

Introduction

MEMORANDUM

May 2, 2014

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *amihill*

SUBJECT: **Introduction:** Bill 28-14, Cable Communications – Community Media Organizations

Bill 28-14, Cable Communications – Community Media Organizations, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on May 6, 2014. A public hearing will be scheduled at a later date.

Bill 28-14 would expand the scope of the County's community media contracting authority and generally amend County law concerning cable communications. The Executive's transmittal memorandum explains that the revisions would allow the County to contract with community media organizations to provide content, training, and distribution of community-created content over multiple media platforms. Additionally, Code amendments are recommended to implement revisions consistent with by-law changes of the County's current vendor (Montgomery Community Media) that the Council and Executive responded favorably to.

This packet contains:	<u>Circle #</u>
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Bill No. 28-14
Concerning: Cable Communications –
Community Media Organizations
Revised: 4/16/14 Draft No. 2
Introduced: May 6, 2014
Expires: November 6, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) expand the scope of the County's community media contracting authority; and
- (2) generally amend County law concerning cable communications.

By amending

Montgomery County Code
Chapter 8A, Cable Communications
Sections 8A-3 and 8A-32

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:

Sec. 1. Sections 8A-3 and 8A-32 are amended as follows:

8A-3. Definitions

* * *

Community [access] media organization means a nonprofit corporation that provides services to:

- (1) support the production of local programming or the operation of local access channels, or both;
- (2) serve viewers as well as program producers; and
- (3) promote high quality productions, responsible and diverse points of view, and balance in subject matters.

* * *

8A-32. Community [access] media organizations.

(a) The County may contract with one or more community [access] media organizations using funds from the Cable TV Special Revenue Fund or any other funds the County designates for community [access] media in the approved County budget and under the County cable communications plan. Unless prohibited or otherwise limited under its contract with the County, the cable communications plan, or any executive regulation, a community [access] media organization may also receive revenues from other sources.

(b) The purpose of a community media organization is to provide community media training, equipment, facilities, centers, and community media engagement platforms to enable residents, businesses and community organizations to engage with, connect to, and inform other residents, businesses, community organizations, governments and agencies by using community media. Supporting community engagement, communication, and education through community media

28 and use of community media engagement platforms builds better
 29 understanding among a diverse population, increases opportunities for
 30 participation in and awareness of local culture and government, and
 31 promotes quality of life and economic development.

32 [(b)] (c) The County may require a community [access] media organization to
 33 perform one or more of the following functions as specified in the
 34 contract between the County and the community [access] media
 35 organization:

- 36 (1) manage the community media engagement platforms, including
 37 public access channels assigned to it by the County and
 38 community media websites, and social media, and manage
 39 community media centers, facilities and equipment;
- 40 (2) establish policies and procedures for the [form, content, and
 41 scheduling of public access channels] use of any community
 42 media engagement platform and any community media center,
 43 facility, or equipment;
- 44 (3) train members of the community in the production of [cable
 45 programs] community media and use of any community media
 46 engagement platform;
- 47 (4) maintain [facilities and] any community media engagement
 48 platform and community media center, facility, or equipment for
 49 community use, including use by the general public, any
 50 community organization, and the business community;
- 51 (5) provide technical [access channel] community media engagement
 52 platform and community media center, facility and equipment
 53 assistance and support to the County, any participating

[municipalities] municipality, and any educational [institutions] institution;

(6) promote the use and benefits of [the public, educational and government access channels] community media and any community media engagement platform;

(7) produce and [transmit] distribute local community media, including community news, [and other] programs and other media content; and

(8) undertake any other [cable] community media-related activity specified by the County as being in the public interest.

[(c)] (d) A community access organization must:

(1) determine independently in the public interest and without government interference the content and scheduling of programming for [the public access channels assigned to it] any community media engagement platform;

(2) develop and implement policies to ensure fair, non-partisan and unbiased coverage of issues on [the public access channels assigned to it] any community media engagement platform and may not promote the candidacy of any candidate for public office by extending opportunities for use not extended to other candidates for the same office;

(3) [Any officer, director, and executive director of a community media organization must file a confidential financial disclosure statement in accordance with Chapter 19A with respect to all communications-related activities and interests] develop and implement policies and programs that promote organizational sustainability and viability;

81 [(4) have on its board of directors one voting member selected by
82 each of the following:

83 (A) the Montgomery County Chapter of the Maryland
84 Municipal League;

85 (B) the City of Rockville

86 (C) the City of Takoma Park; and

87 (D) each franchise except for limited franchisees;]

88 [(5) develop and implement fair and reasonable procedures to allow
89 members of the community access organization to nominate and
90 elect 8 residents of the County to serve on its board of directors.

