COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Leventhal

AN ACT to:

(1) merge the Cable and Communications Advisory Committee and the Cable Compliance Commission;
(2) change the duties of the Solid Waste Advisory Committee;
(3) require the Silver Spring Citizens Advisory Committee to serve as the Silver Spring Urban District Advisory Committee; and
(4) generally amend County law regarding the membership, structure, and functions of boards, committees, and commissions.

By amending
Montgomery County Code
Chapter 8A, Cable Communications
Sections 8A-3, 8A-30, and 8A-31

Chapter 48, Solid Wastes
Sections 48-38, 48-39, and 48-41

Chapter 49, Streets and Roads
Sections 49-77 and 49-80

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

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Sections 8A-3, 8A-30, and 8A-31 are amended as follows:


* * *

[Commission means the Cable Compliance Commission.] Committee means the Committee on Cable and Telecommunications.

* * *

8A-30. [Cable and Communications Advisory Committee] Reserved.

[(a) Established. The Cable and Communications Advisory Committee may provide advice and recommendations to the County Executive, County Council, and the Department of Technology Services on all telecommunications issues, including the administration of this Chapter and any franchise agreement or application.]

[(b) The Advisory Committee should meet quarterly or more frequently if requested by the County Executive or County Council or if the Chair or Committee finds it necessary.]

[(c) The Advisory Committee must have 15 voting members appointed by the Executive and confirmed by the Council for 3-year terms. The members should broadly represent technology areas.]

[(d) The membership must include one representative selected by the Montgomery County Chapter of the Maryland Municipal League; one representative selected by the City of Rockville; and one representative selected by the City of Takoma Park. The members annually must elect the chairperson and vice chairperson of the Committee. A person must not serve more than 2 consecutive terms as chairperson.]

[(e) Members are subject to Chapter 19A, except that financial disclosure statements are confidential and limited to communications-related activities and interests.]
8A-31. Committee on Cable and Telecommunications [Compliance Commission].

(a) Established. The County Executive must appoint, subject to confirmation by the Council, a Committee on Cable [Compliance Commission] and Telecommunications [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] Committee is comprised of [5] 17 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[.];
(5) 1 representative nominated by the County Chapter of the Maryland Municipal League;
(6) 1 representative nominated by the City of Rockville; and
(7) 1 representative nominated by the City of Takoma Park.

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

(d) [Reserved]. Meetings. The Committee meets at the call of the chair as often as required to perform its duties, but at least quarterly. A majority of the voting members are a quorum for the transaction of business, and
a majority of the voting members present at any meeting may take any official action.

(e) *Ethics.* Each member of the [Commission] Committee 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] Committee must:

(1) advise and make recommendations to the County Executive, County Council, and the Department of Technology Services on all telecommunications issues, including the administration of this Chapter and any franchise agreement or application; and

(2) 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, and in so doing:

[(1)] (A) [Require] require a franchisee to provide a refund to a complainant.

[(2)] (B) [Appoint] 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] Committee is an order of the [Commission] Committee. If the mediator or the [Commission] Committee finds that the parties are not likely to agree to a mediated consent order within a reasonable time, the [Commission] Committee must decide the case.
[(3)] (C) [Order] 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] Committee and governs the [Commission’s] Committee’s hearings and decisions, unless otherwise expressly provided in this Chapter. The [Commission] Committee may issue procedural rules under method (2) to implement this subsection.

(2) Before filing a complaint with the [Commission] Committee, a complainant must file the complaint with the county [cable administrator] Cable Administrator. If the [cable administrator] 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] Committee.

(3) If the [Commission] Committee decides to conduct a public hearing on the complaint, the [Commission] Committee must notify the complainant, the franchisee, the county cable administrator or the County’s Chief Information Officer (CIO), and any other person that [Commission] Committee 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] Committee 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] Committee’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] Committee and must enforce any [Commission] Committee order. The County Attorney may represent the interests of the County in any proceeding before the [Commission] Committee, 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] Committee. The filer must pay the fee to the County when filing a complaint. The [Commission] Committee, [cable administrator] Cable Administrator, or CIO may waive the filing fee upon request if the fee would [be] create a financial hardship for the complainant. If the parties agree to a consent order after mediation, the [Commission] Committee may refund the filing fee. The [Commission] Committee 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] Committee to perform its duties.

**Sec. 2. Sections 48-38, 48-39, and 48-41 are 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 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:

   - broad geographic areas of the [county] County;
   - the solid waste industry;
   - business users;
   - a representative of the County Chapter of the Maryland Municipal League; and
   - the general public.

2. The Executive must request from the Council, and the Council may submit, a list of nominees to be considered for appointment by the Executive.

(d) **Term:** The term of members of the Committee is 3 years. A member serves until a successor has been appointed and qualified.

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;

[(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;

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

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

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

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

[(g)] (h) advise the County on the execution of the policies and strategies in the Facilities Master Plan for the Solid Waste Operations in the Dickerson Area; and
(i) [Submit] to the [county executive] Executive and [county council] Council, and make available to the general public, an annual report of the activities of the [committee] Committee.

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48-41. Administrative and staff support.

The [chief administrative officer shall make available to] Chief Administrative Officer must provide the [committee] Committee administrative and staff services and facilities necessary to assist the [committee] Committee in its work.

Sec. 2. Section 68A-5 is amended as follows:

68A-5. Advisory committees.

(a) Composition. Each urban district must have an advisory committee, or an urban district corporation board of directors, whose members are appointed by the County Executive and confirmed by the County Council.

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(3) The Silver Spring Citizens Advisory Committee must serve as the Silver Spring Urban District Advisory Committee [has 11 members. The County Executive must strive to appoint the members so that:

(A) two members are persons nominated by the Greater Silver Spring Chamber of Commerce;

(B) three members represent optional method developers;

(C) three members represent a business that employs fewer than 25 employees;

(D) two members represent a residential community in the urban district; and
(E) one member represents a residential community in or outside of the urban district and is a member of the Silver Spring Citizens Advisory Board.]

Sec. 3. Transition. In appointing the initial members of the Committee on Cable and Telecommunications established in County Code §8A-31, inserted by Section 1 of this Act, the Executive may continue the term of any member who currently serves on the Cable and Communications Advisory Committee or the Cable Compliance Commission, but must not continue more than 17 members. The Executive may stagger the initial terms of appointed members so that approximately one-third of the terms expire each year.

Approved:

Philip M. Andrews, 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