

MEMORANDUM

February 7, 2014

TO: Transportation, Infrastructure, Energy and Environment Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 12-14, Personnel – Telecommuting - Amendments

Bill 12-14, Personnel – Telecommuting - Amendments, sponsored by Councilmembers Berliner, Floreen, Riemer, Council Vice President Leventhal, and Councilmembers Elrich, Andrews, and Navarro, was introduced on January 28, 2014. A Transportation, Infrastructure, Energy and Environment Committee worksession is tentatively scheduled for February 26, 2014 at 9:30 a.m.

Bill 12-14 would require the County Executive to adopt a regulation to identify the circumstances under which a County employee may telecommute and establish procedures that a County employee must follow to obtain permission to telecommute. Councilmember Berliner explained the purpose of this Bill in his January 14 memorandum describing his proposed energy/environmental measures. See ©20 of Bill 2-14, Agenda Item 13.

Background

Bill 29-07, enacted in 2008, created a Sustainability Working Group and charged this 26 member group with developing, among other things, a Telecommuting Action Plan. However, the Working Group did not develop a Telecommuting Action Plan before the terms of each member of the Working Group expired in 2011. No new members were appointed to the Working Group. Bill 12-14 would move this responsibility from the defunct Working Group to the Executive by requiring the Executive to adopt a telecommuting policy by Method 1 regulation.

Telecommuting is a working condition that is subject to collective bargaining with the union representing general County employees, MCGEO. It is unlikely that the fire and rescue employees represented by the IAFF and the police officers represented by the FOP would be eligible for telecommuting. The current MCGEO Agreement includes the following provision:

Article 56 – Teleworking and Alternative Work Schedules

The parties agree to work together to identify and offer opportunities for teleworking and Alternative Work Schedules for bargaining unit employees. Teleworking and Alternative Work Schedules shall be referred to the County-

Wide LMRC for the purpose of establishing a county-wide policy, no later than December 31, 2012, containing but not limited to the following:

- (a) Availability*
- (b) Job selection criteria*
- (c) Implementation procedures*
- (d) Employee accountability while teleworking*
- (e) Training of managers*

The LMRC has not yet developed a policy for MCGEO employees on telecommuting. Although the goal of the Bill is to establish standards and procedures for telecommuting applicable to all County employees, the applicability of this personnel regulation to employees represented by MCGEO would remain subject to bargaining with the union. Although the Council has the legislative authority to amend the collective bargaining laws to mandate that this personnel policy on telecommuting must apply to employees represented by a union, the Bill would not do so. After the Executive develops a personnel regulation on telecommuting, MCGEO would be able to agree to adopt it in their collective bargaining agreement or negotiate changes for their members.

This packet contains:

Bill 12-14

Legislative Request Report

Circle #

1

5

Bill No. 12-14
Concerning: Personnel – Telecommuting
- Amendments
Revised: October 29, 2013 Draft No. 1
Introduced: January 28, 2014
Expires: July 28, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Floreen, and Riemer, Council Vice President Leventhal, and
Councilmembers Elrich, Andrews, and Navarro

AN ACT to:

- (1) require the County Executive to adopt a regulation to identify the circumstances under which a County employee may telecommute;
- (2) require the Executive to adopt a regulation to establish procedures that a County employee must follow to obtain permission to telecommute; and
- (3) generally amend the law governing the County personnel regulations.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Article II, Merit System
Section 33-24

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. Section 33-24 is amended as follows:**

2 **33-24. Telecommuting.**

3 (a) *Definitions.* In this Section, the following words have the meanings
4 indicated:

5 “*Director*” means the Director of the Department of Human Resources
6 or the Director’s designee.

7 [“*Sustainability Working Group*” means the Group defined in Section
8 18A-13.]

9 “*Telecommute*” means a work arrangement in which some or all of the
10 work is performed at an alternative work site, such as a home or office
11 space near a home.

12 (b) *Telecommuting [Action Plan].* The [Sustainability Working Group]
13 Executive must [prepare] adopt, by method 1 regulation, a
14 [Telecommuting Action Plan that sets out a] policy to permit eligible
15 employees to telecommute and a plan for increasing the number of
16 County employees who telecommute.

17 (c) *Contents.* The [Telecommuting Action Plan] telecommuting regulation
18 must:

19 (1) [set numerical goals for the number of County employees who
20 telecommute] require the Director to designate an employee to
21 serve as the County telecommuting manager. The County
22 telecommunicating manager must:

23 (A) advise each County department and office on
24 telecommuting matters;

25 (B) serve as a resource for managers and employees on
26 telecommuting;

- 27 (C) develop, after consulting the County Attorney, a standard
 28 written telecommuting agreement between a
 29 telecommuting employee and the employee's manager;
 30 (D) assist managers in determining the eligibility of an
 31 employee to telecommute; and
 32 (E) be the primary point of contact between the Office of
 33 Human Resources and each County department or office
 34 on telecommuting issues;
- 35 (2) identify the circumstances under which a County employee may
 36 telecommute; [and]
- 37 (3) identify procedures that a County employee must follow to obtain
 38 permission to telecommute;
- 39 (4) require the execution of a written telecommuting agreement
 40 between an employee and the employee's manager outlining each
 41 party's expectations and responsibilities; and
- 42 (5) identify the required telecommuting training for a telecommuting
 43 employee and a County manager.
- 44 (d) Training. The Director, after consulting the Chief Information Officer,
 45 must establish an appropriate training course for a telecommuting
 46 employee and a County manager.
- 47 (e) Annual report. The [Sustainability Working Group] Chief
 48 Administrative Officer must report to the County Executive and County
 49 Council by January 15 of each year on;
- 50 (1) the actions taken in the preceding fiscal year to implement the
 51 [Telecommuting Action Plan] telecommuting regulation;
- 52 (2) the number of employees telecommuting in each department or
 53 office during the preceding fiscal year;

LEGISLATIVE REQUEST REPORT

Bill 12-14

Personnel – Telecommuting - Amendments

DESCRIPTION: This Bill would require the County Executive to adopt a personnel regulation to identify the circumstances under which a County employee may telecommute and establish procedures that a County employee must follow to obtain permission to telecommute.

PROBLEM: The County does not currently have a personnel regulation governing telecommuting by County employees.

GOALS AND OBJECTIVES: The goal is to set standards for telecommuting and encourage managers and employees to use this option in appropriate circumstances.

COORDINATION: Human Resources, County Attorney

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, 240-777-7895

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: None