditures from the Fund shall be made in accordance with an appropriation approved by the General Assembly in the annual budget.

(d) *Uses of Fund.* — The Fund shall be used to defray the expenses of administering Subtitle 7 of this title.

Subtitle 3. Advisory Opinions.

5-301. Request for advisory opinion; informal advice.

(a) *Advisory opinion.* — (1) Subject to subsection (b) of this section, on written request of an entity subject to this title, the appropriate advisory body shall issue an advisory opinion regarding the application of this title.

(2) On written request of any other entity, the appropriate advisory body may issue an advisory opinion.

(b) *Informal advice.* — (1) The appropriate advisory body may issue informal advice instead of an advisory opinion.

(2) Information related to informal advice provided under this subsection shall remain confidential and is not subject to the requirements of § 5-303 of this subtitle.

5-302. Issuance.

The Ethics Commission shall issue an advisory opinion required under § 5-301(a) of this subtitle not more than 60 days after receiving a request, or more promptly if circumstances require.

5-303. Publication.

(a) *Requirements.* — Each advisory opinion shall be:

(1) in writing; and

(2) published in the Maryland Register, subject to subsection (b) of this section.

(b) *Confidentiality.* — (1) Before an advisory opinion may be made public, the advisory body shall delete:

(i) the name of the entity that is the subject of the opinion;

and

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(2) the Joint Ethics Committee, if the complaint concerns:

(i) a State official of the Legislative Branch; and

(ii) a violation of Subtitle 5 of this title; or

(3) the staff counsel, if the complaint concerns any other entity.

(b) *Assistance from Ethics Commission.* — On request of the Commission on Judicial Disabilities or the Joint Ethics Committee, the Ethics Commission shall provide any information or assistance that is not prohibited by law.

5-403. Complaints — Retention by Ethics Commission.

(a) *Evidence.* — As to a complaint retained by the Ethics Commission under § 5-402(b) of this subtitle, the staff counsel shall collect and submit to the Ethics Commission evidence relating to each violation of this title alleged in the complaint.

(b) *Opportunity to cure.* — (1) Before submitting the evidence to the Ethics Commission, the staff counsel shall notify the complainant and the respondent.

(2) The Ethics Commission shall dismiss the complaint in a signed order if:

(i) the respondent, within 15 days after receiving the notice, takes any action that may be available to cure each alleged violation; and

(ii) the Ethics Commission finds that dismissal is not contrary to the purposes of this title.

(3) If the complaint is dismissed under this subsection, the Ethics Commission promptly shall send a copy of the order to the complainant and the respondent.

(c) *Dismissal after preliminary review.* — If the Ethics Commission determines that the evidence submitted by the staff counsel does not merit further proceedings, the Ethics Commission shall:

(1) dismiss the complaint in a signed order; and

(2) promptly send a copy of the order to the complainant and the respondent.

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(d) *Further proceedings.* — If a complaint is not dismissed under subsection (b) or (c) of this section, the Ethics Commission shall proceed to a hearing on the complaint.

5-404. Complaints — Hearing.

(a) *Hearing.* — (1) A hearing on a complaint shall be conducted under Title 10, Subtitle 2 of the State Government Article insofar as that subtitle is consistent with this title.

(2) In preparation for the hearing, the respondent may use the subpoena power of the Ethics Commission.

(b) *Presentation of evidence.* — At the hearing, the staff counsel:

(1) shall present to the Ethics Commission all available evidence relating to each alleged violation of this title; and

(2) may recommend any disposition of the complaint that appears appropriate to the staff counsel.

(c) *Representation by counsel.* — The respondent may be represented by counsel.

5-405. Complaints — Disposition.

(a) *Determinations after hearing.* — After the Ethics Commission considers all of the evidence presented at the hearing, the Ethics Commission shall make findings of fact and conclusions of law with respect to each alleged violation.

(b) *Finding of no violation.* — If the Ethics Commission determines that the respondent has not violated this title, the Ethics Commission shall:

(1) dismiss the complaint in a signed order; and

(2) promptly send a copy of the order to the complainant and the respondent.

(c) *Finding of violation; sanctions Generally.* — If the Ethics Commission determines that the respondent has violated any provision of this title, the Ethics Commission may:

(1) issue an order of compliance directing the respondent to cease and desist from the violation;

(2) issue a reprimand; or

(3) recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal, if that discipline is authorized by law.

(d) *Finding of violation; sanctions — Subtitle 7.* — If the Ethics Commission determines that a respondent has violated Subtitle 7 of this title, the Ethics Commission may:

(1) require a respondent who is a regulated lobbyist to file any additional reports or information that reasonably relates to information required under §§ 5-703 and 5-704 of this title;

(2) impose a fine not exceeding \$5,000 for each violation; or

(3) subject to subsection (e) of this section, suspend the registration of a regulated lobbyist.

(e) *Suspension or revocation of registration.* — (1) If the Ethics Commission determines it necessary to protect the public interest and the integrity of the governmental process, the Ethics Commission may issue an order to:

(i) suspend the registration of an individual regulated lobbyist if the Ethics Commission determines that the individual regulated lobbyist:

1. has knowingly and willfully violated Subtitle 7 of this title; or

2. has been convicted of a criminal offense arising from lobbying activities; or

(ii) revoke the registration of an individual regulated lobbyist if the Ethics Commission determines that, based on acts arising from lobbying activities, the individual regulated lobbyist has been convicted of bribery, theft, or other crime involving moral turpitude.

(2) If the Ethics Commission suspends the registration of an individual regulated lobbyist under paragraph (1) of this subsection, the individual regulated lobbyist may not engage in lobbying for compensation for a period, not to exceed 3 years, that the Ethics Commission determines as to that individual regulated lobbyist is necessary to satisfy the purposes of this subsection.

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(3) If the Ethics Commission revokes the registration of an individual regulated lobbyist under paragraph (1) of this subsection, the individual regulated lobbyist may not engage in lobbying for compensation.

(4) If the Ethics Commission initiates a complaint based on a violation or conviction described in paragraph (1) of this subsection, the Ethics Commission shall initiate the complaint within 2 years after the earlier of:

(i) the Ethics Commission's knowledge of the violation; or

(ii) the date the conviction becomes final.

(5) The termination or expiration of the registration of an individual regulated lobbyist does not limit the authority of the Ethics Commission to issue an order under this subsection.

(f) *Reinstatement.* — (1) An individual whose registration as an individual regulated lobbyist is revoked or suspended under subsection (e) of this section may apply to the Ethics Commission for reinstatement.

(2) The Ethics Commission may reinstate the registration of an individual whose registration as a regulated lobbyist has been revoked or suspended under subsection (e) of this section if the Ethics Commission determines that reinstatement of the individual would not be detrimental to the public interest and the integrity of the governmental process, based on:

(i) the nature and circumstances of the original misconduct or violation leading to revocation or suspension;

(ii) the individual's subsequent conduct and reformation; and

(iii) the present ability of the individual to comply with the ethics law.

(g) *Penalties for late filing.* — (1) If the respondent is a regulated lobbyist, for each report required under Subtitle 7 of this title that is filed late, the respondent shall pay a fee of \$10 for each late day, not to exceed a total of \$1,000.

(2) If the respondent is an official, for each financial disclosure statement found to have been filed late, the respondent shall pay a fee of \$5 for each late day, not to exceed a total of \$500.

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(h) *Distribution of penalties, fines, or fees.* — A penalty, fine, or fee assessed under this section shall be distributed to the Fair Campaign Financing Fund established under § 15-103 of the Election Law Article.

5-406. Judicial Review.

(a) *In general.* — If the respondent is aggrieved by a final order of the Ethics Commission, the respondent may seek judicial review as provided in Title 10, Subtitle 2 of the State Government Article.

(b) *Stay pending judicial review.* — (1) The order is stayed automatically until the time for seeking judicial review has expired.

(2) (i) The filing of a petition for judicial review does not automatically stay the enforcement of the order.

(ii) Except as otherwise provided by law, the Ethics Commission or the reviewing court may stay the enforcement of the order, under terms the Ethics Commission considers proper.

(c) *Judicial relief for Ethics Commission.* — The Ethics Commission may seek judicial enforcement and other relief as provided under Subtitle 9 of this title.

5-407. Confidentiality.

(a) *In general.* — Notwithstanding any other law, and except as provided in subsections (b) and (c) of this section, after a complaint is filed:

(1) the proceedings, meetings, and activities of the Ethics Commission and its employees relating to the complaint are confidential; and

(2) information relating to the complaint, including the identity of the complainant and respondent, may not be disclosed by:

(i) the Ethics Commission;

(ii) the staff of the Ethics Commission;

(iii) the complainant; or

(iv) the respondent.

(b) *Duration.* — Except as provided in subsection (c) of this section, the restrictions in subsection (a) of this section apply unless:

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- (1) the matter is referred for prosecution; or
- (2) the Ethics Commission finds a violation of this title.

(c) *Disclosures allowed.* — (1) The Ethics Commission may release any information if the respondent agrees in writing to the release.

(2) On request of the respondent, the Ethics Commission shall disclose the identity of the complainant to the respondent.

5-408. Referral to prosecuting authority.

(a) *Referral for prosecution.* — If the Ethics Commission, while considering a complaint, finds that there are reasonable grounds to believe that the respondent may have committed a criminal offense, the Ethics Commission promptly shall refer the matter to an appropriate prosecuting authority.

(b) *Evidence.* — The Ethics Commission shall make available to the prosecuting authority all pertinent evidence under the Ethics Commission's control.

5-409. Retention of documents by entities subject to title.

(a) *In general.* — An entity that is required to file a report, statement, or record under this title shall obtain each account, bill, receipt, book, paper, or other document necessary to complete and substantiate the report or statement.

(b) *Period of retention.* — The entity shall retain the document for 3 years after:

- (1) the date the report, statement, or record was filed; or
- (2) if the report, statement, or record was not filed, the date the report, statement, or record was required to be filed.

(c) *Inspection by Ethics Commission.* — On request of the Ethics Commission, and after reasonable notice, the documents shall be available for inspection by the Ethics Commission.

Subtitle 5. Conflicts of Interest.

Part 1. General Provisions.

5-501. Restrictions on participation.

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which a direct financial interest is owned by another business entity if the official or employee:

1. has a direct financial interest in the other business entity; and
2. reasonably may be expected to know of both financial interests; or

(vi) a business entity that:

1. the official or employee knows is a creditor or an obligee of the official or employee, or of a qualifying relative of the official or employee, with respect to a thing of economic value; and
2. as a creditor or an obligee, is in a position to affect directly and substantially the interest of the official, employee, or qualifying relative.

(a-1) *Former regulated lobbyists.* — (1) This subsection does not apply to an individual who is a public official only as a member of a board and who receives annual compensation that is less than 25% of the lowest annual compensation at State grade level 16.

(2) A former regulated lobbyist who is or becomes subject to regulation under this title as a public official or employee may not participate in a case, contract, or other specific matter as a public official or employee for one calendar year after the termination of the registration of the former regulated lobbyist if the former regulated lobbyist previously assisted or represented another party for compensation in the matter.

(b) *Exceptions.* — (1) The prohibitions of subsection (a) of this section do not apply if participation is allowed:

- (i) as to officials and employees subject to the authority of the Ethics Commission, by regulation of the Ethics Commission;
- (ii) by the opinion of an advisory body; or
- (iii) by another provision of this subtitle.

(2) This section does not prohibit participation by an official or employee that is limited to the exercise of an administrative or ministerial duty that does not affect the decision or disposition with respect to the matter.

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(a) *In general.* — Except as otherwise provided in subsection (c) of this section, an official or employee may not participate in a matter if:

(1) the official or employee or a qualifying relative of the official or employee has an interest in the matter and the official or employee knows of the interest; or

(2) any of the following is a party to the matter:

(i) a business entity in which the official or employee has a direct financial interest of which the official or employee reasonably may be expected to know;

(ii) a business entity, including a limited liability company or a limited liability partnership, of which any of the following is an officer, a director, a trustee, a partner, or an employee:

1. the official or employee; or
2. if known to the official or employee, a qualifying relative of the official or employee;

(iii) a business entity with which any of the following has applied for a position, is negotiating employment, or has arranged prospective employment:

1. the official or employee; or
2. if known to the official or employee, a qualifying relative of the official or employee;

(iv) if the contract reasonably could be expected to result in a conflict between the private interest and the official State duties of the official or employee, a business entity that is a party to a contract with:

1. the official or employee; or
2. if known to the official or employee, a qualifying relative of the official or employee;

(v) a business entity, either engaged in a transaction with the State or subject to regulation by the official's or employee's governmental unit, in

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(c) *Participation notwithstanding conflict.* — An official or employee who otherwise would be disqualified from participation under subsection (a) of this section shall disclose the nature and circumstances of the conflict, and may participate or act, if:

- (1) the disqualification would leave a body with less than a quorum capable of acting;
- (2) the disqualified official or employee is required by law to act; or
- (3) the disqualified official or employee is the only individual authorized to act.

5-502. Employment or financial interests — General restriction.

(a) *General Assembly members exempted.* — This section does not apply to members of the General Assembly.

(b) *Prohibitions.* — Except as provided in subsections (c) and (d) of this section, an official or employee may not:

(1) be employed by or have a financial interest in:

- (i) an entity subject to the authority of that official or employee or of the governmental unit with which the official or employee is affiliated; or
- (ii) an entity that is negotiating or has entered a contract with that governmental unit or an entity that is a subcontractor on a contract with that governmental unit; or

(2) hold any other employment relationship that would impair the impartiality and independent judgment of the official or employee.

(c) *Exceptions.* — The prohibitions of subsection (b) of this section do not apply:

(1) to employment or a financial interest allowed by regulation of the Ethics Commission if:

- (i) the employment does not create a conflict of interest or the appearance of a conflict of interest; or
- (ii) the financial interest is disclosed;

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(2) to a public official who is appointed to a regulatory or licensing unit in accordance with a statutory requirement that entities subject to the jurisdiction of the unit be represented in appointments to it;

(3) as allowed by regulations adopted by the Ethics Commission, to an employee whose government duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest; or

(4) to a member of a board who holds the employment or financial interest when appointed if the employment or financial interest is disclosed publicly to the appointing authority, the Ethics Commission, and, if applicable, the Senate of Maryland before Senate confirmation.

(d) *Exemption under extraordinary circumstances.* — (1) Subject to paragraph (2) of this subsection, the Ethics Commission may exempt a public official of an executive unit or an employee of an executive unit from the prohibitions of subsection (b) of this section if the Ethics Commission determines that:

(i) failure to grant the exemption would limit the ability of the State to:

1. recruit and hire highly qualified or uniquely qualified professionals for public service; or
2. assure the availability of competent services to the public; and

(ii) the number of exemptions granted under this subsection has not eroded the purposes of subsection (b) of this section or other provisions of this title.

(2) (i) The Ethics Commission may grant an exemption under paragraph (1) of this subsection only:

1. in extraordinary situations; and
2. on the recommendation of the Governor, at the request of the executive unit involved.

(ii) The Ethics Commission shall apply this subsection as consistently as possible under similar facts and circumstances.

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(b) *General Assembly member — Compensated representation or assistance.* — (1) Except as provided in paragraph (2) of this subsection, a member of the General Assembly may not, for compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.

(2) Paragraph (1) of this subsection does not apply to assistance to or representation of a party:

(i) in matters relating to the performance of ministerial acts by a governmental unit;

(ii) in matters involving the member's regular business, employment, or profession, in which contact with a governmental unit:

1. is an incidental part of the business, employment, or profession;
2. is made in the manner that is customary for persons in that business, employment, or profession; and
3. is not for contingent compensation;

(iii) in a judicial or quasi-judicial proceeding, including a proceeding before an administrative law judge in the Office of Administrative Hearings, or a matter preliminary, incidental, or collateral to a judicial or quasi-judicial proceeding;

(iv) in a matter before or involving the Workers' Compensation Commission, the Maryland Automobile Insurance Fund, or the Criminal Injuries Compensation Board; or

(v) in a matter in which the assistance or representation, other than for contingent compensation, was commenced by the member of the General Assembly before:

1. the member filed a certificate of candidacy for election to the General Assembly at a time when the member was not an incumbent; or
2. if the member was appointed to fill a vacancy, the date of appointment.

(c) *General Assembly member — Representation in procurement or regulations matters.* — (1) A member of the General Assembly may not assist

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(e) *Posting of disclosure statements.* — (1) The Ethics Commission shall make freely available on the Internet documentation of a disclosure under subsection (c)(4) of this section that is submitted to the Ethics Commission on or after January 1, 2019.

(2) An appointing authority shall promptly transmit a copy of a disclosure statement submitted to the appointing authority under subsection (c)(4) of this section to the Ethics Commission.

5-503. Employment restriction — Entities contracting with State.

(a) *General Assembly members exempted.* — This section does not apply to members of the General Assembly.

(b) *Employment prohibited.* — An official or employee may not be employed by an entity that is a party to a contract that binds or purports to bind the State if:

(1) the duties of the official or employee include matters substantially relating to or affecting the subject matter of the contract; and

(2) the contract binds or purports to bind the State to pay more than \$1,000.

5-504. Employment restriction — Representation or assistance.

(a) *Contingent compensation.* — (1) This subsection does not apply to members of the General Assembly.

(2) Except as provided in paragraph (3) of this subsection, an official or employee may not, for contingent compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.

(3) Paragraph (2) of this subsection does not apply to assistance to or representation of a party:

(i) in a judicial or quasi-judicial proceeding, including a proceeding before an administrative law judge in the Office of Administrative Hearings, or a matter preliminary, incidental, or collateral to a judicial or quasi-judicial proceeding; or

(ii) in a matter before or involving the Workers' Compensation Commission, the Maryland Automobile Insurance Fund, or the Criminal Injuries Compensation Board.

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or represent a person, including himself or herself, for compensation before a State or local governmental agency in any matter involving:

(i) procurement; or

(ii) the adoption of regulations.

(2) Paragraph (1) of this subsection does not apply to an administrative proceeding conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(d) *Former official or employee.* — (1) Except for a former member of the General Assembly, who shall be subject to the restrictions provided under paragraph (2) of this subsection, a former official or employee may not assist or represent a party, other than the State, in a case, a contract, or any other specific matter for compensation if:

(i) the matter involves State government; and

(ii) the former official or employee participated significantly in the matter as an official or employee.

(2) (i) In this paragraph, "legislative action" does not include testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government.

(ii) Except as provided in subparagraph (iii) of this paragraph:

1. a former member of the General Assembly may not assist or represent another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the member leaves office; and

2. a former Governor, Lieutenant Governor, Attorney General, Comptroller, or State Treasurer may not assist or represent another party for compensation in a matter that is the subject of legislative action for one calendar year from the date the official leaves State office.

(iii) The limitation under subparagraph (ii) of this paragraph on representation by a former member of the General Assembly or by a former Governor, Lieutenant Governor, Attorney General, Comptroller, or State Treasurer does not apply to representation of a municipal corporation, county, or State governmental entity.

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(e) *Official or employee in Judicial Branch.* — Notwithstanding subsection (a)(3) of this section or § 5-502 of this subtitle, a full-time official or employee in the Judicial Branch may not represent a party before a court or unit of the Judicial Branch except in the discharge of official duties.

5-505. Gifts or honoraria.

(a) *Gift solicitation prohibited.* — (1) An official or employee may not solicit any gift.

(2) An official may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist described in § 5-702(a)(1) of this title.

(b) *Gift acceptance prohibited.* — (1) In this subsection, "entity" does not include a governmental unit.

(2) Except as provided in subsection (c) of this section, an official or employee may not knowingly accept a gift, directly or indirectly, from an entity that the official or employee knows or has reason to know:

(i) does or seeks to do any business of any kind, regardless of amount, with the official's or employee's governmental unit;

(ii) engages in an activity that is regulated or controlled by the official's or employee's governmental unit;

(iii) has a financial interest that may be affected substantially and materially, in a manner distinguishable from the public generally, by the performance or nonperformance of the official's or employee's official duties; or

(iv) is a regulated lobbyist with respect to matters within the jurisdiction of the official or employee.

(c) *Exceptions.* — (1) Notwithstanding subsection (b) of this section, an official or employee may accept a gift listed in paragraph (2) of this subsection unless:

(i) the gift would tend to impair the impartiality and independent judgment of the official or employee; or

(ii) as to a gift of significant value:

1. the gift would give the appearance of impairing the impartiality and independent judgment of the official or employee; or

2. the official or employee believes or has reason to believe that the gift is designed to impair the impartiality and independent judgment of the official or employee.

(2) Subject to paragraph (1) of this subsection, subsection (b) of this section does not apply to:

(i) 1. except for officials of the Legislative Branch, meals or beverages received and consumed by the official or employee in the presence of the donor or sponsoring entity;

2. for officials of the Legislative Branch, food or beverages received and consumed by the official in the presence of the donor or sponsoring entity as part of a meal or reception to which all members of a legislative unit were invited;

3. for a member of the General Assembly, food or beverages received from a donor or sponsoring entity, other than an individual regulated lobbyist described in § 5-701(a)(1) of this title, during a period when the General Assembly is not in session, at a location that is within a county that contains the member's district, provided that the donor or sponsoring entity is located within a county that contains the member's district; or

4. for a member of the General Assembly, food or beverages received at the time and geographic location of a meeting of a legislative organization for which the member's presiding officer has approved the member's attendance at State expense;

(ii) ceremonial gifts or awards of insignificant monetary value;

(iii) except for a State official of the Executive Branch or Legislative Branch, unsolicited gifts of nominal value;

(iv) for a State official of the Executive Branch or Legislative Branch, unsolicited gifts from a regulated lobbyist that are not meals or alcoholic beverages and that do not exceed \$20 in cost;

(v) trivial gifts of informational value;

(vi) in return for participation on a panel or a speaking engagement at a meeting, reasonable expenses for food, travel, lodging, or scheduled entertainment of the official or employee if the expenses are associated with the meeting, except that, if such expenses for a State official of the Legislative Branch or

Executive Branch are to be paid by a regulated lobbyist and are anticipated to exceed \$500, the official shall notify the appropriate advisory body before attending the meeting:

(vii) for a member of the General Assembly, reasonable expenses for food, travel, lodging, or scheduled entertainment to attend a legislative conference that has been approved by the member's presiding officer;

(viii) tickets or free admission extended to an elected constitutional officer from the person sponsoring or conducting the event, as a courtesy or ceremony to the office, to attend a charitable, cultural, or political event;

(ix) a specific gift or class of gifts exempted from subsection (b) of this section by the Ethics Commission on a written finding that:

1. acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of government; and

2. the gift is purely personal and private in nature;

(x) a gift from:

1. an individual related to the official or employee by blood or marriage; or

2. any other individual who is a member of the household of the official or employee; or

(xi) to the extent provided in subsection (d) of this section, honoraria.

(d) *Honoraria.* — (1) Except as provided in subsection (c)(2)(vi) of this section, a member or member-elect of the General Assembly may not accept an honorarium.

(2) Subject to subsection (c)(1) of this section, an official or employee who is not a member or member-elect of the General Assembly may accept an honorarium if:

(i) the honorarium is limited to reasonable expenses for the official's meals, travel, and lodging, and reasonable and verifiable expenses for care of a child or dependent adult, that are actually incurred;

(ii) the honorarium consists of gifts described in subsection (c)(2)(ii) through (iv) of this section; or

(iii) the official or employee is a faculty member of a State institution of higher education who does not hold another position as an official that precludes receiving the honorarium.

(3) Other than as allowed by paragraph (2) of this subsection, an honorarium may not be accepted, even if allowed by subsection (c)(1) of this section, if:

(i) the payor of the honorarium has an interest that may be affected substantially and materially, in a manner distinguishable from the public generally, by the performance or nonperformance of the official's or employee's official duties; and

(ii) the offering of the honorarium is related in any way to the official's or employee's official position.

(e) *Gifts prohibited under State Finance and Procurement Article.* — An official or employee may not accept a gift that is prohibited under § 13-211 of the State Finance and Procurement Article.

(f) *Further exemptions.* — By regulation, the Ethics Commission may define further exemptions from this section as may be necessary.

5-506. Use of prestige of office.

(a) *In general.* — (1) An official or employee may not intentionally use the prestige of office or public position:

(i) for that official's or employee's private gain or that of another; or

(ii) to influence, except as part of the official duties of the official or employee or as a usual and customary constituent service without additional compensation, the award of a State or local contract to a specific person.

(2) An official may not directly or indirectly initiate a solicitation for a person to retain the compensated services of a particular regulated lobbyist or lobbying firm.

(b) The performance of usual and customary constituent services, without additional compensation, is not prohibited under subsection (a) of this section.

(c) (1) A public official or employee may not use public resources or the title of the public official or employee to solicit a political contribution that is regulated in accordance with the Election Law Article.

(2) A State official may not use public resources to solicit a political contribution that is regulated in accordance with the Election Law Article.

5-507. Disclosure or use of confidential information.

Except in the discharge of an official duty, an official or employee may not disclose or use confidential information acquired by reason of the official's or employee's public position and not available to the public:

- (1) for personal economic benefit; or
- (2) for the economic benefit of another.

5-508. Unlawful harassment or discrimination prohibited.

(a) *Applicability.* — This section does not apply to a State official of the Legislative Branch or a State official of the Judicial Branch.

(b) *In general.* — A State official may not, based on any characteristic protected by law, unlawfully harass or discriminate against:

- (1) an official or employee;
- (2) an intern, a page, or a fellow in any branch of State government;
- (3) an individual regulated lobbyist; or
- (4) a credentialed member of the press.

(c) *Special access to State legislative complex; revocation.* — (1) In this subsection, "State legislative complex" means the following State-occupied buildings:

- (i) the State House;
- (ii) the Department of Legislative Services building;
- (iii) the House of Delegates office building; and

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3. partner in a business or professional enterprise;

(ii) a partnership, limited liability partnership, or limited liability company in which the legislator has invested capital or owns an interest;

(iii) a corporation in which the legislator owns the lesser of:

1. 10% or more of the outstanding capital stock; or
2. capital stock with a cumulative value of \$35,000 or

more;

(iv) a corporation in which the legislator is an officer, a director, or an agent; and

(v) an entity with which the legislator is negotiating employment or has arranged prospective employment.

(2) "Close economic association" does not include a legislator's ownership of stock directly through a mutual fund, an exchange-traded fund, a retirement plan, or any other similar commingled investment vehicle the individual investments of which the legislator does not control or manage.

(b) *Disqualification.* — (1) An interest of a member of the General Assembly conflicts with the public interest if the legislator's interest tends to impair the legislator's independence of judgment.

(2) The conflict disqualifies the legislator from participating in any legislative action, or otherwise attempting to influence any legislation, to which the conflict relates.

(c) *Presumption of conflict.* — It is presumed that an interest disqualifies a legislator from participating in legislative action whenever the legislator:

(1) has or acquires a direct interest in an enterprise that would be affected by the legislator's vote on proposed legislation, unless the interest is common to all members of:

- (i) a profession or occupation of which the legislator is a member; or
- (ii) the general public or a large class of the general public;

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(iv) the Senate office buildings.

(2) If an individual who is exempt from registration under § 5-702(b)(1) of this title is granted special access to the State legislative complex, the individual may not, based on any characteristic protected by law, unlawfully harass or discriminate against:

(i) an official or employee;

(ii) an intern, a page, or a fellow in any branch of State government;

(iii) another individual regulated lobbyist; or

(iv) a credentialed member of the press.

