

MEMORANDUM

April 29, 2016

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Action:** Bill 37-15, Boards, Committees, and Commissions - Advocacy

Government Operations and Fiscal Policy Committee recommendation (3-0): enact Bill 37-15.

Bill 37-15, Boards, Committees, and Commissions - Advocacy, sponsored by Lead Sponsors Council President Leventhal and Councilmembers Berliner and Rice, was introduced on September 15, 2015. A public hearing was held on October 6 and a Government Operations and Fiscal Policy Committee worksession was held on November 5.

Bill 37-15 would allow certain boards, committees, or commissions (B/C/Cs) to advocate at the State and federal levels if the advocacy is approved by the Office of Intergovernmental Relations. County law is not consistent and provides for varying levels of advocacy authority for B/C/Cs, ranging from very broad authority to no authority. Some B/C/Cs, including the Commission on People with Disabilities, have indicated a desire to advocate at the State and federal levels, but current law prevents them from doing so. Bill 37-15 specifically provides this authority for the following B/C/Cs:¹

- Agricultural Preservation Advisory Board
- Alcohol and Other Drug Abuse Advisory Council
- Cable and Communications Advisory Committee
- Commission on Child Care
- Commission on Children and Youth Generally
- Commission on Health
- Commission on Human Rights
- Commission on People with Disabilities
- Committee for Ethnic Affairs
- Committee on Hate/Violence
- Energy and Air Quality Advisory Committee

¹ This list is not exhaustive of all the B/C/Cs that will ultimately have this authority – many B/C/Cs have this authority under current law (some have even broader authority) and are therefore not included in this list.

- Fire and Emergency Services Commission
- Mental Health Advisory Committee
- Noise Control Advisory Board
- Rustic Roads Advisory Committee
- Solid Waste Advisory Committee
- Victim Services Advisory Board
- Water Quality Advisory Group

This topic was the focus of a July 2 Health and Human Services (HHS) Committee as it related to B/C/Cs within the HHS Committee's jurisdiction. A copy of the staff memorandum from Senior Legislative Analyst Linda McMillan, without attachments, is on ©9-13. A copy of the entire packet, including attachments is available from Council staff or online at:

http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2015/150702/20150702_HHS1.pdf

Correspondence received. The Council has heard from several B/C/Cs that are supportive of Bill 37-15, including the Mental Health Advisory Committee, the Community Action Board, the Commission on People with Disabilities, and the Energy and Air Quality Advisory Committee. The Council also received letters from an individual member of the Commission on Health and an individual member of the Water Quality Advisory Group supporting Bill 37-15. The Council has not received input from any B/C/Cs that are opposed to Bill 37-15. (See written correspondence beginning at ©21.)

Executive comments. The County Executive submitted the statement on ©28-29 opposing Bill 37-15 and stating his belief that Bill 37-15 is “unnecessary and potentially disruptive”. The Executive's comments state that:

- A few boards were granted authority to advise State and federal governments “many years ago” as a requirement of federal mandates.
- Decisions to support or oppose legislation and other issues before the State and federal governments on behalf of the County belongs with the Executive and Council. Using the Office of Intergovernmental Relations as a coordinator of positions would place greater stress on the Office during the time-sensitive legislative session.
- The Bill could lead to disjointed or conflicting County positions on legislative issues, which would weaken the likelihood of success on legislative initiatives.
- Adding major advocacy roles for B/C/Cs would require additional County staff and will require B/C/Cs to choose between providing local advice and conducting State and federal advocacy.

Council staff offers the following comments and observations:

Council staff concurs with the Executive's statement that decisions to support or oppose legislation and policy issues at the State level should rest with the Executive and Council. Nothing in Bill 37-15 would change the Executive and Council's role of determining legislative priorities or policies. To ensure that B/C/C positions would not conflict with Executive or Council positions, the language requires approval by the Office of Intergovernmental Relations. Council staff acknowledges that this would add workload to the Office, assuming that the B/C/Cs take advantage

of the advocacy authority, but also assumes (as the Fiscal Impact Statement seems to also do), that other Department staff (such as Environmental Protection and Health and Human Services) would also shoulder some of the workload. Council staff also assumes that if a B/C/C wants to advocate on an issue for which the Executive and Council have not taken a position on, the Office of Intergovernmental Relations could simply reach out to the Executive and Councilmembers, as the Office does on many issues during the legislative session, to determine if there is a conflict. Council staff has heard no evidence of this being problematic with the B/C/Cs that currently have this language.

There are several B/C/Cs that currently have advocacy authority to some degree. Council staff has no reason to question whether some of those B/C/Cs received this authority many years ago because of federal mandates. Council staff does note, however, that in more recent memory, nearly every B/C/C that has been established in the Code within the last decade (indeed, perhaps all B/C/Cs that have been established within the last decade) have routinely included the advocacy language proposed in Bill 37-15. This includes the Domestic Violence Coordinating Council (est. 2005), the Forest Conservation Advisory Committee (est. 2006), the Commission on Veterans Affairs (est. 2008), the Agriculture Advisory Committee (est. in law in 2009),² and the Interagency Commission on Homelessness (est. 2014). The Sustainability Working Group, established in 2008 and repealed in 2014, also had this authority.

Finally, Council staff notes that the Fiscal Impact Statement (©14-18) states that while there would be a cost associated with Bill 37-15, this cost would be absorbed by the Departments. And Bill 37-15 would not require B/C/Cs to choose between providing local advice and conducting advocacy; B/C/Cs could simply do both.

