

**MEMORANDUM**

April 12, 2011

TO: Government Operations and Fiscal Policy Committee

FROM: Justina J. Ferber, Legislative Analyst

SUBJECT: **Worksession:** Executive's Recommended FY12 Operating Budget  
**Ethics Commission**

Those expected for this worksession:

Barbara McNally, Executive Director, Ethics Commission  
Phil Weeda, Budget Analyst, OMB

The Ethics Commission Budget is on ©1.

**OVERVIEW**

The County Executive's recommended budget for the Ethics Commission for FY12 is \$191,430, a decrease of \$26,820 or 12.3% from FY11. Personnel costs comprise 96.5% of the budget

The major change in the Ethics Commission budget is the shift of the Executive Director position to the Staff Director/Chief Counsel position.

(in \$000's)	FY10 Actual	FY11 Approved	FY12 CE Recommended	% Change FY11-FY12
<b>Expenditures:</b>				
General Fund	292,881	218,250	191,430	-12.3%
	-	-	-	
<b>TOTAL Expenditures</b>	<b>292,881</b>	<b>218,250</b>	<b>191,430</b>	<b>-12.3%</b>
<b>Positions:</b>				
Full-time	3	2	2	0.0%
Part-time	-	-	-	
<b>TOTAL Positions</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>0.0%</b>
<b>WORKYEARS</b>	<b>3.0</b>	<b>2.0</b>	<b>2.0</b>	<b>0.0%</b>

<b>Ethics Commission Budget Adjustments</b>			
<b>Adjustments with no service impacts</b>			
FY12	\$191,430;	2.0 WY	FY11 \$213,210; 2.0 WY
\$137,800; 1.0 wy	Create Staff Director/Chief Counsel Position		
-\$165,970; -1.0 wy	Abolish Executive Director position		
\$2,750	Increase Operating Expenses (additional operating funds to assist the office because of loss of staff)		
\$3,100	Restore Personnel Costs from furloughs		
\$4,940	Retirement Adjustment		
\$230	Increase Help Desk Costs		
\$70	Increase Printing and Mail Costs		
-\$1,960	Decrease cost of group insurance		
-\$7,780	Annualize FY11 Personnel Costs		

### **Ethics Commission Program**

The Ethics Commission administers the County's Code of Ethics by encouraging and enforcing compliance and ensuring the ethical conduct of employees of the Executive Branch, County Council, selected Boards and Commissions, the Revenue Authority, Housing Opportunities Commission, Fire Corporations, and Rescue Squads. The Commission also serves in an advisory capacity to the Washington Suburban Transit Commission. The compliance goal is achieved through the following activities:

- ❖ **Education** – The Ethics Commission provides ethics education and training for County officials and employees and provides computer access to all reporting forms required under the Ethics law.
- ❖ **Financial Disclosure** – The Ethics law requires specific public officials and employees to disclose financial information to avoid potential conflicts of interest. Financial disclosure statements of over 2200 employees and officials are received and reviewed by the Commission staff.
- ❖ **Lobbying Registration** – Lobbyists are required to register and report lobbying activities involving the County government when income or expenditures exceed \$500. Commission staff must verify all registrations, invoice lobbyists for each client and process payments for over 250 lobbyists.
- ❖ **Outside Employment** – Employees and officials are required to obtain approval from the Commission to be engaged in outside employment. Over 1000 requests for outside employment are received annually and are reviewed by staff for recommendation to the Commission.
- ❖ **Customer Service** – Staff responds to questions from employees, officials and the general public requesting assistance on filing disclosure statements, registering lobbyists, filing complaints, requesting opinions or waivers and seeking advice about ethics issues.
- ❖ **Commission** – The staff provides administrative support to the Commission which consists of five volunteer members.

## **FY11 Budget and Legislative Actions**

*FY11 Budget:* In the FY11 budget, the position of Executive Director was abolished and replaced with the position of Staff Director/Chief Counsel (to be an attorney licensed to practice law in Maryland) and one Program Specialist II position was abolished

*Legislation:* Subsequent to the FY11 budget, Expedited Bill 37-10, Ethics - Ethics Commission Staff, sponsored by the Management and Fiscal Policy Committee, was introduced on June 15 and enacted on July 15. The bill became effective on July 29, 2010.