(3) The Department of General Services shall revoke the special access to the State legislative complex granted to a person who violates this subsection or a regulated lobbyist who violates § 5-714 of this subtitle if the revocation is requested by:

(i) the Speaker of the House or the Speaker's designee;

(ii) the President of the Senate or the President's designee; or

(iii) the Executive Director of the Department of Legislative Services or the Executive Director's designee.

Part II. Special Legislative Provisions.

5-511. Application of Part.

This part applies only to members of the General Assembly.

5-512. Disqualification — Presumption of conflict.

(a) *"Close economic association" defined.* — (1) In this section, "close economic association" means the association between a legislator and:

(i) the legislator's:

1. employer;
2. employee; or

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(2) benefits financially from a close economic association with a person whom the legislator knows has a direct interest in an enterprise or interest that would be affected by the legislator's participation in legislative action, differently from other like enterprises or interests;

(3) benefits financially from a close economic association with a person who is lobbying for the purpose of influencing legislative action; or

(4) solicits, accepts, or agrees to accept a loan, other than a loan from a commercial lender in the normal course of business, from a person who would be affected by or has an interest in an enterprise that would be affected by the legislator's participation in legislative action.

5-513. Suspension of disqualification.

(a) *Disclaimer of conflict; exception.* — (1) Except as provided in paragraph (2) of this subsection, the disqualification arising under § 5-512 of this subtitle is suspended if a legislator with an apparent or presumed conflict files with the Joint Ethics Committee a sworn statement that:

(i) describes the circumstances of the apparent or presumed conflict and the legislation, class of legislation, or legislative action to which it relates; and

(ii) asserts that the legislator is able to participate in legislative action relating to the matter fairly, objectively, and in the public interest.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the disqualification arising under § 5-512 of this subtitle may not be suspended if the conflict is direct and personal to:

1. the legislator;
2. a member of the legislator's immediate family; or
3. the legislator's employer.

(ii) This paragraph does not apply to a vote on:

1. the annual operating budget bill, in its entirety; or
2. the annual capital budget bill, in its entirety.

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(b) *Statement of Joint Ethics Committee; further action.* — (1) Whenever a legislator files a statement described in subsection (a)(1) of this section, the Joint Ethics Committee on its own motion may issue a statement concerning the propriety of the legislator's participation in the particular legislative action, with reference to the applicable ethical standards.

(2) The suspension of the disqualification by the filing of the statement is subject to further action by the Joint Ethics Committee if the question of conflict comes before the Committee as to the same circumstances and the same legislator.

(c) *Statement of recusal.* — A member who is disqualified from participating in legislative action under subsection (a)(2)(i) of this section, or who chooses to be excused from participating in legislative action on a bill or class of bills because of the appearance or presumption of a conflict, shall file in a timely manner a statement with the Joint Ethics Committee that describes the circumstances of the apparent or presumed conflict.

(d) *Public record.* — All statements filed under this section shall be:

(1) filed electronically on a form required by the Joint Ethics Committee; and

(2) maintained as a matter of public record as required in subsection (e) of this section.

(e) *Statements available for public inspection; contents.* — (1) The Department of Legislative Services shall:

(i) compile the statements filed under this section;

(ii) make the statements available for public inspection as provided in the Public Information Act; and

(iii) as to statements filed on or after January 1, 2013, make the statements freely available to the public on the Internet through an online registration program.

(2) As to each statement, the Internet posting shall indicate:

(i) whether the Joint Ethics Committee has made a determination under subsection (b) of this section;

(ii) the determination made, if any; and

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writing to the Joint Ethics Committee at the times and in the manner required by the Joint Ethics Committee:

(i) subject to paragraph (2) of this subsection, if representing a person for compensation before a State or local government agency, except in a judicial proceeding or in a quasi-judicial proceeding, the name of the person represented, the services performed, and the consideration;

(ii) if representing a State or local government agency for compensation, the name of the agency, the services performed, and the consideration;

(iii) the name of any business enterprise subject to regulation by a State agency in which the legislator and a member of the legislator's immediate family (spouse and children living with the legislator), together or separately, have:

1. the lesser of:

A. 10% or more of the capital stock of any corporation;

or

B. capital stock of any corporation with a cumulative value of \$35,000 or more; and

2. any interest in a partnership, limited liability partnership, or limited liability company;

(iv) details of any contractual relationship with a governmental entity of the State or a local government in the State, including the subject matter and the consideration;

(v) details of any transaction with a governmental entity of the State or a local government in the State involving a monetary consideration;

(vi) except for employment as a legislator, the name of any:

1. primary employer of the legislator;

2. primary employer of the legislator's spouse; and

3. business from which the legislator or the legislator's spouse receives earned income as a result of an ownership interest in the business;

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(iii) the date, if any, on which the determination was made.

5-514. Outside income relating to State or local governmental entities.

(a) *Restriction on earned income.* — (1) Except as provided in paragraph (2) or (3) of this subsection, a member of the General Assembly, a filed candidate for election to the General Assembly, or a member-elect of the General Assembly may not receive earned income from:

(i) an executive unit; or

(ii) a political subdivision of the State.

(2) The Joint Ethics Committee may exempt an individual from the provisions of paragraph (1) of this subsection if the earned income is for:

(i) educational instruction provided by the member, candidate, or member-elect;

(ii) a position that is subject to a merit system hiring process;

(iii) a human services position; or

(iv) a career promotion, change, or progression that is a logical transition from a pre-existing relationship as described in paragraph (3)(i) of this subsection.

(3) This subsection does not apply to compensation to a member, candidate, or member-elect derived from:

(i) employment as a nonelected law enforcement officer or a fire or rescue squad worker; or

(ii) a transaction or relationship that existed before the individual:

1. filed a certificate of candidacy for election to the General Assembly while the individual was not an incumbent member of the General Assembly; or

2. was appointed to fill a vacancy.

(b) *Reports.* — (1) A legislator shall report the following information in

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(vii) except in a judicial or quasi-judicial proceeding, the name of any client of the legislator or of a business entity in which the legislator has an ownership interest if the legislator:

1. is assisting the client in seeking a State or local government contract, license, or other competitive award; and

2. will receive or expects to receive a direct financial benefit as a result of the award of the contract, license, or other competitive award to the client; and

(viii) if the legislator's spouse is an individual regulated lobbyist, the name of each entity that has engaged the lobbyist for lobbying purposes.

(2) A legislator, on the written advice of the Counsel to the Joint Ethics Committee, is not required to report any information under this subsection if reporting the information would violate standards of client confidentiality or professional conduct.

(3) The Joint Ethics Committee may adopt procedures to keep confidential the name of the person represented in a report filed under paragraph (1)(i) of this subsection if that information is privileged or confidential under any law governing proceedings before that State or local government agency.

(c) *Public record.* — All reports filed under this section shall be:

(1) filed electronically on a form required by the Joint Ethics Committee; and

(2) maintained as a matter of public record as required in subsection (d) of this section.

(d) *Reports available for public inspection; contents.* — (1) The Department of Legislative Services shall:

(i) compile the reports filed under this section;

(ii) make the reports available for public inspection as provided in the Public Information Act; and

(iii) as to reports filed on or after January 1, 2013, and except as provided in paragraph (2) of this subsection, make the reports freely available to the public on the Internet through an online registration program.

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(2) The Department of Legislative Services may not post on the Internet information related to consideration received that is reported under subsection (b) of this section.

5-515. Joint Ethics Committee — Written opinions.

(a) *Request for opinion.* — (1) A legislator may request a written opinion from the Joint Ethics Committee on the propriety of any current or proposed conduct of the legislator and involving the applicable standards of ethical conduct for legislators established by law, rule, or other standard of ethical conduct.

(2) A request for an opinion shall:

- (i) be in writing and signed by the legislator;
- (ii) be addressed to the Joint Ethics Committee or either cochair;
- (iii) be submitted in a timely manner; and
- (iv) include a complete and accurate statement of the relevant facts.

(3) If a request is unclear or incomplete, the Joint Ethics Committee may seek additional information from the legislator.

(4) (i) The Counsel to the Joint Ethics Committee shall prepare for the Committee a response to each written request for an opinion under this subsection.

(ii) Each opinion shall discuss all applicable laws, rules, or other standards.

(5) Except as provided in paragraph (6)(i) of this subsection, an opinion must be approved by a majority of the members of the Joint Ethics Committee.

(6) (i) The cochairs of the Joint Ethics Committee may approve an opinion on behalf of the Committee if they determine that the opinion is consistent with prior precedent and therefore does not require consideration by the full Committee.

(ii) An opinion issued under subparagraph (i) of this paragraph shall be distributed to each member of the Joint Ethics Committee not

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affidavit, setting forth the facts on which the statement is based;

(2) motion of a majority of the membership of the Joint Ethics Committee; or

(3) referral of a matter to the Joint Ethics Committee by a presiding officer of the General Assembly as provided in § 2-706(a)(5) of the State Government Article.

(b) *Copies.* — (1) The Joint Ethics Committee shall provide a copy of each complaint filed under subsection (a) of this section to the presiding officer of the house of the legislator who is the subject of the complaint.

(2) Based on the information contained in a complaint provided to a presiding officer under paragraph (1) of this subsection, if a presiding officer determines that it is inappropriate for a Joint Ethics Committee member from that house to consider a particular matter, the presiding officer shall appoint a substitute member to the Joint Ethics Committee for its consideration of the matter.

5-517. Confidentiality.

(a) *In general.* — Except as provided in subsections (b) and (c) of this section, any matter before the Joint Ethics Committee, including information relating to any complaint, proceeding, or record of the Joint Ethics Committee, shall remain confidential.

(b) *Exceptions.* — Public access and inspection of an activity or a record of the Joint Ethics Committee shall be available for:

(1) a disclosure or disclaimer of a conflict of interest form filed with the Joint Ethics Committee;

(2) a portion of a meeting in which a disclosure or disclaimer form is reviewed by the Joint Ethics Committee;

(3) information relating to a complaint, proceeding, or record of the Joint Ethics Committee involving a member of the General Assembly if consent to public access and inspection is granted by:

- (i) the member involved in the matter; or
- (ii) a three-fourths vote of the full membership of the Joint Ethics Committee, based on criteria established by rule;

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later than the next meeting of the Committee.

(iii) Notwithstanding subparagraph (i) of this paragraph, if a cochair of the Joint Ethics Committee is the legislator requesting the opinion, the opinion must be approved by a majority of the Committee.

(b) *Response.* — The Joint Ethics Committee is not required to issue an opinion if the request is not made in a timely manner.

(c) *Sua sponte opinions.* — The Joint Ethics Committee on its own motion may issue opinions as it considers appropriate.

(d) *Public release.* — (1) The cochairs shall determine whether an opinion shall be made public, with deletions and changes necessary to protect the legislator's identity.

(2) (i) The Counsel to the Joint Ethics Committee shall compile and index each opinion that will be made public.

(ii) The compilation of opinions shall be distributed to each member of the General Assembly and shall be available to the public.

(e) *Savings clause.* — The Joint Ethics Committee may take no adverse action with regard to conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts addressed in the opinion.

(f) *Restrictions on use of information.* — Information provided to the Joint Ethics Committee by a legislator seeking advice regarding prospective conduct may not be used as the basis for initiating an investigation under this section if the legislator acts in good faith in accordance with the advice of the Committee.

(g) *Binding effect.* — (1) An opinion issued under this section is binding on any legislator to whom it is addressed.

(2) A published opinion is binding on all members of the General Assembly.

5-516. Complaints.

(a) *Form.* — A complaint alleging that a member of the General Assembly may have violated standards of ethical conduct, including § 2-108 of the State Government Article, may be filed with the Joint Ethics Committee by:

(1) a written statement from any person, accompanied by an

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(4) a rule or broadly applicable opinion issued by the Joint Ethics Committee; or

(5) any matter or record that is otherwise available for public access or inspection as specifically authorized under this subtitle.

(c) *Complaints alleging violations of antiharassment policy and procedures.* — (1) The Joint Ethics Committee shall provide a copy of a complaint alleging a violation of the antiharassment policy and procedures and a notice of the Joint Ethics Committee's action to the Human Resources Manager of the Department of Legislative Services.

(2) For information received under paragraph (1) of this subsection, the Human Resources Manager shall be subject to the confidentiality restrictions of subsections (a) and (b) of this section.

5-518. Review of complaints.

(a) *In general.* — Except as provided in § 5-518.1 of this subtitle, after the filing or preparation of a complaint under § 5-516 of this subtitle, the Joint Ethics Committee shall review the complaint and proceed in accordance with § 5-519 of this subtitle unless, after examining the complaint and the issues raised by it, the Committee finds that further proceedings are not justified because:

(1) the complaint is frivolous;

(2) the complaint does not allege actions on the part of the accused legislator that provide reason to believe that a violation may have occurred;

(3) the matters alleged are not within the jurisdiction of the Joint Ethics Committee;

(4) the violations alleged were inadvertent, technical, or minor, or have been cured, and, after consideration of all of the circumstances then known, further proceedings would not serve the purposes of this subtitle; or

(5) for other reasons, after consideration of all the circumstances, further proceedings would not serve the purposes of this subtitle.

(b) *Report; notice; inspection.* — (1) If a finding is made under subsection (a) of this section, the Joint Ethics Committee shall:

(i) submit a report of its conclusions to the presiding officer or to the membership of the branch of the legislature of which the accused legislator is

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a member, and the proceedings shall be terminated;

(ii) provide advice or guidance to the accused legislator; or

(iii) provide the accused legislator with an opportunity to cure any minor violation of ethical standards.

(2) (i) Subject to § 5-517 of this subtitle, notice of the Joint Ethics Committee's action shall be provided to the accused legislator and to any person who filed the complaint.

(ii) On request, the accused legislator may see the complaint and the report.

(c) *Allegation summary.* — If no finding is made under subsection (a) of this section, the Joint Ethics Committee shall prepare an allegation summary, based on its examination under subsection (a) of this section, setting forth the alleged facts and the issues then known that merit further proceedings.

(d) *Providing statement to accused legislator.* — After review of a complaint, the Joint Ethics Committee shall provide a statement of its findings to the accused legislator.

5-518.1. Investigation of violations of antiharassment policies and procedures of General Assembly or retaliation against individuals reporting violations.

(a) *Referral to outside, independent investigator.* — Unless the alleged victim objects, the Joint Ethics Committee shall refer a complaint for evaluation to an outside and independent investigator selected by the Joint Ethics Committee if the complaint alleges that a member of the General Assembly has:

(1) violated the antiharassment policy and procedures of the General Assembly; or

(2) retaliated against an individual for reporting or participating in the investigation of a violation of the antiharassment policy and procedures of the General Assembly.

(b) *Submission of preliminary evaluation and findings.* — The investigator shall submit its findings and recommendations regarding a complaint evaluated under subsection (a) of this section to the Joint Ethics Committee.

(c) *Investigation of complaint; dismissal of complaint.* — (1) If the

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(1) terminate the proceedings; or

(2) schedule a hearing and notify the accused legislator of the time, location, and procedures of the hearing.

(c) *Amendment.* — (1) The Joint Ethics Committee may amend the allegation summary at any time.

(2) If an allegation summary is amended under paragraph (1) of this subsection, the accused legislator shall be allowed an opportunity to file a written answer to the amended allegation summary.

5-520. Hearing procedures.

(a) *Adoption.* — The Joint Ethics Committee shall adopt written procedures for conducting a hearing to consider a complaint, an allegation summary, and a written answer, if any.

(b) *Access.* — The written procedures adopted by the Joint Ethics Committee under subsection (a) of this section:

(1) shall be available for public inspection;

(2) shall be provided to the legislator who is the subject of a hearing;

(3) shall allow the accused legislator to:

(i) be represented by counsel;

(ii) cross-examine witnesses; and

(iii) be provided an opportunity to inspect, in a reasonable manner, any records that the Joint Ethics Committee intends to use during the hearing, subject to limitations established by the Joint Ethics Committee in the written procedures; and

(4) subject to items (1) and (2) of this subsection, may be amended by the Joint Ethics Committee at any time.

(c) *Subpoenas.* — (1) (i) If the Joint Ethics Committee determines that a hearing is required under § 5-519(b)(2) of this subtitle, the Joint Ethics Committee, by a two-thirds vote of its full membership, may issue one or more subpoenas that require the appearance of a person, the production of relevant records, and the giving of relevant testimony.

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investigator does not recommend dismissal of the complaint after completing the evaluation, the investigator shall investigate the complaint.

(2) After the investigator completes the evaluation and at the recommendation of the investigator, the Joint Ethics Committee may dismiss a complaint before the completion of an investigation.

(d) *Submission of findings and recommendations for further proceedings.* — The investigator shall submit its findings and recommendations regarding a complaint investigated under subsection (c)(1) of this section to the Joint Ethics Committee for further proceedings in accordance with this subtitle.

(e) *Advising complainant of findings and recommendations.* — The Joint Ethics Committee shall advise the complainant of the findings and recommendations of the investigator and provide, in accordance with § 5-518(b)(2) of this subtitle, a notice of the Joint Ethics Committee's actions.

(f) *Removal of investigator by Joint Ethics Committee for cause; delay of investigation at request of prosecuting authority.* — (1) The Joint Ethics Committee may remove an outside and independent investigator selected under this subsection only for good cause.

(2) If the Joint Ethics Committee refers a matter to a prosecuting authority, the Joint Ethics Committee may direct an outside and independent investigator to delay an investigation at the request of a prosecuting authority.

5-519. Allegation summary.

(a) *Notice; answer.* — (1) Except as to proceedings terminated in accordance with § 5-518(b) of this subtitle, the Joint Ethics Committee shall provide to the accused legislator a copy of:

(i) the complaint filed or prepared in accordance with § 5-516 of this subtitle; and

(ii) the allegation summary prepared in accordance with § 5-518(c) of this subtitle.

(2) The accused legislator shall be allowed an opportunity to file a written answer to the allegation summary.

(b) *Termination or hearing.* — Following notification of the accused legislator, the Joint Ethics Committee may:

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(i) If the Joint Ethics Committee exercises subpoena powers under this paragraph, the legislator who is the subject of the investigation may require the Joint Ethics Committee to issue one or more subpoenas on the legislator's behalf.

(2) A request to appear, an appearance, or a submission of evidence does not limit the subpoena power of the Joint Ethics Committee.

(3) A subpoena issued under paragraph (1) of this subsection shall be served:

(i) in the manner provided by law for service of a subpoena in a civil action;

(ii) before the time that the subpoena sets for appearance or production of records; and

(iii) with the following documents:

1. a copy of this title;

2. a copy of the rules of the Joint Ethics Committee; and

3. if the subpoena requires the appearance of a person, notice that counsel may accompany the person.

(4) A person who is subpoenaed to appear at a hearing is entitled to receive the fees and allowances that are provided for a person who is subpoenaed by a circuit court.

(5) A person may be held in contempt if the person unjustifiably:

(i) fails or refuses to comply with a subpoena for appearance;

(ii) appears but fails or refuses to testify under oath; or

(iii) disobeys a directive of the presiding chair at the hearing to answer a relevant question or to produce a record, including an electronic record, that has been subpoenaed, unless the directive is overruled by a majority vote of the members of the Joint Ethics Committee who are present at the hearing.

(6) By a two-thirds vote of its full membership, the Joint Ethics

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Committee may apply for a contempt citation to a circuit court.

5-521. Findings.

(a) *Sources.* — The Joint Ethics Committee may make a finding developed from:

- (1) information presented during the hearing;
- (2) the allegation summary and any amendments to it;
- (3) the written answer of the accused legislator to the allegation summary, if any; and
- (4) any other information provided to the Joint Ethics Committee and made available to the accused legislator.

(b) *Criteria.* — Consistent with the purposes of this title, the Joint Ethics Committee may establish criteria for making a finding in its written procedures established under § 5-520(a) of this subtitle.

(c) *Procedure.* — If the Joint Ethics Committee makes a finding under this section, the Joint Ethics Committee shall:

- (1) terminate the proceeding against the accused legislator; or
- (2) issue any recommendations to the presiding officer of the house of the accused legislator or to the full house of the accused legislator, including any recommendations for appropriate sanctions.

5-522. Referral to prosecutorial authorities.

If the Joint Ethics Committee, at any time during its consideration of any complaint or allegation summary or during any proceeding, finds that there are reasonable grounds to believe that a legislator may have committed a crime, the Joint Ethics Committee shall:

- (1) refer the matter to an appropriate prosecuting authority; and
- (2) provide any information or evidence to the prosecuting authority that the Joint Ethics Committee determines is appropriate.

Part III. Public-Private Partnership Act.

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(ii) "Research or development" includes:

1. the development or marketing of university-owned technology;

2. the acquisition of services of an official or employee by an entity for research and development purposes; or
3. participation in State economic development programs.

(b) *Adoption of procedures.* — (1) Each educational institution engaged in research or development shall develop conflict of interest procedures based on:

- (i) conflict of interest policies developed by its governing board; and
- (ii) the purposes of this title specified in § 5-102 of this title.

(2) Before they may become effective, the procedures and policies developed under this subsection shall be approved by:

- (i) the Office of the Attorney General; and
- (ii) as to conformity with this section, the Ethics Commission.

(c) *Content of procedures — In general.* — The procedures adopted by an educational institution under subsection (b) of this section shall:

(1) require disclosure of any interest in, employment by, or other relationship with an entity for which an exemption under this section is claimed, on a form filed with the Ethics Commission and maintained as a public record at the educational institution;

(2) require a review of all disclosures by a designated official, who shall determine what:

- (i) further information must be disclosed; and
- (ii) restrictions shall be imposed by the educational institution to manage, reduce, or eliminate any actual or potential conflict of interest;

(3) include guidelines to ensure that interests and employment for which an exemption under this section is claimed do not:

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5-525. Institutions of higher education.

(a) *Definitions.* — (1) In this section the following words have the meanings indicated.

(2) "Conflict of interest policies" means policies adopted by a governing board and approved:

- (i) by the Office of the Attorney General; and
- (ii) as to conformity with this section, by the Ethics Commission.

(3) "Educational institution" means:

- (i) a public senior higher education institution as defined in § 10-101 of the Education Article;
- (ii) a center or an institute of the University System of Maryland that is designated in the conflict of interest policies adopted by the System's Board of Regents; or
- (iii) the University System of Maryland Administration, for which the Chancellor of the System shall be considered the president for purposes of this section.

(4) "Governing board" has the meaning provided in § 10-101 of the Education Article.

(5) "Relationship" includes any:

- (i) interest;
- (ii) service;
- (iii) employment;
- (iv) gift; or
- (v) other benefit or relationship.

(6) (i) "Research or development" means basic or applied research or development.

(i) improperly give an advantage to entities in which the interests or employment are maintained;

(ii) lead to misuse of institution students or employees for the benefit of entities in which the interests or employment are maintained; or

(iii) otherwise interfere with the duties and responsibilities of the exempt official or employee;

(4) require approval by the president of the educational institution of any interest or employment for which an exemption is claimed under this section; and

(5) require approval by the governing board of the educational institution if an exemption is claimed by the president of the educational institution.

(d) *Content of procedures — Consultations.* — Policies and procedures adopted under this section may provide for periodic consultation with the Department of Commerce and with federal agencies that have imposed regulatory requirements on federally funded research, concerning the implementation of this section.

(e) *Exemption from State ethics law requirements.* — (1) Except as provided in subsection (f) of this section, a present or former official or employee at an educational institution may have a relationship, otherwise prohibited by this subtitle, with an entity engaged in research or development, or with an entity having a direct interest in the outcome of research or development, only if:

(i) the educational institution has adopted policies and procedures in accordance with this section; and

(ii) the official or employee has complied with the policies and procedures.

(2) If the provisions of this subsection are not met, the official or employee is not exempt from any relevant provisions of this subtitle.

(f) *Limitation on exemptions.* — (1) This section does not exempt an official or employee at an educational institution from the provisions of § 5-505 of this subtitle.

(2) An official or employee at an educational institution may not:

- (i) represent a party for contingent compensation in any

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matter before the institution's governing board or before the Board of Public Works; or

(ii) intentionally misuse the individual's State position for the individual's personal gain or for the gain of another person.

(g) *Quarterly reports.* — Each governing board shall report quarterly to the Governor, the Legislative Policy Committee of the General Assembly, and the Ethics Commission:

(1) the number of approvals granted under subsection (c) of this section; and

(2) how the conflict of interest policies and procedures adopted under this section have been implemented in the preceding year.

(h) *Specific officials.* — (1) This subsection applies to an official who is:

(i) a chancellor, vice chancellor, president, or vice president at a public senior higher educational institution in the State; or

(ii) an individual who holds a similar position at a public senior higher educational institution in the State.

(2) An official subject to this subsection may not receive an exemption under this section unless the governing board of the educational institution finds that:

(i) participation by, and the financial interest or employment of, the official is necessary to the success of the research or development activity; and

(ii) the conflict of interest can be managed consistent with the purposes of this section and other relevant provisions of this title.

(3) Notwithstanding subsection (g) of this section, the governing board of an educational institution promptly shall notify the Ethics Commission in writing of any exemption that is granted under this section to an official subject to this subsection.

(4) (i) If the Ethics Commission disagrees with an exemption that is granted by the governing board of an educational institution to an official who is subject to this subsection, within 30 days after receipt of the notice under paragraph (3) of this subsection, the Ethics Commission shall notify the governing board of the reason for its disagreement.

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5-602. Financial disclosure statement — Filing requirements.

(a) *In general.* — Except as otherwise provided in this subtitle, a statement filed under § 5-601, § 5-603, § 5-604, or § 5-605 of this subtitle shall:

- (1) be filed electronically with the Ethics Commission;
- (2) be filed under oath;
- (3) be filed on or before April 30 of each year;
- (4) cover the calendar year immediately preceding the year of filing;
- (5) contain the information required in § 5-607 of this subtitle.

and
(b) *Duplicate filing.* — A member of the General Assembly shall file the statement with the Ethics Commission and the Joint Ethics Committee.

(c) *Preliminary disclosure.* — (1) In addition to the statement filed under § 5-601 of this subtitle, a member of the General Assembly shall file a preliminary disclosure on or before the seventh day of the regular legislative session if there will be a substantial change in the statement covering the calendar year immediately preceding the year of filing, as compared to the next preceding calendar year.

(2) A member of the General Assembly whose statement under § 5-601 of this subtitle will not contain a substantial change is not required to file a preliminary disclosure under paragraph (1) of this subsection.

(3) The Joint Ethics Committee shall determine:

- (i) the form of a preliminary disclosure under this subsection;
- (ii) which aspects of financial disclosure are subject to this subsection.

and
(4) A preliminary disclosure shall be filed and maintained, and may be disclosed, in the same manner required for a statement filed under § 5-601 of this subtitle.

(d) *Electronic filing; exemption.* — (1) The Ethics Commission shall develop and implement procedures for the electronic filing of a statement under this subtitle.

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(ii) On receipt of the notice from the Ethics Commission under subparagraph (i) of this paragraph, the governing board of the educational institution shall reexamine the matter.

(i) *Short title.* — This section may be cited as the Public-Private Partnership Act.

Subtitle 6. Financial Disclosure.

