

MEMORANDUM

March 18, 2016

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 3-16, Administration – Boards, Committees, and Commissions – General Amendments

Bill 3-16, Administration – Boards, Committees, and Commissions – General Amendments, sponsored by Lead Sponsor Government Operations and Fiscal Policy Committee, was introduced on March 1, 2016. A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for April 4, 2016 at 9:30 a.m.

Bill 3-16 would:

- define a board, committee, commission, and task force;
- require an Evaluation and Review Committee to be appointed every 5 years; and
- establish a standard due date for annual reports from a board, committee, commission, and task force.

Background

County Code §2-146(c) requires the Executive to appoint, subject to Council confirmation, a citizens review committee to “review the committee system and each then-existing committee and report to the Executive and Council its recommendations for changes in individual committees and the committee system as a whole.” The most recent Committee Evaluation and Review Board (CERB) was appointed on March 6, 2012 and issued its final report to the Council and the Executive on September 30, 2013. A copy of the report can be viewed at: <https://www.montgomerycountymd.gov/boards/Resources/Files/20-CERB-REPORT-2013.pdf>.

The CERB visited and reviewed the operation of 87 boards, committees and commissions (BCC) supporting the County government. The CERB made various recommendations that would require a change in County law to implement. Some of these recommendations were general changes that would apply to each BCC and some were specific to certain BCC’s. Bill 3-16 would amend County law to implement the general changes affecting each BCC recommended by the CERB.

The CERB presented its report to the Council on January 31, 2014. The Council’s Government Operations and Fiscal Policy Committee held a worksession to discuss the CERB report and recommendations on March 17, 2014.

The Changes in the Bill

1. Change current law to set a universal date by which annual reports are due.

The Bill sets a November 30 date for an annual report if no other date is established in law as recommended by CERB. See lines 61-70 at ©4.

2. Amend §2-142, Montgomery County Code, to include definitions of the various appointed bodies using the Maryland Municipal League definitions.

The Maryland Municipal League (MML) definitions for a board, commission, committee, and task force are set forth in the CERB Report at p.13. Code §2-142(b) currently defines a committee as any “board, committee, commission or similar body established by county law, resolution or executive order, which functions as a part of the county government.” The Code uses the term “committee” to refer to all of them. This was likely done for ease of reference when drafting general provisions applying to all BCC’s. The CERB recommended that each term be given a unique definition and each BCC be classified as either a board, commission, committee, or task force.¹

The Bill inserts these definitions, but also includes a grandfather clause that would not require renaming existing groups. It would be expensive to classify and rename most of the existing groups for little gain. For example, each group may need new printed stationary. In addition, the distinctions between the various classifications are often difficult to apply and subject to interpretation. The authority of a group is established in the law or resolution creating it, not in the name it is given. Since the Bill would include a definition of committee that does not include a board, commission, or task force, the Bill replaces the term “committee” with the generic term “group” when referring to all BCC’s.

3. Amend the Montgomery County Code to require that a CERB be appointed every five years rather than the current ten.

Code §2-146(c)(2) requires the appointment of a new CERB every 10 years. The CERB recommended reducing the time between CERB appointments to 5 years. The Bill makes this change on line 48 at ©3. If this schedule was in place for the most recent CERB, the Council would be considering legislation recommended by the CERB appointed in 2012 only 1 year before a new CERB is appointed. The result may be that CERB recommendations implemented by the Council are given little time to work before they are reviewed by a new CERB.

This packet contains:

Bill 3-16

Legislative Request Report

Circle #

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¹ The CERB did not attempt to classify each of the 87 BCC’s according to the recommended MML definitions.

Bill No. 3-16
Concerning: Administration - Boards,
Committees, and Commissions -
General Amendments
Revised: January 21, 2016 Draft No. 1
Introduced: March 1, 2016
Expires: September 1, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Government Operations and Fiscal Policy Committee

AN ACT to:

- (1) define a board, committee, commission, and task force;
- (2) require an Evaluation and Review Committee to be appointed every 5 years;
- (3) establish a standard due date for annual reports from a board, committee, commission, and task force; and
- (4) generally amend the law governing the appointment and operation of boards, committees, commissions, and task forces that operate as part of the County government.

By amending

Montgomery County Code
Chapter 2, Administration
Sections 2-142, 2-146, and 2-147

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:

1 **Sec. 1. Sections 2-142, 2-146, and 2-147 are amended as follows:**

2 **2-142. Definitions.**

3 [(a)] The following terms wherever used or referred to in this article shall have
4 the following meanings:

5 *Board* means a semi-autonomous body established by federal, state or
6 county law. A board is a formal committee with structure, duties and
7 powers established by law. A board usually performs a quasi-judicial
8 function, licensing, or regulation.

