

MEMORANDUM

October 14, 2011

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *AMHill*

SUBJECT: **Public Hearing:** Bill 29-11, Boards, Committees, and Commissions – Sunset, Consolidation and Resolution to sunset or repeal certain boards, committees, and commissions.

Bill 29-11, Boards, Committees, and Commissions – Sunset, Consolidation and Resolution to sunset or repeal certain boards, committees, and commissions, sponsored by Councilmember Leventhal, was introduced on September 27, 2011. A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for October 24 at 10:30 a.m.

Together, Bill 29-11 and the Resolution would:

- require the Committee Evaluation Review Board to issue an interim report within 6 months and a final report within 12 months of appointment;
- sunset certain advisory boards, committees, and commissions on December 1, 2012;
- terminate the recreation advisory boards and alter the membership of the County Recreation Board to include 1 representative from each regional services center citizen advisory board and require the County Recreation Board to collaborate with the citizens advisory boards on recreation issues;
- terminate the Cable Compliance Commission and authorize the Board of Appeals to adjudicate customer cable service complaints;
- terminate the Dickerson Area Facilities Implementation Group, increase the size of the Solid Waste Advisory Committee by 3 and require 3 members to be from the Dickerson community and require SWAC to advise the Executive and Council on the execution of the policies and strategies in the Facilities Master Plan for the Solid Waste Operations in the Dickerson Area; and
- terminate the Silver Spring TMD Advisory Committee and require the Silver Spring Urban Advisory Committee to advise on programs, management, and finances related to the transportation system and demand management in the Silver Spring Transportation Management District.

This packet contains:

Bill 29-11
Legislative Request Report
Resolution

Circle

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Bill No. 29-11
Concerning: Boards, Committees, and
Commissions – Sunset, consolidation
Revised: 9/16/2011 Draft No. 1
Introduced: September 27, 2011
Expires: March 27, 2013
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Leventhal

AN ACT to:

- (1) establish a deadline for the Committee Evaluation and Review Board to issue its report to the Executive and Council;
- (2) authorize the Board of Appeals to adjudicate customer cable service complaints;
- (3) alter the membership and duties of the County Recreation Board;
- (4) terminate the Cable Compliance Commission and the recreation advisory boards;
- (5) alter the membership and duties of the Solid Waste Advisory Committee;
- (6) require the Silver Spring Urban Advisory Committee to advise on programs, management, and finances related to the transportation system and demand management in the Silver Spring Transportation Management District;
- (7) sunset certain boards, committees, and commissions; and
- (8) generally amend County law regarding the membership, structure, and functions of boards, committees, and commissions.

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-112 and 2-146

Chapter 41, Recreation and Recreation Facilities
Sections 41-21 through 41-30

Chapter 48, Solid Wastes
Sections 48-38 and 48-39

Chapter 68A, Montgomery County Urban Districts
Section 68A-5

By repealing

Chapter 8A, Cable Communications
Sections 8A-31

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. Section 2-146 is amended as follows:

2-146. Terms of committees.

* * *

(c) Committee Evaluation and Review Board.

(1) The County Executive must appoint and convene at least every 10 years, subject to confirmation by the Council, a citizens review committee comprised of [no fewer than] at least 11 members.

(2) [This committee] The Committee must 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 Committee must submit an interim report to the Executive and Council within 6 months of appointment and submit a final report within 12 months of appointment.

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

Sec. 2. Section 2-112 and Section 8A-31 are amended as follows:

2-112. Jurisdiction.

* * *

(f) (1) The Board must adjudicate subscriber complaints involving customer cable service and other consumer protection claims that arise under Chapter 8A, any regulation adopted or franchise agreement approved under Chapter 8A, or Section 11-4A.

(2) The Board may:

(A) Require a franchisee to provide a refund to a complainant.