5-601. Individuals required to file statement.

(a) *Officials and candidates.* — Except as provided in subsections (b) and (c) of this section, and subject to subsections (d) and (e) of this section, each official and candidate for office as a State official shall file a statement as specified in §§ 5-602 through 5-608 of this subtitle.

(b) *State officials of Judicial Branch.* — Financial disclosure by a judge of a court under Article IV, § 1 of the Maryland Constitution, a candidate for elective office as a judge, or a judicial appointee as defined in Maryland Rule 16-814 is governed by § 5-610 of this subtitle.

(c) *Exceptions.* — The requirement to file a financial disclosure statement under subsection (a) of this section does not apply to:

(1) a deputy sheriff and any employee in the office of the sheriff of a county; and

(2) a deputy or assistant State's Attorney and any employee in the office of the State's Attorney for a county.

(d) *Member of board.* — (1) Except as provided in paragraph (2) of this subsection, an individual who is a public official only as a member of a board and who receives annual compensation that is less than 25% of the lowest annual compensation at State grade level 16 shall file the statement required by subsection (a) of this section in accordance with § 5-609 of this subtitle.

(2) A member of a board of license commissioners or of a liquor control board shall file a statement in accordance with § 5-607 of this subtitle.

(e) *Commissioner of bicounty commission.* — A commissioner or an applicant for appointment as commissioner of a bicounty commission shall file the statement required by subsection (a) of this section in accordance with Subtitle 8, Part IV of this title.

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(2) (i) To comply with the requirement of paragraph (1) of this subsection, the Ethics Commission may adopt regulations to modify the format for disclosure of information required under § 5-607 of this subtitle.

(ii) The regulations adopted under this paragraph shall be consistent with the intent of this title.

(e) *Oath or affirmation for electronic filing.* — (1) If the financial disclosure statement filed electronically under subsection (d) of this section is required to be made under oath or affirmation, the oath or affirmation shall be made by an electronic signature that is:

(i) in the financial disclosure statement or attached to and made part of the financial disclosure statement; and

(ii) made expressly under the penalties for perjury.

(2) An electronic signature made under paragraph (1) of this subsection subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

(f) *Providing list of entities doing business with the governmental unit in preceding year.* — On or before January 15 of each year, a governmental unit shall provide an individual who is employed by the governmental unit and who is required to file a statement under this subtitle a list of entities that did business with the governmental unit during the preceding calendar year.

5-603. Appointee filling vacancy.

An individual who is appointed to fill a vacancy in an office for which a statement is required by § 5-601(a) of this subtitle, and who has not already filed a statement under § 5-602 of this subtitle for the preceding calendar year, shall file the statement within 30 days after appointment.

5-604. Official leaving office.

(a) *In general.* — Except as provided under subsection (c) of this section, an individual who, other than by reason of death, leaves an office for which a statement is required by § 5-601(a) of this subtitle shall file the statement within 60 days after leaving the office.

(b) *Period covered.* — The statement shall cover:

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(1) the calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

(2) the portion of the current calendar year during which the individual held the office.

(c) *Exceptions.* — This section does not require the filing of a statement if

(1) the individual has left office to become an official in another office for which a statement is required under this subtitle; and

(2) the disclosure requirements of the new office are at least as extensive as those of the old office.

5-605. Candidates for office.

(a) *In general.* — Except as provided in subsection (b) of this section, a candidate who is required by § 5-601(a) of this subtitle to file a statement shall file the statement each year beginning with the year in which the candidate files a certificate of candidacy through the year of the election.

(b) *Exception.* — This section does not require the filing of a statement for any full year covered by a statement filed by the individual under § 5-602 of this subtitle.

(c) *Filing requirements.* — A statement under this section shall be filed with the election board with which the certificate of candidacy is required to be filed.

(d) *Time for filing.* — (1) The first statement required under this section shall be filed no later than the filing of the certificate of candidacy.

(2) In the year of the election the statement shall be filed on or before the earlier of:

(i) April 30; or

(ii) the last day for the withdrawal of a candidacy under § 5-502 of the Election Law Article.

(e) *Failure to file.* — If a statement required by this section is overdue and is not filed within 8 days after the candidate receives from the election board written notice of the failure to file, the candidate is deemed to have withdrawn the candidacy.

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(ii) the name of the individual whose statement was examined or copied.

(2) On the request of the individual whose statement was examined or copied, the Ethics Commission or the Joint Ethics Committee shall forward to that individual a copy of the record specified in paragraph (1) of this subsection.

5-607. Content of statements.

(a) *In general.* — A statement that is required under § 5-601(a) of this subtitle shall contain schedules disclosing the information and interests specified in this section, if known, for the individual making the statement for the applicable period.

(b) *Interests in real property.* — (1) The statement shall include a schedule of each interest in real property, wherever located, including each interest held in the name of a partnership, limited liability partnership, or limited liability company in which the individual held an interest.

(2) For each interest reported, the schedule shall include:

(i) the nature of the property;

(ii) the street address, mailing address, or legal description of the property;

(iii) the nature and extent of the interest in the property, including any conditions to and encumbrances on the interest;

(iv) the date and manner in which the interest was acquired;

(v) the identity of the entity from which the interest was acquired;

(vi) if the interest was acquired by purchase, the nature and amount of the consideration given for the interest;

(vii) if the interest was acquired in any other manner, the fair market value of the interest when acquired;

(viii) if any interest was transferred, in whole or in part, during the applicable period:

1. a description of the interest transferred;

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(f) *Prerequisite for filing certificate of candidacy.* — (1) An election board may not accept a certificate of candidacy or certificate of nomination of a candidate covered by this section unless the candidate has filed a statement required by this section or § 5-602 of this subtitle.

(2) An election board, within 30 days after receiving a statement, shall forward the statement to the Ethics Commission.

5-606. Public record.

(a) *Access to statements.* — (1) (i) Except as provided in paragraph (3) of this subsection, the Ethics Commission and the Joint Ethics Committee shall maintain the statements submitted under this subtitle and, during normal office hours, make the statements available to the public for examination and copying.

(ii) Except as provided in paragraph (2) of this subsection, the Ethics Commission and the Joint Ethics Committee may charge a reasonable fee and adopt administrative procedures for the examination and copying of a statement.

(2) Except as provided in paragraph (3) of this subsection, for statements submitted on or after January 1, 2019, the Ethics Commission shall make freely available to the public on the Internet, through an online registration program, a financial disclosure statement required under § 5-601(a) of this subtitle and a preliminary disclosure required under § 5-602(c) of this subtitle that is filed by:

(i) a State official;

(ii) a candidate for office as a State official; or

(iii) a Secretary of a principal department in the Executive Branch.

(3) The Ethics Commission and the Joint Ethics Committee may not provide public access to a portion of a statement that is filed after January 1, 2019, and that includes an individual's home address that the individual has identified as the individual's home address.

(b) *Requirements and notice.* — (1) The Ethics Commission and the Joint Ethics Committee shall maintain a record of:

(i) the name and home address of each individual who examines or copies a statement under this section; and

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2. the nature and amount of the consideration received for the interest; and

3. the identity of the entity to which the interest was transferred; and

(ix) the identity of any other entity with an interest in the property.

(c) *Interests in corporations and partnerships.* — (1) The statement shall include a schedule of each interest held by the individual in a corporation, partnership, limited liability partnership, or limited liability company, whether or not the corporation, partnership, limited liability partnership, or limited liability company does business with the State.

(2) For each interest reported, the schedule shall include:

(i) the name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability company;

(ii) subject to paragraph (3) of this subsection, the nature and amount of the interest held, including any conditions to and encumbrances on the interest;

(iii) except as provided in paragraph (4) of this subsection, if any interest was acquired during the applicable period:

1. the date and manner in which the interest was acquired;

2. the identity of the entity from which the interest was acquired;

3. if the interest was acquired by purchase, the nature and amount of the consideration given for the interest; and

4. if the interest was acquired in any other manner, the fair market value of the interest when it was acquired; and

(iv) if any interest was transferred, in whole or in part, during the applicable period:

1. a description of the interest transferred;

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2. the nature and amount of the consideration received for the interest; and

3. if known, the identity of the entity to which the interest was transferred.

(3) (i) As to an equity interest in a corporation, the individual may satisfy paragraph (2)(ii) of this subsection by reporting, instead of a dollar amount:

1. the number of shares held; and
2. unless the corporation's stock is publicly traded, the percentage of equity interest held.

(ii) As to an equity interest in a partnership, limited liability partnership, or limited liability company, the individual may satisfy paragraph (2)(ii) of this subsection by reporting, instead of a dollar amount, the percentage of equity interest held.

(4) If an interest acquired during the applicable reporting period consists of additions to existing publicly traded corporate interests acquired by dividend or dividend reinvestment, and the total value of the acquisition is less than \$500, only the manner of acquisition is required to be disclosed under paragraph (2)(ii) of this subsection.

(d) *Interests in business entities doing business with State.* — (1) The statement shall include a schedule of each interest in a business entity doing business with the State, other than interests reported under subsection (c) of this section.

- (2) For each interest reported, the schedule shall include:
- (i) the name and address of the principal office of the business entity;
 - (ii) the nature and amount of the interest held, including any conditions to and encumbrances on the interest;
 - (iii) if any interest was acquired during the applicable period:
 1. the date and manner in which the interest was acquired;

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1. food or beverages received and consumed by an official of the Legislative Branch in the presence of the donor or sponsoring entity as part of a meal or reception to which all members of a legislative unit were invited;

2. food or beverages received by a member of the General Assembly at the time and geographic location of a meeting of a legislative organization for which the member's presiding officer has approved the member's attendance at State expense; or

3. except as provided in subparagraph (iii) of this paragraph, a ticket or free admission extended to a member of the General Assembly by the person sponsoring or conducting the event as a courtesy or ceremony to the office to attend a charitable, cultural, or political event to which all members of a legislative unit were invited.

(iii) The statement shall include the acceptance of each of two or more tickets or free admissions, extended to a member of the General Assembly by the person sponsoring or conducting the event, with a cumulative value of \$100 or more received from one entity during the applicable period.

- (4) For each gift subject to this subsection, the schedule shall include:
- (i) the nature and value of the gift; and
 - (ii) the identity of the entity from which the gift was received, whether directly or indirectly.

(5) This subsection does not authorize acceptance of a gift not otherwise allowed by law.

(f) *Employment by or interests in business entities doing business with State.* — (1) The statement shall include, as specified in this subsection, a schedule of all offices, directorships, and salaried employment, or any similar interest not otherwise disclosed, in business entities doing business with the State.

(2) This subsection applies to positions and interests held at any time during the applicable period by:

- (i) the individual; or
 - (ii) any member of the individual's immediate family.
- (3) For each position or interest reported, this schedule shall include:

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2. the identity of the entity from which the interest was acquired;

3. if the interest was acquired by purchase, the nature and amount of the consideration given for the interest; and

4. if the interest was acquired in any other manner, the fair market value of the interest when it was acquired; and

(iv) if any interest was transferred, in whole or in part, during the applicable period:

1. a description of the interest transferred;
2. the nature and amount of the consideration received for the interest; and
3. the identity of the entity to which the interest was transferred.

(e) *Gifts.* — (1) This subsection does not apply to a gift received from a member of the immediate family, another child, or a parent of the individual.

(2) The statement shall include a schedule of each gift, specified in paragraph (3) of this subsection, received during the applicable period:

- (i) by the individual or by another entity at the direction of the individual; and
- (ii) directly or indirectly, from or on behalf of an entity that is:
 1. a regulated lobbyist;
 2. regulated by the State; or
 3. otherwise an entity doing business with the State.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the schedule shall include each gift with a value of more than \$20 and each of two or more gifts with a cumulative value of \$100 or more received from one entity during the applicable period.

(ii) The statement need not include as a gift:

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(i) the name and address of the principal office of the business entity;

(ii) the nature of the position or interest and the date it commenced;

(iii) the name of each governmental unit with which the entity is doing business; and

(iv) the nature of the business with the State, which, at a minimum, shall be specified by reference to the applicable criteria of doing business described in § 5-101(f) of this title.

(g) *Indebtedness to entity doing business with State.* — (1) The statement shall include a schedule, to the extent the individual may reasonably be expected to know, of each debt, excluding retail credit accounts, owed at any time during the applicable period to entities doing business with or regulated by the individual's governmental unit:

- (i) by the individual; and
- (ii) if the individual was involved in the transaction giving rise to the debt, by any member of the immediate family of the individual.

(2) For each debt, the schedule shall include:

- (i) the identity of the entity to which the debt was owed;
- (ii) the date it was incurred;
- (iii) the amount owed at the end of the applicable period;
- (iv) the terms of payment;
- (v) the extent to which the principal was increased or decreased during the applicable period; and
- (vi) any security given.

(h) *Family members employed by State.* — The statement shall include a schedule listing the members of the immediate family of the individual who were employed by the State in any capacity at any time during the applicable period.

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(i) *Sources of earned income.* — (1) Except as provided in paragraph (2) of this subsection, the statement shall include a schedule listing the name and address of each:

(i) place of salaried employment, including secondary employment, of the individual or a member of the individual's immediate family at any time during the applicable period;

(ii) business entity of which the individual or a member of the individual's immediate family was a sole or partial owner, and from which the individual or family member received earned income, at any time during the applicable period; and

(iii) for a statement filed on or after January 1, 2019, if the individual's spouse is a regulated lobbyist, entity that has engaged the spouse for lobbying purposes.

(2) The statement may not include a listing of a minor child's employment or business entities of which the child is sole or partial owner, unless the place of employment or the business entity:

(i) is subject to the regulation or authority of the agency that employs the individual; or

(ii) has contracts in excess of \$10,000 with the agency that employs the individual.

(j) *Additional information.* — The statement may include a schedule listing additional interests or information that the individual chooses to disclose.

(k) *Additional reports by General Assembly members.* — To the extent not reported under subsections (a) through (i) of this section, a statement filed by a member of the General Assembly shall include:

(1) the information required under § 5-514(b) of this title; and

(2) an acknowledgment, signed by the member, that any information required under § 5-514(b) of this title that becomes reportable after the statement is filed shall be reported immediately to the Joint Ethics Committee as required by § 5-514(b) of this title.

5-608. Interests attributable to individual filing statement.

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positions, and liabilities that may create a conflict, as described in Subtitle 5 of this title, between the member's personal interests and the member's duties on the board.

(b) *Regulations.* — (1) The Ethics Commission shall adopt regulations, subject to the approval of the Administrative, Executive, and Legislative Review Committee, specifying:

(i) the information to be disclosed under subsection (a) of this section; and

(ii) the circumstances under which the information is to be disclosed.

(2) The regulations adopted under this subsection shall be based on the experience of the Ethics Commission in:

(i) implementing Subtitle 5 of this title; and

(ii) reviewing statements under this subtitle.

5-610. Judicial Branch — State officials and candidates.

(a) *In general.* — In accordance with its administrative authority over the Judicial Branch under the Maryland Constitution, the Court of Appeals shall adopt and administer rules that require each individual specified in § 5-601(b) of this subtitle to file a statement periodically that discloses, as a public record, the information concerning the individual's financial affairs that the court considers necessary or appropriate to promote continued trust and confidence in the integrity of the Judicial Branch.

(b) *Candidate for judicial office.* — (1) (i) Except as provided in subparagraph (ii) of this paragraph, each candidate for nomination for or election to a judgeship shall file the statement specified in subsection (a) of this section no later than the time the candidate files a certificate of candidacy.

(ii) This paragraph does not require the filing of a statement for any year covered in full by a statement filed by the individual under subsection (a) of this section.

(2) The statement shall:

(i) cover the calendar year immediately preceding the year in which the certificate of candidacy is filed; and

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(a) *Interests attributable.* — The following are deemed to be interests of the individual under § 5-607(b), (c), and (d) of this subtitle:

(1) an interest held by a spouse or child of the individual, if the interest was controlled, directly or indirectly, by the individual at any time during the applicable period;

(2) an interest held by a business entity in which the individual held a 30% or greater interest at any time during the applicable period; and

(3) an interest held by a trust or an estate in which, at any time during the applicable period, the individual:

(i) held a reversionary interest;

(ii) was a beneficiary; or

(iii) if a revocable trust, was a settlor.

(b) *Effect on other disclosure requirements.* — Subsection (a)(2) of this section does not affect:

(1) the requirement under § 5-607(b) of this subtitle of disclosure of real estate interests held in the name of a partnership, limited liability partnership, or limited liability company in which the individual holds an interest; or

(2) the requirement under § 5-607(c) of this subtitle of disclosure of all partnerships, limited liability partnerships, or limited liability companies in which the individual holds an interest.

(c) *Blind trusts.* — For the purposes of § 5-607 of this subtitle, interests held by a blind trust may not be considered to be interests of the person making the statement if the blind trust is approved by the Ethics Commission in accordance with regulations adopted under § 5-501(b) or § 5-502(c) of this title and is operated in compliance with those regulations.

5-609. Certain board members — Modified requirements.

(a) *Filing requirements.* — (1) Subject to paragraph (2) of this subsection, a member of a board who is described in § 5-601(d) of this subtitle shall file the statement required by § 5-601 of this subtitle.

(2) The member shall be required to disclose the information specified in § 5-607 of this subtitle only as to those interests, gifts, compensated

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(ii) be filed with the election board with which the certificate of candidacy is filed.

(3) An election board may not accept a certificate of candidacy or certificate of nomination of a candidate covered by this subsection unless the candidate has filed each statement required by this section.

(4) An election board, within 30 days after receiving a statement under this subsection, shall forward the statement to the entity designated by the Court of Appeals to receive the statements filed under subsection (a) of this section.

(c) *Transmission of statements to Ethics Commission.* — Within 30 days after receiving a statement under this section, the Court of Appeals or its designee shall transmit a copy of the statement to the Ethics Commission.

5-611. Disclosure by other personnel and appointees.

(a) *In general.* — An individual who is not an official shall disclose information annually if designated under subsection (b) of this section.

(b) *Designation.* — For disclosure under this section:

(1) the Governor, by executive order, may designate:

(i) an employee of an executive unit; or

(ii) a noncompensated appointee of the Governor;

(2) the Chief Judge of the Court of Appeals, by order, may designate:

(i) an employee of the Judicial Branch; or

Chief Judge; and (ii) a noncompensated appointee of the Court of Appeals or the

designate: (3) the presiding officers of the General Assembly, by order, may

(i) an employee of the Legislative Branch; or

(ii) a noncompensated appointee of either or both of the presiding officers.

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(c) *Statements.* — A statement filed under this section is a public record and shall contain the relevant information concerning the financial affairs of the individual submitting the statement that is considered necessary by the applicable designating authority.

(d) *Required designations.* — (1) In complying with subsection (b)(1) of this section, the Governor, by executive order, shall designate any employee of an executive unit who is:

(i) a home inspector or licensed home inspector under § 16–101 of the Business Occupations and Professions Article;

(ii) a building code enforcement official employed by the State;

(iii) an accredited inspector of lead for the Department of the Environment under § 6–818 of the Environment Article; or

(iv) an environmental health specialist under Title 21 of the Health Occupations Article.

(2) An employee under paragraph (1) of this subsection shall file a statement in accordance with § 5–601 of this subtitle that:

(i) discloses any interest the employee may have in any real property in the State; and

(ii) discloses any other information the Ethics Commission considers a conflict of interest related to the employment of the employee.

Subtitle 7. Lobbying.

5–701. “Compensation” defined.

In this subtitle, “compensation”, as to a person whose lobbying is only a part of the person’s employment, means a prorated amount based on the time the person devotes to lobbying and the time the person devotes to other employment.

5–702. Lobbying — Generally.

(a) *Registration required.* — Unless exempted under subsection (b) of this section, an entity shall register with the Ethics Commission as provided in this subtitle and shall be a regulated lobbyist for the purposes of this title if, during a reporting period, the entity:

(i) an appearance as part of the official duties of an elected or appointed official or employee of the State, a political subdivision of the State, or the United States, to the extent that the appearance is not on behalf of any other entity;

(ii) an action of a member of the news media, to the extent that the action is in the ordinary course of gathering and disseminating news or making editorial comment to the general public;

(iii) representation of a bona fide religious organization, to the extent that the representation is for the purpose of protecting the right of its members to practice the doctrine of the organization;

(iv) an appearance as part of the official duties of an officer, a director, a member, or an employee of an association engaged only in representing counties or municipal corporations, to the extent that the appearance is not on behalf of any other entity; or

(v) an action as part of the official duties of a trustee, an administrator, or a faculty member of a nonprofit independent college or university in the State, provided the official duties of the individual do not consist primarily of attempting to influence legislative action or executive action.

(2) The following activities are exempt from regulation under this subtitle if the individual engages in no other acts during the reporting period that require registration:

(i) professional services in drafting bills or in advising clients on the construction or effect of proposed or pending legislation;

(ii) an appearance before the entire General Assembly, or any committee or subcommittee of the General Assembly, at the specific request of the body involved;

(iii) an appearance as a witness before a legislative committee at the specific request of a regulated lobbyist if the witness notifies the committee that the witness is testifying at the request of the regulated lobbyist;

(iv) an appearance before an executive unit at the specific request of the executive unit involved; or

(v) an appearance as a witness before an executive unit at the specific request of a regulated lobbyist if the witness notifies the executive unit that the witness is testifying at the request of the regulated lobbyist.

(1) for the purpose of influencing any legislative action or any executive action relating to the development or adoption of regulations or the development or issuance of an executive order:

(i) 1. communicates with an official or employee of the Legislative Branch or Executive Branch in the presence of that official or employee; and

2. except for the personal travel or subsistence expenses of the entity or a representative of the entity, incurs expenses of at least \$500 or earns at least \$2,500 as compensation for all such communication and activities relating to the communication during the reporting period; or

(ii) 1. communicates with an official or employee of the Legislative Branch or Executive Branch; and

2. earns at least \$5,000 as compensation for all such communication and activities relating to the communication during the reporting period;

(2) in connection with or for the purpose of influencing any executive action, spends a cumulative value of at least \$100 for gifts, including meals, beverages, and special events, to one or more officials or employees of the Executive Branch;

(3) subject to subsection (b)(4) of this section, is compensated to influence executive action on a procurement contract that exceeds \$100,000;

(4) subject to subsection (b)(5) of this section, is compensated by a business entity to influence executive action to secure from the State a business grant or loan with a value of more than \$100,000 for the business entity;

(5) spends at least \$2,000, including expenditures for salaries, contractual employees, postage, telecommunications services, electronic services, advertising, printing, and delivery services, for the express purpose of soliciting others to communicate with an official to influence legislative action or executive action; or

(6) spends at least \$2,500 to provide compensation to one or more entities required to register under this subsection.

(b) *Exempted activities.* — (1) The following activities are exempt from regulation under this subtitle:

(3) An elementary, secondary, or postsecondary school student or student organization that communicates as part of a course or student activity is not subject to the registration requirements based on the expense threshold under subsection (a)(1)(i) of this section.

(4) Subsection (a)(3) of this section does not apply to a bona fide salesperson or commercial selling agency employed or maintained by an employer for the purpose of soliciting or securing a procurement contract unless the person engages in acts during the reporting period that require registration under subsection (a)(1) or (2) of this section.

(5) If the person engages in no other act during the reporting period that requires registration, subsection (a)(4) of this section does not apply to:

(i) a bona fide full-time official or employee of a business entity seeking to secure a business grant or loan; or

(ii) a person seeking to secure a business grant or loan for the purpose of locating, relocating, or expanding a business in or into the State.

(c) *Limited exemptions — Employer of regulated lobbyist.* — (1) Except for the certification required by § 5–705(d) of this subtitle and the report required by § 5–705(d) of this subtitle, an entity that compensates one or more regulated lobbyists, and that reasonably believes that all expenditures requiring registration will be reported by the regulated lobbyist or lobbyists, is exempt from the registration and reporting requirements of this subtitle if the entity engages in no other act that requires registration.

(2) If a regulated lobbyist compensated by an entity that is exempt under paragraph (1) of this subsection fails to report the information required by this subtitle, the entity immediately shall become subject to the registration and reporting requirements of this subtitle.

5–703. Authority to lobby.

(a) *Certification.* — A regulated lobbyist engaged by an entity for the purpose of lobbying shall certify under oath or affirmation that the regulated lobbyist is authorized to engage in lobbying for the entity.

(b) *Certification — Contents.* — The certification shall include:

(1) the full legal name and business address of the entity;

(2) the name, contact information, and official title of the representative of the entity who authorized the regulated lobbyist to engage in lobbying for the entity;

(3) the full legal name and business address of the regulated lobbyist;

(4) subject to subsequent modification, the period during which the regulated lobbyist is authorized to act; and

(5) the proposal or subject on which the regulated lobbyist represents the entity.

5-704. Registration with Ethics Commission.

(a) *Registration required.* — (1) At the times specified in subsection (d) of this section, each regulated lobbyist shall register with the Ethics Commission as provided in subsection (g) of this section.

(2) A regulated lobbyist shall register separately for each entity that has engaged the regulated lobbyist for lobbying purposes.

(b) *Contents.* — Each registration form shall include the following information, if applicable:

(1) the regulated lobbyist's name and permanent address;

(2) the name and permanent address of any other regulated lobbyist that will be lobbying on the regulated lobbyist's behalf;

(3) the name, address, and nature of business of any entity that has engaged the regulated lobbyist for lobbying purposes, accompanied by a statement indicating whether, because of the filing and reporting of the regulated lobbyist, the compensating entity is exempt under § 5-702(c) of this subtitle; and

(4) the identification, by formal designation if known, of the matters on which the regulated lobbyist expects to perform acts, or to engage another regulated lobbyist to perform acts, that require registration under this subtitle.

(c) *Filing of certification statement.* — Each registration shall include the certification required by § 5-703 of this subtitle.

(d) *Registration filing.* — (1) A regulated lobbyist who is not currently registered shall register within 5 days after first performing an act that requires registration under this subtitle.

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1. establish a classification of State boards or commissions on which regulated lobbyists may serve;

2. at a minimum authorize a regulated lobbyist to serve as an appointed member of an advisory governmental body of limited duration;

3. as to a regulated lobbyist who serves on a State board or commission, establish disclosure requirements that are substantially similar to disclosure requirements under § 5-514 of this title; and

4. require a regulated lobbyist who serves on a board or commission and is disqualified from participating in a specific matter because of a conflict of interest to file a statement of recusal with the board or commission describing the circumstances of the conflict which shall be recorded in the minutes of the meeting.

(g) *Electronic filing.* — (1) An individual shall file a registration under this section electronically and without additional cost to the individual who files the registration.

(2) A registration filed electronically under paragraph (1) of this subsection shall include the oath and affirmation required under § 5-703 of this subtitle made by an electronic signature that:

(i) is a part of the registration form or attached to and made part of the registration form; and

(ii) is made expressly under the penalties for perjury.

(3) An oath or affirmation signed electronically under paragraph (2) of this subsection subjects the individual making the oath or affirmation to the penalties for perjury to the same extent as an oath or affirmation made by an individual in person before an individual authorized to administer oaths.

5-704.1. Training course.