OIR Guidelines. At the Committee worksession on November 30, the Committee discussed with Executive staff and the Director of the Office of Intergovernmental Relations the Executive's concerns regarding Bill 37-15. At that worksession, the Committee asked Executive staff to provide the Committee with a process and/or guidelines for how the Office of Intergovernmental Relations would handle requests from B/C/Cs that wish to advocate on the State or federal level. OIR submitted a draft process, which is attached on ©33-36. At the Committee worksession on April 14, the Committee discussed these proposed guidelines and expressed general support for the guidelines.

Committee recommendation: Notwithstanding the proposed guidelines, enacting legislation is still required in order to provide these B/C/Cs with the ability to advocate at the State and/or federal level. If legislation is not enacted, these B/C/Cs will continue to be prohibited from advocating at the State and/or federal level. Therefore, **the Committee recommended (3-0)** enacting Bill 37-15 as introduced.

² Before being established in law in 2009, the Agriculture Advisory Committee was established via Council resolution. This resolution did not include the proposed advocacy language. In 2009, when the Committee was established in law, this language was included in the enacted bill.

This packet contains:	<u>Circle #</u>
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Bill No. 37-15
Concerning: Boards, Committees, and
Commissions - Advocacy
Revised: 8/25/2015 Draft No. 2
Introduced: September 15, 2015
Expires: March 15, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President George Leventhal and Councilmembers Berliner and Rice

AN ACT to:

- (1) allow certain boards, committees, or commissions to advocate at the State and federal levels if the advocacy is approved by the Office of Intergovernmental Relations; and
- (2) generally amend County law regarding boards, committees, and commissions.

By amending

Montgomery County Code
Chapter 2B, Agricultural Land Preservation
Section 2B-2

Chapter 8A, Cable Communications
Section 8A-30

Chapter 10A, Child Care
Section 10A-4

Chapter 18A, Environmental Sustainability
Section 18A-8A

Chapter 19, Erosion, Sediment Control and Stormwater Management
Section 19-49

Chapter 21, Fire and Rescue Services
Section 21-2

Chapter 24, Health and Sanitation
Sections 24-7, 24-8, 24-39, 24-40, 24-44, 24-60, and 24-60A

Chapter 27, Human Rights and Civil Liberties
Sections 27-5, 27-48, 27-52A, 27-61, and 27-63

Chapter 31B, Noise Control
Section 31B-4

Chapter 48, Solid Waste (Trash)
Sections and 48-42

Chapter 49, Streets and Roads
Section 49-80

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

51 The Commission must not engage in any advocacy activity at the State or
52 federal levels unless that activity is approved by the Office of Intergovernmental
53 Relations.

54 **24-28. Staff support.**

55 * * *

56 **[24-28] 24-29—24-33. Reserved.**

57 **24-39. Advocacy.** *[Mental Health Advisory Committee]*

58 The Committee must not engage in any advocacy activity at the State or
59 federal levels unless that activity is approved by the Office of Intergovernmental
60 Relations.

61 **24-40. Staff support.**

62 * * *

63 **[24-40. Reserved.]**

64 **24-44. Advocacy.** *[Alcohol and Other Drug Abuse Advisory Council]*

65 The Council must not engage in any advocacy activity at the State or federal
66 levels unless that activity is approved by the Office of Intergovernmental Relations.

67 **[24-44] 24-45-24-46. Reserved.**

68 **24-60. Advocacy.** *[Victim Services Advisory Board]*

69 The Board must not engage in any advocacy activity at the State or federal
70 levels unless that activity is approved by the Office of Intergovernmental Relations.

71 **24-60A. Staff support.**

72 * * *

73 **27-5. Duties generally.** *[Commission on Human Rights]*

74 * * *

75 (c) Advocacy. The Commission must not engage in any advocacy activity
76 at the State or federal levels unless that activity is approved by the
77 Office of Intergovernmental Relations.

78 **27-48. Commission on Children and Youth Generally.**

79 (e) Advocacy. The Commission must not engage in any advocacy activity
80 at the State or federal levels unless that activity is approved by the
81 Office of Intergovernmental Relations.

82 (f) * * *

83 **27-52A. Advocacy.** *[Commission on People with Disabilities]*

84 The Commission must not engage in any advocacy activity at the State or
85 federal levels unless that activity is approved by the Office of Intergovernmental
86 Relations.

87 **27-61. [Reserved] Advocacy.** *[Committee for Ethnic Affairs]*

88 The Committee must not engage in any advocacy activity at the State or
89 federal levels unless that activity is approved by the Office of Intergovernmental
90 Relations.

91 **27-63. Committee on Hate/Violence.**

92 * * *

93 (g) Advocacy. The Commission must not engage in any advocacy activity
94 at the State or federal levels unless that activity is approved by the
95 Office of Intergovernmental Relations.

96 **31B-4. Noise control advisory board.**

97 * * *

98 (f) Advocacy. The Commission must not engage in any advocacy activity
99 at the State or federal levels unless that activity is approved by the
100 Office of Intergovernmental Relations.

101 **48-41. Advocacy.** *[Solid Waste Advisory Committee]*

102 The Committee must not engage in any advocacy activity at the State or
103 federal levels unless that activity is approved by the Office of Intergovernmental
104 Relations.

105

106 **48-42. Administrative and staff support.**

107 * * *

108 **[48-42. Reserved.]**

109 **49-80. Rustic Roads Advisory Committee.**

110 * * *

111 (f) Advocacy. The Commission must not engage in any advocacy activity
112 at the State or federal levels unless that activity is approved by the
113 Office of Intergovernmental Relations.

114 (g) * * *

115 *Approved:*

116

George Leventhal, President, County Council

Date

117 *Approved:*

118

Isiah Leggett, County Executive

Date

119 *This is a correct copy of Council action.*

120

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 37-15

Boards, Committees, and Commissions - Advocacy

DESCRIPTION: Bill 37-15 would allow certain boards, committees, or commissions to advocate at the State and federal levels if the advocacy is approved by the Office of Intergovernmental Relations.

