



OFFICE OF INTERGOVERNMENTAL RELATIONS

Isiah Leggett
County Executive

Melanie Wenger
Director

October 2, 2007

MEMORANDUM

TO: Montgomery County Council

FROM: Melanie L. Wenger, Director
Office of Intergovernmental Relations

SUBJECT: State Legislative Program and County Priorities

The purpose for this morning's meeting is to discuss the following:

- Montgomery County Delegation 2007 Fall schedule, at Circle 1;
- Proposed State Legislative Program for the 2008 Session, at Circle 2;
- Development of Montgomery County priorities for the 2008 Session; and
- Anything else.

For your information, a copy of the County's 2007 priorities is attached at Circle 6.



The Montgomery County Delegation

to the Maryland General Assembly

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MONTGOMERY COUNTY DELEGATION CALENDAR 2007 Fall Calendar

DELEGATION CALENDAR IN ORDER BY DATE

Wednesday, September 19, 2007

Bill Request Deadline for local and bi-county bills (This is a "guarantee" deadline. All bills submitted by this date are guaranteed to be back to the legislator for approval prior to the Sponsor Approval Deadline.)

Thursday, September 20, 2007

Montgomery County House Delegation WSSC Matters Committee **WSSC budget briefing** in the auditorium at the WSSC offices located at 14501 Sweetzer Lane, Laurel MD 20707 from 5:00 p.m. - 8:00 p.m.

September 24, 2007

Montgomery County Delegation Land Use and Transportation Committee Maryland-National Capital Park and Planning Commission briefing scheduled for Monday, September 24, 2007 from 5 pm - 8 pm, Montgomery Regional Office, 8787 Georgia Avenue, 3rd Floor Conference Room, Silver Spring, Maryland 20910.

Thursday, October 4, 2007

Consolidated Transportation Program Presentation ("Road Show") by State Highway Administration - 7 P.M. - 3rd Floor Hearing Room - Stella Werner Council Office Building - Rockville, Maryland. Meeting will be televised on Montgomery County Cable (Channel 6 on Comcast and Channel 30 on Verizon)

Wednesday, October 10, 2007

Sponsor Approval Deadline for local and bi-county bills (This is a firm deadline. Any bills not approved by the requesting legislator on or before this date will not receive a public hearing in Rockville. Bills not approved by this deadline will be considered "late-filed" and will require a 2/3's majority vote by the House Delegation to be accepted as late files and have public hearings scheduled in Annapolis after the start of Session. There are rare exceptions to this rule when the approval is delayed for reasons beyond the control of the legislator.)

Thursday, October 11, 2007

Joint House and Senate Priorities Hearing - 7:00 P.M. - 3rd Floor Hearing Room - Stella Werner Council Office Building, Rockville. This hearing is an opportunity for the public to respond to the Road Show and to bring other issues of importance for the 2008 Session to the attention of the legislators. Meeting will be televised on Montgomery County Cable (Channel 6 on Comcast and Channel 30 on Verizon)

Thursday, November 8, 2007

House Hearing for bi-county bills - 7 P.M. - 3rd Floor Hearing Room - Stella Werner Council Office Building in Rockville. Bi-County bills refer legislation that requires the approval of the Montgomery and Prince George's counties delegations.

Thursday, November 15, 2007

House Hearing for local bills - 7 P.M. - 3rd Floor Hearing Room - Stella Werner Council Office Building in Rockville. Local bills refer to legislation affecting issues specific to Montgomery County.

[click here for listing of PAST EVENTS](#)

GA 2008

LOCAL LEGISLATIVE PROPOSALS

Fire and Explosive Investigator Rank (Fire and Rescue Service). This proposal would eliminate the minimum rank requirement for a fire and explosive investigator in Montgomery County. The 2004 General Assembly enacted legislation which gave Montgomery County fire and explosive investigators the same authority as the State Fire Marshall. Among other things, that bill required an individual to have attained the rank of a fire rescue lieutenant or higher in order to become a fire and explosive investigator. When an individual enters this branch as a lieutenant, the promotional opportunities are extremely limited because there are only two higher positions available. After spending 18 months in training, the Department finds that personnel spend an average of only three to five years there before leaving for an assignment with upward mobility potential. This provision severely restricts the pool of potentially qualified applicants, minimizes the return on personnel investment, and creates a barrier to development of institutional knowledge. Since enactment of our bill in 2004, Prince George's, Anne Arundel, Annapolis and Worcester have successfully pursued similar legislation.

Language Correction (Fire and Rescue Service). This proposal corrects out-dated terminology which appears in the Criminal Procedure Article, §2-208.1(c). The current statute refers to the "Montgomery County Fire Administrator." The Montgomery County code has changed and now defines the department head of the Fire and Rescue service as the "Fire Chief." There may be similar references throughout the Code which could be corrected at this time.