91 Member means any individual who resides in the County and, at
92 least 15 days before the deadline for voting for directors;

93 (A) is certified by the organization to use the organization's
94 equipment or facilities; or

95 (B) request the organization's program guide;]

96 [(6)](4) promote and encourage [programming] creation of community
97 media content representing a diversity of community interests
98 and needs; and

99 [(7)](5) make a good faith effort to meet the affirmative action and
100 minority, female, and disabled procurement goals that apply to
101 County government.

102 (e) Any officer, director, or executive director of a community media
103 organization must file a confidential financial disclosure
104 statement under Chapter 19A with respect to any
105 communications-related activity or interest.

106 [(d)] (f) A community [access] media organization must provide a copy of its
107 current articles of incorporation and bylaws to the County Executive

and the County Council before the organization contracts with the County. Any proposed amendments must be submitted to the County Executive and County Council for review and comment at least 60 days before the organization takes final action on the amendment. The organization must submit a copy of all adopted amendments to the Executive and the Council within 5 working days of adoption. The organization's articles of incorporation and bylaws are subject to all County laws, including those enacted after the County contracts with the organization.

[(e)] (g) A community media organization must provide the County with regular and complete financial reports as well as all other reports required under its contract with the County. In addition, it must provide the County with an annual independent audit, including a copy of any accompanying management letter.

Approved:

Craig Rice, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 28-14

Cable Communications - Community Media Organizations

DESCRIPTION: Amends Chapter 8A, Section 32 of the County Code to reflect changes in media technology and organizational sustainability needs by: expanding the scope of County's existing authority to contract for community media services distributed over cable television systems to enable the County to explicitly contract with a community media organization that will provide services and training for community media distributed over multiple media platforms; and by enabling the contracted community media organization to elect board members who will help ensure the sustainability and viability of the community media organization.

PROBLEM: This portion of the County Code is significantly outdated.

When this County Code section was last amended in 1996, cable television was the primary means by which residents created and distributed media content and the Internet was nascent concept. Thus the County Code primarily references access cable television. Today, media content is still being created for cable television, but is also streamed via the Internet. Video can be shared on websites and via mobile devices. In addition, social media - such as Facebook, Twitter, LinkedIn and Pinterest - provide other media platforms to share community information. The County Code needs to be updated to expand the scope of the County's contract authority to directly include community media training, creation and distribution over the many media platforms now used by the public.

Moreover, while the County will continue to support community media, a community media organization also needs to be able to generate other means of financial support and to provide outreach to the other members of the community who are not current users of the community media facilities. The community media contract funding is provided solely by the County with the municipalities funding separate cable television centers. However, the current County Code requires the community media organization's board to be comprised of three residents from municipalities, one representative selected by each cable franchisee, and eight residents of the County. While the current County Code permits the community media organization to raise additional funds, the stated requirements for selecting board members do not necessarily advance the organization's ability to recruit board members who will facilitate organizational sustainability. To address this, the currently contracted community media organization has updated its by-laws to promote election of board members that will advance organizational sustainability and submitted such changes for County Executive and County Council review as required by the County Code. However, unless updated, the older County Code board membership requirements in Section 8A-32 will continue to constrain a community media organization's ability to elect a board that advances organizational sustainability and viability.

GOALS AND OBJECTIVES:

The first objective of the County Code amendment is to expand the scope of the County's contracting authority to explicitly enable the County to contract with an organization that will distribute community-created media over multiple media platforms and offer a robust variety of media training opportunities for residents, local non-profit organizations and small businesses.

The second objective is to enable the contracted community media organization to become more vibrant and relevant by electing board members who will assist the community media organization in supplementing County financial support with other means of financial sustainability. The revised County Code specifically requires the community media organization "to develop and implement policies and programs that promote organizational sustainability and viability," and removes references to a specific number of board members, allocation by residency, or recommendation by cable franchisee.

The revised County Code retains the provisions that the organization submit by-law changes to the County Executive and County Council for review, have board members and the executive director submit financial disclosure statements to the County, and continue to promote diverse programming and procurement compliance.

COORDINATION: Department of Technology Services

FISCAL IMPACT: The Department of Technology Services estimates that no additional work years are required to implement this bill and that there would be no fiscal impact from the proposed changes to the County Code. The County Code enables the County to contract for community media services but does not obligate the County to fund community media. Community media contract appropriations are made annually as part of the County Executive's proposed and County Council approved annual budget.