PROBLEM: County law is not consistent and provides for varying levels of advocacy authority for boards, committees, and commissions. Several boards, committees, and commissions have indicated a desire to advocate at the State and federal levels, but current law prevents them from doing so.

GOALS AND OBJECTIVES: To make County law more constituent regarding the advocacy authority of boards, committees, and commissions.

COORDINATION: Council and Executive staff; Chief Administrative Officer; Office of Intergovernmental Relations

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be requested.

SOURCE OF INFORMATION: Amanda Mihill, Legislative Attorney, 240-777-7815

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: N/A

MEMORANDUM

July 1, 2015

TO: Health and Human Services (HHS) Committee

FROM: Linda McMillan, Senior Legislative Analyst *JLM*

SUBJECT: **Advocacy by Boards, Committees, and Commissions in the Department of Health and Human Services**

Expected for this session:

Uma Ahluwalia, Director, Department of Health and Human Services
Melanie Wenger, Director, Office of Intergovernmental Relations
Edward Lattner, Division Chief of Government Operation, Office of the County Attorney
Dr. Seth Morgan, Chair, Commission on People with Disabilities
Susan Hartung, Commission on People with Disabilities and Chair of its Developmental Disabilities Advisory Committee

On October 2, 2014 the HHS Committee met to receive an update on Resource Coordination and to discuss the recommendations of the Developmental Disability Transition Advisory Workgroup. While the major recommendations from the Workgroup were about the County's role in providing resource coordination services to Developmentally Disabled adults and transition aged youth, the Workgroup also recommended that the Montgomery County Commission on People with Disabilities should be able to advocate within the County and at the State and federal level.

The HHS Committee agreed that it would like to understand more about the authority of all Boards, Committees, and Commission in the Department of Health and Human Services (DHHS). This is a subset of all County Boards, Committees and Commissions.

At this session, the Committee will have an opportunity to review information on different provisions in the laws creating 15 Boards, Committees, and Commissions that are

housed in DHHS. The Committee will hear from the Commission on People with Disabilities about its specific request. The Committee will be able to discuss with Ms. Ahluwalia, Ms. Wenger, and Mr. Lattner some of the broad issues around different levels of authority and the need to coordinate with the Office of Intergovernmental Relations any advocacy that goes beyond the Executive, Council, and DHHS.

Council staff has informed the Chairs of the 15 Boards, Committees, and Commissions about this session, that this is an information and discussion session, and that they may follow-up in writing if they have comments (this will allow the other Boards, Committees, or Commissions to have an opportunity to discuss these issues if they wish.)

Overview Materials

Attached at © K-P is a summary table prepared by Council staff that provides excerpts from the authorizing laws for each Board, Committee, or Commission. The laws are also attached to this memo at © 1-52.

In addition, attached at © A-D is a 2007 memo from County Attorney (then Deputy County Attorney) Hansen regarding the authority of Boards, Committees, and Commissions to lobby, advise, and educate. Some points included in the memo:

- A committee must look to the document creating the committee to determine if the committee's mission includes the authority to lobby, educate, or advise.
- "Lobbying means any attempt to influence any legislative, executive, or administrative action by a County agency." (County public ethics law) Education is intended to develop knowledge through a systemic study of a matter. Unlike lobbying, education contains no specific intent to persuade a decision maker to undertake a certain course of action.
- A committee is lobbying if it is engaged in an activity that is intended to influence a decision maker to take a pre-determined course of action. A committee that is authorized to advise or educate should stop short of engaging in a campaign to pressure the decision maker into undertaking a course of action advocated by the committee. The line between advice and lobbying may be difficult to discern...A committee that engages in an advisory role should respect the right of a decision maker to arrive at a different conclusion.
- As long as it is clear that a committee member is acting in their personal capacity, no committee member is precluded from contacting government officials to urge action on a matter of public importance.
- Even committees that have been authorized to lobby the State and federal government must coordinate their efforts through the Office of Intergovernmental Relations (OIR).

There Are Many Differences in the Laws Creating Boards, Committees, and Commissions

The HHS Committee will see that there are many differences in the authorizing language for the DHHS Boards, Committees, and Commissions. Regarding membership, there are a range of sizes and rules about whether ex-officio members are voting or non-voting. There are differences in the minimum number of meetings that must be held in a year, some 6, some 8, and some 9. The Commission on Juvenile Justice specifies there must be one meeting held within 60 days of another. (It is a common practice for DHHS Board, Committees, and Commissions to not meet in August or December.) There are some unique provisions such one for the Community Action Agency that says it must not participate in partisan political activities or sectarian activities. However, the Community Action Agency, unlike other boards, is a conduit for funding for programming.

With regard to lobbying, advocacy, and education the differences can most often be seen in the duties and with regard to whom the Board, Committee, or Commission distributes its annual report.

For example:

- The Commission on Aging is to advise and counsel the resident of the County, County Council, County Executive, and various department of the County, State, and federal governments. This is perhaps the broadest authority.
- The Commission on Children and Youth is to advise the County Council, County Executive, DHHS, and the Board of Education.
- The Commission on Juvenile Justice is to advise the Circuit Court, the Council and the Executive and inform State legislators about juvenile needs.
- The Mental Health Advisory Committee cannot lobby or advocate beyond the Council and Executive, but the law specifies that its annual report is to be disseminated to the Secretary of the Department of Health and Mental Hygiene, the Mental Hygiene Administration's Regional Director, and the Maryland Advisory Council on Mental Hygiene.