A regulated lobbyist, other than a regulated lobbyist described in § 5-702(a)(6) of this subtitle, shall complete the training course provided under § 5-205(e)(1) of this title:

(1) (i) within 6 months of the regulated lobbyist's initial registration with the Ethics Commission; or

(2) A regulated lobbyist shall file a new registration form on or before November 1 of each year if, on that date, the regulated lobbyist is engaged in lobbying.

(e) *Fee.* — (1) Each registration form shall be accompanied by a fee of \$100.

(2) The fee shall be credited to the Lobbyist Registration Fund established under § 5-210 of this title.

(f) *Termination of registration.* — (1) Except as provided in paragraph (2) of this subsection, each registration shall terminate on the earlier of:

(i) the October 31 following the filing of the registration; or

(ii) an earlier termination date specified in the certification filed with respect to that registration under § 5-703 of this subtitle.

(2) A regulated lobbyist may terminate the registration before the date specified in paragraph (1) of this subsection by:

(i) ceasing all activity that requires registration; and

(ii) after ceasing activity in accordance with item (i) of this paragraph:

1. filing a notice of termination with the Ethics Commission; and

2. filing all reports required by this subtitle within 30 days after the filing of the notice of termination.

(3) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, if a regulated lobbyist is or becomes subject to regulation under this title as an official or employee, the regulated lobbyist shall immediately terminate the registration in accordance with paragraph (2) of this subsection.

(ii) The Ethics Commission shall adopt regulations establishing criteria under which a regulated lobbyist may serve on a State board or commission.

(iii) The regulations adopted under subparagraph (ii) of this paragraph shall:

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(ii) if the initial registration is terminated in accordance with § 5-704(f) of this subtitle earlier than 6 months after the date of registration, before any subsequent registration with the Ethics Commission; and

(2) on completion of the initial training course under item (1) of this section, within the 2-year period following the date of the most recently completed training course.

5-705. Reports.

(a) *In general.* — (1) A regulated lobbyist shall file electronically with the Ethics Commission, under oath and for each registration, a separate report concerning the regulated lobbyist's lobbying activities:

(i) by May 31 of each year, to cover the period from November 1 of the previous year through April 30 of the current year; and

(ii) by November 30 of each year, to cover the period from May 1 through October 31 of that year.

(2) If the regulated lobbyist is not an individual, an authorized officer or agent of the regulated lobbyist shall sign the report.

(3) If a prorated amount is reported as compensation, it shall be labeled as prorated.

(b) *Required information.* — A report required by this section shall include:

(1) a complete, current statement of the information required under § 5-704(b) of this subtitle;

(2) total expenditures in connection with influencing executive action or legislative action in each of the following categories:

(i) total individual regulated lobbyist compensation, excluding expenses reported under this paragraph;

(ii) office expenses of the regulated lobbyist;

(iii) professional and technical research and assistance;

(iv) publications that expressly encourage communication with one or more officials or employees;

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(v) witnesses, including the name of each and the fees and expenses paid to each;

(vi) except as otherwise reported under this paragraph, meals and beverages for officials, employees, or members of the immediate families of officials or employees;

(vii) except as provided in § 5-709(d)(2) of this subtitle, food, beverages, and incidental expenses for officials of the Legislative Branch for meals and receptions to which all members of any legislative unit were invited;

(viii) food and beverages for members of the General Assembly at the times and geographic locations of meetings of legislative organizations, as allowed under § 5-505(c)(2)(i)4 of this title;

(ix) food, lodging, and scheduled entertainment for officials and employees at meetings at which the officials and employees were scheduled speakers or scheduled panel participants;

(x) tickets and free admission extended to members of the General Assembly, as a courtesy or ceremony to the office, to attend charitable, cultural, or political events sponsored or conducted by the reporting entity, as allowed under § 5-505(c)(2)(viii) of this title;

(xi) other gifts to or for officials, employees, or members of the immediate families of officials or employees; and

(xii) other expenses; and

(3) as to expenditures reported in item (2)(vii), (viii), (ix), and (x) of this subsection, the date, location, and total expense of the regulated lobbyist for each meal, reception, event, or meeting.

(c) *Additional information; exceptions.* — (1) Except as provided in paragraph (2) of this subsection, a report required under this section also shall include the name of each official, employee, or member of the immediate family of an official or employee who has benefited from one or more gifts with a cumulative value of \$75 during the reporting period from the regulated lobbyist, regardless of whether the gift:

(i) is attributable to more than one entity; or

(ii) was given in connection with lobbying activity.

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(1) the name and business address of the regulated lobbyist;

(2) the name of each recipient of a gift of a meal or beverages;

(3) the date and value of each gift of a meal or beverages, and the identity of the entity or entities to which the gift is attributable; and

(4) the total cumulative value of gifts of meals or beverages, calculated as to each recipient.

(d) *Explanation of circumstances.* — The regulated lobbyist may explain the circumstances under which the gift of a meal or beverages was given.

(e) *Effect of disclosure.* — Gifts of meals or beverages reported by a regulated lobbyist under this section need not be counted or reported by the regulated lobbyist for purposes of disclosure under § 5-705(c) of this subtitle.

(f) *Filing.* — The report shall be filed electronically at the time and in the manner required for reports filed under § 5-705 of this subtitle.

5-707. Reports of business transactions — Generally.

(a) *Application of section.* — (1) This section applies only to an individual regulated lobbyist described in § 5-702(a)(1), (2), (3), or (4) of this subtitle who lobbies the Executive Branch or Legislative Branch.

(2) This section does not apply to an entity that employs an individual regulated lobbyist described in § 5-702(a)(1), (2), (3), or (4) of this subtitle.

(b) *Covered transactions.* — In addition to any other report required under this subtitle, an individual regulated lobbyist shall file, with the report required under § 5-705 of this subtitle, a report that discloses each business transaction or series of business transactions that the individual regulated lobbyist had with an individual or business entity listed in subsection (c) of this section that:

(1) involved the exchange of value of:

(i) \$1,000 or more for a single transaction; or

(ii) \$5,000 or more for a series of transactions; and

(2) occurred in the previous reporting period.

(c) *Covered entities.* — An individual regulated lobbyist is subject to the

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(2) The following gifts need not be allocated to individual recipients and reported by name:

(i) gifts reported under subsection (b)(2)(vii) and (viii) of this section;

(ii) gifts reported under subsection (b)(2)(ix) of this section with a value of \$200 or less; and

(iii) gifts reported under subsection (b)(2)(x) of this section, unless the recipient received from the regulated lobbyist during the reporting period two or more such gifts with a cumulative value of at least \$100.

(d) *Additional reports from certain regulated lobbyists.* — (1) This subsection applies only to a regulated lobbyist, other than an individual, that is organized and operated for the primary purpose of attempting to influence legislative action or executive action.

(2) In addition to the other reports required under this section, a regulated lobbyist shall report the name and permanent address of each entity that provided at least 5% of the regulated lobbyist's total receipts during the preceding 12 months.

(3) For the purpose of the reporting and registration requirements of this subtitle, receipts of a regulated lobbyist include funds spent on the regulated lobbyist's behalf, at its direction, or in its name.

5-706. Meals or beverages.

(a) *In general.* — In addition to any other report required under this subtitle, a regulated lobbyist shall file a separate report disclosing the name of each State official of the Executive Branch or member of the immediate family of a State official of the Executive Branch who has benefited during the reporting period from a gift of a meal or beverages from the regulated lobbyist, whether or not in connection with lobbying activities, allowed under § 5-505(c)(2)(i)1 of this title.

(b) *Allocation.* — Gifts reported by name of recipient under § 5-705(b)(2)(ix) of this subtitle need not be allocated for the purposes of disclosure under subsection (a) of this section.

(c) *Required information.* — The disclosure required by this section shall be under oath or affirmation, on a form issued by the Ethics Commission, and shall include:

reporting requirements of this subtitle if the individual regulated lobbyist engages in a business transaction with:

(1) a member of the General Assembly;

(2) the Governor;

(3) the Lieutenant Governor;

(4) the Attorney General;

(5) the Secretary of State;

(6) the Comptroller;

(7) the State Treasurer;

(8) the secretary of any principal State department;

(9) the spouse of an individual listed in items (1) through (8) of this subsection;

(10) a business entity in which an individual listed in items (1) through (9) of this subsection participates as a proprietor or partner; or

(11) a business entity in which an individual listed in items (1) through (9) of this subsection has an ownership interest of at least 30%.

(d) *Required information.* — The disclosure required under this section shall include:

(1) the date of the business transaction or dates of each of the series of transactions;

(2) the name and title of the official who is subject to this section who was involved in each business transaction or series of transactions; and

(3) the nature and value of anything exchanged.

(e) *Filing.* — The report shall be filed electronically at the time and in the manner required for reports filed under § 5-705 of this subtitle.

5-708. Reports of business transactions — Political contributions.

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(a) *In general.* — In addition to any other report required under this subtitle, an individual regulated lobbyist described in § 5-702(a)(1), (2), (3), or (4) of this subtitle shall file a separate report disclosing any political contribution made:

- (1) directly or indirectly by the regulated lobbyist;
- (2) during the reporting period;
- (3) under the Election Law Article; and

(4) for the benefit of the Governor, Lieutenant Governor, Attorney General, Comptroller, or member of the General Assembly, or a candidate for election to any of those offices.

(b) *Required information.* — The report shall state:

- (1) the name of each official or candidate for whose benefit a political contribution was made; and
- (2) the total political contributions for the benefit of that official or candidate.

(c) *Filing.* — The report shall be filed electronically at the time and in the manner required for reports filed under § 5-705 of this subtitle.

5-709. Legislative unit meals and receptions.

(a) *In general.* — A regulated lobbyist who invites all members of a legislative unit to a meal or reception shall, at least 5 days before the date of the meal or reception:

- (1) extend a written invitation to all members of the legislative unit; and
- (2) register the meal or reception with the Department of Legislative Services by filing a report electronically as required by the Ethics Commission.

(b) *Required information.* — A legislative unit registration report required under subsection (a) of this section shall include:

- (1) the date and location of the meal or reception; and
- (2) the name of the legislative unit invited.

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(b) *Oath or affirmation.* — (1) If the report filed electronically under subsection (a) of this section is required to be made under oath or affirmation, the oath or affirmation shall be made by an electronic signature that is:

- (i) in the report or attached to and made part of the report; and
- (ii) made expressly under the penalties of perjury.

(2) An electronic signature made under paragraph (1) of this subsection subjects the individual making the electronic signature to the penalties of perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

5-711. Gifts to family members.

This subtitle does not require the disclosure by a regulated lobbyist of any gift to the regulated lobbyist's immediate family if the gift is:

- (1) purely personal and private in nature and not related to the regulated lobbyist's lobbying activities; and
- (2) from the regulated lobbyist's personal funds and not attributable to any other entity.

5-712. Additional reports.

The Ethics Commission may require a regulated lobbyist to file any additional report the Ethics Commission determines to be necessary.

5-713. Disclosure of statistics; notice to official named in report.

(a) *Statistics to be disclosed.* — After each reporting period, the Ethics Commission shall compute and make available:

- (1) for each of the categories of expenses required to be reported under § 5-705(b)(2) of this subtitle, a total of the expenditures reported by all regulated lobbyists in that category;
- (2) for the categories of expenses required to be reported under § 5-705(b)(2)(v) through (vii) of this subtitle, a combined total of the expenditures reported by all regulated lobbyists; and

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(c) *Actions by Department of Legislative Services.* — (1) Based on information contained in a legislative unit registration report filed under subsection (a) of this section, the Department of Legislative Services shall publish once a week a list containing the date and location of each upcoming meal or reception and the name of the legislative unit invited.

(2) (i) The Department of Legislative Services shall allow public inspection of any legislative unit registration report required under this section during regular business hours.

(ii) The Department of Legislative Services shall maintain a photocopy or electronic copy of each registration report required under this section.

(d) *Reporting of cost.* — (1) (i) A regulated lobbyist who is required to register under subsection (a) of this section shall report the total cost of the meal or reception, and the name of each sponsor who contributes to the cost and the amount of the contribution, to the Ethics Commission within 14 days after the date of the meal or reception.

(ii) If any information required under subparagraph (i) of this paragraph is not known within 14 days after the date of the meal or reception, the regulated lobbyist shall, as to the information not known, specify the nature and estimate the amount of each item.

(2) If all of the information required by paragraph (1)(i) of this subsection is reported accurately and completely, the regulated lobbyist is not required to report the cost of the meal or reception under § 5-705(b)(2)(vii) of this subtitle.

(3) The Ethics Commission shall allow public inspection of each registration report required under this subsection during regular business hours.

(e) *Filing report.* — A report required under this section shall be filed electronically in the manner required for reports filed under § 5-705 of this subtitle.

5-710. Electronic filing; public inspection; oath or affirmation.

(a) *In general.* — The Ethics Commission shall develop procedures under which a report required under §§ 5-705 through 5-709 of this subtitle:

- (1) shall be filed electronically without additional cost to the individual who files the report; and
- (2) shall be made available for public inspection electronically.

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(3) the total of the reported expenditures by all regulated lobbyists for lobbying activities during the reporting period.

(b) *Notice to official named in report.* — (1) If a report under § 5-705 or § 5-706 of this subtitle contains the name of an official or employee in the Executive Branch or Legislative Branch or the name of a member of the official's or employee's immediate family, the Ethics Commission shall:

- (i) notify the official or employee within 30 days after receipt of the report by the Ethics Commission; and
- (ii) keep the report confidential for 60 days after its receipt.

(2) Within 30 days after receiving the notice, the official or employee may submit a written exception to the inclusion in the report of the name of the official, employee, or member of the official's or employee's immediate family.

5-714. Prohibitions.

A regulated lobbyist may not:

- (1) be engaged for lobbying purposes for compensation that is dependent in any manner on:
 - (i) the enactment or defeat of legislation;
 - (ii) the outcome of any executive action relating to the solicitation or securing of a procurement contract; or
 - (iii) any other contingency related to executive action or legislative action;
- (2) initiate or encourage the introduction of legislation for the purpose of opposing the legislation;
- (3) knowingly counsel any person to violate any provision of this title or any other State or federal law;
- (4) engage in or counsel any person to engage in fraudulent conduct;
- (5) while engaging in lobbying activities, knowingly make to an official or employee a statement of material fact relating to lobbying activity that the regulated lobbyist knows to be false;

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(6) engage in lobbying without being registered as a regulated lobbyist in accordance with § 5-702 of this subtitle;

(7) request an official or employee to recommend to a potential client the lobbying services of the regulated lobbyist or any other regulated lobbyist;

(8) make a gift, directly or indirectly, to an official or employee if the regulated lobbyist knows or has reason to know the gift is in violation of § 5-505 of this title;

(9) make a gift, directly or indirectly, as a result of a solicitation or facilitation that the regulated lobbyist knows or has reason to know is prohibited under § 5-505(a)(2) of this title;

(10) if the regulated lobbyist is an individual, engage in any charitable fund-raising activity at the request of an official or employee, including soliciting, transmitting the solicitation of, or transmitting a charitable contribution;

(11) make or facilitate the making of any loan of money, goods, or services to an official or employee unless in the ordinary course of business of the regulated lobbyist;

(12) while engaging in lobbying activities on behalf of an entity, knowingly conceal from an official or employee the identity of the entity;

(13) commit a criminal offense arising from lobbying activity; or

(14) if serving on the State or a local central committee of a political party, participate:

- (i) as an officer of the central committee;
- (ii) in fund-raising activity on behalf of the political party; or
- (iii) in actions relating to filling a vacancy in a public office.

(Amendment effective July 1, 2019.)

5-714. Prohibitions.

A regulated lobbyist may not:

(1) be engaged for lobbying purposes for compensation that is dependent in any manner on:

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knowingly conceal from an official or employee the identity of the entity;

(13) *commit a criminal offense arising from lobbying activity;*

(14) *if serving on the State or a local central committee of a political party, participate:*

- (i) *as an officer of the central committee;*
- (ii) *in fund-raising activity on behalf of the political party; or*
- (iii) *in actions relating to filling a vacancy in a public office; or*

(15) *while engaging in lobbying, unlawfully harass or discriminate, based on any characteristic protected by law:*

- (i) *an official or employee;*
- (ii) *an intern, a page, or a fellow in any branch of State government;*
- (iii) *an individual regulated lobbyist; or*
- (iv) *a credentialed member of the press.*

(Section effective July 1, 2019.)

5-714.1. Reports to Ethics Commission of violations of antiharassment policy and procedures by regulated lobbyist.

(a) *In general.* — *A regulated lobbyist may report to the Ethics Commission that a member of the General Assembly violated the antiharassment policy and procedures of the General Assembly.*

(b) *Referral of report to Joint Ethics Committee.* — *If a report is made under subsection (a) of this section, the Ethics Commission shall refer the report to the Joint Ethics Committee.*

5-715. Restriction on certain campaign contributions.

(a) *Definitions.* — *In this section, "candidate", "contribution", and "political committee" have the meanings stated in § 1-101 of the Election Law Article.*

(b) *Application of section.* — *This section applies only to a regulated lobbyist*

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(i) *the enactment or defeat of legislation;*

(ii) *the outcome of any executive action relating to the solicitation or securing of a procurement contract; or*

(iii) *any other contingency related to executive action or legislative action;*

(2) *initiate or encourage the introduction of legislation for the purpose of opposing the legislation;*

(3) *knowingly counsel any person to violate any provision of this title or any other State or federal law;*

(4) *engage in or counsel any person to engage in fraudulent conduct;*

(5) *while engaging in lobbying activities, knowingly make to an official or employee a statement of material fact relating to lobbying activity that the regulated lobbyist knows to be false;*

(6) *engage in lobbying without being registered as a regulated lobbyist in accordance with § 5-702 of this subtitle;*

(7) *request an official or employee to recommend to a potential client the lobbying services of the regulated lobbyist or any other regulated lobbyist;*

(8) *make a gift, directly or indirectly, to an official or employee if the regulated lobbyist knows or has reason to know the gift is in violation of § 5-505 of this title;*

(9) *make a gift, directly or indirectly, as a result of a solicitation or facilitation that the regulated lobbyist knows or has reason to know is prohibited under § 5-505(a)(2) of this title;*

(10) *if the regulated lobbyist is an individual, engage in any charitable fund-raising activity at the request of an official or employee, including soliciting, transmitting the solicitation of, or transmitting a charitable contribution;*

(11) *make or facilitate the making of any loan of money, goods, or services to an official or employee unless in the ordinary course of business of the regulated lobbyist;*

(12) *while engaging in lobbying activities on behalf of an entity,*

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described in § 5-702(a)(1), (2), (3), or (4) of this subtitle.

(2) This section does not apply to a regulated lobbyist who is a candidate with respect to the regulated lobbyist's own campaign.

(c) *Applicable time period.* — *The restrictions in this section apply from the starting date of the regulated lobbyist's registration to the end of the calendar year in which the registration period ends.*

(d) *Restrictions on activities.* — (1) For the benefit of the Governor, Lieutenant Governor, Attorney General, or Comptroller, or a member of the General Assembly, or a candidate for election to the office of Governor, Lieutenant Governor, Attorney General, Comptroller, or member of the General Assembly, a regulated lobbyist who is subject to this section or a person acting on behalf of the regulated lobbyist may not:

(i) *solicit or transmit a political contribution from any person, including a political committee;*

(ii) *serve on a fund-raising committee or a political committee;*

(iii) *act as a treasurer for a candidate or an official or as treasurer or chair of a political committee;*

(iv) *organize or establish a political committee for the purpose of soliciting or transmitting contributions from any person; or*

(v) *forward tickets for fund-raising activities, or other solicitations for political contributions, to a potential contributor.*

(2) This section does not prohibit a regulated lobbyist from:

(i) *making a personal political contribution;*

(ii) *informing any entity of a position taken by a candidate or an official; or*

(iii) *engaging in other activities not specifically prohibited under paragraph (1) of this subsection.*

5-716. Statement by person providing lobbyist compensation and making contributions.

(a) *Definitions.* — (1) In this section the following words have the meanings

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indicated.

(2) "Applicable contribution" means a political contribution or donation or series of political contributions or donations by a person or attributed to a person made to or for the benefit of an applicable recipient.

(3) "Applicable recipient" means a candidate for, or an official holding, the office of:

- (i) Governor;
- (ii) Lieutenant Governor;
- (iii) Attorney General;
- (iv) Comptroller; or
- (v) member of the General Assembly.

(4) "Director" has the meaning stated in § 14-101 of the Election Law Article.

(b) *Political contribution to political committee.* — A political contribution made to a political committee for an applicable recipient is deemed a political contribution to the applicable recipient.

(c) *Statement required.* — Subject to subsection (i) of this section, a person shall file a statement in accordance with this section if at any time during the reporting period the person:

- (1) spent at least \$500 to provide compensation to one or more regulated lobbyists; and
- (2) made or caused to be made an applicable contribution in the cumulative amount of \$500 or more.

(d) *Filing with State Board of Elections.* — A statement required under this section shall be filed with the State Board of Elections.

(e) *Reporting period.* — (1) The reporting period is the 6-month period ending on either April 30 or October 31.

(2) The statement shall be filed on or before the last day of the month immediately following the day on which the reporting period ends.

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(5) if a subsidiary described in item (4) of this subsection made an expenditure to provide compensation to one or more regulated lobbyists, the expenditure shall be attributed to the business entity.

(b) *Nonprofit organizations.* — (1) Notwithstanding subsection (g) of this section, a contribution made by an individual who serves as a trustee or member of the board of directors or as an officer of a nonprofit organization is not attributable to the organization, and the individual is not required to report the contribution to the chief executive officer of the organization, unless:

- (i) the contribution is made on the recommendation of the nonprofit organization; or
- (ii) the individual who made the contribution is paid by the nonprofit organization.

(2) The State Board of Elections shall adopt regulations that define "officer" for the purposes of this subsection.

(i) *Filing under Election Law Article.* — A person who files, under Title 14 of the Election Law Article, all information required by this section may satisfy the requirements of this section by submitting a notice to that effect on the form required by the State Board of Elections.

(j) *Duties of State Board of Elections.* — The State Board of Elections shall:

- (1) prepare and make available forms for the statement and notice required by this section;
- (2) retain each statement filed under this section in the same manner and subject to the same standards of public access as a statement filed under Title 14 of the Election Law Article; and
- (3) report any violation of this section to the Ethics Commission.

(k) *Manner of filing.* — The statement required under this section shall be filed in the manner required for statements filed under Title 14 of the Election Law Article.

(l) *Penalties.* — (1) A person who knowingly and willfully fails to comply with the requirements of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

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(f) *Required information.* — The statement required under this section shall be made under oath and state:

(1) the name of each applicable recipient to whom an applicable contribution was made or caused to be made during the reporting period and, if not previously reported, during the preceding reporting period;

(2) the office held or sought by each applicable recipient named in item (1) of this subsection;

(3) the aggregate contributions made to each applicable recipient named in item (1) of this subsection;

(4) the name of each regulated lobbyist employed or retained by the person filing the statement; and

(5) the name of the person who made the political contribution and the relationship of that person to the person filing the statement if a political contribution was made by another person but is attributed to the person filing the statement.

(g) *Business entities.* — If the person filing the statement is a business entity:

(1) (i) an applicable contribution made by an officer, a director, or a partner of the business entity shall be attributed to the business entity; and

(ii) a political contribution, regardless of amount, if made at the suggestion or direction of the business entity, by an officer, a director, a partner, an employee, an agent, or any other person, shall be attributed to the business entity;

(2) each officer, director, or partner of the business entity who makes or causes to be made an applicable contribution shall report the contribution to the chief executive officer of the business entity;

(3) each officer, director, partner, employee, agent, or other person who makes or causes to be made a political contribution, regardless of amount, at the suggestion or direction of the business entity shall report the political contribution to the chief executive officer of the business entity;

(4) applicable contributions made by, or caused to be made by, a subsidiary, at least 30% of the equity of which the business entity owns or controls, shall be attributed to the business entity; and

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(2) If a person that violates this section is a business entity, each officer and partner of the business entity who knowingly authorized or participated in violating this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(3) The State Board of Elections may impose fees for the late filing of a statement required under this section in the same manner as provided under § 14-107 of the Election Law Article.

Subtitle 8. Local Government Provisions.

Part I. General Provisions.

5-801. Definitions.

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *Lobbying.* — "Lobbying" means performing acts, of a nature comparable to acts requiring registration under Subtitle 7 of this title, before the local government involved.

(c) *Local official.* — (1) In Baltimore City, "local official" includes:

(i) city employees and officials of the Baltimore City Health Department;

(ii) the Police Commissioner of Baltimore City and the civilian employees and police officers of the Police Department of Baltimore City; and

(iii) members and employees of the Civilian Review Board.

(2) In Baltimore County, "local official" includes:

(i) board members and the chief executive of the Baltimore County Revenue Authority; and

(ii) for the purpose of the financial disclosure provisions enacted by the governing body of Baltimore County, except for a member of the Baltimore County Board of Education, members of a board of a State agency that is wholly or partly funded by Baltimore County, regardless of whether a member is compensated.

(3) In Montgomery County, "local official" includes:

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(i) members and employees of the Montgomery County Revenue Authority;

(ii) commissioners and employees of the Montgomery County Housing Opportunities Commission; and

(iii) county employees of the Montgomery County Department of Health and Human Services.

(4) In St. Mary's County, "local official" includes commissioners and employees of the St. Mary's County Metropolitan Commission.

Part II. Public Ethics Laws for Counties and Municipal Corporations.

5-804. "Elected local official" defined.

In this part, "elected local official" includes:

(1) an individual who holds an elective office of a county or municipal corporation; and

(2) a candidate for elective office as a local official of a county or municipal corporation.

5-805. Scope of part.

This part does not apply to an official or employee of the Judicial Branch of State government.

5-806. Effect on other provisions of law.

The express powers contained in Title 5, Subtitle 2 and Title 10 of the Local Government Article and in Article II of the Charter of the City of Baltimore are intended and shall be deemed to incorporate and include the power and authority contained in this part.

5-807. Public ethics law required.

(a) *In general.* — Subject to § 5-209 of this title, each county and each municipal corporation shall enact provisions to govern the public ethics of local officials relating to:

(1) conflicts of interest;

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(b) *Elected local officials.* — The conflict of interest provisions for elected local officials enacted by a county or municipal corporation under § 5-807 of this subtitle:

(1) shall be equivalent to or exceed the requirements of Subtitle 5 of this title; but

(2) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

5-809. Financial disclosure laws.

(a) *"Local official" defined.* — In this section, "local official" includes an individual who is designated as a local official and whose position is funded wholly or partly by the State.

(b) *Similarity to State ethics law.* — (1) Except as provided in paragraphs (2) and (3) of this subsection and subsection (c) of this section, the financial disclosure provisions enacted by a county or municipal corporation under § 5-807 of this subtitle:

(i) shall be similar to the provisions of Subtitle 6 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

(2) The financial disclosure provisions for elected local officials enacted by a county or municipal corporation under § 5-807 of this subtitle:

(i) shall be equivalent to or exceed the requirements of Subtitle 6 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

(3) The financial disclosure provisions for members of the Board of License Commissioners for Prince George's County enacted by Prince George's

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(2) financial disclosure; and

(3) lobbying.

(b) *Meetings.* — Each local ethics commission or appropriate entity shall meet at least one time each year.