ECONOMIC IMPACT: Revision of the County Code will enable the County to contract for services which enable the community, non-profits and small businesses to enhance their use of media to better communicate ideas with the public, potential customers, decision-makers and elected officials.

EVALUATION:

EXPERIENCE ELSEWHERE: N/A

SOURCE OF INFORMATION: Mitsuko R. Herrera, Department of Technology Services, 240-777-2928

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

March 24, 2014

TO: Craig Rice, President
County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Legislative Request – Revision of Chapter 8A, Section 32, Community Media Organizations

I am requesting that the County Council enact legislation to revise Chapter 8A, Section 32 of the Montgomery County Code, to expand the scope of the County's current community media services contracting authority.

The attached proposed revision of County Code Section 8A-32 seeks to expand the scope of the County's current contracting authority to explicitly authorize the County to contract with community media organization(s) to provide content, training, and distribution of community-created content over multiple media platforms (*i.e.*, in addition to cable television, Internet video and social media as well). The attached legislative request to revise the County Code further specifies that the community media organization must develop and implement policies and programs that promote organizational sustainability and viability. The County Code, however, does not require the County to fund community media. Appropriation of community media funding is addressed as part of the annual budget.

In addition, the attached legislative request to revise County Code Section 8A-32 no longer specifies an allocation of board members by geography or recommendation from the cable franchisees. The organization's by-laws govern the board election process. The revised County Code retains the provisions that amendments to the organization's by-laws be submitted to the County Executive and County Council for review and comment, that board members submit financial disclosure statements to the County, and that the organization continue to promote diverse programming and procurement compliance. The County's current community media vendor has submitted revised by-laws for review and both the County Executive and County Council have responded favorably (see attached response letters). To complete revision of the proposed by-laws, the County Code needs to be amended as discussed above.

The current County Code Section 8A-32 authorizes the County to contract with one or more community access organizations to manage public access cable television channels and provide training to the public. A portion of cable television franchise and public, educational, and government access fees are allocated to support this contract. This section of

Craig Rice, President, County Council
March 24, 2014
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the County Code was last updated in 1996, when cable television was the primary means of distributing community-created media and prior to the widespread use of the Internet and social media to distribute community media. Thus, the current County Code primarily references contracting for cable television-related services. In addition, there was less need in 1996 for the community access organization to find other sources of financial support to supplement funding provided by the County under the contract. The current County Code permits the community media organization to raise revenues from other sources but does not place any specific emphasis on doing so. Lastly, the current County Code requires that the community media organization's board members be comprised of three residents from municipalities, one representative selected by each cable franchisee (Comcast, RCN and Verizon), and eight residents of the County. The municipalities provide no funding to support the community access contract, but rather, provide that the municipalities fund their own cable television stations. Under federal law, the cable franchisees are prohibited from controlling the content of community media television channels.

I respectfully request that this proposed legislation be submitted to the County Council. If you have any additional questions, please contact Mitsuko Herrera, 240-777-2928.

cc: Timothy Firestine, Chief Administrative Officer
Bonnie Kirkland, Assistant Chief Administrative Officer
Ramona Bell-Pearson, Assistant Chief Administrative Officer
Harash (Sonny) Segal, Director, Department of Technology Services
Ivan Galic, Acting Cable and Broadband Administrator, DTS
Mitsuko Herrera, Policy, Planning and Special Projects, DTS

Attachments: By-Law Comments Letter from Isiah Leggett, County Executive to Nancy Poole,
Chair, Board of Directors, Montgomery Community Television
By-Law Comments Letter from Nancy Navarro, President, County Council, to
Nancy Poole, Chair, Board of Directors, Montgomery Community Television
Legislative Request Report
Economic Impact Statement
Fiscal Impact Statement
Draft Bill to Revise Montgomery County Code Section 8A-32
Montgomery County Code Section 8A-32, As Would be Revised
Current Montgomery County Code Section 8A-32

**Economic Impact Statement
Expedited Bill xx-14, Community Media Organizations**

Background:

This legislation would amend Chapter 8A, Section 32 of the County Code to reflect changes in media technology and organizational sustainability needs that would:

- Expand the scope of the County's existing authority to contract for community media services distributed over cable television
- Enable the County to contract with a community media organization (CMO) that will provide services and training, and
- Enable the contracted CMO to elect board members who will help ensure sustainability and viability of the CMO.