In reality, there is often communication with staff from other County and State agencies as most boards have representatives as a part of their membership. For example, the Commission on Child Care has representatives from the Superintendent of Schools, Chairman of the Montgomery County Planning Board, and the President of Montgomery College. However, this does not allow direct communication between the board and the elected officials of the outside agencies or the members of the General Assembly.

Two of the most recent commissions, the Commission on Veterans Affairs (2008) and Interagency Commission on Homelessness (2014) have very specific language saying they must

not engage in any advocacy activity at the state or federal levels unless that activity is approved by OIR. This language is stricter than a requirement to coordinate with OIR.

Some boards serve dual purposes. The Commission on Children and Youth is Children's Council required in Maryland Code. The Interagency Commission on Homelessness is the Executive/Policy Committee of the Continuum of Care, as required by federal Department of Housing and Urban Development. The Citizen Review Panel implements State law regarding local citizen review boards.

Request and Comments from Commission on People with Disabilities

Attached at © E-F are comments from Dr. Morgan and at © G-J from Ms. Hartung. Dr. Morgan, is requesting the Commission's law be changed to allow advocacy at the State and federal level because the issues facing the disabled are not limited to the County level and are more and more a function of State and federal programs, such as Medicaid. Dr. Morgan notes the variety of provisions for different Boards, Committees, and Commissions. Ms. Hartung notes that the resolution regarding Resource Coordination (now Coordination of Community Resources) was successful due to informal work with members from the Developmental Disabilities Administration and that primary funding for this population is from the Community Pathways Waiver. She also notes the need to address the State of Maryland's waiting list for services.

Council staff respectfully disagrees with Dr. Morgan's comment that there seems to be a pattern that those groups unable to self-advocate are represented by Boards, Committees, and Commissions, that are not allowed to lobby on their own behalf. Council staff believes it is more a function of when the group was created and the specific circumstances being discussed at the time. As previously noted, two of the most recently created groups, the Commission on Veterans Affairs and the Interagency Commission on Homelessness, have the same language (no advocacy at State or federal level unless approved by OIR). Homeless people, particularly the chronically homeless, are not a group that is generally successful at self-advocacy.

Questions to Consider

As the HHS Committee considers the request from the Commission on People with Disabilities or any other changes to authorizing law, it may want to consider the following.

- How does coordination with the Office of Intergovernmental Relations generally occur? Is it different when there is a request to advocate at the State level and the federal level?
- What happens if a commission with the authority to advocate wants to testify with a position or concern that is different than the position taken by the County?
- What happens if a commission with authority to advocate wants to testify on legislation where the County is taking no position?

- If a commission does not have the authority to advocate at the State or federal level and the County thinks there would be a benefit to having the Commission testify, is it allowed to?
- Is the most recent language that prohibits advocacy at the State or Federal level unless it is approved by OIR a reasonable standard? Would this include being able to meet with individual elected officials or their staff?
- Many commissions also have duties to make recommendations on budget, policies, or programs. This could be considered something stronger than advising. Could a commission correspond with an elected official at the State or federal level to “explain” its recommendation?

B37-15



AM
cc
SBF
LH

ROCKVILLE, MARYLAND

MEMORANDUM

October 5, 2015

TO: George Leventhal, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
 FOR Joseph F. Beach, Director, Department of Finance

SUBJECT: FEIS for Bill 37-15, Boards, Committees, and Commissions - Advocacy

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

- cc: Bonnie Kirkland, Assistant Chief Administrative Officer
- Lisa Austin, Offices of the County Executive
- Joy Nurmi, Special Assistant to the County Executive
- Patrick Lacefield, Director, Public Information Office
- Joseph F. Beach, Director, Department of Finance
- Uma Ahluwalia, Director, Department of Human Health Service
- David Platt, Department of Finance
- Pofen Salem, Office of Management and Budget
- Alex Espinosa, Office of Management and Budget
- Naeem Mia, Office of Management and Budget

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MONTGOMERY COUNTY

2015 OCT - 6 PM 3:46

Fiscal Impact Statement
Council Bill 37-15, Boards, Committees, and Commissions Advocacy

1. Legislative Summary.

Bill 37-15 would allow certain boards, committees, or commissions (B/C/Cs) to advocate at the State and federal levels if the advocacy is approved by the Office of Intergovernmental Relations (OIR).

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Bill 37-15 would not result in changes to revenues or expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Not applicable.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable, Bill 37-15 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Bill 37-15 provides authority to 18 B/C/Cs to advocate at the State and federal levels if approved by the Office of Intergovernmental Relations (OIR). Actual staff time required of OIR and departments to assess and support advocacy requests may vary significantly from year to year based on the number and complexity of issues that the B/C/Cs choose to advocate for in a given fiscal year. State advocacy is expected to be the focus of most B/C/C requests.

In OIR, the Director will spend time during the 90 day State legislative session and preceding weeks determining whether requested B/C/C advocacy is consistent with County priorities and approving related documents. Though actual staff time is expected to vary significantly year to year, OIR estimates the Director would spend 5 to 10 hours assessing and managing each request. Assuming two advocacy requests or issues presented by each B/C/C, a workload impact

of 180 to 360 hours per year is likely to be expected. The estimated cost associated with the OIR staff time is approximately between \$20,000 and \$40,000 per year.

B/C/Cs in the areas of Health and Human Services (HHS) and Department of Environmental Protection (DEP) are expected to be more active, with departments oversight of the remaining B/C/Cs expecting no or limited impact on staff workload. HHS estimates that each of its six B/C/Cs would generate two advocacy issues per year, each requiring 20 hours of staff research and support or 240 hours total. Based on the average hourly rate of the staff performing this work, HHS estimates a total cost per year of \$12,480.