(c) *Certification of compliance.* — On or before October 1 of each year, each local ethics commission or appropriate entity shall:

(1) certify to the Ethics Commission that the county or municipal corporation is in compliance with the requirements of this part for elected local officials; and

(2) submit to the local governing body a report on the administration of the local public ethics laws by the local ethics commission or appropriate entity that includes:

(i) the number of meetings held in the past year;

(ii) written copies of meeting agendas and minutes from each meeting held;

(iii) a copy of the signed and dated attendance sheet from each meeting held; and

(iv) any other documents or information determined by the local ethics commission or appropriate entity to show the work performed during the previous year.

5-808. Conflict of interest laws.

(a) *In general.* — Except as provided in subsection (b) of this section, the conflict of interest provisions enacted by a county or municipal corporation under § 5-807 of this subtitle:

(1) shall be similar to the provisions of Subtitle 5 of this title; but

(2) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

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County under § 5-807 of this subtitle shall be equivalent to or exceed the requirements of Subtitle 6 of this title.

(c) *Minimum standards.* — (1) This subtitle does not compel the governing body of a county or municipal corporation to require a local official to file a financial disclosure statement except when the personal interest of the local official will present a potential conflict with the public interest in connection with an anticipated public action of the local official.

(2) The governing body of a county or municipal corporation shall require a local official to file a financial disclosure statement at least annually to report on gifts received by the local official.

(3) The financial disclosure provisions shall require that a statement be filed:

(i) under paragraph (1) of this subsection sufficiently in advance of the action to provide adequate disclosure to the public; and

(ii) by an elected local official under subsection (b)(2) of this section on or before April 30 of each year.

(d) *Standards for candidates.* — Financial disclosure provisions applicable to a candidate shall be consistent with the provisions applicable to an incumbent holding the office involved.

5-810. Lobbying.

The lobbying provisions enacted by a county or municipal corporation under § 5-807 of this subtitle:

(1) shall be substantially similar to the provisions of Subtitle 7 of this title; but

(2) (i) shall be modified to the extent necessary to make the provisions relevant to that jurisdiction; and

(ii) may be further modified to the extent considered necessary and appropriate by and for that jurisdiction.

5-811. Special provisions for Prince George's County.

(a) *Scope of section.* — This section applies only to Prince George's County.

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(b) *Conflict of interest.* — (1) The conflict of interest provisions required under § 5-807(a)(1) of this subtitle shall prohibit:

(i) the county government from issuing a credit card to an elected county official or a member of the county school board; and

(ii) an elected county official from directly or indirectly soliciting a person to enter into a business relationship with or provide anything of monetary value to a specific individual or entity if the person being solicited is seeking:

1. the success or defeat of county legislation;
2. a county contract; or
3. any other county benefit.

(2) A conflict of interest provision enacted in accordance with paragraph (1)(ii) of this subsection may not be construed to affect the validity of any legally enacted requirement or condition, proposed and adopted on the public record at a public hearing, the purpose of which is to mitigate the impact of a development on the property owners in the areas surrounding the development, including:

- (i) an adequate public facilities requirement;
- (ii) a minority business requirement; or
- (iii) a community benefit requirement.

(c) *Lobbying.* — The lobbying provisions required under § 5-807(a)(3) of this subtitle shall prohibit a person from being engaged for lobbying purposes for compensation that is dependent in any manner on the outcome of executive action or legislative action before the county government.

(d) *County ethics enactments.* — The county's ethics enactments shall provide for:

(1) a county board of ethics that meets at least two times each year and is composed of five members appointed by the county executive, with the advice and consent of the county council; and

(2) an executive director of the board of ethics who:

- (i) shall meet individually with each elected county official at

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(b) *Similarity to State ethics law.* — (1) The conflict of interest regulations adopted by a school board under subsection (a)(1) of this section:

but (i) shall be similar to the provisions of Subtitle 5 of this title;

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

(2) The conflict of interest regulations adopted by a school board under subsection (a)(2) of this section:

(i) shall be equivalent to or exceed the requirements of Subtitle 5 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

(c) *Applicability of county provisions.* — Unless a school board adopts and maintains conflict of interest regulations under subsection (a)(1) of this section, the provisions enacted by the county under § 5-808 of this subtitle shall apply to officials and employees of that school system.

5-817. Financial disclosure.

(a) *Adoption of regulations.* — (1) In accordance with this section, a school board:

(i) may adopt financial disclosure regulations applicable to officials and employees of that school system; and

(ii) shall adopt financial disclosure regulations applicable to members of the school board.

(2) (i) The regulations adopted under paragraph (1)(i) of this subsection shall apply to:

1. the superintendent of that school system; and

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least annually to advise the official regarding the requirements of any applicable ethics law, rule, or standard of conduct;

(ii) shall assist each elected county official in preparing any affidavit or other document required to be filed under the county's ethics enactments;

(iii) shall conduct ethics-related briefings for the benefit of elected officials of the county; and

(iv) may provide information to any person regarding laws, rules, and other standards of ethical conduct applicable to elected county officials.

5-812. Enforcement of this part.

(a) *In general.* — If the Ethics Commission determines that a county or municipal corporation has not complied with and has not made good-faith efforts toward compliance with the requirements of this part, the Ethics Commission:

(1) may issue a public notice concerning the failure of compliance with this part, including a listing of specific areas of noncompliance; and

(2) may petition a circuit court with venue over the proceeding for appropriate relief to compel compliance.

(b) *Equitable relief.* — The circuit court may grant any available equitable relief.

Part III. Local Boards of Education.

5-815. Scope of part.

This part governs the conflict of interest standards, financial disclosure requirements, and lobbying regulations of school systems.

5-816. Conflicts of interest.

(a) *Adoption of regulations.* — In accordance with this section, a school board:

(1) may adopt conflict of interest regulations applicable to officials and employees of the school system; and

(2) shall adopt conflict of interest regulations applicable to members of the school board.

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2. those other officials and employees of that school system designated by the school board, subject to subparagraph (iii) of this paragraph.

(ii) The regulations adopted under paragraph (1)(ii) of this subsection shall apply to:

1. each member of the school board; and

2. if the school board is an elected board under Title 3, Subtitle 1, Part III of the Education Article, each candidate for election to the school board.

(iii) The regulations may not apply to a classroom teacher unless the teacher has additional duties, not normally expected of classroom teachers, that cause the teacher for other reasons to be covered by the financial disclosure regulations.

(b) *Similarity to State ethics law.* — (1) Except as provided in subsection (c) of this section, the regulations adopted under subsection (a)(1)(i) of this section:

but (i) shall be similar to the provisions of Subtitle 6 of this title;

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

(2) The regulations adopted under subsection (a)(1)(ii) of this section:

(i) shall be equivalent to or exceed the requirements of Subtitle 6 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

(c) *Minimum standards.* — (1) (i) This section does not compel a school board to require an individual to file a financial disclosure statement except:

1. when the personal interest of the individual will present a potential conflict with the public interest in connection with an anticipated

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public action of the individual; and

2. at least annually to report on gifts received by the individual.

(ii) The regulations adopted under subsection (a)(1)(i) of this section shall require that a statement filed under subparagraph (i) 1 of this paragraph be filed sufficiently in advance of the public action to provide adequate disclosure to the public.

(2) The regulations adopted under subsection (a)(1)(ii) of this section shall require that a statement filed by a member of a school board be filed on or before April 30 of each year.

(d) *Applicability.* — Except as provided for a school board member under this part, unless a school board adopts and maintains financial disclosure regulations under this subtitle, the provisions enacted by the county under § 5-809 of this subtitle shall apply to:

(1) the superintendent of that school system; and

(2) the other officials and employees of the school system designated by the governing body of that county.

5-818. Lobbying.

(a) *Adoption of regulations.* — In accordance with this section, a school board may adopt regulations relating to lobbying of members of the school board and of officials and employees of the school system.

(b) *Similarity to State ethics law.* — The lobbying regulations adopted by a school board under subsection (a) of this section:

(1) shall be substantially similar to the provisions of Subtitle 7 of this title; but

(2) (i) may be modified to the extent necessary to make the provisions relevant to that school system; and

(ii) may be further modified to the extent considered necessary and appropriate by and for that school system.

(c) *Applicability of county provisions.* — Unless a school board adopts and maintains lobbying regulations under this subtitle, the provisions enacted by the

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Part IV. Public Ethics for Bicoounty Commissions.

5-822. "Commissioner" defined.

In this part, "commissioner" means a commissioner of a bicoounty commission.

5-823. Adoption of conflict of interest regulations.

(a) *In general.* — Each bicoounty commission shall adopt regulations relating to conflicts of interest of its employees.

(b) *Similarity to State ethics law.* — At a minimum, the conflict of interest standards applicable to public officials under Subtitle 5 of this title shall apply to the employees of each bicoounty commission.

(c) *Copy to Ethics Commission.* — Each bicoounty commission shall file with the Ethics Commission a copy of its regulations relating to conflicts of interest.

(d) *Annual report.* — Each bicoounty commission shall:

(1) prepare an annual report on its conflict of interest issues and regulations during the year covered; and

(2) submit the report to the governing body of each county in which the bicoounty commission operates.

5-824. Financial disclosure by commissioners.

(a) *Applicability to Washington Suburban Transit Commission.* — In this section, as to the Washington Suburban Transit Commission, "commissioner" includes the members appointed from Montgomery County or Prince George's County and the members appointed by the Governor.

(b) *In general.* — (1) Each commissioner and each applicant for appointment to a bicoounty commission shall file the financial disclosure statement required by § 5-601(a) of this title, except that:

(i) references to "business with the State" are deemed to refer to "business with the State, the appropriate bicoounty commission, Montgomery County, or Prince George's County"; and

county under § 5-810 of this subtitle shall apply to that school system.

5-819. Approval of regulations.

(a) *Submission.* — A school board shall submit regulations adopted under this part, and amendments to adopted regulations, to the Ethics Commission for review and approval or disapproval.

(b) *Approval and effective date.* — If the Ethics Commission does not disapprove a regulation or an amendment to a regulation within 60 days after its submission, the regulation or amendment is deemed to have been approved and becomes effective.

(c) *Disapproval.* — (1) The Ethics Commission may disapprove a regulation or an amendment to a regulation only if the Ethics Commission finds that the regulation or amendment is not in substantial compliance with this part.

(2) If the Ethics Commission disapproves a regulation or an amendment, the Ethics Commission shall promptly notify the school board of the action.

(d) *Assistance from Ethics Commission.* — On request of a school board, the Ethics Commission shall advise and assist the school board in preparing regulations that comply with this part.

5-820. Enforcement of this part.

(a) *In general.* — If the Ethics Commission determines that a school board, as required under § 5-816(a)(2) of this subtitle, has not complied with and has not made good-faith efforts toward compliance with the requirements of this Part III, the Ethics Commission:

(1) may issue a public notice concerning the failure of compliance with this part, including a listing of specific areas of noncompliance;

(2) may issue an order providing that officials and employees of the school board are subject to the local ethics laws in the county in which the school board is located; and

(3) may petition a circuit court with venue over the proceeding for appropriate relief to compel compliance.

(b) *Equitable relief.* — The circuit court may grant any available equitable relief.

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(ii) references to "employed by the State" are deemed to refer to "employed by the State, the appropriate bicoounty commission, Montgomery County, or Prince George's County".

(2) Except as otherwise provided in this section, the statement shall be filed as required in § 5-602 of this title.

(c) *Forms to be provided.* — (1) Each commissioner shall file a financial disclosure statement electronically with the Ethics Commission.

(2) Except as provided in paragraph (3) of this subsection, each commissioner shall also print a paper copy of the electronically filed financial disclosure statement and submit it to the chief administrative officer of the county from which the commissioner is appointed.

(3) In Montgomery County, each commissioner shall also print a paper copy of the electronically filed financial disclosure statement and submit it to the county council.

5-825. Financial disclosure by commissioners — Applicants.

(a) *In general.* — An applicant for appointment as commissioner shall file the financial disclosure statement required by this part electronically with the Ethics Commission.

(b) *Place of filing.* — (1) Except as provided in paragraph (2) of this subsection, an applicant shall also print a paper copy of the electronically filed statement and submit it to the chief administrative officer of the county from which the applicant seeks appointment.

(2) In Montgomery County, each applicant to the Maryland-National Capital Park and Planning Commission shall also print a paper copy of the electronically filed statement and submit it to the county council.

(c) *Maryland-National Capital Park and Planning Commission applicants.* — (1) (i) In Montgomery County, an applicant for appointment or reappointment to the Maryland-National Capital Park and Planning Commission shall submit the statement to the county council at least 5 days before the interview conducted under § 15-104 of the Land Use Article.

(ii) The statement shall cover the 12-month period ending 60 days before the day the statement is filed.

(2) (i) In Prince George's County, an applicant for appointment to

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the Maryland-National Capital Park and Planning Commission shall submit the statement to the county council and the chief administrative officer at least 5 days before the confirmation hearing conducted under § 15-103 of the Land Use Article.

(ii) The statement shall cover the 12-month period ending 60 days before the initial date set for the confirmation hearing.

(d) *Washington Suburban Sanitary Commission applicants.* — (1) An applicant for appointment to the Washington Suburban Sanitary Commission shall submit the statement to the chief administrative officer at least 5 days before the interview conducted under § 17-103 of the Public Utilities Article.

(2) The statement shall cover the 12-month period ending 60 days before the day the statement is filed.

(e) *Washington Suburban Transit Commission applicants.* — (1) An applicant for appointment to the Washington Suburban Transit Commission shall submit the statement required by this section to the chief administrative officer at least 10 days before the appointment becomes effective.

(2) The statement shall cover the 12-month period ending not more than 60 days before the day the statement is filed.

5-826. Transmittal and retention of financial disclosure statements.

(a) *Transmittal of statements.* — (1) Except as provided in paragraph (2) of this subsection, the chief administrative officer of a county shall transmit each financial disclosure statement of a commissioner or appointed applicant to the executive director of the appropriate bicoounty commission.

(2) In Montgomery County, the county council shall transmit each financial disclosure statement of a commissioner or appointed applicant to the Maryland-National Capital Park and Planning Commission to the executive director of the commission.

(b) *Retention of statements.* — The executive director and the chief administrative officer shall retain the statement for the entire term of office of the commissioner.

(c) *Statements of applicants not appointed.* — (1) Within 15 days after an appointment to a bicoounty commission has become final, the county council and the chief administrative officer of the county involved shall return to each applicant who is not appointed the original and all copies of the statement submitted by that applicant.

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(1) shall be substantially similar to the State financial disclosure provisions of Subtitle 6 of this title; and

(2) may not conflict with the financial disclosure provisions for commissioners and applicants specified in §§ 5-824 through 5-828 of this subtitle.

(c) *Copy to Ethics Commission and county governing body.* — Each bicoounty commission shall submit the regulations adopted under this section, and any amendments to the regulations, to:

(1) the Ethics Commission; and

(2) the governing body of each county in which the bicoounty commission operates.

5-830. Lobbying regulations for bicoounty commissions.

(a) *In general.* — Each bicoounty commission shall adopt regulations relating to lobbying of that bicoounty commission.

(b) *Similarity to State standards.* — At a minimum, the regulations adopted by a bicoounty commission shall be similar to the provisions of Subtitle 7 of this title.

(c) *Copy to Ethics Commission.* — Each bicoounty commission shall submit to the Ethics Commission a copy of its regulations relating to lobbying.

(d) *Annual report.* — Each bicoounty commission shall:

(1) prepare an annual report on the lobbying before the bicoounty commission and regulation of that lobbying by the bicoounty commission; and

(2) submit the report to the governing body of each county in which the bicoounty commission operates.

Part V. Regional District — Special Provisions for Prince George's County.

5-833. Definitions.

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Agent.* — (1) "Agent" means an individual or a business entity hired or retained by an applicant for any purpose relating to the land that is the subject of an application if the individual or business entity is:

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(2) On notification by the chief administrative officer of the county involved that an applicant was not appointed, the Ethics Commission shall promptly delete the statement electronically filed by the applicant.

5-827. Examination and copying of financial disclosure statements.

(a) *Public inspection.* — The Ethics Commission, the executive director of each bicoounty commission, and the chief administrative officer of each county:

(1) shall maintain financial disclosure statements of commissioners and appointed applicants received under this part;

(2) shall make the statements available to the public for examination and copying during normal office hours; and

(3) may charge a reasonable fee and adopt reasonable administrative procedures for the examination and copying of a statement.

(b) *Information about examining or copying statements.* — The Ethics Commission, the executive director of each bicoounty commission, and the chief administrative officer of each county shall require that any person examining or copying a statement shall record:

(1) the person's name and home address; and

(2) the name of the individual whose statement was examined or copied.

5-828. Suspension of compensation.

If a mandatory injunction is issued against a commissioner under Subtitle 9 of this title, the appropriate bicoounty commission shall suspend payment of any salary or other compensation to the commissioner until the commissioner complies fully with the injunction.

5-829. Financial disclosure by employees.

(a) *In general.* — Each bicoounty commission shall adopt regulations relating to financial disclosure by its employees.

(b) *Similarity to State standards.* — The regulations required by this section:

(i) an accountant;

(ii) an attorney;

(iii) an architect;

(iv) an engineer;

(v) a land use consultant;

(vi) an economic consultant;

(vii) a real estate agent;

(viii) a real estate broker;

(ix) a traffic consultant; or

(x) a traffic engineer.

(2) "Agent" includes:

(i) as to a corporation described in paragraph (1) of this subsection, its officers, directors, and majority stockholders who are engaged in substantive activities pertaining specifically to land development in Prince George's County as a regular part of their ongoing business activities;

(ii) as to a partnership or limited partnership described in paragraph (1) of this subsection, its general partners and limited partners who are engaged in substantive activities pertaining specifically to land development in Prince George's County as a regular part of their ongoing business activities; and

(iii) as to a joint venture described in paragraph (1) of this subsection, the principal members of the joint venture who are engaged in substantive activities pertaining specifically to land development in Prince George's County as a regular part of their ongoing business activities.

(c) *Applicant.* — (1) "Applicant" means an individual or a business entity that is:

(i) a title owner or contract purchaser of land that is the subject of an application;

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(ii) a trustee that has an interest in land that is the subject of an application, excluding a trustee described in a mortgage or deed of trust; or

(iii) a holder of at least a 5% interest in a business entity that has an interest in land that is the subject of an application but only if:

1. the holder of at least a 5% interest has substantive involvement in directing the affairs of the business entity with an interest in the land that is the subject of an application with specific regard to the disposition of that land; or

2. the holder of at least a 5% interest is engaged in substantive activities specifically pertaining to land development in Prince George's County as a regular part of the business entity's ongoing business activities.

(2) "Applicant" includes:

(i) any business entity in which a person described in paragraph (1) of this subsection holds at least a 5% interest; and

(ii) the directors and officers of a corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(3) "Applicant" does not include:

(i) a financial institution that has loaned money or extended financing for the acquisition, development, or construction of improvements on any land that is the subject of an application;

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) a public utility regulated by the Public Service Commission in any instance where the utility is engaged in or conducting regulated activities that have been approved by the Public Service Commission or are allowed under Division I of the Public Utilities Article; or

(v) the directors and officers of any entity that does not hold title to the land, or is not the contract purchaser of the land, that is the subject of an application.

(d) *Application.* — "Application" means:

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(f) *Candidate.* — "Candidate" means a candidate for election to the County Council who becomes a member.

(g) *Continuing political committee.* — "Continuing political committee" means a committee specifically created to promote the candidacy of a member running for any elective office.

(h) *Contributor.* — "Contributor" means a person or business entity that makes a payment.

(i) *County Council.* — "County Council" means the County Council of Prince George's County.

(j) *County Executive.* — "County Executive" means the County Executive of Prince George's County.

(k) *District Council.* — "District Council" means the County Council of Prince George's County sitting as the District Council for the Prince George's County portion of the Maryland–Washington Regional District.

(l) *Member.* — "Member" includes any candidate or person duly elected or appointed who takes the oath of office as a member of the County Council for Prince George's County and who thereby serves on the District Council.

(m) *Payment.* — "Payment" means a payment or contribution of money or property or the incurring of a liability or promise of anything of value to a treasurer of a candidate, a candidate's continuing political committee, or a slate to which the candidate belongs.

(n) *Pendency of the application.* — (1) "Pendency of the application" means the time between the acceptance of a filing of an application by the appropriate agency and expiration of the time under which an appeal on the application may be taken.

(2) "Pendency of the application" does not include a period during which:

(i) action on the application is under judicial review; or

(ii) judicial review may be requested.

(o) *Political action committee.* — "Political action committee" means a political committee that is not:

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(1) an application for:

(i) a zoning map amendment;

(ii) a special exception;

(iii) a departure from design standards;

(iv) a revision to a special exception site plan;

(v) an expansion of a legal nonconforming use;

(vi) a revision to a legal nonconforming use site plan; or

(vii) a request for a variance from the zoning ordinance;

(2) an application to approve:

(i) a comprehensive design plan;

(ii) a conceptual site plan; or

(iii) a specific design plan; or

(3) participation in adopting and approving an area master plan or sectional map amendment by appearance at a public hearing, filing a statement in the official record, or other similar communication to a member of the County Council or the Planning Board, where the intent is to intensify the zoning category applicable to the land of the applicant.

(e) *Business entity.* — "Business entity" means:

(1) a corporation;

(2) a general partnership;

(3) a joint venture;

(4) a limited liability company;

(5) a limited partnership; or

(6) a sole proprietorship.

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(1) a political party;

(2) a central committee;

(3) a slate; or

(4) a political committee organized and operated by, and solely on behalf of, an individual running for any elective office or a slate.

(p) *Slate.* — "Slate" means a group, combination, or organization of candidates created under the Election Law Article.

(q) *Treasurer.* — (1) "Treasurer" has the meaning stated in § 1–101 of the Election Law Article.

(2) "Treasurer" includes a subtreasurer.

5–834. Powers enumerated in Land Use Article.

Notwithstanding any other provision of law, the provisions of Division II of the Land Use Article affecting that part of the Maryland–Washington Regional District in Prince George's County shall be carried out in accordance with this part.

5–835. Applications.

(a) *Prohibited payments.* — An applicant or agent of the applicant may not make a payment to a member or the County Executive, or a slate that includes a member or the County Executive, during the pendency of the application.

(b) *Participation in proceedings; payments during preceding 36-month period.* — (1) After an application has been filed, a member may not vote or participate in any way in the proceeding on the application if the member's treasurer or continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application, received a payment during the 36-month period before the filing of the application or during the pendency of the application from any of the applicants or the agents of the applicants.

(2) A member is not subject to the requirements of paragraph (1) of this subsection if:

(i) a transfer to the member's treasurer, a continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application was made by a political action committee to

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which an applicant or agent had made a payment;

(ii) the applicant or agent made the payment to the political action committee without any intent to subvert the purposes of this subtitle;

(iii) the applicant's or agent's payment to the political action committee, and the political action committee's transfer, are disclosed in an affidavit; and

(iv) the transfer is returned to the political action committee by the member, or the payment is returned to the applicant or agent by the political action committee.

(c) *Affidavit by applicant.* — (1) After an application is filed, the applicant shall file an affidavit under oath:

(i) 1. stating to the best of the applicant's information, knowledge, and belief that during the 36-month period before the filing of the application and during the pendency of the application, the applicant has not made any payment to a member's treasurer, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application; or

2. if any such payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made;

(ii) 1. stating to the best of the applicant's information, knowledge, and belief that during the 36-month period before the filing of the application and during the pendency of the application, the applicant has not solicited any person or business entity to make a payment to a member's treasurer, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application; or

2. if any such solicited payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made; and

(iii) 1. stating to the best of the applicant's information, knowledge, and belief that during the 36-month period before the filing of the application and during the pendency of the application, a member of the applicant's household has not made a payment to a member's treasurer, a member's continuing

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(i) made the payment by prearrangement or in coordination with one or more applicants; or

(ii) acted as an agent as to any other application filed during the 36-month period.

(e) *Applicability of part.* — (1) Except as provided in paragraph (2) of this subsection, a contributor, a member, or a political action committee is subject to this part if a payment is made by the contributor or a transfer is made by the political action committee to:

(i) the candidate;

(ii) the candidate's continuing political committee; or

(iii) a slate to which the member belongs or belonged during the 36-month period before the filing of the application.

(2) This part does not apply to:

(i) any transfer to the continuing political committee of a member by the continuing political committee of another individual running for elective office; or

(ii) a payment or transfer to the Prince George's County or State Central Committee of a political party, even if the Central Committee supports a candidate.

(3) A person may not make a payment in violation of this part.

(f) *Circumventing intent of part prohibited.* — An applicant or agent may not take any action, directly or indirectly, with the intent to circumvent the intent of this part.

5-836. Disclosure of ex parte communication.

(a) *In general.* — An ex parte communication concerning a pending application between an applicant or applicant's agent and a member or the County Executive shall be disclosed as required in this section.

(b) *By applicant.* — An applicant or agent who communicates ex parte during the pendency of the application with a member or with the County Executive shall file, for each ex parte communication, a separate disclosure with the clerk of the

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political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application; or

2. if any such payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made.

(2) The affidavit shall be filed at least 30 calendar days before consideration of the application by the District Council.

(3) A supplemental affidavit shall be filed whenever a payment is made after the original affidavit was filed.

(4) (i) An applicant is not required to make any representations in the affidavit pertaining to the actions of anyone other than that applicant.

(ii) Anyone with authority to act on behalf of and bind a business entity may execute an affidavit on behalf of the business entity.

(5) The only disclosures required under the affidavit are those involving individuals or business entities that would be subject to this subtitle.

(d) *Affidavit by agent.* — (1) An agent shall file an affidavit in an application only if:

(i) the agent has acted on behalf of the applicant with regard to the specific application; and

(ii) during the 36-month period before the filing of the application and during the pendency of the application, and after becoming an agent of the applicant:

1. the agent has made a payment to a member, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application; or

2. the agent has solicited any person to make a payment to a member's treasurer, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application.

(2) Notwithstanding paragraph (1)(ii) of this subsection, an agent shall disclose in the affidavit a payment made before becoming an agent if the agent:

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County Council within 5 working days after the communication was made or received, whichever is later.

(c) *By County Executive or member.* — The County Executive or a member who communicates ex parte during the pendency of the application with an applicant or agent shall file, for each ex parte communication, a separate disclosure with the clerk of the County Council within 5 working days after the communication was made or received, whichever is later.

5-837. Evidence of payments or ex parte communication.

At any time before final action on an application, a party of record may file with the clerk of the County Council competent evidence of:

(1) a payment or contribution by an applicant or agent covered under § 5-835 of this subtitle; or

(2) an ex parte communication covered under § 5-836 of this subtitle.

5-838. Enforcement of part.

(a) *Direction and control of Ethics Commission.* — In the enforcement of this part, the clerk of the County Council shall be subject to the direction and control of the Ethics Commission or its Executive Director and, unless otherwise specifically directed by the Ethics Commission or its Executive Director, may only:

(1) receive filings;

(2) maintain records;

(3) report violations; and

(4) perform other ministerial duties necessary to administer this part.