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

Department of Technology Services (DTS)

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

DTS assumes that there is no fiscal impact from the proposed changes to the County Code. The proposed changes to the County Code will also have no economic impact on County employment, spending, saving, investment, incomes, and property values.

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

Because the expedited bill amends the County Code to reflect changes in media technology and organizational sustainability, it will have no economic impact.

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

Please see paragraph 3.

5. The following contributed to and concurred with this analysis: David Platt and Rob Hagedoorn, Finance; and Mitsuko Herrera, Department of Technology Services.



Joseph F. Beach, Director
Department of Finance

2/25/14
Date

Fiscal Impact Statement
Council Bill XX-14, Community Media Organization

1. Legislative Summary:

This legislation would amend Chapter 8A, Section 32 of the Montgomery County Code to reflect changes in media technology and organizational sustainability needs that would:

- *Expand the scope of the County's existing authority to contract for community media services distributed over cable television;*
- *Enable the County to contract with a community media organization that will provide services and training; and*
- *Enable the contracted community media organization to elect board members who will help ensure sustainability and viability of the community media organization.*

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.

The bill does not change County revenues or expenditures. It amends the scope of the County's current authority to contract for community media services. Changes in revenues and expenditures for community services are addressed as part of the annual budget process.

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

Revenue and expenditures for community media are currently allocated to and from the Cable TV Special Revenue Fund. The Cable Communications Plan directs the use of the revenues in this Fund. Revenue from Franchise Fees and PEG Operating and Equipment Grants are used to fund the current Community Media expenditures as well as other similar media organization expenditures. From the FY15 Preliminary Cable Plan:

<i>FY</i>	<i>Franchise Fee (Revenue)</i>	<i>PEG Operating and Equipment Grant (Revenue)</i>	<i>Community Access Programming (Expenditures)</i>
<i>2014</i>	<i>\$16,719,000</i>	<i>\$2,239,000</i>	<i>\$2,369,000</i>
<i>2015</i>	<i>\$17,091,000</i>	<i>\$2,293,000</i>	<i>\$2,472,000</i>
<i>2016</i>	<i>\$17,238,000</i>	<i>\$4,138,000</i>	<i>\$2,578,000</i>
<i>2017</i>	<i>\$17,437,000</i>	<i>\$4,138,000</i>	<i>\$2,690,000</i>
<i>2018</i>	<i>\$17,709,000</i>	<i>\$4,179,000</i>	<i>\$2,810,000</i>
<i>2019</i>	<i>\$17,990,000</i>	<i>\$4,221,000</i>	<i>\$2,938,000</i>

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

The bill has no impact on retiree pension or group insurance costs. The bill affects County contracting authority and does not alter County staffing levels.

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

The bill expands the scope of the County's current community media contracting authority. It does not authorize future spending nor create future spending obligations. Decisions regarding future spending for community media are addressed through the County budgeting process.

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

Routine staff time associated with County Executive and County Council review of a proposed bill, and administrative staff time to update the County Code if enacted.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

The bill expands the scope of the County's current community media contracting authority. Impact on staff responsibilities to address the revised scope of media services is de minimus and part of the normal course of revising RFPs as contracts are renewed.

8. An estimate of costs when an additional appropriation is needed.

No additional appropriation is needed.

9. A description of any variable that could affect revenue and cost estimates.

Cable franchise revenues and changes in restrictions for use of those funds could affect the amount of revenue available to support community media. County Executive and County Council interest in expanding or reducing the level of expenditures for community media could affect revenue and cost estimates.

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

The bill expands the scope of the County's current community media contracting authority. It does not affect revenues or expenditures. Decisions regarding expenditures for community media are addressed through the budgeting process.

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

The bill expands the scope of the County's current community media contracting authority. It does not affect revenues or expenditures. Decisions regarding expenditures for community media are addressed through the budgeting process.

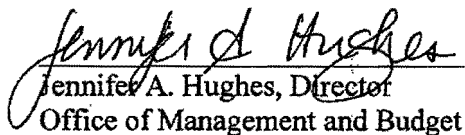
12. Other fiscal impacts or comments.

None.

13. The following contributed to and concurred with this analysis: (Enter name and department).

Mitsuko Herrera, Department of Technology Services.

Dennis Hetman, Office of Management & Budget


Jennifer A. Hughes, Director
Office of Management and Budget

3/7/14
Date

January 15, 2013

The Honorable Nancy Navarro
President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Dear Ms. Navarro:

As Montgomery County's community media center, Montgomery Community Television, Inc., doing business as Montgomery Community Media (MCM), has made great strides recently in improving its level of service to our county. We are extremely proud that the Alliance for Community Media named MCM the best Public, Education and Government access organization in the U.S. for 2012. While this achievement is a great honor, we must always strive for continuous improvement.