The following summarizes Bill 37-10, which resulted from the Management and Fiscal Policy Committee's review of the Commission's operating budget:

- authorized the Ethics Commission, rather than the Chief Administrative Officer, to appoint and remove the Commission's staff director/chief counsel, who would replace the current Commission Executive Director;
- required the staff director/chief counsel to be a lawyer licensed to practice in Maryland, and authorized the staff director/chief counsel to advise and represent the Commission independent of the County Attorney;
- clarified the working relationship between the Commission and the County Attorney;
- authorized the staff director/chief counsel to appoint, supervise, and remove other Commission staff; and
- exempted Commission staff from membership in a collective bargaining unit.

The Executive's original FY11 proposed budget would have merged the Ethics Commission into the County Attorney's office. The Council's purpose in amending the budget and introducing Bill 37-10 was to enhance the independence and value of the Ethics Commission.

*Fees:* Also in its FY11 budget actions, the Council recommended the lobbyist filing fees be doubled to \$250 with the intent that the increase will assist the County in providing technology improvements to the Commission. Doubling the fees to \$250 was projected to add \$21,875 in revenue.

*Technology:* In FY09 technological improvements to computerize the outside employment and lobbyist registration were estimated to cost: 1) \$112,500 for online lobbying registration and semi-annual reporting program; and 2) \$37,500 for online outside employment program.

## **FY12 Issues**

**Staff Director Hiring:** The progress toward hiring a new Staff Director/Chief Counsel has been very slow. After final action on Council legislation, the writing and approval of the job description for the new position was not completed until December 2010. Currently, recruitment is under way with a deadline of May 1 for applications. It will take until the end of May or later in June to review the applications, conduct interviews, and hire the new staff director.

**2010 Financial Disclosure Filing Process Delays:** The yearly reminder to many employees that they must file financial disclosures for 2010 has not been timely. The Ethics Commission staff was waiting for the Office of Human Resources to provide accurate information on employees required to file disclosures.

**Personnel Complement:** The Personnel Complement and other OMB documents are incorrect (see ©4 & ©5) in identifying the new Staff Director/Chief Counsel position as a “Program Specialist I”. In FY11 budget and legislative deliberations, the Council made it very clear that the position should be graded as a Manager II or Manager III.

**Filing Fees:** In FY11 budget actions, the Council recommended the lobbyist filing fees be doubled to \$250. An Executive Regulation will be needed to implement the new filing fee.

#### **Staff Recommendation**

- **Staff recommends the Council urge the Commission to continue to move as quickly as possible in filling the new position of Staff Director/Chief Counsel.**
- **Staff recommends the Council request OMB to correct the Personnel Complement to reflect that the new position of Staff Director/Chief Counsel in the Ethics Commission office is graded at a Manager II and not a Program Specialist I.**
- **Staff recommends the Council encourage the Ethics Commission to request an Executive Regulation to increase the lobbyist filing fees for FY12.**
- **Staff recommends approval of the Ethics Commission budget as submitted for \$191,430.**

Attachments:	Ethics Commission Budget	©1
	Workforce Changes – Ethics Commission	©4
	Ethics Commission Personnel Complement	©5

# Ethics Commission

## MISSION STATEMENT

The mission of the Ethics Commission is to enforce the Montgomery County Code of Ethics by ensuring the ethical conduct of individuals who serve in County government.

The Ethics Commission has moved from the Executive Branch to the Legislative Branch of the County government.

## BUDGET OVERVIEW

The total recommended FY12 Operating Budget for the Ethics Commission is \$191,430, a decrease of \$26,820 or 12.3 percent from the FY11 Approved Budget of \$218,250. Personnel Costs comprise 96.5 percent of the budget for two full-time positions for two workyears. Operating Expenses account for the remaining 3.5 percent of the FY12 budget.

## LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

❖ **A Responsive, Accountable County Government**

## DEPARTMENT PERFORMANCE MEASURES

Performance measures for this department are included below. The FY11 estimates incorporate the effect of the FY11 savings plan. FY12 and FY13 targets assume the recommended FY12 budget and FY13 funding for comparable service levels.