9 *Commission* means a body established by local law to study and
10 recommend action to the Executive or the Council. A commission is a
11 formal, standing committee with structure, duties and powers established
12 by law. A commission often has an administrative or functional
13 responsibility, such as reviewing land use plans or studying the supply of
14 low and moderate priced housing.

15 [(b)] *Committee* [: Any board, committee, commission or similar body
16 established by county law, resolution or executive order, which functions
17 as a part of the county government] means a body appointed with a
18 specific task or function. A committee makes recommendations and
19 forwards them for appropriate action. A committee is advisory in nature
20 and can be either a formal (standing) committee established by law or
21 resolution, or an informal (ad hoc) committee. A committee may oversee
22 and advise in service areas, such as housing and transportation, or it may
23 advise the Executive or Council on specific issues and recommend policy
24 direction..

25 [(c)] *Compensation* [: Payment] means payment for services rendered as a
26 committee member; it shall not include reimbursement for actual
27 expenses incurred as a committee member.

Group means any board, committee, commission, task force, or any similar body established by federal, state, or county law, resolution or executive order, which functions as a part of the County government.

Task Force means a body appointed to study or work on a particular subject or problem. A task force ceases to exist upon completion of its charge.

2-146. Terms of boards, committees, commissions, and task forces.

- (a) The law, resolution, or executive order establishing or continuing any board, committee, commission, or task force should specify the term of the [committee's] group's existence. If no term is specified, then the board, committee, commission, or task force continues until terminated. The County Executive should monitor the expiration date of those boards, committees, commissions, and task forces that the County Executive appoints. The County Council should monitor the expiration date of those boards, committees, commissions, and task forces that the County Council appoints.
- (b) Any new board, committee, commission, or task force should have from 5 to 15 voting members.
- (c) *[Committee] Evaluation and Review Board Committee.*
- (1) The County Executive must appoint and convene at least every [10] 5 years, subject to confirmation by the Council, a citizens review committee comprised of at least 11 members.
- (2) The Committee must review the [committee] group system and each then-existing board, committee, commission, and task force and report to the Executive and Council its recommendations for changes in individual boards, committees, commissions, and task forces and the [committee] group system as a whole. The

55 Committee must submit an interim report to the Executive and
56 Council within 6 months of appointment and submit a final report
57 within 12 months of appointment.

58 (3) The County Executive must designate the review committee's
59 chair and vice-chair.

60 **2-147. [Committee] Group reports; by-laws.**

61 (a) The law or resolution establishing a board, committee, commission, or
62 task force [should] may specify the dates when reports are due from the
63 [committee] group and the subjects to be included in the reports. If the
64 law or resolution is silent on the dates when reports are due, the board,
65 committee, commission, or task force must submit an annual report on
66 November 30 of each year [Each committee must submit a written report,
67 at least annually,] to the Executive and Council containing a description
68 of the [committee's] group's functions, activities, accomplishments, plans
69 and objectives, including recommendations for changes in [committee]
70 group functions.

71 (b) The Chief Administrative Officer may prescribe a format to be followed
72 by [committees] groups in their annual report.

73 (c) The Chief Administrative Officer may adopt binding guidelines,
74 consistent with law, for the organizational structure and internal
75 procedures of [committees] groups in the Executive branch of County
76 government.

77 (d) When any [committee] group in the Executive branch adopts by-laws or
78 any other form of internal procedures, the Chief Administrative Officer
79 must send a copy to the Council.

80 **Sec. 2. Transition.**

LEGISLATIVE REQUEST REPORT

Bill 3-16

Administration – Boards, Committees, and Commissions – General Amendments

DESCRIPTION: Bill 3-16 would define a board, committee, commission, and task force, require an Evaluation and Review Committee to be appointed every 5 years, and establish a standard due date for annual reports from a board, committee, commission, and task force.

PROBLEM: The Executive appointed, subject to Council confirmation, a citizen committee (CERB) to study the 87 boards, committees, commissions, and task forces that support County government in 2012. The CERB issued a final report in 2014. This Bill would implement some of the recommendations from the CERB report.

GOALS AND OBJECTIVES: Improve the operation of the 87 BCC's.

COORDINATION: County Executive, Chief Administrative Officer

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: Not applicable.