Personnel Costs - for Research and support to Boards, Committees and Commissions (B/C/C) for advocacy issues.	
# of B/C/C	6
# of issues per year	2
# of hours per issue	20
Staff average hourly rate (S&F)	\$52
Total estimate cost per year	\$12,480
<p>Assumptions - Staffing for the DHHS B/C/C ranges from Program Specialist II (Grade 21) through Manager III (MLS M3); for this estimate we used the average FY16 salary & fringe for FT Program Manager IIs & Program Manager Is in HHS. Assumes 20 hours of research and support to prepare the boards for advocacy testimony. Assumes each of the 6 DHHS B/C/C listed in the Council Staff introduction memo on 9/15/15 will advocate for 2 issues per year with our State and or Federal representatives. Additional hours estimated to support advocacy $6 \times 2 \times 20 = 240$.</p>	

DEP anticipates similar costs related to hourly use of staff time based on the four B/C/Cs associated with the department. Like HHS, DEP anticipates a range of grade levels would perform the work associated with supporting the B/C/C advocacy. The estimated cost associated with the DEP staff time is approximately \$8,320 (=4 B/C/Cs x 2 issues x 20 hours/issue x \$52/hourly rate). Additional workload created by bill 37-15 in OIR and other departments would be absorbed within existing resources.

8. An explanation of how the addition of new staff responsibilities would affect other duties.
The additional workload created by Bill 37-15 would be absorbed within existing resources.
9. An estimate of costs when an additional appropriation is needed.
Not applicable.
10. A description of any variable that could affect revenue and cost estimates.

The cost estimates are based on assumptions included in the table in #7 above and could vary significantly based on the number and complexity of issues that the B/C/Cs choose to advocate for at the State and/or Federal level during the fiscal year.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Due to uncertainty regarding the number or complexity of advocacy issues raised in a given year, the number of hours spent by department and OIR staff to assess and support advocacy requests is expected to vary significantly from year to year.

12. If a bill is likely to have no fiscal impact, why that is the case.

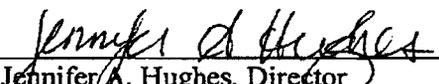
Not applicable.

13. Other fiscal impacts or comments.

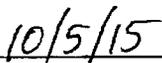
The fiscal impact is based on the assumptions depicted in #7. If the volume of staff workload becomes significantly higher, the actual fiscal impact would be greater than the estimate.

14. The following contributed to and concurred with this analysis:

Uma S. S Ahluwalia, Department of Health and Human Services
Patricia Stromberg, Department of Health and Human Services
Patricia Brennan, Department of Health and Human Services
Melanie Wenger, Office of Intergovernmental Relations
Jeremy Criss, Department of Economic Development
Stan Edwards, Department of Environment Protection
Pofen Salem, Office of Management and Budget
Rachel Silberman, Office of Management and Budget
Matt Schaeffer, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget



Date

Economic Impact Statement
Bill 37-15, Boards, Committees, and Commissions - Advocacy

Background:

This legislation would allow certain boards, committees, or commissions to advocate at the State and federal levels if the advocacy is approved by the Office of Intergovernmental Relations. Bill 37-15 amends County law to provide consistency and eliminates varying levels of advocacy currently experienced by certain boards, committees, or commissions. The legislation provides authority to eighteen (18) boards, committees, and commissions to advocate at State and federal levels.

1. The sources of information, assumptions, and methodologies used.

Not applicable

2. A description of any variable that could affect the economic impact estimates.

Not applicable

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

While Bill 37-15 may enable specific boards, committees, and commissions, the authority to advocate at the State and federal levels, it would have no direct effect on employment, private-sector spending, savings, investment, incomes, and property values.

4. If a Bill is likely to have no economic impact, why is that the case?

See paragraph 3.

5. The following contributed to or concurred with this analysis: David Platt and Rob Hagedoorn, Finance.



Joseph F. Beach, Director
Department of Finance

9/30/15

Date



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ROGER BERLINER
COUNCILMEMBER
DISTRICT 1

CHAIRMAN
TRANSPORTATION, INFRASTRUCTURE
ENERGY & ENVIRONMENT COMMITTEE

September 30, 2015

Dear Montgomery County Board, Committee, and Commission Members,

I hope this note finds you doing well and rested after your summer. The County Council is back from our summer recess and has begun our fall legislative session. As part of the agenda in the coming weeks, we will be considering a bill that I recently introduced with my two colleagues on the Health and Human Services (HHS) Committee, Council President George Leventhal and Councilmember Craig Rice.

The premise of the bill (Bill 37-15) is straight-forward. Currently, county law is not consistent with respect to the authority that each of our boards, committees, or commissions (BCCs) have to advocate. Some BCCs have very broad authority to advocate, while others have no authority at all. This bill would permit certain BCCs that currently do not have the authority to advocate at the state and federal levels to do so, if the advocacy is approved by the County's Office of Intergovernmental Relations.

The impetus for this bill came from a discussion that the HHS Committee had earlier this summer about the current advocacy status of the BCCs that fall under the oversight of the County's Department of Health and Human Services. During the discussion, we learned that some of those BCCs, including the Commission on People with Disabilities, indicated a desire to advocate at the state and federal levels, but current law prevents them from doing so.

I believe that the status-quo is doing a disservice to those BCCs that do not currently have the authority to advocate, but wish to do so. We must be able to tap into the energy and expertise of our BCCs when advocacy at the state and federal level is necessary, but we must do so in a responsible manner that coordinates with our county leadership. In my judgement, this bill strikes that proper balance.