(b) *Filing of affidavit by corporation.* — Notwithstanding any other provision of this part, as to a corporation listed on a national stock exchange or regulated by the Securities and Exchange Commission, and any subsidiary of the corporation, the following requirements apply if the filing of an affidavit is otherwise required under this part:

(1) a director or an officer in the corporation or any of its subsidiaries, or a stockholder who has at least a 5% interest in the corporation or any of its subsidiaries, is required to file an affidavit only if the individual has made a payment

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to the treasurer of a candidate or continuing political committee, or if the individual has solicited anyone to make a payment to the treasurer of a candidate or continuing political committee; and

(2) the corporation or its subsidiary shall file a corporate affidavit stating:

(i) 1. that the corporation has not made or solicited a payment to the treasurer of a candidate or continuing political committee; or

2. if such a payment was made, the name of the member to whose treasurer or continuing political committee the payment was made; and

(ii) that all directors, officers, and stockholders with at least a 5% interest have been notified of the disclosure requirements of item (1) of this subsection.

(c) *Filing of affidavits; summary reports.* — (1) The affidavits and disclosures required under this part shall be filed in the appropriate case file of an application.

(2) The clerk of the County Council, at least twice each year, shall prepare a summary report compiling all affidavits and disclosures that have been filed in the application case files.

(3) All summary reports compiled under paragraph (2) of this subsection shall be available to members of the public on written request.

(4) All affidavits, disclosures, and accompanying documentation required under this part shall be in the form required by the Ethics Commission.

5-839. Injunctive or other relief; penalties; preservation of documents.

(a) *Petition for injunctive or other relief.* — (1) The Ethics Commission or any other aggrieved person may:

(i) file a petition for injunctive or other relief in the Circuit Court for Prince George's County to require compliance with this part; and

(ii) assert as error any violation of this part in judicial review requested under § 22-407 of the Land Use Article.

(2) The Court shall issue an order voiding an official action taken by

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(b) *Applicant.* — (1) (i) "Applicant" means an individual or a business entity that is:

1. a title owner or contract purchaser of land that is the subject of an application;

2. a trustee who has an interest in land that is the subject of an application, excluding a trustee described in a mortgage or deed of trust; or

3. a holder of at least a 5% interest in a business entity who has an interest in land that is the subject of an application.

(ii) "Applicant" includes, if the applicant is a corporation, the directors and officers of the corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(2) "Applicant" does not include:

(i) a financial institution that has loaned money or extended financing for the acquisition, development, or construction or improvements on the land that is the subject of an application;

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) a public service company acting within the scope of Division I of the Public Utilities Article; or

(v) a person who is hired or retained as an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

(c) *Application.* — "Application" means an application for a local map amendment, including a reclassification.

(d) *Business entity.* — "Business entity" means:

(1) a corporation;

(2) a general partnership;

(3) a joint venture;

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the County Council if:

(i) the action taken by the County Council was in violation of this part; and

(ii) the legal action was brought within 30 days after the occurrence of the official action.

(3) The Court, after hearing and considering all the circumstances in the case and voiding an action of the County Council, shall reverse, or reverse and remand, the case to the District Council for reconsideration.

(b) *Penalties.* — (1) A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(2) If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to the same penalties as the business entity.

(3) A member is guilty of violating this part only if the member fails to abstain from voting or participating in a proceeding, based on information contained in an affidavit filed with the County Council by an applicant or agent, in violation of § 5-835(b) of this subtitle.

(4) An action taken in reliance on an opinion of the Ethics Commission may not be deemed a knowing and willful violation.

(c) *Preservation of documents.* — (1) A person who is subject to this part shall preserve all accounts, bills, receipts, books, papers, and other documents necessary to complete and substantiate any reports, statements, or records required to be made under this part for 3 years from the date of filing the application.

(2) The documents shall be available for inspection on request of the Ethics Commission after reasonable notice.

Part VI. Regional District — Special Provisions for Montgomery County.

5-842. Definitions.

(a) *In general.* — In this part the following words have the meanings indicated.

(4) a limited liability company;

(5) a limited partnership; or

(6) a sole proprietorship.

(e) *Candidate.* — "Candidate" means an individual who wins an election to the Office of County Executive or County Council of Montgomery County.

(f) *Contribution.* — (1) (i) "Contribution" means:

1. a payment or transfer of money or property of \$500 or more, calculated cumulatively during a 4-year election cycle, to the treasurer of either a candidate or a political committee; or

2. the incurring of any liability or promise of anything of value of \$500 or more, calculated cumulatively during a 4-year election cycle, to the treasurer of either a candidate or a political committee.

(ii) "Contribution" includes a payment or transfer to a slate with which a candidate is associated.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the \$500 cumulative threshold contribution is calculated separately as to each candidate or elected official.

(ii) For purposes of this part, a cumulative contribution of \$500 or more to a slate is fully attributed to each candidate on the slate.

(g) *Contributor.* — "Contributor" means an individual or business entity that makes a contribution.

(h) *Elected official.* — "Elected official" means an individual who holds the Office of County Executive or member of the County Council of Montgomery County.

(i) *Party of record.* — (1) "Party of record" means an individual or a business entity that is granted standing to participate in a local map amendment proceeding by the County Council, sitting as the District Council, or its hearing examiner.

(2) "Party of record" does not include an attorney, a consultant, an employee, or any other agent of a party of record, including an authorized representative of a community association who is participating in a proceeding solely

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on behalf of the association.

(j) *Political action committee.* — "Political action committee" means a political committee that is not:

- (1) a political party;
- (2) a central committee;
- (3) a slate; or

(4) a political committee organized and operated by, and solely on behalf of, an individual running for an elective office or a slate.

(k) *Political committee.* — "Political committee" means any combination of two or more persons appointed by a candidate or any other person or formed in any other manner that assists or attempts to assist in any manner the promotion of the success or defeat of any candidate, candidates, political party, principle, or proposition submitted to a vote in any election.

(l) *Slate.* — (1) "Slate" means a political committee of two or more candidates who join together to conduct and pay for joint activities.

(2) "Slate" does not include a political party or a central committee.

(m) *Treasurer.* — (1) "Treasurer" has the meaning stated in § 1-101 of the Election Law Article.

(2) "Treasurer" includes a subtreasurer.

5-843. Disclosure statements.

(a) *In general.* — An applicant or party of record who makes a contribution during the 4-year election cycle before the filing of the application or during the pendency of the application shall disclose the contribution in accordance with this section.

(b) *Contents; filing; time limitations.* — (1) (i) On filing an application, an applicant shall submit a disclosure statement that:

1. names each candidate or elected official to whose treasurer or political committee the applicant made a contribution; and
2. states the amount and the date of the contribution.

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shall be a matter of public record and available for inspection on written request.

5-844. Violations; penalty; enforcement.

(a) *Violations; penalty.* — A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

(b) *Violation by business entity.* — If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to the same penalties as the business entity.

(c) *Enforcement.* — This part shall be enforced by the State's Attorney for Montgomery County.

5-845. Accuracy of disclosure statements.

(a) *No legal duty to verify.* — The County Council has no legal duty to verify the accuracy of any disclosure statement filed under this part.

(b) *No grounds to invalidate County Council decision.* — Failure by any person, including the Chief Hearing Examiner of the Office of Zoning and Administrative Hearings, to comply with this part is not grounds for invalidation of any decision by the County Council, sitting as the District Council, for which a disclosure statement is required.

Part VII. Lobbying Disclosure — Special Provisions for Montgomery and Prince George's Counties.

5-848. Definitions.

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Candidate.* — "Candidate" has the meaning stated in § 1-101 of the Election Law Article, but only as it applies to a candidate seeking election as a local official.

(c) *Contribution.* — "Contribution" has the meaning stated in § 1-101 of the Election Law Article.

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(ii) If a contribution was not made, the disclosure statement shall so state.

(2) The disclosure statement shall be filed:

(i) on a form approved by the County Council, which shall contain:

1. an affirmation clause to be signed by the applicant under the penalties of perjury that the contents of the disclosure statement are true to the best of the applicant's knowledge, information, and belief; and

2. a notice that noncompliance with this subtitle may result in a fine not exceeding \$1,000; and

(ii) with the Chief Hearing Examiner of the Office of Zoning and Administrative Hearings, unless the County Council determines otherwise.

(3) Within 2 weeks after entering a proceeding, a party of record that has made a contribution shall submit a disclosure statement as described under paragraph (2) of this subsection.

(4) A contribution made after the filing of the initial disclosure and before the final disposition of the application by the District Council shall be disclosed within 5 business days after the contribution.

(c) *Applicability of part.* — (1) Except as provided in paragraph (2) of this subsection, a contributor is subject to this part if the contributor makes a contribution to a candidate, a slate, or a candidate's political committee.

(2) This part does not apply to a transfer by a political action committee to a candidate or to the political committee of a candidate or an elected official.

(d) *Records – Custodian; inspection.* — (1) The Chief Hearing Examiner of the Office of Zoning and Administrative Hearings:

(i) is the official custodian of records filed under this part; and

(ii) shall prepare a summary report at least twice each calendar year compiling all affidavits and disclosures that have been filed.

(2) A summary report and disclosure statement filed under this part

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(d) *Lobbyist.* — "Lobbyist" means a person required to register under § 2-295 of the Prince George's County Code or § 19A-21 of the Montgomery County Code.

(e) *Local official.* — "Local official" means:

(1) a member of the County Council of Prince George's County or the County Executive of Prince George's County; or

(2) a member of the County Council of Montgomery County or the County Executive of Montgomery County.

(f) *Political Committee.* — "Political committee" has the meanings stated in § 1-101 of the Election Law Article.

5-849. Restrictions on lobbying activity.

(a) *Fund-raising restrictions.* — Beginning with the effective date of a lobbying registration and extending through the ending date of the registration period, a lobbyist who lobbies a local official, or a person acting on behalf of the lobbyist, may not:

(1) solicit or transmit directly or indirectly a contribution from any person, including a political committee, for the benefit of a local official or candidate;

(2) serve on a fund-raising committee of, or a political committee for the benefit of, a local official or candidate; or

(3) act as a treasurer or chair of a political committee for the benefit of a local official or candidate.

(b) *Allowed activities.* — This part may not be construed to prohibit a lobbyist from:

(1) making a personal contribution within the limitations established under the Election Law Article; or

(2) informing the lobbyist's employer or others of the positions taken by a particular candidate.

(c) *Violation; penalties.* — (1) A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

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(2) If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to the same penalties as the business entity.

Part VIII. Special Provisions for Howard County.

5-852. Definitions.

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Applicant.* — (1) "Applicant" means an individual or a business entity that is, with regard to the land that is the subject of an application:

(i) a title owner, an assignee, or a contract purchaser of the land;

(ii) a trustee that has an interest in the land, excluding a trustee described in a mortgage or deed of trust; or

(iii) a holder of at least a 5% interest in a business entity that has an interest in the land if:

1. the interest holder is involved significantly in directing the affairs of the business entity, including the disposition of the land; or

2. the interest holder is engaged in substantive actions specifically pertaining to land development in Howard County as a regular part of the activity of the business entity.

(2) "Applicant" includes:

(i) any other business entity in which an individual or business entity described in paragraph (1) of this subsection holds at least a 3% interest;

(ii) an officer or a director of a corporation who actually holds title to, or is the contract purchaser or assignee of, the land that is the subject of an application if:

1. the corporation is listed on a national securities exchange and the officer or director owns at least 5% of its stock; or

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(3) a joint venture;

(4) a limited liability company;

(5) a limited partnership; or

(6) a sole proprietorship.

(c) *Candidate.* — "Candidate" means a candidate for election as Howard County Executive, or to the Howard County Council, who becomes an elected official.

(d) *Contribution.* — "Contribution" means any payment or transfer of money or property or the incurring of any liability or promise of anything of value to the treasurer of a candidate, a political committee, or a slate.

(e) *Contributor.* — "Contributor" means an individual or business entity that makes a contribution.

(f) *Elected official.* — "Elected official" means an individual who serves as Howard County Executive or as a member of the Howard County Council.

(g) *Engaging in business.* — (1) "Engaging in business" means entering into:

(i) a sale, a purchase, a lease, or other transaction involving goods, services, or real property; or

(ii) a contract, an award, a loan, an extension of credit, or any other financial transaction.

(2) "Engaging in business" does not include the sale of goods to an individual for the use or consumption of the individual or others for personal, family, or household purposes, as distinguished from industrial, commercial, or agricultural purposes.

(h) *Family member.* — "Family member" means the spouse or child of either an applicant or a party of record who has made a contribution with the knowledge and consent of the applicant or party of record.

(i) *Party of record.* — "Party of record" means an individual or business entity that participates in a map amendment proceeding by the County Council or the zoning board, or who participates in the adoption and approval of a comprehensive zoning plan by appearing at a public hearing, filing a statement in an

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2. in the case of any other corporation, the officer or director owns any interest in the corporation; or

(iii) as to an application for a zoning regulation, any person authorized to sign the application.

(3) "Applicant" does not include:

(i) a financial institution that has loaned money or extended financing for the acquisition, development, or construction of improvements on the land that is the subject of an application;

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) a public service company acting within the scope of Division I of the Public Utilities Article; or

(v) a person who is:

1. less than a full-time employee of a person described in paragraph (1) or (2) of this subsection; and

2. hired or retained as an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

(c) *Application.* — "Application" means:

(1) an application for a zoning map amendment;

(2) an application for a zoning regulation amendment; or

(3) participation in the adoption and approval of a comprehensive zoning plan by appearing at a public hearing, filing a statement in an official record, or engaging in other similar communication with an elected official, where the intent is to change the classification or increase the density of the land of the applicant.

(d) *Business entity.* — "Business entity" means:

(1) a corporation;

(2) a general partnership;

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official record, or engaging in other similar communication with an elected official where the intent is to oppose a change in classification or an increase in density of the land of an applicant.

(l) *Political action committee.* — "Political action committee" means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate; or

(4) a political committee organized and operated by, and solely on behalf of, an individual running for any elective office or a slate.

(m) *Political committee.* — "Political committee" means a committee, whether continuing or noncontinuing, specifically created to promote the candidacy of a person running for elective office.

(n) *Slate.* — "Slate" means a group, combination, or organization of candidates created under the Election Law Article.

(o) *Treasurer.* — (1) "Treasurer" has the meaning stated in § 1-101 of the Election Law Article.

(2) "Treasurer" includes a subtreasurer.

5-853. Contributions made by applicants.

(a) *Affidavit.* — (1) When an application is filed, the applicant shall file an affidavit, under oath, stating whether the applicant:

(i) has made any contribution or contributions having a cumulative value of at least \$500 to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before the application is filed, to the best of the applicant's information, knowledge, and belief; or

(ii) currently is engaging in business with an elected official.

(2) (i) 1. Except as provided in subparagraph 2 of this subparagraph, if the applicant or a party of record or a family member has made a contribution or contributions having a cumulative value of at least \$500 during the 48-month period before the application was filed or during the pendency of the

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application, the applicant or the party of record shall file a disclosure providing the name of the candidate or elected official to whose treasurer or political committee the contribution was made, the amount, and the date of the contribution.

2. If the party of record is a community association, the association is not required to poll its members to disclose individual contributions.

(ii) A contribution made between the filing of the application and the disposition of the application shall be disclosed within 5 business days after the contribution.

(3) An applicant who begins engaging in business with an elected official between the filing of the application and the disposition of the application shall file the affidavit at the time of engaging in business with the elected official.

(b) *Filing.* — Except as provided in subsection (a)(3) of this section, the affidavit or disclosure shall be filed at least 30 calendar days before any consideration of the application by an elected official.

(c) *Disclosure.* — Within 2 weeks after entering a proceeding, a party of record that has made a contribution shall submit a disclosure as described in subsection (a)(2) of this section.

(d) *Applicability of part.* — (1) Except as provided in paragraph (2) of this subsection, a contributor and an elected official are subject to this part if the contributor makes a contribution to:

- (i) the candidate;
- (ii) a slate; or
- (iii) the candidate's political committee.

(2) This part does not apply to a transfer by a political action committee to a candidate or the candidate's continuing political committee.

(e) *Form.* — (1) An affidavit or a disclosure required under this part shall be in a form established by the Howard County Solicitor and approved by the County Council.

(2) The completed form shall be filed in the appropriate case file of an application.

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(2) The documents shall be available for inspection on request to the Howard County Ethics Commission, after reasonable notice.

Part IX. Special Provisions For Frederick County – Planning and Zoning.

5-857. Definitions.

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Agent.* — "Agent" means a person that is:

(1) hired or retained by a business entity that is an applicant with an application before the governing body to provide services, for compensation, relating to the application; and

- (2) (i) an attorney;
- (ii) an architect or a landscape architect;
- (iii) a traffic consultant;
- (iv) an engineer; or
- (v) a traffic engineer.

(c) *Aggrieved party.* — "Aggrieved party" means:

- (1) a property owner whose property:
 - (i) adjoins, fronts, or is located near the subject property; or
 - (ii) is located within sight or sound of the subject property; or
- (2) an individual located within the same subdivision as the subject property or who lives up to three-quarters of a mile by road or otherwise one-half mile away from the subject property.

(d) *Applicant.* — (1) "Applicant" means a person that is:

(i) a title owner or contract purchaser of land that is the subject of an application;

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(3) The disclosure form shall repeat the penalty provision in § 5-854(a) of this subtitle.

(f) *Later contributions.* — A contribution made after the filing of the initial disclosure and before final disposition of the application by the County Council shall be disclosed within 5 business days after the contribution.

(g) *Enforcement.* — In the enforcement of this part, the administrative assistant to the zoning board or the administrator of the County Council, as appropriate, considering an application shall be subject to the authority of the Howard County Ethics Commission and, unless otherwise directed by the Ethics Commission, shall:

- (1) receive filings of affidavits and disclosures;
- (2) maintain filed affidavits and disclosures as public records available for review by the general public during normal business hours;
- (3) report violations to the Howard County Ethics Commission; and
- (4) perform ministerial duties necessary to administer this part.

(h) *Summary report.* — (1) Promptly on receipt, the administrative assistant to the zoning board and the administrator of the County Council shall prepare a summary report compiling all affidavits and disclosures filed under this part.

(2) The summary report shall be a public record and available for immediate inspection on written request.

5-854. Violations.

(a) *Penalty.* — (1) A person who knowingly and willfully violates this part is subject to a fine not exceeding \$5,000.

(2) If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the penalty specified in paragraph (1) of this subsection.

(b) *Preservation of documents.* — (1) A person who is subject to this part shall preserve all accounts, bills, receipts, books, papers, and other documents necessary to complete and substantiate any reports, statements, or records required to be made under this part for 3 years from the date of filing the application.

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(ii) a trustee who has an interest in land that is the subject of an application, excluding trustees described in a mortgage or deed of trust; or

(iii) a holder of at least a 10% interest in land that is the subject of an application.

(2) "Applicant" includes a person who is an officer or a director of a corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(3) "Applicant" does not include:

(i) a financial institution that has loaned money or extended financing for the acquisition, development, or construction of or improvements on the land that is the subject of an application;

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) an electric company or electric supplier applying for a certificate of public convenience and necessity under § 7-207 or § 7-208 of the Public Utilities Article; or

(v) a person who is hired or retained as an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

(e) *Application.* — "Application" means:

(1) an application for a zoning map amendment as part of a piecemeal or floating zone rezoning proceeding;

(2) a formal application for a comprehensive map planning change or zoning change during the county comprehensive land use plan update;

(3) an application for a map amendment to the county water and sewerage plan;

(4) a request made under § 4-416 of the Local Government Article for the governing body to approve the placement of annexed land in a zoning classification that allows a land use that is substantially different from the use for the land authorized in the zoning classification of the county applicable at the time of annexation; or

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(5) an application to create a district or an easement or any other interest in real property as part of an agricultural land preservation program.

(f) *Business entity.* — “Business entity” means:

- (1) a corporation;
- (2) a limited liability company;
- (3) a partnership; or
- (4) a sole proprietorship.

(g) *Candidate.* — “Candidate” means a candidate for County Executive or County Council who becomes an elected official.

(h) *Contribution.* — “Contribution” means a payment or transfer of money or property worth at least \$100, calculated cumulatively during the pendency of the application, to a candidate or a treasurer or political committee of a candidate.

(i) *Governing body.* — “Governing body” means the governing body of Frederick County.

(j) *Partnership.* — “Partnership” includes:

- (1) a general partnership;
- (2) a joint venture;
- (3) a limited liability limited partnership;
- (4) a limited liability partnership; or
- (5) a limited partnership.

(k) *Party of record.* — “Party of record” means a person that participated in a proceeding on an application before the governing body by appearing at a public hearing or filing a statement in an official record.

(l) *Pendency of the application.* — “Pendency of the application” means the time between the acceptance by the County Department of Planning and Zoning of a filing of an application and the earlier of:

(1) 2 years after the acceptance of the application; or

(2) the expiration of 30 days after:

- (i) the governing body has taken final action on the application; or
- (ii) the application is withdrawn.

(m) *Political committee.* — “Political committee” means a committee specifically created to promote the candidacy of a member of the governing body who is running for an elective office.

(n) *Treasurer.* — “Treasurer” has the meaning stated in § 1-101 of the Election Law Article.

5-858. Prohibited actions.

(a) *Contributions.* — An applicant or agent may not make a contribution to a member of the governing body during the pendency of the application.

(b) *Voting.* — Except as provided in subsection (c) of this section, after an application has been filed, a member of the governing body may not vote or participate in any way in the proceedings on the application if the member or the treasurer or political committee of the member received a contribution from the applicant or agent during the pendency of the application.

(c) *Comprehensive zoning or rezoning proceedings.* — A member of the governing body may participate in a comprehensive zoning or rezoning proceeding.

5-859. Ex parte communications.

(a) *Application of section.* — This section does not apply to a communication between a member of the governing body and an employee of the Frederick County government whose duties involve giving aid or advice to a member of the governing body concerning a pending application.

(b) *Disclosure.* — A member of the governing body who communicates ex parte with an individual concerning a pending application during the pendency of the application shall file with the Chief Administrative Officer a separate disclosure for each communication within the later of 7 days after the communication was made or received.

5-860. Affidavit.

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At any time before final action on an application, a party of record may file with the Chief Administrative Officer an affidavit including competent evidence of:

- (1) a contribution by an applicant or agent covered under § 5-858 of this subtitle; or
- (2) an ex parte communication covered under § 5-859 of this subtitle.

5-861. Enforcement.

(a) *In general.* — In the enforcement of this part, the Chief Administrative Officer shall be subject to the direction and control of the Frederick County Ethics Commission and, unless otherwise specifically directed by the County Ethics Commission, may only:

- (1) receive filings;
- (2) maintain records;
- (3) report violations; and
- (4) perform other ministerial duties necessary to administer this part.

(b) *Filings; summary reports.* — (1) The affidavits and disclosures required under this part shall be filed in the appropriate case file of an application.

(2) The Chief Administrative Officer, at least twice each year, shall prepare a summary report compiling all affidavits and disclosures that have been filed in the application case files.

(3) All summary reports compiled under paragraph (2) of this subsection shall be available to members of the public on written request.

(4) All affidavits, disclosures, and accompanying documentation required under this part shall be in the form required by the Frederick County Ethics Commission.

5-862. Violations; penalties.

(a) *Procedural error.* — (1) The Frederick County Ethics Commission or another aggrieved party of record may assert as procedural error a violation of this part in an action for judicial review of the application.

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(2) If the court finds that a violation of this part occurred, the court shall remand the case to the governing body for reconsideration.

(b) *Penalties.* — (1) A person that knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

(2) If the person is a business entity or agent and not an individual, each member, officer, or partner of the business entity or agent who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

(3) An action taken in reliance on an opinion of the State Ethics Commission or the Frederick County Ethics Commission may not be considered a knowing and willful violation.

(c) *Preservation of documents.* — (1) A person that is subject to this part shall preserve all books, papers, and other documents necessary to complete and substantiate any reports, statements, or records required to be made under this part for 3 years from the date of filing the application.

(2) The documents shall be available for inspection on request.

Part X. Special Provisions for Frederick County — Campaign Activity Concerning County Board and Commission Members and the Board of License Commissioners.

5-865. Applicability of part.

This part applies only to an appointed member of the Frederick County Board of Zoning Appeals, the Frederick County Ethics Commission, the Frederick County Planning Commission, or the Board of License Commissioners for Frederick County.

5-866. Vacating position on board or commission.

(a) *“Campaign finance entity” defined.* — In this part, “campaign finance entity” has the meaning stated in § 1-101 of the Election Law Article.

(b) *Prohibition on solicitation or use of contributions.* — A member, a person acting on behalf of the member, a campaign finance entity of the member, or any other campaign finance entity operated in coordination with the member may not solicit, receive, deposit, or use a contribution while the member is serving on the board or commission.

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(c) *Prohibition on making expenditures; exception.* — A campaign finance entity of the member or any other campaign finance entity operated in coordination with the member may not make an expenditure, except to pay a late filing fee or civil penalty imposed under Title 13 of the Election Law Article, while the member is serving on the board or commission.

(d) *Payment of outstanding obligations.* — A campaign finance entity of the member or any other campaign finance entity operated in coordination with the member shall pay any outstanding obligations before the member begins serving on the board or commission.

(e) *Vacating position on board or commission.* — Not later than 48 hours after opening a campaign account through a campaign finance entity, an appointed member of a board or commission under § 5-865 of this subtitle who has established an authorized candidate campaign committee shall vacate the position on the board or commission.

Part XI. Special Provisions for Anne Arundel County.

5-869. Definitions.

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Candidate.* — (1) "Candidate" means an individual who files a certificate of candidacy for:

- (i) election to the County Council; or
- (ii) County Executive.

(2) "Candidate" includes an incumbent member of the County Council and an incumbent County Executive.

(c) *County Council.* — "County Council" means the County Council of Anne Arundel County.

(d) *County Executive.* — "County Executive" means the County Executive of Anne Arundel County.

5-870. *Regulation of participation in certain legislative actions if campaign contribution accepted.*

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1. not exceeding \$5,000 for a violation of this title;
2. with each day that the violation occurs being a separate offense; and
3. which shall be paid to the State Treasurer and deposited in the General Fund; or

(ii) except as provided in paragraph (2) of this subsection, void an official act of an official or employee if:

1. the official or employee had a conflict of interest that is prohibited by this title;
2. the act arose from or concerned the subject matter of the conflict;
3. the proceeding was brought within 90 days after the act occurred; and
4. the court determines that the conflict had an impact on the act.

(2) The court may not void an official act that:

- (i) appropriates public funds;
- (ii) imposes a tax; or
- (iii) provides for the issuance of a bond, a note, or any other evidence of public obligation.

(c) *Scope of relief.* — After hearing the case, the court may grant all or part of the relief sought.

5-903. Criminal penalties.

(a) *In general.* — Except as provided in § 5-716 of this title, a person that knowingly and willfully violates Subtitle 7 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 1 year or both.

(b) *Officers and partners.* — If the person is not an individual, each officer or partner who knowingly authorizes or participates in a violation of Subtitle 7 of this

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(a) *Enactment of local law to regulate participation.* — The County Council may enact a local law to regulate the participation of a member of the County Council or the County Executive in any legislative action relevant to a zoning change or amendment, or to a land use application that is before the Office of Planning and Zoning or the Department of Inspections and Permits, if the member of the County Council or the County Executive accepts or has accepted, or as a candidate accepted, a campaign contribution from an individual or a business entity involved with the action or application.