To that end, on November 7, 2012 the MCM Board of Directors voted to revise its current bylaws making the most significant changes to MCM's governing structure since the organization was created in 1985. The goals of the new bylaws are to:

- Make MCM a more self-sustainable nonprofit organization by focusing the Board's efforts on strategic planning and fundraising to assist MCM management in diversifying its revenue streams beyond the County Cable Communications Plan.
- Decrease the large size of the Board from the current maximum of 26 members to 15 members and establish term limits. Twelve members who possess relevant skill sets to assist management in strategic planning and revenue development will be selected from among our diverse community. Three members will be MCM access users elected by MCM access users who pay an annual fee to use MCM's equipment and facilities. All Board members will be limited to serving two consecutive 3-year terms.
- Secure funding to provide for additional Digital/Media Literacy programs to increase residents' and local nonprofit organizations' understanding of the rapidly expanding New Media and Social Media communications platforms.

montgomery
CHANNEL 19

access.19

7548 Standish Place • Rockville, MD 20855 • Phone 301.424.1730 Fax 301.294.7476

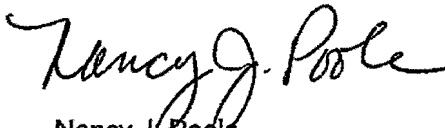
Services of Montgomery Community Television, Inc.



According to County Code, Section 8A-32, Community Access Organizations, "Any proposed amendments [to the bylaws] must be submitted to the County Executive and County Council for review and comment...before the organization takes final action on the amendment." While the Code offers a period of 60 days for your comments on our proposed bylaws, it would be most helpful to receive your advice sooner. In addition to the proposed MCM Bylaws, I have also enclosed for your reference the current MCM Bylaws, the current County Code Section 8A-32, and the proposed County Code, Section 8A-32.

We hope that you and the entire County Council will join in our excitement about the positive changes these new bylaws will bring as MCM moves toward becoming a more self-supporting, sustainable, and impactful nonprofit organization serving all of Montgomery County.

Sincerely,

A handwritten signature in cursive script that reads "Nancy J. Poole".

Nancy J. Poole
President, Board of Directors

Enclosures:

Current Montgomery Community Television Bylaws
Proposed Montgomery Community Media Bylaws
Current County Code, Section 8A-32, Community Access Organizations
Proposed County Code, Section 8A-32, Community Access Organizations

cc:

Councilmember Valerie Ervin
Councilmember Hans Riemer



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

February 14, 2013

Ms. Nancy Poole, President
Board of Directors
Montgomery Community Television
7548 Standish Place
Rockville, Maryland 20855

Dear Ms. Poole:

Thank you for sharing with me the new bylaws for Montgomery Community Television, Inc., and for giving me the opportunity to provide feedback on this thoughtful document.

While I continue to support Montgomery Community Television's funding through the Cable Communications Plan, I applaud your efforts to move the organization into a more sustainable position as a nonprofit that can effectively serve the diverse communities of Montgomery County.

Although change is never easy, the MCT Board of Directors has demonstrated courage in taking this important step forward. The bylaw changes will enable MCT to better meet the demands that face nonprofit organizations today.

Thank you for your efforts, and for finding new ways to enrich the quality of life for all who live and work in Montgomery County.

Sincerely,

Isiah Leggett
County Executive



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

OFFICE OF THE COUNCIL PRESIDENT

February 26, 2013

Ms. Nancy Poole, President
Board of Directors
Montgomery Community Television
7548 Standish Place
Rockville, MD 20855

Dear Ms. Poole,

Thank you for providing a copy of the proposed new bylaws for Montgomery Community Media. The Council is encouraged about the direction MCM is taking, especially your efforts on new media and social media platforms. These activities are already expanding community engagement, and will be a great resource for the Council as we move forward with our Open Data and broader Digital Government initiatives.

We are also grateful to the Board of Directors for your efforts to enhance sustainability for MCM. By reconstituting your governing structure and broadening its base of support, you are adding diverse skill sets to your organization as you grow new revenues and services to the community. We have no particular comments on the bylaws, and look forward to receiving the final adopted version for our files.

We know these are challenging times, and we applaud your efforts in facing these challenges head-on as you strive to meet the communications needs of Montgomery County residents.

Sincerely,

Nancy Navarro
Council President