Elections Director Appointment (County Executive). Still being researched.

Performing Arts Facility Amendment (Department of Economic Development). The County and State have made a significant investment in attracting a nationally known popular music venue to downtown Silver Spring. For the project to be economically viable, the music venue's operators need a license to serve beer and wine at musical performances. The establishment will also serve food. In 2002, the legislature enacted a bill that established a Special Class B-BWL license for a performing arts facility that, among other requirements, had a minimum capacity of 2,000 persons. The provisions of that license would work for the music venue, with the exception of the minimum capacity number. This proposal would amend that number by making the minimum capacity 1000 persons.

Public Golf Courses (Revenue Authority). Current law requires the Revenue Authority alcohol beverage licenses to be signed by an employee who resides in Montgomery County. An individual can hold only one alcohol license, which means the Revenue Authority has nine different names on their licenses, one for each golf course. This proposal would allow all licenses to be signed by the Director or his designee. This should improve efficiency and increase accountability.

WSSC Appointee Conflict of Interest Interview (County Attorney). Under current law, every applicant for a position on the Washington Suburban Sanitary Commission (WSSC) must have conflict of interest interviews. At times, this has required dozens of applicants to go

through this arduous process. This proposal would allow the County Executive to limit interviews to candidates being seriously considered for appointment. The proposal would also allow the County Executive to delegate additional ministerial functions related to the conflict of interest interviews, and clarify the date a financial disclosure must be filed by Commissioners and members of the Planning Board.

Include the Revenue Authority in the Tort Claims Act (County Attorney). This proposal explicitly adds the Montgomery County Revenue Authority as an entity covered by the Local Government Tort Claims Act (LGTCA). The LGTCA is designed to limit the liability of local governments, including a cap on damages. As an instrumentality of County government, the County Attorney has defended all tort claims against the Revenue Authority under the County's self insurance pool. The County Attorney has maintained the Revenue Authority is covered under the LGTCA; this would codify that position.

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STATEWIDE LEGISLATIVE PROPOSALS

Unauthorized Use Law (Police Department). In 2002, Article 27 was recodified and approved by the General Assembly. The new language was intended to be derived without substantive change to the old. However, in the new Criminal Law Article, at Section 7-203, a substantive change seems to have occurred. This section is commonly referred to as the unauthorized use law. It provides that without the permission of the owner, a person may not enter or be on the premises of another and take away a vehicle, vessel or livestock. The Court of Special Appeals recently held that the current law requires that the State prove the accused participated in the removal of the property from those premises. Such proof was not necessary under the former article. This ruling makes it difficult to obtain convictions for unauthorized use because it requires that a person found driving or in a stolen vehicle entered the owner's premises to take the vehicle.

The Department of Legislative Services advises that the above mentioned case is on appeal and suggests that the General Assembly delay taking up the issue until a decision is handed down.

Spending Narcotic Proceeds (Police Department). Maryland Criminal Law currently defines proceeds of drug crimes as money or any other property with a value exceeding \$10,000 and specifically prohibits the spending of such proceeds. Under federal law, spending narcotic proceeds is also illegal, but there are no restrictions on the amount of narcotic proceeds that is prohibited. Additional research on this issue is continuing.

Willful and Malicious Burning of a Person in the Crime of First Degree Arson (Fire and Rescue Service). Several recent domestic violence incidents in this area have involved an individual being set on fire with ignitable liquids. Under current Maryland statute, setting a person on fire is not arson because our statute requires charring to a dwelling or structure to constitute arson. If a victim is set on fire with no damage to a structure, arson charges do not apply. First degree arson is a felony – 30 years/\$50,000 maximum penalty. Statutes in many other states include bodily injury or physical harm as an element of arson. However, in this area recent convictions have carried fairly light sentences. This proposal would add the term “another person” to §6-102 of the Criminal Law Article, making it a felony to maliciously set fire to a dwelling, a structure, or another person.

Innocent Co-Insured Fire Victims (Fire and Rescue Service). Maryland law is silent on the subject of required compensation for an innocent co-insured victim of abuse or violence. Specifically, if an abusive partner sets fire to the home, Maryland insurers have denied claims because the fire was set by a family member. This proposal would provide for innocent spouse protection from an insurance claim denial for a fire set by an abusive partner. Similar laws have been enacted in North Dakota, Missouri, Alabama, and Illinois.

Real Property – Maryland Condominium Act – Unit Owner Liability (Consumer Affairs). When damage to condominium property originates from a specific unit, condominium associations cannot recover more than \$1,000 from the owner whose unit caused the damage. The proposal would change that limit to \$10,000. This limit was recommended by the State’s Task Force on Common Ownership Communities in 2006 as it would cover the deductible of most condominiums in the State. In addition to increasing the incentive for unit owners to limit damage to the common property, this would help reduce the insurance bills of condominiums or limit the liability of condominium associations that currently have higher deductibles. In 2006, a bill that limited unit owners’ liability to the association’s deductible failed in the Environmental Matters Committee. The Task Force took up the issue that year and recommended the \$10,000 limit, but no bill was introduced in 2007.