(b) *Enactment of local law to regulate campaign contributions.* — The County Council may enact a local law to prohibit or otherwise regulate campaign contributions made to, or for the benefit of, a member of the County Council, the County Executive, or a candidate for election to the County Council or County Executive by an individual or a business entity involved with a legislative action relevant to a zoning change or amendment, or to a land use application that is before the Office of Planning and Zoning or the Department of Inspections and Permits.

5-871. Administration and implementation of local law.

If the County Council enacts a local law under § 5-870 of this subtitle, the Anne Arundel County Ethics Commission shall administer and implement the provisions of the local law.

Subtitle 9. Enforcement.

5-901. Petition by Ethics Commission.

To compel compliance with an order, or to seek other relief authorized by this subtitle, the Ethics Commission may file a petition in a circuit court with venue over the proceeding.

5-902. Judicial relief.

(a) *In general.* — The court may compel compliance with the Ethics Commission's order by:

- (1) issuing an order to cease and desist from the violation; or
- (2) granting other injunctive relief.

(b) *Special relief.* — (1) The court may also:

- (i) impose a fine:

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title is guilty of a misdemeanor and on conviction is subject to the penalty specified in subsection (a) of this section.

(c) *Distribution of fines.* — A fine assessed under this section shall be distributed to the Fair Campaign Financing Fund established under § 15-103 of the Election Law Article.

5-904. Disciplinary action.

In addition to any other penalty under this title, a public official or employee found by the Ethics Commission or a court to have violated this title:

- (1) may be removed or subjected to other disciplinary action; and
- (2) if subject to an order of the Ethics Commission or a court directing compliance, may not receive salary or other compensation until the individual complies fully with the order.

Subtitle 10. Short Title.

5-1001. Short title.

This title may be cited as the Maryland Public Ethics Law.

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PERSON SERVING IN MULTIPLE PUBLIC POSITIONS: Ethics Commission Information Sheet # 12

I. Introduction

The Ohio Ethics Law and related statutes¹ applies to elected or appointed officials, or employees, in public agencies in Ohio. "Public agencies" are:

- State departments, boards, and commissions;
- Counties;
- Cities and villages;
- Townships;
- School districts;
- Public colleges and universities;
- Public libraries; and
- All other governmental agencies.

II. Purpose of this Information Sheet

The Ohio Ethics Commission administers, interprets, and assists in the enforcement of the Ethics Law.² This information sheet explains the Law as it applies to any person who wants to hold more than one public position at the same time. In this information sheet, "official" means any person who serves a public agency, whether elected, appointed, or employed, full-time or part-time, compensated or uncompensated.

III. Compatibility/Other Considerations

Any official who wishes to serve in more than one public position should seek advice from the legal advisors for the public agencies the official wishes to serve to determine whether the positions are compatible. The Ohio Ethics Law does not govern compatibility, and the Ethics Commission cannot issue a compatibility opinion.

A public official may also be prohibited from holding other public positions by laws that are not within Ethics Commission's jurisdiction.³

IV. Summary of the Ethics Law

One person can serve two or more public agencies at the same time unless:

- There is a public contract between the public agencies; and
- The person would have a financial or fiduciary interest in the contract.

Even if an official can serve in more than one position, the Law will restrict his or her actions in the public positions.

V. When Dual Service is Prohibited

A person cannot serve two agencies if there is a contract between the two agencies and the person would have an interest in the contract. The person cannot have either a financial or fiduciary interest in any contract of an agency the official serves.⁴

A public contract exists whenever a public agency buys or acquires goods or services, from any source, regardless of whether there is a written contract.⁵ Many public agencies have contracts with one another. For example, a township may have a contract with a neighboring city to provide emergency services to township residents. A state agency may award a grant to a public library to provide job placement services to citizens in the community. A state department may provide loans to villages and cities to build or expand water treatment facilities.

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There are some narrow exceptions to this prohibition.⁶ If a person wants to hold public positions with two public agencies that have contracts with each other, he or she should contact the Commission for further guidance.

Example 1:

A state department employee also wants to accept employment with a state university. Her department has awarded a grant to the university. The grant is a public contract. The person cannot accept employment with the university if she will have an interest in the grant awarded by the department.⁷ However, she can work for the university provided that she does not have any financial or fiduciary interest in the grant.

Example 2:

The chief of a city police department is considering running for trustee in the township where he lives. The township purchases police services from the city. If the chief were to become a township trustee, he would have a prohibited interest in the contract between the city and the township. He cannot serve in these two positions at the same time.

VI. When Dual Service is Not Prohibited

If there are no contracts between the public agencies, or the person does not have a prohibited interest in the contracts, the person can serve both agencies. However, the person will have to comply with the conflict of interest, revolving door, representation, and other restrictions while serving in both positions.

A. Conflicts of Interest

If a public official serves in more than one public position, the official will have a conflict of interest if matters affecting one of the agencies come before the other public agency. R.C. 102.03(D) and (E) prohibit an official who serves in more than one public position from using the authority or influence of either position to benefit the other public agency. The official cannot

participate, in either public position, on matters that affect the other entity.⁸

The official must fully withdraw from consideration of matters affecting the other public agency.⁹ A public official who serves on a governing board (such as a city council, board of township trustees, board of county commissioners, or other public decision-making committee) can withdraw by abstaining from any discussion, deliberation, or vote, on matters before the governing board. The other board members can then make the decision on the matter.

A public official who serves in any other kind of public position can withdraw by informing the official's supervisor and chief legal counsel at the agency of the outside service any time a matter before either agency affects the interests of the other agency.¹⁰ The official's supervisor must assign the matter to a person who is a superior to, or on the same level as, the official who has withdrawn.¹¹ A public official cannot withdraw from a matter by delegating it to a subordinate.¹²

Example 1:

A city council member is employed by a college in the city. The council member cannot vote, discuss, deliberate on, lobby his fellow council members, or otherwise participate in the consideration of any regulatory or other matter before city council affecting the college.¹³

Example 2:

A state department employee is employed as an adjunct instructor with a state university. The university has applied for a grant from her department. As a department employee, she cannot participate, in any way, in the department's discussions, deliberation, or decision regarding the university's grant. She is also prohibited from lobbying other department employees to favor the university's interests.¹⁴

B. Revolving Door Restrictions

A public official is prohibited from representing any person on any matter in which the official has personally participated.¹⁵ This restriction applies to the official during and for one year after public service.

The restriction applies regardless of whether the official is paid to represent the person. A “person” includes an individual, corporation, partnership, association, public agency, or similar entity.¹⁶

An official is “representing” a person when the official makes any formal or informal appearance before, or has any kind of written or oral communication with, any public agency, on behalf of that person.¹⁷ Examples of representation are:

- An informal appearance before a public agency;
- Oral communication with a public agency;¹⁸
- Written communication with a public agency, even if the official does not sign the communication.¹⁹

The law prohibits an official who holds more than one public position, from representing either public agency before the other on any matter in which the official has personally participated.

An official has “personally participated” in a matter if the official has engaged in any substantial exercise of administrative discretion regarding the matter such as:

- Decision;
- Approval;
- Disapproval;
- Recommendation;
- The rendering of advice; or
- Investigation.²⁰

For example, if an official reviews a report, and makes a recommendation about the report to supervisors, the official has personally participated in the matter that is the subject of the report, even if the official’s participation was not the final action on the report. An official has also personally participated in a matter if the official has supervised other public officials and employees on the matter.²¹

A “matter” includes any case, proceeding, application, determination, issue, or question.²² A matter can include concrete items, like an application or a problem. It can also include more abstract items, like a dispute or a policy decision. A matter is the underlying issue or question, regardless of whether it involves the same parties. Matter does not mean the same thing as subject matter.²³

Example:

A county employee who also serves as a township trustee cannot appear before the township, or any other public agency, on behalf of the county on matters in which he or she personally participated as a county employee. The person would be prohibited from sending e-mails or making telephone calls to the township or any other public agency, on behalf of the county, as well as engaging in more formal representations.

C. Rendering Services Before Agency

There are two restrictions that prohibit a public official from receiving payment to render services on some matters. One restriction applies to state officials and another to local officials.

(1) State Officials (R.C. 102.04(A))

An official serving a state entity cannot receive, directly or indirectly, compensation for any service the official renders in matters that are before any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts.²⁴ [As noted above, the word “officials,” as used here, includes elected and appointed officials and employees.] If a state official is also serving in a second public

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position, the official cannot perform services for the second public agency on matters that are before any agency of the state.

Example:

An employee of a state department also serves as a school board member. The school district asks her to contact the state Department of Education regarding a matter that affects the district. If she were to contact the Department, she would be accepting compensation (her salary as a board member) to perform services on a matter before an agency of the state, which is prohibited by R.C. 102.04(A).

(2) Local Officials (R.C. 102.04(C))

An official serving a local public agency (city, county, township, etc.) cannot receive, directly or indirectly, compensation for any service the official renders in matters that are before any department, division, institution, instrumentality, board, commission, or bureau of the local agency the official serves.²⁵ [“Officials,” as used here, includes elected and appointed officials and employees.] If a local official is also serving in a second public position, the official cannot perform services for the second public agency on matters that are before any agency of the first local agency.

Example:

A member of a city council who is employed by a township is prohibited from receiving compensation from the township for representing the township on any matter pending before any office or board of the city.²⁶ If the township were to ask its employee to represent its interest before the city building department, he would be accepting compensation from the township to perform a service on a matter that is before an office of the city he also serves, which is prohibited by R.C. 102.04(C).²⁷

Exception

R.C. 102.04(D) provides an exception to the prohibitions of R.C. 102.04(A) and (C) if both of the following apply: (1) the agency before which the matter is pending is an agency other than the one with which the official serves; and (2) prior to rendering personal services on the matter, the official files the statement described in that section with the Ethics Commission, the agency with which the official serves, and the agency before which the matter is pending. The exception in by R.C. 102.04(D) does not apply to a person serving in an elected position.²⁸

VII. Penalties

The Ethics Law and related statutes are criminal laws. If a person is convicted of violating an ethics law, that person may receive a jail sentence and/or be levied a fine. The statutes discussed in this information sheet are all misdemeanors of the first degree with a maximum penalty of six months in jail and/or a \$1000 fine.

VIII. Conclusion

Please contact the Ethics Commission if you have questions about this information sheet or the Ohio Ethics Laws. This information sheet is not an advisory opinion, and is not intended to provide advice on specific facts. Copies of the Commission’s formal advisory opinions can be obtained from:

Ohio Ethics Commission
30 West Spring Street, L3
Columbus, Ohio, 43215
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<http://www.ethics.ohio.gov>

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Endnotes:

¹ Ohio Revised Code Chapter 102, and Sections 2921.42 and 2921.43.

² Two other state agencies have jurisdiction over ethics issues: The Joint Legislative Ethics Committee (JLEC) for members and employees of the General Assembly and the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court for judges and judicial employees.

³ See, among others, R.C. 3313.33.

⁴ R.C. 2921.42(A)(4).

⁵ R.C. 2921.42(I)(1); Ohio Ethics Commission Advisory Opinion No. 87-003.

⁶ Adv. Op. No. 99-004.

⁷ Adv. Op. No. 89-006.

⁸ Adv. Ops. No. 91-006 and 2007-01.

⁹ Adv. Ops. No. 91-009 and 92-005.

¹⁰ However, some high-level public officials and employees are charged with unique authority from which they cannot withdraw. Adv. Op. No. 92-004. Because they cannot withdraw from the performance of their official duties, it is impossible for these officials and employees to pursue certain kinds of private activity.

¹¹ Id.

¹² Adv. Op. No. 2011-02.

¹³ Adv. Op. No. 2007-01.

¹⁴ Adv. Op. No. 89-006.

¹⁵ R.C. 102.03(A)(1); see Revolving Door Information Sheet No. 5 on Commission's Web site.

¹⁶ R.C. 1.59; Adv. Ops. No. 82-002, 89-003, and 99-001.

¹⁷ R.C. 102.03(A)(5).

¹⁸ Adv. Op. No. 86-001.

¹⁹ Id.

²⁰ R.C. 102.03(A)(1).

²¹ Adv. Op. No. 91-009.

²² R.C. 102.03(A)(5).

²³ Adv. Op. No. 99-001.

²⁴ R.C. 102.04(A).

²⁵ R.C. 102.04(C).

²⁶ Adv. Op. No. 91-006.

²⁷ Adv. Op. No. 96-002.

²⁸ Id.

From: [Redmond, Lee](#)
To: [April Miller](#)
Cc: [Cherney, Ragen](#)
Subject: FW: Inquiry - Article 2, Section b of the Baltimore County Charter
Date: Friday, December 27, 2019 10:24:00 AM
Attachments: [Charter Review Commission - November 6, 2017 Report.pdf](#)

April,

Here is the response from the Baltimore County Attorney along with their Charter Review Commission Report. Do you have any additional questions you would like for me to ask?

Lee

From: James R. Benjamin Jr. <jrbenjamin@baltimorecountymd.gov>
Sent: Thursday, December 26, 2019 4:25 PM
To: Redmond, Lee <LRedmond@FrederickCountyMD.gov>
Cc: Cherney, Ragen <RCherney@FrederickCountyMD.gov>
Subject: Inquiry - Article 2, Section b of the Baltimore County Charter

[EXTERNAL EMAIL]

Good afternoon:

Here is the discussion from the November 6, 2017 Report of the Baltimore County Charter Review Commission:

County Council Member Holding State Employment

Section 202(b) of the Charter states that "No person shall qualify or serve as a member of the County Council while he holds any other office or employment for profit of or under the State or County." Simply put, this section prohibits a Council member from holding employment with the State, whether in State government or with a State agency

such as a public school system or college.

During the deliberations, it was mentioned that a reciprocal bar does not hold true for members of the General Assembly, who may hold County employment.

It was also mentioned that the previous Council attempted to address this issue a number of years ago in Bills 52-07 and 81-08 – to delete the portion of Section

202(b)

containing this prohibition; however, the question was defeated by County voters at the general election in 2008.

Although the members recognize the seeming inequity of State elected officials being permitted to have County employment but Council members not being permitted to have

State employment, the members agreed not to make any changes to this Charter section.

There may have been a perception in the past that allowing this change would somehow

confer an inapt benefit, but perhaps citizens in the future will see it more as a leveling of

of the playing field and permit such a Charter change. That being said, in not recommending

a change, the Commission members also expressed concern over potential conflicts of interest that could arise. (emphasis added)

I note that one of the questions that has come up about this employment was how to enforce a violation of this provision of the Charter. The Council's solution was to make it a violation of the ethics law, which could be enforced by the Ethics Commission. I am currently unaware of any other issues relating to this section.

I hope this helps. If you would like for me to send you a copy of the 2017 report I am happy to do so.

Regards,

James R. Benjamin, Jr.
County Attorney
Baltimore County Office of Law
400 Washington Avenue, Rm. 219
Towson, MD 21204
(410) 887-4420
jrbenjamin@baltimorecountymd.gov

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From: Redmond, Lee <LRedmond@FrederickCountyMD.gov>
Sent: Thursday, December 26, 2019 1:03 PM
To: James R. Benjamin Jr. <jrbenjamin@baltimorecountymd.gov>
Cc: Cherney, Ragen <RCherney@FrederickCountyMD.gov>
Subject: Inquiry - Article 2, Section b of the Baltimore County Charter

CAUTION: This message from LRedmond@frederickcountymd.gov originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Afternoon,

On May 28, 2019, the Frederick County Council adopted a resolution to create the Frederick County Charter Review Commission. Resolution 19-09 charged the Commission to review and make recommendations for changes to the Frederick County Charter and to submit a final written report to the County Council on or before February 28, 2020.

A proposal was received by the Charter Review Commission requesting that they discuss prohibiting employees of the Frederick County Board of Education from becoming council members due to a perceived conflict of interest. Commission Member April Miller found that Article 2, Section b of the Baltimore County Charter states, "Other offices. No person shall qualify or serve as a member of the county council while he holds any other office or employment for profit of or under the state or county, and no member of the county council, during his term of office, shall be eligible for appointment to any county office, position or employment carrying compensation except the office of county executive." Could you clarify as to whether this is applied to teachers or Board of Education employees? Also, have there been any issues with this section of your Charter?

The next Charter Review Commission meeting will be held on Thursday, January 16th. Could you provide the Commission with information to help them make a decision for Frederick County before January 8th?

Thank you,

Mrs. Lee Palmer Redmond

Executive Assistant

Office of the Frederick County Council

12 East Church Street

Frederick, MD 21701

301-600-1034

2018 Maryland Code

Education

Division II - Elementary and Secondary Education

Title 3 - Establishment of County Boards of Education

Subtitle 5B - Frederick County

§ 3-5B-01. Membership

Universal Citation: MD Educ Code § 3-5B-01 (2018)

- (a) Composition. -- The Frederick County Board consists of eight members as follows:
 - (1) Seven members elected from the county at large; and
 - (2) One nonvoting student member.
- (b) Qualifications. --
 - (1) A candidate elected to the county board shall be a resident and registered voter of Frederick County.
 - (2) Any member who no longer resides in the county may not continue as a member of the board.
- (c) Terms; elections. --
 - (1) A voting member serves for a term of 4 years beginning the first Tuesday in December after the member's election and until a successor is elected and qualifies.
 - (2) Voting members of the Frederick County Board shall be elected as follows:
 - (i) Three members of the county board shall be elected in the November general election of 2000 and every 4 years thereafter; and
 - (ii) Four members of the county board shall be elected in the November general election of 2002 and every 4 years thereafter.
- (d) Vacancies. --
 - (1) The terms of voting members are staggered as provided in subsection (c) of this section.
 - (2) Subject to confirmation of the County Council, the County Executive shall appoint a qualified individual

to fill a vacancy on the county board for the remainder of the term and until a successor is elected and qualifies.

- (e) Student member. --
 - (1) The student member shall:
 - (i) Be an eleventh or twelfth grade student in the Frederick County public school system elected by the high school students of the county in accordance with procedures established by the school system;
 - (ii) Serve for 1 year beginning on July 1 after the election of the member;
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 - (iv) Advise the county board on the thoughts and feelings of students.
 - (2) Unless invited to attend by an affirmative vote of a majority of the county board, the student member may not attend an executive session.
- (f) Removal. --
 - (1) The State Board may remove a voting member of the county board for:
 - (i) Immorality;
 - (ii) Misconduct in office;
 - (iii) Incompetency; or
 - (iv) Willful neglect of duty.
 - (2) Before removing a voting member, the State Board shall send the member a copy of the charges against the member and give the member an opportunity within 10 days to request a hearing.
 - (3) If the voting member requests a hearing within the 10-day period:
 - (i) The State Board promptly shall hold a hearing, but a hearing may not be set within 10 days after the State Board sends the voting member a notice of the hearing; and

- (ii) The voting member shall have an opportunity to be heard publicly before the State Board in the member's own defense, in person or by counsel.
 - (4) A voting member removed under this subsection has the right to a de novo review of the removal by the Circuit Court for Frederick County.
-

Maryland State Law is silent on the confirmation process that may be used by both the County Council and the County Executive. The process of replacing an important elected official can vary based on the whims of every new County Executive or County Council. The precedent that was set after the last election has already been changed as of yesterday and will change once again in January. The citizens of Frederick County have no point of reference for how these vacancies will be filled. The proposed legislation by CM McKay to the Delegation is an excellent first step. The Charter should address the intermittent appointment process. If the special election legislation is passed then it would be added to a section of the Charter for Board of Education vacancies.

The Board of Education controls almost half of the County Budget. The BOE approved FCPS Fiscal Year 2020 Operating Budget is \$637,141,096 with a County appropriation total of \$295,576,318 and State portion total of \$ 302,334,408. In addition, there is a Capital, Self-Insurance and a Food and Nutrition Services Budgets. The Board of Education also sets

policies and procedures that impact the daily lives of our children, from what they are learning in the classroom to steps to secure their safety and well-being. The citizens of Frederick County should have BOE vacancy information that is reliable, open and transparent.

Information from CM McKay-

Proposed Amendment to Maryland State Law to Provide for Limited Special Elections to Fill Vacancies on the Frederick County Board of Education

Goal: A vacancy on the Board of Education should be filled by a vote of Frederick County's residents.

What is the Current Process?

Vacancies on the Board of Education are currently filled by an appointment-based process, whereby the County Executive appoints a replacement, and the County Council confirms the appointment. Appointments are a necessary component to fill a vacancy in this office; however, it should not be the ONLY component. The Board of Education is composed of elected officials with a tremendous amount of authority over both taxpayer funds and the education of our children. The voters should have a voice in this process.

What is being Proposed in this Amendment?

I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the Board of Education. I am NOT proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the fact that during the mid-term of every elected Member's term, there is an existing election – either Presidential or Gubernatorial – which can be utilized to fill the vacancy. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Primary registration deadline following the vacating Member's last election. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A "one-off" election has been estimated to cost \$250,000-\$300,000. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

UPDATE - How Would the Special Election be Conducted?

County Council Vacancies- current process

209. Vacancies

- (a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 208 of this Charter.
- (b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve the unexpired term of office. The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the council member vacating office was in the most recent election for council member.
- (c) When succeeding a council member who was elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the Council by the County central committee of the political party affiliated with the council member vacating office was in the most recent election for council member, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.
- (d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy. If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

(Res. 18-20, 7-17-2018)

Howard County Charter Vacancy Process- Section 202 County Council

Vacancies. Unless provision for filling a vacancy by special election has been established by ordinance, a vacancy occurring in the office of the Council member prior to the expiration of his or her term shall be filled by the Council within thirty days after the vacancy occurs by the appointment of a person whose name is to be submitted in writing to the Council by the State Central Committee of Howard County representing the political party to which the previous member belonged at the time of the member's most recent election. If a name is not submitted by the appropriate State Central Committee within twenty-five days after the vacancy occurs or if the previous incumbent was not a member of a political party at the time of the member's most recent election, then the vacancy shall be filled by a majority vote of the remaining members of the Council. The member so appointed shall reside in the same Councilmanic District as his or her predecessor and shall possess and maintain the same qualifications as an elected Council member. The member so appointed shall serve the unexpired term of his or her predecessor.

Sec. 10.101. - County Council vacancies.

- (a) Subject to subsection (b) of this section, a vacancy occurring in the office of a Councilmember before the expiration of the term shall be filled by appointment in accordance with subsection 202(e) of the Howard County Charter.
- (b) If the vacancy occurs more than 30 days before the filing deadline for a certificate of candidacy for the next regularly scheduled primary election, the individual appointed under subsection (a) of this section shall serve until a successor is qualified pursuant to a special general election in accordance with the procedures set forth in subsection (c) of this section and subsection 202(c) of the Charter.
- (c)
 - (1) A special primary and general election to fill the Council seat in which the vacancy occurred shall be held in accordance with the requirements title 5 of the elections law article of the Maryland Annotated Code pertaining to elections for the County Council offices.
 - (2) **The special primary election shall be held concurrently with the regularly scheduled primary election.**
 - (3) **The special general election shall be held concurrently with the regularly scheduled general election.**
 - (4) **Only individuals who, at the time of the special elections authorized in this subsection, are qualified to vote within the Councilmanic District in which the vacancy occurred may participate in the special elections.**
 - (5) **The individual elected to fill the vacancy must meet all qualifications for the office provided by law. (C.B. 79, 2006, § 1) State Law reference— Authority to provide for filling of vacancies on county council, Ann. Code of Md. art. 35A, § 5(Q).**

Vacancy in the County Executive Office- current process

408. Vacancy in the Office of County Executive

- (a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy.
- (b) An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party. If the County central committee fails to provide a nominee within the first thirty days of a vacancy, the Council shall appoint any person the Council deems qualified who is a member of the political party.
- (c) If the Council has not made an appointment within the forty-five-day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter: (1) the nominee of the County central committee of the political party, if any, of the person who vacated the office, provided that the political party nominee was provided to the Council within the first thirty days of a vacancy, as required by subsection (b) of this section; or (2) the Chief Administrative Officer, if the person who vacated office was not a member of a political party.
- (d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

Howard County Charter for Vacancy of County Executive-

There is no special election.

Vacancy. Whenever for any cause the office of the Executive shall become vacant, the Chief Administrative Officer shall serve as acting Executive until a new Executive shall be appointed. The office of County Executive shall be filled by resolution within thirty days by the affirmative vote of a majority of the members of the Council. The person so elected by the Council shall possess the same qualifications for the office as provided in [Section 302\(b\)](#), shall belong to the same political party as his or her predecessor at the time of the Executive's most recent election (unless his or her predecessor was not a member of a political party) and shall serve the unexpired term of his or her predecessor and until his or her successor shall qualify.

Council Member McKay's Proposal: FOR COUNTY COUNCIL AND EXECUTIVE

This is similar to process used in Howard County and his goal is to allow voters to have more power to fulfill a long-term vacancy of either a CM or the CE. This would only go into effect if the vacancy was more than 30 days before a Presidential Primary filing deadline. The cost implication can be discussed with Mr. Harvey next Monday, which may not be an issue if special ballots were not needed for a certain district only.

Proposed Charter Amendment Language

Article II – County Council, Sec. 209. Vacancies

(a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 209 of this Charter.

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve [~~the unexpired term of office~~] **FOR A TERM PURSUANT TO SUBSECTION (F) OR (G), AS APPLICABLE.** The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the council member vacating office was in the most recent election for council member.

(c) When succeeding a council member who was elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the Council the County central committee of the political party affiliated with the council member vacating office was in the most recent election for council member, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy **WITHIN SIXTY DAYS OF THE VACANCY.** If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

(e) ALL PERSONS CONSIDERED BY THE COUNCIL OR COUNTY EXECUTIVE FOR APPOINTMENT UNDER EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY EITHER THE COUNCIL OR COUNTY EXECUTIVE, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT, PURSUANT TO EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and strikethrough] indicate matter deleted from the Charter.

(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW MEMBER SHALL BE NOMINATED AND ELECTED BY QUALIFIED VOTERS OF THE COUNCILMANIC DISTRICT IN WHICH THE VACANCY OCCURS, AT THE SAME TIME AS THE PRESIDENTIAL GENERAL ELECTION AND IN THE MANNER PROVIDED BY LAW. IN THE INTERIM, UNTIL A NEW MEMBER IS ELECTED, THE VACANCY SHALL BE TEMPORARILY FILLED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION. A MEMBER APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE COUNCIL SEAT SHALL ASSUME OFFICE AND SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.

(g) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, THE NEW MEMBER SHALL BE APPOINTED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, AND SERVE THE REMAINDER OF THE VACATING MEMBER'S TERM.

Article IV – Executive, Section 408. Vacancy in the Office of the County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of the office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy **AND TO SERVE A TERM PURSUANT TO SUBSECTION (F) OR (G) OF THIS SECTION, AS APPLICABLE.**

(b) ~~[An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party.]~~ **AN APPOINTEE, WHEN SUCCEEDING A PARTY MEMBER WHO WAS ELECTED AS A MEMBER OF A POLITICAL PARTY, SHALL BE SELECTED FROM A QUALIFIED LIST OF THREE PERSONS SUBMITTED TO THE COUNCIL BY THE COUNTY CENTRAL COMMITTEE OF THE POLITICAL PARTY AFFILIATED WITH THE COUNTY EXECUTIVE VACATING OFFICE WAS IN THE MOST RECENT ELECTION FOR COUNTY EXECUTIVE, PROVIDED THE LIST IS SUBMITTED WITHIN THIRTY DAYS FROM THE DATE A VACANCY OCCURS. If the County central committee fails to provide [a nominee]A LIST OF THREE QUALIFIED NOMINEES** within the first thirty days of a vacancy, the Council shall appoint any person the Council deems qualified who is a member of the political party.