Measure	Actual FY09	Actual FY10	Estimated FY11	Target FY12	Target FY13
Average turnaround time for processing routine requests (days) <sup>1</sup>	15	35	40	40	40
Complaints received and investigated	5	6	7	7	7
Financial disclosure statements processed <sup>2</sup>	2,018	2,100	2,060	2,060	2,060
Lobbyist activity reports filed	162	200	200	200	200
Lobbyists' registrations processed <sup>3</sup>	162	250	350	350	350
Outside employment requests received and granted	1,002	1,150	1,150	1,150	1,150
Training sessions conducted	75	85	80	80	80
Waiver requests reviewed and approved	3	3	3	3	3

<sup>1</sup> Reflects the increasing number of information requests received and processed after the loss of a full-time position.

<sup>2</sup> The number of financial disclosure statements processed by staff due to RIF (Reduction-in-Force) and retirements in FY10.

<sup>3</sup> The number of lobbyist registrations processed based upon the increase in the lobbying fee.

## ACCOMPLISHMENTS AND INITIATIVES

- ❖ **The Executive Director of the Commission is being abolished and will be replaced by a Chief Counsel Attorney position.**
- ❖ **The Commission will continue to pursue funding in order to computerize and streamline the process for employees to request outside employment and for lobbyists to be able to register and report online.**
- ❖ **In FY09, the Commission established a fee for lobbyists that now generates over \$20,000 annually for the General Fund. More recently, the Commission developed a process to bill, collect, and record lobbying fees. In the coming year, the Commission will work with the County Executive's Office and the County Council to refine the term "lobbyist" to better identify those who contact elected officials and/or County employees that may influence the drafting of legislation, executive regulations, or other important administrative documents.**

## PROGRAM CONTACTS

Contact Barbara McNally of the Ethics Commission at 240.777.6670 or Phil Weeda of the Office of Management and Budget at 240.777.2780 for more information regarding this department's operating budget.

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## **PROGRAM DESCRIPTIONS**

### ***Ethics Program Compliance***

The Ethics Commission administers the County's Code of Ethics by encouraging and enforcing compliance and ensuring the ethical conduct of employees of the Executive Branch, County Council, selected Boards and Commissions, the Revenue Authority, the Housing Opportunities Commission, Fire Corporations, and Rescue Squads. The Commission also serves in an advisory capacity to the Washington Suburban Transit Commission. The compliance goal is achieved through the following activities:

Education – the Ethics Commission provides ethics education and training for County officials and employees and provides computer access to all reporting forms required under the Ethics law.

Financial Disclosure – the Ethics law requires specific public officials and employees to disclose financial information to avoid potential conflicts of interest.

Lobbying Registration – requires lobbyists to register and report lobbying activities involving the County government when income or expenditures exceed \$500.

Outside Employment – requires employees and officials to obtain approval from the Commission to be engaged in outside employment.

## BUDGET SUMMARY

	Actual FY10	Budget FY11	Estimated FY11	Recommended FY12	% Chg Bud/Rec
<b>COUNTY GENERAL FUND</b>					
<b>EXPENDITURES</b>					
Salaries and Wages	198,192	143,340	140,020	154,010	7.4%
Employee Benefits	85,053	71,310	73,060	30,770	-56.9%
<b>County General Fund Personnel Costs</b>	<b>283,245</b>	<b>214,650</b>	<b>213,080</b>	<b>184,780</b>	<b>-13.9%</b>
Operating Expenses	9,636	3,600	130	6,650	84.7%
Capital Outlay	0	0	0	0	—
<b>County General Fund Expenditures</b>	<b>292,881</b>	<b>218,250</b>	<b>213,210</b>	<b>191,430</b>	<b>-12.3%</b>
<b>PERSONNEL</b>					
Full-Time	3	2	2	2	—
Part-Time	0	0	0	0	—
Workyears	3.0	2.0	2.0	2.0	—
<b>REVENUES</b>					
Lobbying Registration Fees As Permitted By Law	0	25,000	25,000	25,000	—
<b>County General Fund Revenues</b>	<b>0</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	<b>—</b>