(B) Appoint a qualified person to mediate a case if the complainant and respondent agree to binding or non-binding mediation. A consent order resulting from mediation and approved by the Commission is an order of the Commission. If the mediator or the Commission finds that the parties are not likely to agree to a mediated consent order within a reasonable time, the Commission must decide the case.

(C) Order a franchisee to pay damages of up to \$1,000 to a person injured or aggrieved by the franchisee's actions. This limit applies separately to each violation.

(3) The Cable Communications Administrator must provide staff support to the Board for any complaint filed under paragraph (f).

8A-31. [Cable Compliance Commission] Reserved.

[(a) *Established.* The Cable Compliance Commission is established to adjudicate subscriber complaints involving customer cable service and other consumer protection claims that arise under this Chapter, any regulation adopted or franchise agreement approved under this Chapter, or Section 11-4A.]

[(b) *Membership.* The Commission is comprised of 5 voting members appointed by the County Executive and confirmed by the County

Council. Each appointee must be appointed to a 3-year term. The Commission should include:

- (1) a cable television service subscriber;
- (2) a broadband Internet service subscriber;
- (3) an individual with general business experience; and
- (4) an individual with technical experience in communications.]

[(c) *Officers.* The Commissioners annually must elect a chair and vice chair of the Commission. An individual must not serve more than 2 consecutive terms as chair.]

[(d) *Reserved.*]

[(e) *Ethics.* Each member of the Commission is subject to Chapter 19A, except that the member must file a limited public financial disclosure statement regarding any communication-related activities and interests and a full confidential financial disclosure statement.]

[(f) *Authority.* The Commission may:

- (1) Require a franchisee to provide a refund to a complainant.
- (2) Appoint a qualified person to mediate a case if the complainant and respondent agree to binding or non-binding mediation. A consent order resulting from mediation and approved by the Commission is an order of the Commission. If the mediator or the Commission finds that the parties are not likely to agree to a mediated consent order within a reasonable time, the Commission must decide the case.
- (3) Order a franchisee to pay damages of up to \$1,000 to a person injured or aggrieved by the franchisee's actions. This limit applies separately to each violation.]

[(g) *Hearing Procedures.*

(1) The Administrative Procedures Act (Article II of Chapter 2A) applies to a complaint filed with the Commission and governs the Commission's hearings and decisions, unless otherwise expressly provided in this Chapter. The Commission may issue procedural rules under method (2) to implement this subsection.

(2) Before filing a complaint with the Commission, a complainant must file the complaint with the county cable administrator. If the cable administrator is unable to resolve the complaint to the complainant's satisfaction within 30 days, the complainant may file the complaint with the Commission.

(3) If the Commission decides to conduct a public hearing on the complaint, the Commission must notify the complainant, the franchisee, the county cable administrator or the County's Chief Information Officer (CIO), and any other person that Commission rules require to be notified. Except as provided in Section 2A-9, the notice must be sent at least 15 days before the hearing. The Commission may hold a hearing at the request of any party to the complaint (which may include the cable administrator or CIO) or on the Commission's own initiative, or may decide a complaint without a hearing.]

[(h) *Legal representation.* The County Attorney must provide legal advice and representation to the Commission and must enforce any Commission order. The County Attorney may represent the interests of the County in any proceeding before the Commission, consistent with policies established by the Council.]

[(i) *Conflicting subscriber agreement.* Any provision in a subscriber agreement, whether written or oral, that conflicts with this Chapter, a

franchise agreement, or any regulation or other legal requirement is unenforceable. An unenforceable provision does not affect other provisions of the subscriber agreement that can be given effect without the unenforceable provision. "Subscriber agreement" includes any agreement that the franchisee requires a subscriber to agree to as a condition of receiving cable service or any other products and services.]

[(j) *Fee.* The Executive may issue regulations under method (3) setting a reasonable fee for filing a complaint with the Commission. The filer must pay the fee to the County when filing a complaint. The Commission, cable administrator, or CIO may waive the filing fee upon request if the fee would be a financial hardship for the complainant. If the parties agree to a consent order after mediation, the Commission may refund the filing fee. The Commission may order the losing party to pay another party's filing fees or other reasonable expenses related to the hearing, including attorney's fees, in addition to ordering payment of damages.]