The public hearing for Bill 37-15 will be this coming Tuesday, October 6 at 1:30 pm at the Council Office Building, 3rd Floor Hearing Room, 100 Maryland Avenue in Rockville. To sign up to testify, you can do so online or call to 240-777-7803. If you cannot attend the public hearing, but wish to submit comments, you can do so by emailing them to Council.President@montgomerycountymd.gov. In addition, the Government Operations Committee is scheduled to take up Bill 37-15 on November 5. If you wish to attend that committee session, please feel free to do so.

If you have any additional questions about the bill, please do not hesitate to reach out to me directly. I look forward to hearing from you and thank you for everything you do on behalf of our county.

Best regards,

A handwritten signature in black ink, appearing to be 'R. Berliner', written in a cursive style.

Roger Berliner
Councilmember, District 1

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Montgomery County Commission on People with Disabilities
Bill 37-15, Boards, Committees and Commissions – Advocacy
Dr. Seth Morgan, Chairman

On behalf of the entire membership of the Commission on People with Disabilities, I wish to thank Council Members Leventhal, Berliner and Rice for the introduction of **Bill 37-15, Boards, Committees and Commissions – Advocacy**. We are, needless to say, in strong support of this bill which gives County commissions equitable authority.

Thanks to this bill, members of boards, committees and commissions will be able to support the County Government's interests and initiatives at the State and Federal levels, as appropriate /and or requested, with oversight and approval of the Office of Intergovernmental Affairs to advance the issues of interest to the County. The understanding that in unison we can be more effective in advancing our common interests codifies the relationship we enjoy.

This collaborative approach reflects how more and more we are all faced with issues that transcend the local level and must be addressed in the State and Federal arenas. This Bill allows for that.

Thank you



**Montgomery County Department of Health and Human Services
Mental Health Advisory Committee (MHAC)**

Dear Council President Leventhal, Councilmember Berliner, and Councilmember Rice,

The Mental Health Advisory Committee (MHAC) supports Bill 37-15.

We appreciate the issue of consistency regarding advocacy being raised by the Commission on People with Disabilities. We would like to thank Council President Leventhal and Councilmembers Berliner and Rice for co-sponsoring the bill.

In addition to creating equitable advocacy parameters among the Boards, Commissions, and Committees (BCCs), the bill creates more opportunities for the BCCs to represent the interests of the people for whom they advocate since funding for services is often driven by state or federal grants.

Although the purpose of the BCCs is to be an independent voice, approval of any activity by the Office of Intergovernmental Relations is necessary and reasonable and ensures that the county will be informed of all state and federal advocacy positions. This caveat may, in fact, encourage more dialogue between the BCCs and the county if positions differ.

Thank you for looking further into the current laws governing the BCC's and creating a bill which allows for consistency and expanded advocacy.

David Brophy, Chair

Mental Health Advisory Committee



COMMUNITY ACTION BOARD

October 12, 2015

Montgomery County Council
Attn: Members of the Government Operations & Fiscal Policy Committee
Council Office Building
100 Maryland Avenue, 5th Floor
Rockville, Maryland 20850

Dear Committee Members:

On behalf of the Community Action Board, I am writing to express our support for Bill 37-15, Boards, Committees, and Commissions – Advocacy. This bill would allow 18 additional B/C/Cs to advocate following approval by the Office of Intergovernmental Relations. Our Board believes that allowing these groups to advocate will strengthen their voices and make them more effective representatives of the community. B/C/Cs aim to give residents a stronger voice in local issues and Bill 37-15 will help to achieve this goal.

The Community Action Board has depended on its ability to advocate in order to support policies that help low-income residents become self-sufficient. This ability has allowed the Board to support critical legislation on such important issues as increasing the minimum wage, funding for child care subsidies and the Working Parents Income Supplement, and paid sick leave. The 18 B/C/Cs impacted by this bill will likewise be able to advocate for legislation impacting the residents and interests they have been charged with representing.

Thank you for your commitment to giving residents the opportunity to be active and engaged in local issues through participation in Boards, Committees, and Commissions. We ask that you support Bill 37-15, which will strengthen the role of B/C/Cs in the County and allow for more community involvement in issues impacting County residents.

Sincerely,

Matthew J. Green, Jr.
Chairman
Community Action Board

Copied: County Councilmembers

Department of Health and Human Services • Office of Community Affairs • Community Action Agency

2424 Reedy Drive, 2nd Floor, Suite 238 • Wheaton, Maryland 20902
240-777-1697 (Voice or via MD Relay @ 711) • 240-777-3295 FAX
www.montgomerycountymd.gov/hhs

Mihill, Amanda

From: Hansen, Warren
Sent: Tuesday, October 06, 2015 3:20 PM
To: Mihill, Amanda
Subject: FW: EAQAC support for the proposed Bill 37-15

From: Foroud Arsanjani [mailto:farsanjani@newr-energy.com]
Sent: Monday, October 05, 2015 1:16 PM
To: Hansen, Warren <Warren.Hansen@montgomerycountymd.gov>
Cc: Vigen, Michelle <Michelle.Vigen@montgomerycountymd.gov>; Shaw, Lindsey (DEP) <Lindsey.Shaw@montgomerycountymd.gov>; Edwards, Stan <Stan.Edwards@montgomerycountymd.gov>; boylemdoffice@comcast.net; Christina.England@nrc.gov; dkathan@gmail.com; Jamie.Pierce@chenega.com; 'Linda Tsang' <tsang.linda@gmail.com>; 'Reuven Walder' <reuven@ecobeco.com>; 'Vaidyanathan, Kavita' <Kavipatel77@gmail.com>; Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>
Subject: EAQAC support for the proposed Bill 37-15

Dear Warren,

The Energy and Air Quality Advisory committee, supports Councilmember Berliner's proposed Bill 37-15. If we can be of further assistance to move this bill forward please let me know.