(c) If the Council has not made an appointment within the forty-five day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter ~~[-(1)-the~~

EXPLANATION:

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~~nominee of the County central committee of the political party, if any, of the person who vacated the office, provided that the political party nominee was provided to the Council within the first thirty days of a vacancy, as required by subsection (b) of this section; or (2) the Chief Administrative Officer, if the person who vacated office was not a member of a political party-],~~
THE CHIEF ADMINISTRATIVE OFFICER.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

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Goal: A vacancy on the Board of Education should be filled by a vote of Frederick County's residents.

What is the Current Process?

Vacancies on the Board of Education are currently filled by an appointment-based process, whereby the County Executive appoints a replacement, and the County Council confirms the appointment. Appointments are a necessary component to fill a vacancy in this office; however, it should not be the ONLY component. The Board of Education is composed of elected officials with a tremendous amount of authority over both taxpayer funds and the education of our children. The voters should have a voice in this process.

What is being Proposed in this Amendment?

I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the Board of Education. I am NOT proposing that an

election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the fact that during the mid-term of every elected Member's term, there is an existing election – either Presidential or Gubernatorial – which can be utilized to fill the vacancy. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Primary registration deadline following the vacating Member's last election. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A “one-off” election has been estimated to cost \$250,000-\$300,000. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

UPDATE - How Would the Special Election be Conducted?

In response to a question during our initial Council review, consultations were held with the Frederick County Election Director and the State Board of Elections. Under current State election law, during a non-partisan primary such as the one held for the Board of Education, twice as many candidates as there are open seats are nominated from the Primary Election. Thus, whenever a special election is needed to fill an unexpired term, two additional nominees will come from the Primary. No changes are required in this part of the law.

For the General Election, the State Board of Elections concurred with the idea that the winner of the special election is the next highest vote getter, after the regular BOE openings have been filled. For example, if there are four full-term openings on the ballot and one partial term, then the fifth highest vote-getter receives the partial term. Language has been added to the bill to reflect this information.

Are Special Elections Authorized in Maryland Law?

Yes. Maryland law authorizes Counties to hold special elections conducted during regularly scheduled elections to fill vacancies for Board of Education. The State Education Article for Frederick County (Title 3, § 5B-01(d)(2), on the other hand, must be amended to provide this option here.

Do Other Charter Counties Authorize Special Elections?

Yes. As provided by Stuart Harvey (Frederick County Election Director, the term “special election” is actually a misnomer, but is used here to refer to the filling of a vacancy via the next scheduled election. The process for filling vacancies on the Boards of Education for Maryland's charter counties varies greatly, including the following:

- Appointment Authority
 - Governor – Baltimore, Cecil, Harford (for appointed members only), Talbot
 - County Executive – Frederick, Howard, Prince Georges
 - County Council – Anne Arundel (effective 11/1/2020), Harford (for elected members only), Dorchester, Wicomico
 - Board of Education - Montgomery
- Nominating Commissions for Appointments – Anne Arundel, Baltimore, Wicomico
- Special Elections (next congressional election) – Howard, Talbot, Wicomico

As you may note, there is just as much precedent for vacancies to be filled by election, as there are for our current system of appointment by the County Executive.

There is Still a Role for Appointments

Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating member's term.

Proposed Amendment Language

2018 Maryland Code; Education; Division II –Elementary and Secondary Education; Title 3 – Establishment of County Boards of Education; Subtitle 5B – Frederick County; 3-5B-01. Membership (d) Vacancies. --

(1) The terms of voting members are staggered as provided in subsection (c) of this section.

(2) Subject to confirmation of the County Council, the County Executive shall appoint a qualified individual to fill a vacancy on the county board [for the remainder of the term and until a successor is elected and qualifies].

(3) IF THE VACANCY OCCURS BEFORE 30 DAYS PRIOR TO THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THAN THE APPOINTEE SHALL ONLY SERVE UNTIL A NEW MEMBER SHALL BE ELECTED BY QUALIFIED VOTERS AT THE NEXT GENERAL ELECTION, AND IN THE MANNER PROVIDED BY LAW. THE NEW MEMBER ELECTED TO FILL THE VACANCY SHALL BE THE CANDIDATE WITH THE NEXT HIGHEST NUMBER OF VOTES, FOLLOWING THE ELECTION OF THE REGULARLY SCHEDULED FULL TERM MEMBERS.

(4) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THAN THE APPOINTEE SHALL SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.

Charter Review Commission

Borrowing Limitation Discussion

October 17, 2019

Current Debt Limits

Current % Applicable to all Debt Outstanding:

	Calc Rate	FY2019	FY2020	FY2021	F2022	FY2023	FY2024
<i>Assessed Values (assumes 3.0-3.5% growth)</i>							
AV - Real Property	5.00%	\$ 30,689,687,964	\$ 31,641,068,291	\$ 32,669,403,010	\$ 33,731,158,608	\$ 34,911,749,159	\$ 36,133,660,380
AV - Public Utilities	15.00%	416,801,030	429,721,862	443,687,822	458,107,677	474,141,445	490,736,396
Total Assessed Values		\$ 31,106,488,994	\$ 32,070,790,153	\$ 33,113,090,833	\$ 34,189,266,285	\$ 35,385,890,605	\$ 36,624,396,776
Debt Limit		\$ 1,597,004,553	\$ 1,646,511,694	\$ 1,700,023,324	\$ 1,755,274,082	\$ 1,816,708,675	\$ 1,880,293,478
Estimated Debt Outstanding							
IPAs		\$ 50,654,101	\$ 48,086,285	\$ 50,815,610	\$ 48,997,052	\$ 43,037,563	\$ 39,058,658
Bonds Payable		596,910,000	569,775,000	659,005,000	657,815,000	646,835,000	643,215,000
Leases		9,860,278	8,341,577	6,782,931	5,243,720	3,663,389	2,040,798
Notes Payable		49,679,440	45,665,426	41,605,718	37,726,771	33,809,053	29,852,175
Total Applicable to Limit		\$ 707,103,819	\$ 671,868,288	\$ 758,209,259	\$ 749,782,543	\$ 727,345,005	\$ 714,166,631
Legal Debt Margin (Excess)		\$ 889,900,734	\$ 974,643,406	\$ 941,814,065	\$ 1,005,491,539	\$ 1,089,363,670	\$ 1,166,126,847
% Debt Applicable to Limit		44.277%	40.806%	44.600%	42.716%	40.036%	37.982%

Debt Affordability Model Actual Results - FY2018 Data

	Standard	2018 Frederick Actuals	Peer Group Average
General Fund Debt Service/ General Fund Revenue	9.0 %	7.0 %	8.9 %
General Fund Debt/ Assessed Value	2.0 %	1.2 %	1.7 %
General Fund Debt/ General Fund Revenue	80.0 %	63.9 %	81.8 %
Total Debt Service/ General Fund Revenue	17.2 %	14.0 %	N/A
Debt per Capita	N/A	\$1,440	\$2,132
Total Debt/ Assessed Value*	5.0 %	2.6 %	N/A

Note: The peer group financials have been reviewed and adjusted to reflect similar/comparable data to Frederick County. Peers include Carroll, Harford and Howard counties.
* Set by the County Charter

3

Proposed Debt Limits

Proposed % Applicable to all Debt Outstanding:							
	Calc Rate	FY2019	FY2020	FY2021	F2022	FY2023	FY2024
Assessed Values (assumes 3.0-3.5% growth)							
AV - Real Property	3.00%	\$ 30,689,687,964	\$ 31,641,068,291	\$ 32,669,403,010	\$ 33,731,158,608	\$ 34,911,749,159	\$ 36,133,660,380
AV - Public Utilities	9.00%	416,801,030	429,721,862	443,687,822	458,107,677	474,141,445	490,736,396
Total Assessed Values		\$ 31,106,488,994	\$ 32,070,790,153	\$ 33,113,090,833	\$ 34,189,266,285	\$ 35,385,890,605	\$ 36,624,396,776
Debt Limit		\$ 958,202,732	\$ 987,907,016	\$ 1,020,013,994	\$ 1,053,164,449	\$ 1,090,025,205	\$ 1,128,176,087
Estimated Debt Outstanding							
IPA's		\$ 50,654,101	\$ 48,086,285	\$ 50,815,610	\$ 48,997,052	\$ 43,037,563	\$ 39,058,658
Bonds Payable		596,910,000	569,775,000	659,005,000	657,815,000	646,835,000	643,215,000
Leases		9,860,278	8,341,577	6,782,931	5,243,720	3,663,389	2,040,798
Notes Payable		49,679,440	45,665,426	41,605,718	37,726,771	33,809,053	29,852,175
Total Applicable to Limit		\$ 707,103,819	\$ 671,868,288	\$ 758,209,259	\$ 749,782,543	\$ 727,345,005	\$ 714,166,631
Legal Debt Margin (Excess)		\$ 251,098,913	\$ 316,038,728	\$ 261,804,735	\$ 303,381,906	\$ 362,680,200	\$ 414,009,456
% Debt Applicable to Limit		73.795%	68.009%	74.333%	71.193%	66.727%	63.303%

Charter Section 508

508. Borrowing Limitations

(a) Except as otherwise provided by State law, the aggregate amount of bonds and other evidences of indebtedness outstanding at any one time that pledge the full faith and credit of the County may not exceed a total of ~~five~~ **three** percent of the assessable basis of real property of the County and ~~fifteen~~ **nine** percent of the County's assessable basis of personal property and operating real property described in § 8-109(c) of the Tax - Property Article.

(b) Except as may otherwise be provided by State law, the following may not be computed or applied in establishing the debt limitations provided in this section:

- (1) Tax anticipation notes or other evidences of indebtedness having a maturity not in excess of 12 months;
- (2) Bonds or other evidences of indebtedness issued or guaranteed by the County payable primarily or exclusively from taxes levied in or on, or other revenues of, special taxing areas or community development authorities; and
- (3) Bonds or other evidences of indebtedness issued for self-liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services.

Charter sections involving budget

104. Definitions

(a) The term "Agency" means any agency, division, department, office, board, commission or administrative entity of the Frederick County Government.

(d) The term "Budget" means the package of materials consisting of the Operating Budget, the Capital Budget, the Capital Improvement Program, and the budget message.

(e) The term "Capital Budget" means the plan to receive and expend funds for capital projects during the next fiscal year. The Capital Budget shall be appropriated in the Annual Budget and Appropriations Ordinance.

(f) The term "Capital Improvement Program" means the plan to receive and expend funds for capital projects during the next fiscal year and the next succeeding five fiscal years. The Capital Improvement Program is not appropriated in the Annual Budget and Appropriations Ordinance.

(g) The term "Capital Project" means any physical betterment or improvement; any preliminary studies and surveys related to a physical betterment and improvement; and the acquisition, renovation, remodeling and construction of any property for public use of a long-term or permanent nature, including by a lease-purchase agreement.

() The term "Sub-project" means one or more discrete projects managed under the heading of a Capital Project.

(n) The term "Frederick County Government" means the officers, personnel, divisions, departments, agencies, offices, boards, commissions, and other entities that are subject collectively to the powers of local self-government and home rule as are now or may be provided or necessarily implied by this Charter, Article XI-A of the Maryland Constitution, and Article 25A of the Annotated Code of Maryland.

(s) The term "Operating Budget" means the plan to receive and expend funds for charges incurred for operation, maintenance, interest, debt service payments and other charges for the next fiscal year. The Operating Budget shall be appropriated in the Annual Budget and Appropriations Ordinance. # includes the plan to raise and receive all manner of funds from all sources, including property taxes, for current needs and for annual appropriations for current projects.

307. Effective Date of Laws

(a) The Annual Budget and Appropriations Ordinance shall take effect on the first day of the fiscal year to which it applies. All other laws, except for expedited legislation, shall take effect sixty calendar days after enactment, except in the event a law provides for a later effective date or is referred to the voters under Section 308 of this Charter.

402. County Executive Powers and Duties

- (b) preparing and submitting to the Council the annual County Budget;
- (c) preparing and submitting to the Council and the public within six months after the close of the fiscal year, an annual report on the activities and accomplishments of the County government, including a comprehensive annual financial statement;

502. Fiscal Year and Tax Year

The fiscal or budget year and the tax year of the Government begins on the first day of July and ends on the thirtieth day of June of the succeeding year.

503. Preparation of the County Budget

- (a) Not later than April 15 of each year, the Executive shall prepare and submit a proposed Budget to the Council for the ensuing fiscal year. The proposed Budget shall present a complete financial plan for the Government reflecting anticipated revenues from all sources, expenditures, and any surplus or deficit in the ~~G~~general ~~or special F~~ funds of the Government.
- (b) During preparation of the Budget, the Executive shall hold at least two public hearings to receive public comment. One hearing shall be held in December to receive proposals for inclusion in the Budget. The other shall be held in March to receive comments on budget requests. The Executive shall provide sufficient notice of the public hearings and shall cause to be published in at least one newspaper of general circulation in the County a notice of the date, time and place of each public hearing. If the Executive determines that no such newspaper exists in the County, the Executive shall use whatever media it deems most suited to satisfy the public notice requirements of this section. The Executive shall prepare a draft Budget and make it available to the public prior to the March hearing date.
- (c) The proposed Budget shall be reproduced and made available to the public.

504. Budget Message

The budget message shall contain supporting summary tables and explain the proposed Operating Budget, the Capital Budget, and the Capital Improvement Program both in terms of finances and of work to be done. It shall outline the proposed financial policies of the Government for the ensuing fiscal year and describe the important features of the proposed Budget. It shall indicate any major changes in financial policies and in expenditures, appropriations and revenues as compared with the current fiscal year, and shall set forth the reasons for the changes.

505. Public Budget Hearing

Upon submission of the proposed Budget, the Council shall cause to be published in at least one newspaper of general circulation in the County, a notice of the date, time and place of at least one public hearing on the Budget by the Council. If the Council determines that no such newspaper exists in the County, the Council shall use whatever media it deems most suited to satisfy the public notice requirements of this Section. No final budget action may be taken by the Council until after a public hearing has been held, and then only in open, public session.

506. Action on the Budget by the Council

(a) After a public hearing, the Council may decrease or delete any items in the Budget, except those required by State law, by provisions for debt service on obligations then outstanding or for estimated cash deficits. The Council shall have no power to change the form of the Budget as submitted by the Executive, to alter revenue estimates, or to increase any expenditure recommended by the Executive, unless expressly provided in State law and except to correct mathematical errors.

(b) Except as provided in subsection (c) of this section, any change in the proposed Budget to decrease or delete an item in the Budget made pursuant to subsection (a) of this section shall constitute a change of substance requiring that a public hearing be held following the posting of a fair summary of the change plus the date, time and place of the public hearing. This notice must be posted on the County website at least two days in advance of the public hearing.

(c) A decrease or deletion of one or more items in the Budget may not constitute a change of substance in the proposed Budget if the decrease or deletion constitutes less than a one percent change in the total Budget or less than a fifty percent decrease in any one line item in the Budget.

(d) The adoption of the Budget shall be by the affirmative vote of not less than four members of the Council in a law enacted not later than May 31, which shall be known as the "Annual Budget and Appropriations Ordinance of Frederick County." If the Council fails to adopt the Budget by May 31 pursuant to this subsection, the proposed Budget as submitted by the Executive shall become law.

507. Tax Levy and Balanced Budget

After enacting the Annual Budget and Appropriations Ordinance, the Council shall levy the amount of taxes required by the Budget to ensure that the Budget is balanced so that proposed revenues equal proposed expenditures.

509. Transfer of Appropriations

(a) The Executive may transfer unencumbered appropriations in the Operating Budget within the same ~~division, department, agency, or office and within the same fund~~. On the recommendation of the Executive, the Council may transfer unencumbered appropriations in the Operating Budget between ~~divisions, departments, agencies and offices within the same fund~~.

(b) A transfer may not be made between the Operating Budget and Capital Budget appropriations. The Executive may transfer unencumbered appropriations between a Capital Project and its sub-

projects. On the recommendation of the Executive, the Council may transfer appropriations between Capital Projects within the same fund provided the Council neither creates nor abandons any Capital Projects except in accordance with Section 512 of this Charter.

(c) Notwithstanding any provisions of this section, the Council may provide by law for inter-fund cash borrowing in the same fiscal year to meet temporary cash requirements. Nothing contained in this section may be construed to prevent reimbursement among funds for services rendered.

510. Supplemental Appropriations

On the recommendation of the Executive, the Council may make supplemental appropriations from any contingency appropriations in the Budget; from revenues received from anticipated sources but in excess of budget estimates; or from revenues received from sources not anticipated in the Budget.

511. Emergency Appropriations

To meet an Emergency, as that term is defined in this Charter, the Council may make emergency appropriations from the sources provided in Section 510 of this Charter. To the extent unappropriated revenues are unavailable to meet the Emergency, the Council by law may authorize the issuance of emergency notes, which may be renewed from time to time. Emergency notes and renewals issued pursuant to this section may not be paid later than the last day of the next fiscal year succeeding that in which the emergency appropriation was made.

512. Lapsed Appropriations

Unless otherwise provided by law and except for grant appropriations or grant funds deposited in special accounts dedicated to specific functions, activities or purposes, all unexpended and unencumbered appropriations in the Operating Budget at the end of the fiscal year shall revert into the treasury. No appropriation for a Capital Project in the Capital Budget may revert until the purpose for which the appropriation was made is accomplished or abandoned; but any Capital Project shall be considered abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation.

513. Amendment to Capital Budget after Adoption of the Budget

Upon recommendation of the Executive ~~and after a public hearing~~ and an affirmative vote of at least four council members, the Council may amend the Annual Budget and Appropriations Ordinance to provide funds for a Capital Project not previously appearing in the Capital Budget for the fiscal year. If the Capital Project has not previously appeared in a Capital Improvement Program, a public hearing is required before the Council vote. The amendment may not increase the total amount of appropriations for the fiscal year, unless such increased appropriations shall be funded from revenues received in excess of those budgeted, ~~or~~ from unanticipated revenues, or bonds within affordability limits not previously budgeted in the Annual Budget and Appropriations Ordinance for the fiscal year.

514. Composition and Limitation upon County Funds

(a) All revenues and receipts from special services or benefit charges; special taxes or assessments imposed upon special taxing areas for special or particular services, purposes or benefits; funds held by the County as trustee or agent; special grants; or bond proceeds shall be paid into and appropriated from special funds created for such purposes and may not be used for any other purpose except the purpose for which a fund was created. All other revenues and receipts of the County from taxes, grants, State revenues and other receipts shall be paid into and appropriated from the general fund, which is the primary fund for the financing of current expenses for the conduct of Government business.

(b) With the recommendation of the Executive, the Council, by the Annual Budget and Appropriation Ordinance, or by other legislative act, may provide for the establishment of working capital or revolving funds for the financing of central stores, equipment pools, or other services common to the agencies of the Government.

(c) Notwithstanding other provisions of this section, upon recommendation of the Executive, the Council may establish a reserve fund for permanent public improvements. The Annual Budget and Appropriation Ordinance may dedicate cash surpluses, taxes, and other sources of revenue not otherwise appropriated to this reserve fund.

(d) Nothing in this Charter may be construed to prevent the making of contracts, leases, or other obligations that provide for the payment of funds at a time beyond the end of the fiscal year in which these contracts are made, provided the nature of these transactions reasonably requires the making of these contracts, leases or other obligations. The Council shall authorize by law any contract, lease, or other obligation in excess of \$20,000 that would obligate the County to appropriate funds in the Operating Budget for more than a single fiscal year. The amount of \$20,000 for such contracts, leases or obligations may be revised by law from time to time, but no more frequently than annually, and may not be less than \$20,000.

end

Redmond, Lee

Subject: FW: Charter Review Commission Spreadsheet Item 39?
Attachments: Charter changes related to budget administration.pdf

From: Harcum, Rick <RHarcum@FrederickCountyMD.gov>
Sent: Wednesday, January 8, 2020 4:57 PM
To: Black, Bryon <BBlack@FrederickCountyMD.gov>; Mathias, John <JMathias@FrederickCountyMD.gov>; Redmond, Lee <LRedmond@FrederickCountyMD.gov>
Cc: Weaver, Kelly <KWeaver@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>
Subject: RE: Charter Review Commission Spreadsheet Item 39?

Bryon & John - Anytime Thursday morning is good for me.

Based on the last conversation Kelly and I had with you, I've attached a marked up version. John's advice that the Charter should exist as a high level guidance document not cluttered up with tons of detail made us reverse course on some of our requested changes.

104(a)(n) We still want "division(s)" added because this is common terminology here in Frederick.

Because 104(d) already defines the term "Budget" and its component parts, we are reversing course to recommend deleting Charter sections 104(e)(f)(g)(s) and dropping our request to add a new definition of "Sub-Project." All of this detail is addressed annually in the Budget Adoption Ordinance and does not need to exist in the Charter.

503(a) only keep a reference to the General Fund in the last sentence. The reference to special funds is meaningless and confusing in this paragraph.

509(a) Substitute the new phrase "Budget Unit(s)" for the phrase "division, department, agency, or office within the same fund." We have clear financial controls based on budget units built into the accounting and budgeting system. The definition of budget unit is maintained in the official accounting records of the County. The external auditors test and validate this annually.

509(b) Delete "A transfer may not be made between the Operating Budget and Capital Budget appropriations. The Executive may transfer unencumbered appropriations between a Capital Project and its sub-projects." None of this is needed because 509(a) covers operating budget transfers and the remainder of 509(b) covers capital budget transfers.

- The first of these two sentences doesn't make sense from an accounting point of view... apples & oranges.
- We're reversing course on "sub-projects" so the second sentence doesn't need to be added.

513. We still advocate for these changes as originally submitted.

Lee – Sorry I didn't get this to you in time today. I'll send you a revised version to link to the website after my meeting with John and Bryon in the morning. I'll also bring printed copies to handout at the meeting.

Rick

From: Black, Bryon
To: Charter Review; April Miller; Cherney, Ragen; Dylan Diggs; John Daniels; Lisa Jarosinski; Mathias, John; Paul Gilligan; Redmond, Lee; Stephen Slater; Walter Olson
Subject: Health Insurance Benefits for Councilmembers
Date: Tuesday, November 5, 2019 9:55:04 AM

Charter Review Commission Members,

During the October 24th meeting you asked for an opinion regarding Charter language that would remove the prohibition of Council Members receiving health insurance. The following language would accomplish this goal without venturing into the long list of benefits included under the term "fringe benefits" and provide specificity in conjunction with the removal of "in full." The decision as to whether the health insurance benefit would be offered would fall to the Compensation Review Commission but would be available for consideration.

207. Salary

For the performance of public duties under this Charter, each council member shall receive a Salary of \$22,500 per annum and is eligible to receive health insurance benefits. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary and any health insurance shall be [in full] compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

Bryon

Bryon C. Black
Assistant County Attorney
Frederick County, MD
12 E. Church Street
Frederick, MD 21701
T 301-600-2613
F 301-600-1161

From: [Stephen Slater](#)
To: [Black, Bryon](#); [Cherney, Ragen](#); [Mathias, John](#); [Redmond, Lee](#)
Subject: RE: Health Insurance Benefits for Councilmembers
Date: Tuesday, November 5, 2019 3:07:01 PM

[EXTERNAL EMAIL]

Bryon,

I reviewed the minutes from the October 28th meeting, and I don't think we intended the possible additional compensation to be limited to health insurance. My understanding is that the Commission voted simply to remove the prohibition of additional compensation from Section 207 and leave the form and amount of any compensation to the Compensation Review Commission and any further County Council action. My suggestion to accomplish this is as follows:

207. Salary

For the performance of public duties under this Charter, each council member shall receive a Salary of \$22,500 per annum and any additional benefits approved by the County Council and provided for in the County Budget. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary and any provided benefits shall be [in full] compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

What do you think?

-Stephen

Stephen G. Slater
Chair, Frederick County Charter Review Commission

From: Black, Bryon [mailto:BBlack@FrederickCountyMD.gov]
Sent: Tuesday, November 5, 2019 9:55 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>; April Miller <aprilfmiller@comcast.net>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond, Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: Health Insurance Benefits for Councilmembers

Charter Review Commission Members,

During the October 24th meeting you asked for an opinion regarding Charter language that would remove the prohibition of Council Members receiving health insurance. The following language would accomplish this goal without venturing into the long list of benefits included under the term "fringe benefits" and provide specificity in conjunction with the removal of "in full." The decision as to whether the health insurance benefit would be offered would fall to the Compensation Review Commission but would be available for consideration.

207. Salary

For the performance of public duties under this Charter, each council member shall receive a Salary of \$22,500 per annum and is eligible to receive health insurance benefits. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary and any health insurance shall be [in full] compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

Bryon

Bryon C. Black
Assistant County Attorney
Frederick County, MD
12 E. Church Street
Frederick, MD 21701
T 301-600-2613
F 301-600-1161

From: lisajaro@aol.com
To: [Black, Bryon](mailto:Black,Bryon); [Charter Review](mailto:CharterReview@FrederickCountyMD.gov); aprilfmiller@comcast.net; [Cherney, Ragen](mailto:Cherney,Ragen); dylidiggs@gmail.com; johndaniels64@gmail.com; [Mathias, John](mailto:Mathias,John); pauljgilligan@comcast.net; [Redmond, Lee](mailto:Redmond,Lee); sgslawslate@comcast.net; walterkolson@gmail.com
Subject: Re: Health Insurance Benefits for Councilmembers
Date: Tuesday, November 5, 2019 6:35:19 PM

[EXTERNAL EMAIL]

Mr. Black,

Thank you for your response. This, however, only refers to health benefits. My understanding was that we wanted to give the Compensation Review Commission the ability to possibly consider health benefits, but to also have the option of other - possibly less expensive - benefits such as a 401K and the like. So, with that in mind, could we use wording such as "and is eligible to receive fringe benefits" or " and is eligible to receive certain other benefits as recommended by the Compensation Review Commission." That would give the Compensation Commission the opportunity to offer something, but maybe not health insurance if they felt it would be too costly.

Thank you for your consideration,
Lisa

-----Original Message-----

From: Black, Bryon <BBlack@FrederickCountyMD.gov>
To: Charter Review <CharterReview@FrederickCountyMD.gov>; April Miller <aprilfmiller@comcast.net>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dylidiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond, Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Sent: Tue, Nov 5, 2019 9:55 am
Subject: Health Insurance Benefits for Councilmembers

Charter Review Commission Members,

During the October 24th meeting you asked for an opinion regarding Charter language that would remove the prohibition of Council Members receiving health insurance. The following language would accomplish this goal without venturing into the long list of benefits included under the term "fringe benefits" and provide specificity in conjunction with the removal of "in full." The decision as to whether the health insurance benefit would be offered would fall to the Compensation Review Commission but would be available for consideration.

207. Salary

For the performance of public duties under this Charter, each council member shall receive a Salary of \$22,500 per annum and is eligible to receive health insurance benefits. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary and any health insurance shall be [in full] compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council

may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

Bryon

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