[(k) *Staff and other support.* The Chief Administrative Officer must provide the services and County facilities that are reasonably necessary for the Commission to perform its duties.]

Sec. 3. Sections 41-21 through 41-30 are amended as follows:

41-21. Recreation board.

(a) There is a County Recreation Board. Each member is appointed by the County Executive and confirmed by the County Council for a 3-year term beginning on July 1. A member serves until a successor is appointed and confirmed.

(b) The voting members of the Board are:

- (1) 1 representative from each [recreation area advisory board]
Regional Service Center's Citizens Advisory Board; and
 - (2) 15 members appointed from the County at-large to represent a
cross-section of the population of the County.
- (c) The ex officio, nonvoting members of the Board are:
- (1) a representative of the Department of Parks of the Maryland-
National Capital Park and Planning Commission;
 - (2) an administrative representative of the Board of Education;
 - (3) the immediate past Chair of the County Recreation Board, unless
that person serves on the Board in another capacity;
 - (4) a representative of the Office of Community Use of Public
Facilities;
 - (5) a representative of the Community Action Board;
 - (6) a representative of the Commission on Aging; and
 - (7) a representative of the Commission on People with Disabilities.

41-22. Same-Duties and responsibilities.

The County Recreation Advisory Board must:

* * *

- (h) [Coordinate the activities of the recreation area advisory boards]
collaborate with the various Regional Service Center Citizens Advisory
Boards on area recreation issues.

[41-25. Recreation area advisory boards-Created.]

[In each recreation area created pursuant to this article, there shall be one (1)
recreation area advisory board which shall serve as the representative body for such
area on recreation matters.]

[41-26. Same-Purpose; goals and opportunities.]

[The recreation area advisory boards shall encourage the development of desirable recreational and park opportunities in the designated recreation areas of the county, so that all the people may live enriched lives, find greater enjoyment and happiness, have better mental health, greater physical vitality and deeper moral strength. To accomplish this purpose, each board shall be concerned with the following recreational goals and opportunities:]

- [(a) Opportunities that reflect the interests and needs of recreation area residents.]
- [(b) Opportunities within the financial ability of all the people.]
- [(c) Equality of opportunity for all people, regardless of race, origin, religion, age or sex.]
- [(d) Year-round opportunity for all ages and both sexes.]
- [(e) A wide range and diversity of individual choices (e.g., camping, dance, drama, athletics, fine arts, performing arts, games, music, social recreation, crafts and special events).]
- [(f) A balanced emphasis within the range of individual choices.]
- [(g) Opportunities for varying degrees of skill.]
- [(h) Opportunities for the individual, the family and groups.]
- [(i) Opportunities for progressive advancement.]
- [(j) Opportunities for creative expression.]
- [(k) Active and passive opportunities.]
- [(l) Opportunities that utilize other community resources.]
- [(m) Relating opportunities to other community agencies.]
- [(n) Opportunities for residents to participate in recreational planning.]
- [(o) Assistance to individuals and groups seeking their own opportunities.]
- [(p) Indoor and outdoor recreation opportunities centrally located and easily accessible.]

186 [(q) Advice on the acquisition of open space to satisfy recreational pursuits,
187 prevent overcrowding, make the district a more attractive place to live,
188 conserve wooded areas and stream valleys, preserve historical,
189 geological and horticultural features, and preserve areas of natural
190 beauty.]

191 [(r) Recreation grounds and facilities based upon user interests and needs
192 and population ratio.]