Sincerely,

Foroud Arsanjani, Chair
Energy and Air Quality Advisory Committee

P: 301-941-1804 | M: 301-928-2888
F: 301-560-3408 | W: NEWR-Energy.com

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From: Edwards, Stan [mailto:Stan.Edwards@montgomerycountymd.gov]
Sent: Friday, October 02, 2015 4:51 PM
To: 'Arsanjani, Foroud'; boylemdoffice@comcast.net; Christina.England@nrc.gov; dkathan@gmail.com; Jamie.Pierce@chenega.com; Linda Tsang; Reuven Walder; 'Vaidyanathan, Kavita'
Cc: Vigen, Michelle; Shaw, Lindsey (DEP); Berliner's Office, Councilmember
Subject: FW: Information on Public Hearing for Bill 37-15

Members of EAQAC,

Please see the attached memo from Councilmember Roger Berliner on proposed Bill 37-15.

Stan Edwards

Email Viewer

[Message](#) [Details](#) [Attachments](#) [Headers](#) [Source](#)

[HTML](#)

From: "Daniel Russ" <danruss00@netscape.net>

Date: 10/5/2015 10:27:07 PM

To: "county.council@montgomerycountymd.gov" <county.council@montgomerycountymd.gov>

Cc:

Subject: Bill 37-15

Dear Mr. Leventhal,

My name is Daniel Russ. Although I am the current chair of the Montgomery County Commission on Health (COH), I am writing to you as a private citizen and not for the Commission as a whole. I believe that Bill 37-15, allowing certain boards, committees, or commissions (B/C/C) to advocate at the state or federal levels if approved by the Office of Intergovernmental Relations, is a fair and rational compromise. The bill allows B/C/Cs greater flexibility to effect change, while allowing the county to maintain a unified list of priorities at the state and federal level.

When a B/C/C and the County agree that change is needed at a state level, currently legislation prevents the B/C/C from lobbying state agencies. This limits the B/C/C's ability to support the needs of the County. In our case, the COH provides advice to the County Council, County Executive, and County Department of Health and Human Services. I don't see the COH using this new authority often. In the rare cases that this authority is needed, it is a reasonable expectation that the COH would be required to seek approval from the Office of Intergovernmental Relations. However, other commissions may need to use this authority more often. My only concern is that the Office of Intergovernmental Relations may become overburdened by the additional work involved in addressing all the B/C/C approval requests to lobby state agencies. Even with this concern, I recommend passage of Bill 37-15.

Thank you for your consideration,

Daniel Russ

[Close](#)

October 30, 2015

The Honorable Isiah Leggett
County Executive
101 Monroe St.
Rockville, MD 20850

The Honorable George Leventhal
President, Montgomery County Council
100 Maryland Ave, 5th Floor
Rockville, MD 20850

Dear Messrs. Leggett and Leventhal:

As a member (public-at-large) of the Water Quality Advisory Group (WQAG), I strongly support Councilman Berliner's Bill 37-15 which would permit boards, committees, or commissions (BCCs) to advocate at the state and federal levels, if approved by the County's Office of Intergovernmental Relations. The WQAG is one of the listed committees in the proposed legislation. This letter represents my views only and does not reflect the position of the WQAG.

The WQAG has been discussing its ability to comment and/or make recommendations to organizations involved with water quality in the Chesapeake Bay region. The WQAG has been informed by the County Executive's Office speaking for the County Attorney's Office that it was not permitted to comment or make any recommendations regarding coordination of state and county water quality monitoring to any organization or governmental office other than the County Executive and the County Council. The WQAG had hoped to send a letter to both the County and the Maryland Department of the Environment. Based on the above interpretation, the letter was sent only to the County Executive and County Council on January 4, 2015.

The Montgomery County Water Quality Advisory Group (WQAG) was established through Chapter 19, Article IV of the Water Quality Discharge Law. Our website states that "The WQAG provides recommendations to the County Executive and the County Council on water quality management goals and policies, program priorities, and funding. WQAG also provides input primarily by transmitting letters and an annual report. **Recommendations may also be directed to other organizations in and around the Chesapeake Bay region, or be requested in development of watershed plans** (emphasis added)." This statement has been on the website for years.

I support the bill that will enable BCCs, that do not currently have the authority to advocate, to do so in a manner that coordinates with county leadership.



Sincerely,

Keith M. Brooks
Member, Public-at-large
Water Quality Advisory Group
7338 Oskaloosa Drive
Derwood, MD 20855
(301) 642-3108

Statement on behalf of County Executive Isiah Leggett

Bill 37-15, Boards, Committees and Commissions - Advocacy

Bill 37-15 would give County Boards, Committees and Commissions (BCCs) the authority to advocate at the State and Federal levels if the advocacy is approved by the Office of Intergovernmental Relations (IGR). The County Executive believes the legislation is unnecessary and potentially disruptive.

Montgomery County's many advisory boards and commissions have a rich tradition of assisting County agencies in developing local laws, policies and budgets that enhance our County. The County Executive has served on one as a citizen and worked with many others since 1986, as a Councilmember and as County Executive and has always valued their advice.

In creating most boards and commissions, the Council's intent was to seek the best thinking and broadest representation of Montgomery County residents in the matters of County government. The vast majority of BCCs have been created to review issues facing Montgomery County and provide advice to the County Executive and/or the County Council.

A few boards and commissions have been granted authority to advise State and federal governments as well as County government. They were granted that authority many years ago, in most part, as a requirement of federal mandates for categorical funding, eg. aging and workforce programs. Bill 37-15 substantially expands the originally intended role of local BCCs to include the vast arena of advice and advocacy at the State and federal governments, perhaps even including the agencies of each. It is the County Executive's view this is an unwise addition to the current function and workload of local BCCs.