## FY12 RECOMMENDED CHANGES

	Expenditures	WYs
<b>COUNTY GENERAL FUND</b>		
<b>FY11 ORIGINAL APPROPRIATION</b>	<b>218,250</b>	<b>2.0</b>
<b>Other Adjustments (with no service impacts)</b>		
Increase Cost: Staff Director/Chief Counsel Position	137,800	1.0
Increase Cost: Retirement Adjustment	4,940	0.0
Increase Cost: Restore Personnel Costs - Furloughs	3,100	0.0
Increase Cost: Operating Expenses	2,750	0.0
Increase Cost: Help Desk - Desk Side Support	230	0.0
Increase Cost: Printing and Mail Adjustment	70	0.0
Decrease Cost: Group Insurance Adjustment	-1,960	0.0
Increase Cost: Annualization of FY11 Personnel Costs	-7,780	0.0
Decrease Cost: Executive Director	-165,970	-1.0
<b>FY12 RECOMMENDED:</b>	<b>191,430</b>	<b>2.0</b>

## FUTURE FISCAL IMPACTS

Title	CE REC. FY12	FY13	FY14	(S000 s) FY15	FY16	FY17
This table is intended to present significant future fiscal impacts of the department's programs.						
<b>COUNTY GENERAL FUND</b>						
<b>Expenditures</b>						
<b>FY12 Recommended</b>	<b>191</b>	<b>191</b>	<b>191</b>	<b>191</b>	<b>191</b>	<b>191</b>
No inflation or compensation change is included in outyear projections.						
<b>Subtotal Expenditures</b>	<b>191</b>	<b>191</b>	<b>191</b>	<b>191</b>	<b>191</b>	<b>191</b>

## FY12 WORKFORCE CHANGES

RefID	ItemName	WY	FT	PT
<b>Environmental Protection</b>				
	Create 104402 SR PLANNING SPECIALIST	0.8	1	0
<b>C3</b>	<b>ENHANCE: ADD WATERSHED OUTREACH PLANNER/COORDINATOR (PLANNING SPECIALIST III)</b>	<b>0.8</b>	<b>1</b>	<b>0</b>
	<u>Action</u> <u>JobClass</u> <u>JobClass Title</u>			
	Create 004403 *PLANNING SPECIALIST III	0.8	1	0
<b>C4</b>	<b>ENHANCE: ADD PLANNING SPECIALIST II FOR GEO-DATA MANAGEMENT AND ANALYSIS FOR STORMWATER FACILITIES</b>	<b>0.8</b>	<b>1</b>	<b>0</b>
	<u>Action</u> <u>JobClass</u> <u>JobClass Title</u>			
	Create 004404 PLANNING SPECIALIST II	0.8	1	0
<b>C5</b>	<b>ENHANCE: OPERATING COSTS FOR NEW SENIOR ENGINEER POSITION (PERSONNEL COSTS FUNDED BY CIP: \$85,280, 0.8 WY) FOR CONTRACT MANAGEMENT OF CONSTRUCTION OF LOW IMPACT DEVELOPMENT PROJECTS</b>	<b>0.0</b>	<b>1</b>	<b>0</b>
	<u>Action</u> <u>JobClass</u> <u>JobClass Title</u>			
	Create 004021 SENIOR ENGINEER	0.8	1	0
	Misc. 004021 SENIOR ENGINEER	-0.8	0	0
<b>C6</b>	<b>ADD: OPERATING COSTS FOR NEW MANAGER III (PERSONNEL COSTS FUNDED BY CIP: \$100,210, 0.8 WY) TO OVERSEE THE NEW CONSTRUCTION SECTION</b>	<b>0.0</b>	<b>1</b>	<b>0</b>
	<u>Action</u> <u>JobClass</u> <u>JobClass Title</u>			
	Create 000112 MANAGER III	0.8	1	0
	Misc. 000112 MANAGER III	-0.8	0	0
<b>C7</b>	<b>ADD: OPERATING COSTS FOR TWO NEW PERMITTING SERVICES INSPECTOR III POSITIONS IN THE NEW CONSTRUCTION SECTION (PERSONNEL COSTS FUNDED BY THE CIP: \$139,760, 1.6 WY), AND THREE SERVICE TRUCKS</b>	<b>0.0</b>	<b>2</b>	<b>0</b>
	<u>Action</u> <u>JobClass</u> <u>JobClass Title</u>			
	Create 002215 *PERMIT SVCS INSP III	0.8	1	0
	Create 002215 *PERMIT SVCS INSP III	0.8	1	0
	Misc. 002215 *PERMIT SVCS INSP III	-0.8	0	0
	Misc. 002215 *PERMIT SVCS INSP III	-0.8	0	0