193 **[41-27. Membership.]**

194 [(a) Each recreation area advisory board consists of 9 members and 2
195 alternates, each of whom resides in the designated recreation area. Each
196 member is appointed by the county executive, subject to confirmation
197 by the county council. Individual appointments to a board must reflect a
198 wide diversity of recreational interests. The Executive must consider
199 geographical representation from different neighborhood centers in the
200 recreation area. In order to maintain continuity on each recreation area
201 advisory board, the Executive must appoint 3 members of each board
202 annually and appoint the 2 alternates every 3 years. Each member serves
203 3 years or until a successor is confirmed. A regular board member must
204 not serve more than 2 consecutive full terms, but any member may be
205 reappointed after a lapse of one year. A vacancy occurring before a term
206 expires is filled for the remainder of the unexpired term of the
207 predecessor. Appointments to unexpired terms are not a full term.]

208 [(b) When the Executive appoints an alternate member of a recreation area
209 advisory board, the Executive must designate whether the appointee
210 would serve as the primary or secondary alternate. Alternate members
211 may participate in board discussions but must not vote unless acting for
212 an absent board member. When a board member resigns, the first

213 alternate becomes a full member for the remainder of the former
 214 member's term and the second alternate becomes the first alternate.]

215 [(c) A municipality with an active recreation program in a designated
 216 County recreation area may designate one or more representatives to
 217 serve as non-voting, ex officio members of the recreation area advisory
 218 board for that area.]

219 [(d) The members of each board serve without compensation. The
 220 department of recreation must designate a department employee to
 221 advise each board, and the director of the department must ask the
 222 Maryland-National Capital Park and Planning Commission to have a
 223 staff member present at meetings of each board.]

224 **[41-28. Same-Chairperson and vice-chairperson.]**

225 [The chairperson and vice-chairperson shall be elected by each recreation area
 226 advisory board from among its members. The term of the chairperson and vice-
 227 chairperson shall be one (1) year, and each shall be eligible for reelection for an
 228 additional one-year term. No chairperson or vice-chairperson shall serve
 229 consecutively for more than two (2) years.]

230 **[41-29. Meetings; quorum.]**

231 [Each recreation area advisory board meets in public session on call by the
 232 chairman as frequently as necessary to perform its duties, but not less than 10 times
 233 annually. Reasonable notice must be given for all meetings of the board. A majority
 234 of the members of the board is a quorum for the transaction of business, and a
 235 majority vote of those present at any meeting is required for any action taken by the
 236 board.]

237 **[41-30. Duties.]**

238 [Each board must advise the county recreation board, the county executive, the
 239 county council, the director of the county department of recreation, and the

Montgomery County Planning Board about the appropriate number and nature of recreation programs, neighborhood and community parks, and facilities for leisure activities and the well-being of county residents. A board also may:]

- [(a) Study and appraise the existing and future recreation needs of its recreation area in terms of program, facilities and services, and suggest plans to meet those needs.]
- [(b) Provide general comments on annual budget requests for recreation and parks, programs and facilities.]
- [(c) Support high standards in recreation leadership and in quality of program service.]
- [(d) Encourage cooperation with other related agencies and assist in correlating community forces for the development of recreation and parks.]
- [(e) Render advice on the design and layout of recreation grounds and facilities.]
- [(f) Advise the county council on legislative and budgetary matters regarding recreation.]
- [(g) Inform the Regional Citizens Advisory Board about matters related to recreation and parks, and collaborate with the Regional Board on planning, conservation, environment, and other issues that affect park and recreation facilities and services.]

41-25 – 41-30. Reserved.

Sec. 4. Section 48-38 is amended as follows:

48-38. Established; composition; terms.

- (a) *Creation:* The County Executive must appoint a Solid Waste Advisory Committee, subject to confirmation by the County Council.
- (b) *Composition:*

(1) The Committee has [15] 18 voting members.

(2) The Committee has one ex officio nonvoting member representing the Maryland-National Capital Park and Planning Commission.

(c) *Appointment:*

(1) The County Executive should appoint members so that the Committee membership reflects:

(A) broad geographic areas of the [county] County;

(B) the solid waste industry;

(C) business users;

(D) [a] 1 representative of the County Chapter of the Maryland Municipal League; [and]

(E) 3 residents from the Dickerson community; and

(F) the general public.