Decisions to support or oppose legislation and other issues before State and federal government on behalf of the County should rest with the County Executive and the County Council. The proposed law would grant the responsibility to approve the testimony or advice of local boards and commissions to the IGR Director. In the County Executive's view, this would substitute the IGR Director for the County Executive and Council in determining County legislative strategy and, as a result, place the IGR Director in an untenable position. Even if the intent of the Bill is to have the IGR Director coordinate positions with the County Executive and County Council, and not leave the IGR Director to make the decision, it will place greater stress on an already stressed and very time-sensitive process involving a complexity of issues during the State legislative session. Adding this function to the 90 day session would likely reduce the effectiveness of the County's legislative strategy.

Bill 37-15 does not define advocacy. Most of the time people think advocacy revolves primarily around legislation. Often it revolves around the distribution of resources and around budget and often requires "behind the scenes" strategies for which there would be no control or coordination.

The County Executive is also concerned that the Bill may lead to disjointed or conflicting County positions on legislative issues. Especially in Annapolis, the perception of a divided position often

leads to failure in the process. The County Executive and Council have made strides in recent years to promote a single, credible and effective County position. This bill unnecessarily increases the risk of confusing the County's position on an issue not only with our own elected officials, but with those representing other jurisdictions. A divided legislative agenda weakens our likelihood of success in the General Assembly.

Finally, adding major advocacy roles for the BCCs at the State and federal levels will require additional County staff and will require the BCCs to choose between providing local advice and conducting State and federal advocacy. There are other opportunities available to BCCs and their members to advocate for issues. There are many existing advocacy organizations whose missions are to advocate at the State and federal levels. The BCCs may collaborate with these other advocacy organizations, and, of course, members may advocate as individuals.

The County Executive offers these recommendations in the spirit of good local government, maintaining the excellence we have in local advisory bodies, and in order to promote an effective legislative agenda at the State and federal levels.

**Process for Considering Requests of Boards and Commissions
If Authorized to Advocate at the State and Federal Levels
as Proposed Under Bill 37-15 –
*Boards, Committees and Commissions - Advocacy***

The following draft process is based on the understanding that:

1. Newly appointed boards and commissions members are informed verbally and/or in writing about their rights as individuals and authority as board/commission members to advocate on behalf of their board/commission at the State and/or Federal levels; and, if appropriate, the process for gaining approval as a board/commission member of any relevant requests to advocate on behalf of their board/commission; and
2. Staff to boards and commissions receive the same information so they may help facilitate the work of the board/commission, including requests for a board/commission member(s) to advocate on behalf of the board/commission at the State and/or Federal levels.

Before OIR considers a request, it will confirm that the following steps have been taken:

1. That the board/commission decision to request the authority to advocate on an issue at the State and/or Federal level reflects the position of the majority of the board/commission membership and is memorialized in the minutes of the board/commission;
2. That the County agency that the board/commission is affiliated with (assuming there is one) is aware that a request is going to be made; and
3. That if the board/commission in its charter is charged with advising the County Executive and/or County Council, the chair of the board/commission or staff on behalf of the chair advised the County Executive/County Council of the board's/commission's desire to advocate on an issue, what the issue is, what the board's/commission's position on that issue is, and why – and that advisory correspondence is carbon copied to the Office of Intergovernmental Relations (OIR) and the agency with which the board/commission is affiliated.

Consideration of Requests:

1. Not deemed by OIR to be controversial:

A. If the request pertains to pending State or Federal legislation, is OIR taking a position on behalf of the County?

i. If yes:

- Is the board's/commission's position consistent with the County's?

– If yes, approve.

– If no, deny.

ii. If no:

- Review why the County is not taking a position.
- If after that review the County decides to take a position, follow the steps above.
- If after that review the County still decides not to take a position, determine whether recommending approval furthers another goal or objective of the County's.

– If yes, approve.

– If no, deny.

B. If the request does not pertain to pending State or Federal Legislation, is the request consistent with a County priority or goal?

i. If yes:

- Would the additional perspective complement the County's efforts to advance the priority or goal?

– If yes, approve.

– If no, deny.

ii. If no:

- Is there another objective that would be advanced by allowing the board/commission to engage in advocacy?
 - If yes, approve.
 - If no, deny.

*Notification of decision for requests not deemed to be controversial: OIR will notify the appropriate agency, the County Executive or designee and/or County Council President or designee of its recommendation (depending on who the board/commission is advisory to if applicable) at the same time it notifies the board/commission.

2. Deemed by OIR to be controversial:

OIR will follow the steps for considering both types of requests outlined above; however, it will consult with the appropriate agency, the County Executive or designee and/or County Council president or designee (depending on who the board/commission is advisory to if applicable) before finalizing a recommendation.

*Notification of decision for a request deemed to be controversial: OIR will notify the appropriate agency, the County Executive or designee and/or County Council President or designee of its recommendation (depending on who the board/commission is advisory to if applicable) before it notifies the board/commission.

If the request is approved, OIR will ask the following of the board/commission:

1. In the event of a public hearing, that the board/commission provide OIR 24 hours in advance its written comments or verbal remarks it plans to place on the public record
2. That the member(s) of the board/commission make clear that the member(s) are not representing the County, but, instead, the respective board/commission, which was created by Montgomery County local law.

If the request is approved, OIR will do the following for the board/commission:

1. Copy and distribute the board's/commission's written comments to the appropriate committee, commission, task force, etc.
2. Sign up the speaker(s) for the board/commission if they intend to provide verbal testimony.

3. If possible, attend the hearing with the board/commission member/s.

Montgomery County Office of Intergovernmental Relations
4/12/2016