## Ethics Commission

### General Fund

<b>R1.A</b>	<b>DECREASE COST: EXECUTIVE DIRECTOR</b>	<b>-1.0</b>	<b>-1</b>	<b>0</b>
	<u>Action</u> <u>JobClass</u> <u>JobClass Title</u>			
	Abolish 000112 MANAGER III	-1.0	-1	0
<b>R1.B</b>	<b>INCREASE COST: STAFF DIRECTOR/CHIEF COUNSEL POSITION</b>	<b>1.0</b>	<b>1</b>	<b>0</b>
	<u>Action</u> <u>JobClass</u> <u>JobClass Title</u>			
	Create 000837 PROGRAM SPECIALIST I	1.0	1	0

## Finance

### General Fund

<b>M5</b>	<b>INCREASE COST: ANNUALIZATION OF FY11 LAPSED POSITIONS</b>	<b>0.2</b>	<b>0</b>	<b>0</b>
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# FY12 RECOMMENDED PERSONNEL COMPLEMENT

## ECM ETHICS COMMISSION

				FY11 APPROVED				FY12 RECOMMENDED				
	Job Class	Grade	Position	WY	Salary/ Wage	Benefits	Total \$ Amount *	Position	WY	Salary/ Wage	Benefits	Total \$ Amount *
<b>Division:</b>	<b>1910</b>	<b>ECM ETHICS COMMISSION</b>										
<b>Section:</b>	<b>191001</b>	<b>ECM ETHICS COMMISSION ADMINISTRATION</b>										
MANAGER III	000112	0M3	1	1.00	96,192	63,188	159,380					
PROGRAM SPECIALIST I	000837	018	1	1.00	42,549	12,204	54,754	2	2.00	156,855	29,439	186,294
<b>Subtotal Full Time:</b>			<b>2</b>	<b>2.00</b>	<b>138,741</b>	<b>75,392</b>	<b>214,133</b>	<b>2</b>	<b>2.00</b>	<b>156,855</b>	<b>29,439</b>	<b>186,294</b>
<b>Section Total:</b>			<b>2</b>	<b>2.00</b>	<b>138,741</b>	<b>75,392</b>	<b>214,133</b>	<b>2</b>	<b>2.00</b>	<b>156,855</b>	<b>29,439</b>	<b>186,294</b>
<b>Division Summary</b>												
<b>Total Full Time:</b>			<b>2</b>	<b>2.00</b>	<b>138,741</b>	<b>75,392</b>	<b>214,133</b>	<b>2</b>	<b>2.00</b>	<b>156,855</b>	<b>29,439</b>	<b>186,294</b>
<b>Division Total:</b>			<b>2</b>	<b>2.00</b>	<b>138,741</b>	<b>75,392</b>	<b>214,133</b>	<b>2</b>	<b>2.00</b>	<b>156,855</b>	<b>29,439</b>	<b>186,294</b>
<b>Department Summary</b>												
<b>Total Full Time:</b>			<b>2</b>	<b>2.00</b>	<b>138,741</b>	<b>75,392</b>	<b>214,133</b>	<b>2</b>	<b>2.00</b>	<b>156,855</b>	<b>29,439</b>	<b>186,294</b>
<b>Department Total:</b>			<b>2</b>	<b>2.00</b>	<b>138,741</b>	<b>75,392</b>	<b>214,133</b>	<b>2</b>	<b>2.00</b>	<b>156,855</b>	<b>29,439</b>	<b>186,294</b>

\* This report includes personnel costs charged to non-appropriated funds including the CIP, Employees Retirement System, and Retirement Savings Plan. In addition, some Personnel Costs are added to the budget as non-BPS adjustments in BPREF, and are not reflected in the Personnel Costs amounts in the Personnel Complement reports. Therefore, total dollars and workyears, and positions may not match budgeted Workforce amounts in the Approved Budget.