* * *

48-39. Duties.

The [committee shall be advisory to the county council and the county executive on all matters relating to solid waste management within the county. In particular, the committee shall] Committee must:

(a) advise the County Council and County Executive on all matters relating to solid waste management in the County;

(b) [Review] review and offer recommendations on the ten-year solid waste management plans for the [county.] County;

[(b)] (c) [Investigate] investigate and make recommendations on systematic programs and alternative methods, both public and private, for the storage, collection, transportation, processing, disposal and resource recovery of solid wastes, including sludge[.];

294 [(c)] (d) [Evaluate] evaluate the impact of the solid waste management
 295 program on citizens, institutions, business, and industry throughout the
 296 [county.] County;

297 [(d)] (e) [Recommend] recommend methods to assure public involvement in
 298 solid waste planning, and develop educational programs to inform the
 299 public on all aspects of solid waste management[.];

300 [(e)] (f) [Recommend local] recommend County and state legislation
 301 necessary to accomplish effective solid waste management[.];

302 [(f)] (g) [Review] review and comment on the annual [county] County budget
 303 for solid waste activities.

304 [(g)] (h) advise the Executive and Council on the execution of the policies and
 305 strategies in the Facilities Master Plan for the Solid Waste Operations in
 306 the Dickerson Area; and

307 (i) [Submit] to the [county executive] Executive and [county council]
 308 Council, and make available to the general public, an annual report of
 309 the activities of the [committee] Committee.

310 * * *

311 **Sec. 5. Section 68A-5 is amended as follows:**

312 **68A-5. Advisory committees.**

313 * * *

314 (c) *Duties.*

315 (1) An urban district advisory committee may advise the County
 316 government on all aspects of the program, management, and
 317 finances of the urban district.

318 (2) An urban district advisory committee should:

319 [a.] (A) by July 15 each year, advise the department on the
 320 program and budget of the urban district;

[b.] (B) by September 15 each year, review the urban district budget and submit comments to the department; and
[c.] (C) by October 1 each year, meet with the head of the department to resolve areas of disagreement regarding the budget.

(3) The Silver Spring Urban District Advisory Committee may advise the Transportation Management Organization, any employer, any party with whom the County contracts under Resolution No. 14-1511, or any subsequent resolution, and Section 42A-23(b), and the County government on all aspects of programs, management, and finances relating to the transportation system and demand management in the Silver Spring Transportation Management District and its vicinity, including:

- (A) propose guidelines for traffic mitigation plans;
- (B) monitor the implementation of the traffic mitigation plans;
- (C) evaluate progress in attaining the commuting goals specified in the Annual Growth Policy;
- (D) recommend government, private, or joint actions to facilitate attainment of the commuting goals specified in the Annual Growth Policy;
- (E) advise the Director of Transportation on parking policies;
- (F) review traffic patterns and control measures in the Silver Spring TMD and vicinity, including neighborhood parking and pedestrian access and safety; and
- (G) submit comments and recommendations on the Director's report required under Section 42A-27.

* * *

Sec. 6. Sunset of Certain Committees.

The following board, committee, or commission will sunset on December 1, 2012:

- Advisory Committee on Consumer Protection
- Agricultural Advisory Committee
- Cable and Communications Advisory Committee
- Commission for Women
- Commission on Aging
- Commission on Child Care
- Commission on Children and Youth
- Commission on Health
- Commission on Juvenile Justice
- Commission on People with Disabilities
- Commission on Veterans Affairs
- Committee Evaluation and Review Board
- Committee for Ethnic Affairs
- Committee on Hate/Violence
- County Recreation Advisory Board
- Criminal Justice Coordinating Commission
- Department of Permitting Services Advisory Committee
- Domestic Violence Coordinating Council
- Down County Recreation Advisory Board
- East County Recreation Advisory Board
- Energy and Air Quality Advisory Committee
- Fire and Emergency Services Commission
- Forest Conservation Advisory Committee