Amend Adult Protective Services (APS) Law to Require Mandated Reporting by Financial Institutions of Suspected Financial Exploitation (HHS). Maryland HB 736, which became law October 1, 2000, authorized a fiduciary institution to disclose a customer’s financial records to the APS program in a local department of social services, if financial exploitation of a vulnerable adult was suspected. Under HB 736, no civil or criminal liability or cause of action arises against the financial institution for: (1) making or participating in such a disclosure; (2) participating in an APS investigation or judicial proceeding resulting from such a disclosure; or (3) declining to provide information that would indicate whether a report had been filed. HB 736 did not create a duty to make such a disclosure.

Financial exploitation is on the rise nationally and banking institutions are in a unique position to recognize all types of financial abuse. This proposal amends APS Family Law to require financial institutions and affiliated enterprises to immediately report suspected incidents of possible financial abuse of seniors age 65+ and of vulnerable adults (ages 18 to 64 with a mental or physical disability) to Adult Protective Services. Other mandated APS reporters already include health practitioners, police and human services workers. Several jurisdictions have

similarly amended their APS laws, including the District of Columbia and the state of California. HHS recommends mirroring the California statute regarding willful failure to report and makes the financial institution liable for fines from \$1,000 to \$5,000 per incident.

Shorten the 30 day Notice Period Requirement to 10 days when Medical Records are subpoenaed in Children in Need of Assistance (CINA) Proceedings (HHS).

Maryland Code, Health-General § 4-306(b)(6) provides that a health care provider be allowed 30 days after receiving a notice of a subpoena for medical records (including mental health) to disclose the designated records. A local department of social services is already permitted to access these medical records during the course of a child welfare investigation; yet as currently legislated, the 30 day notice is still required for such records, even for records the Department already has in its possession. This statute may have a negative impact on CINA cases, as the Department does not generally have 30 days in advance of an adjudication hearing in which to provide the required notice.

The Attorney General's (AG) Office suggests a shortened notice requirement to 10 days in CINA proceedings. In its opinion, this is more likely to pass than an outright exemption from, or a waiver of, the statutory requirements. The Department concurs with the AG's suggestion.

Amend Law to Allow an Exception for Privileged Information for (Civil) Child Abuse & Neglect Proceedings (HHS).

Privileged information, such as the statements of drug abusers, observations and conclusions of substance abuse counselors, and results of examinations, are often needed in Child Welfare cases. Current Maryland law (Md. Code, Health-General § 8-601) does not allow the disclosure of privileged information without the individual's consent. Montgomery County recently had a case where a mother voluntarily entered an in-patient drug treatment program with her infant. Later, when the treatment program called child welfare with allegations of the mother's abuse and neglect of her infant while in their program, the juvenile court judge ruled that Maryland law did not include an exception for child abuse and neglect, and denied the Department's motion to subpoena the treatment program records and witnesses. The Department had no further evidence and was forced to dismiss the petition and return the infant to the mother.

The Attorney General's Office suggests that if the Legislature were to balance a parent's interest in the privacy of his/her own substance abuse records against the State's interest in protecting a child from abuse or neglect, it is possible, if not probable, that the State's interest would prevail. The Department's proposal would add a subsection to the statute, which would clarify that the privilege does not apply in CINA and TPR proceedings, as they are not proceedings against the individual for the purposes of this statute.

MONTGOMERY COUNTY
FISCAL 2008 STATE BUDGET PRIORITIES
December 20, 2006

Operating:

- Funding of the GCEI, without any contingent changes to the calculation of the wealth base for purposes of allocating K-12 education aid, and assurance that any future discussions of changes to the aid formula will include a thorough debate about all aspects of the formula's components
- Increased State funding for adult education programs

Capital:

- Public School Construction -- \$133.9 million
- Transportation --

Of Statewide importance: Purple Line, Corridor Cities Transitway, I-270 HOV lanes north of Shady Grove to the Frederick County line, and the I-495 HOV lanes from VA to the I-270 West Spur.

Of local importance and not funded: Georgia Avenue/Randolph Road Interchange and the I-270/Watkins Mill Road Extended Interchange.

A solution to the WMATA funding issue is also critical to the region.

For the State to underwrite its share of the "of Statewide importance" transportation projects noted above, a revenue enhancement will be necessary.

- Montgomery College -- \$40.4 million
- Rockville District Court -- \$62 million
- Montgomery County Detention Center reuse project -- \$2 million
- Germantown Incubator -- \$2 million
- Birchmere Music Hall -- \$2 million