- 375 Library Board
- 376 Mental Health Advisory Committee
- 377 Mid-County Recreation Advisory Board
- 378 Montgomery Cares Program Advisory Board
- 379 Noise Control Advisory Board
- 380 Pedestrian and Traffic Safety Advisory Committee
- 381 Rustic Roads Advisory Committee
- 382 Silver Spring Urban District Advisory Committee
- 383 Solid Waste Advisory Committee
- 384 Sustainability Working Group
- 385 Taxicab Services Advisory Committee
- 386 Upcounty Recreation Advisory Board
- 387 Victim Services Advisory Board
- 388 Water Quality Advisory Group
- 389 Wheaton Urban District Advisory Committee

390 *Approved:*

391

Valerie Ervin, President, County Council

Date

392 *Approved:*

393

Isiah Leggett, County Executive

Date

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

395

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 29-11,
Boards, Committees, and Commissions – Sunset, consolidation

DESCRIPTION:	Bill 29-11 would establish a deadline for the Committee Evaluation and Review Board (CERB) to issue its report to the Executive and Council; authorize the Board of Appeals to adjudicate customer cable service complaints; alter the membership and duties of the County Recreation Board; terminate the Cable Compliance Commission and the recreation advisory boards; alter the membership and duties of the Solid Waste Advisory Committee; require the Silver Spring Urban Advisory Committee to advise on programs, management, and finances related to the transportation system and demand management in the Silver Spring Transportation Management District; sunset certain boards, committees, and commissions; and generally amend County law regarding the membership, structure, and functions of boards, committees, and commissions.
PROBLEM:	The CERB, in their report on the County's system of boards, committees and commissions, recommended many changes to specific boards, committees and commissions. The Council received information that the County spent an approximate \$1.4 million on personnel and operating costs to support the County's boards, committees, and commissions.
GOALS AND OBJECTIVES:	To consolidate certain boards, committees, and commissions and reduce expenditures associated with providing staff support to those boards, committees, and commissions.
COORDINATION:	Executive and Legislative branch staff.
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Amanda Mihill, Legislative Attorney (240) 777-7815
APPLICATION WITHIN MUNICIPALITIES:	Applies only to County boards, committees, and commissions.
PENALTIES:	N/A

Resolution No: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY MARYLAND

By: Councilmember Leventhal

Subject: Resolution to sunset or repeal certain boards, committees, and commissions.

Background

1. The Council adopted Resolution No. 14-1511 on November 26, 2002 which authorized the County Executive to establish a Silver Spring Transportation System Management Advisory Committee.
2. The Council adopted Resolution No. 13-1498 on December 1, 1998 establishing the Facilities Implementation Group. The Council adopted Resolution No. 15-1165 on October 11, 2005 which changed the name of the Facilities Implementation Group to the Dickerson Area Facilities Implementation Group.
3. Bill 29-11 would require the Solid Waste Advisory Committee to perform the functions of the Dickerson Area Facilities Implementation Group.

Action

The County Council for Montgomery County Maryland approves the following resolution:

1. The following board, committee, or commission will sunset on December 1, 2012:
Airpark Liaison Committee
East County Citizens Advisory Board
Friendship Heights TMD Advisory Committee
Mid-County Citizens Advisory Board
Silver Spring Citizens Advisory Board
Silver Spring Transportation Management District Advisory Committee
Technology Investment Fund Loan/Grant Committee
Upcounty Citizens Advisory Board
Western Montgomery County Citizens Advisory Board
2. Resolution No. is amended by deleting paragraphs 4, 5, and 6 and deleting references to the Silver Spring Transportation Management District Advisory Committee in paragraph 7.

3. Resolution No. 13-1498 establishing the Facilities Implementation Group is repealed.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

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