

Bill No. 21-09
Concerning: Boards, Commissions, and
Commissions – Amendments
Revised: 4/16/2009 Draft No. 1
Introduced: April 21, 2009
Expires: October 21, 2010
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

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

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 8A-3, 8A-30, and 8A-31 are amended as follows:**

2 **8A-3. Definitions.**

3 * * *

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

6 * * *

7 **8A-30. [Cable and Communications Advisory Committee] Reserved.**

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

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

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

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

25 [(e) Members are subject to Chapter 19A, except that financial disclosure
26 statements are confidential and limited to communications-related
27 activities and interests.]

28 **8A-31. Committee on Cable and Telecommunications [Compliance**
 29 **Commission].**

30 (a) *Established.* The County Executive must appoint, subject to
 31 confirmation by the Council, a Committee on Cable [Compliance
 32 Commission] and Telecommunications [is established to adjudicate
 33 subscriber complaints involving customer cable service and other
 34 consumer protection claims that arise under this Chapter, any regulation
 35 adopted or franchise agreement approved under this Chapter, or Section
 36 11-4A].

37 (b) *Membership.* The [Commission] Committee is comprised of [5] 17
 38 voting members [appointed by the County Executive and confirmed by
 39 the County Council. Each appointee must be appointed to a 3-year
 40 term]. The Commission should include:

- 41 (1) a cable television service subscriber;
- 42 (2) a broadband Internet service subscriber;
- 43 (3) an individual with general business experience; [and]
- 44 (4) an individual with technical experience in communications[.];
- 45 (5) 1 representative nominated by the County Chapter of the
 46 Maryland Municipal League;
- 47 (6) 1 representative nominated by the City of Rockville; and
- 48 (7) 1 representative nominated by the City of Takoma Park.

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

52 (d) [Reserved]. *Meetings.* The Committee meets at the call of the chair as
 53 often as required to perform its duties, but at least quarterly. A majority
 54 of the voting members are a quorum for the transaction of business, and

55 a majority of the voting members present at any meeting may take any
56 official action.

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

61 (f) *Authority.* The [Commission may] Committee must:

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

66 (2) adjudicate subscriber complaints involving customer cable
67 service and other consumer protection claims that arise under this
68 Chapter, any regulation adopted or franchise agreement approved
69 under this Chapter, or Section 11-4A, and in so doing:

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

72 [(2)] (B) [Appoint] appoint a qualified person to mediate a case if
73 the complainant and respondent agree to binding or non-
74 binding mediation. A consent order resulting from
75 mediation and approved by the [Commission] Committee
76 is an order of the [Commission] Committee. If the
77 mediator or the [Commission] Committee finds that the
78 parties are not likely to agree to a mediated consent order
79 within a reasonable time, the [Commission] Committee
80 must decide the case.

81 [(3)] (C) [Order] order a franchisee to pay damages of up to
82 \$1,000 to a person injured or aggrieved by the franchisee's
83 actions. This limit applies separately to each violation.

84 (g) *Hearing Procedures.*

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

91 (2) Before filing a complaint with the [Commission] Committee, a
92 complainant must file the complaint with the county [cable
93 administrator] Cable Administrator. If the [cable administrator]
94 Cable Administrator is unable to resolve the complaint to the
95 complainant's satisfaction within 30 days, the complainant may
96 file the complaint with the [Commission] Committee.

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

- 108 (h) *Legal representation.* The County Attorney must provide legal advice
109 and representation to the [Commission] Committee and must enforce
110 any [Commission] Committee order. The County Attorney may
111 represent the interests of the County in any proceeding before the
112 [Commission] Committee, consistent with policies established by the
113 Council.
- 114 (i) *Conflicting subscriber agreement.* Any provision in a subscriber
115 agreement, whether written or oral, that conflicts with this Chapter, a
116 franchise agreement, or any regulation or other legal requirement is
117 unenforceable. An unenforceable provision does not affect other
118 provisions of the subscriber agreement that can be given effect without
119 the unenforceable provision. “Subscriber agreement” includes any
120 agreement that the franchisee requires a subscriber to agree to as a
121 condition of receiving cable service or any other products and services.
- 122 (j) *Fee.* The Executive may issue regulations under method (3) setting a
123 reasonable fee for filing a complaint with the [Commission] Committee.
124 The filer must pay the fee to the County when filing a complaint. The
125 [Commission] Committee, [cable administrator] Cable Administrator,
126 or CIO may waive the filing fee upon request if the fee would [be]
127 create a financial hardship for the complainant. If the parties agree to a
128 consent order after mediation, the [Commission] Committee may refund
129 the filing fee. The [Commission] Committee may order the losing party
130 to pay another party’s filing fees or other reasonable expenses related to
131 the hearing, including attorney’s fees, in addition to ordering payment
132 of damages.

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

136 **Sec. 2. Sections 48-38, 48-39, and 48-41 are amended as follows:**

137 **48-38. Established; composition; terms.**

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

140 (b) *Composition:*

141 (1) The Committee has 15 voting members.

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

145 (c) *Appointment:*

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

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

149 (B) the solid waste industry;

150 (C) business users;

151 (D) a representative of the County Chapter of the Maryland
 152 Municipal League; and

153 (E) the general public.

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

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

159 **48-39. Duties.**

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

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

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

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

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

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

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

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

181 [(g)] (h) advise the County on the execution of the policies and strategies in the
 182 Facilities Master Plan for the Solid Waste Operations in the Dickerson
 183 Area; and

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

187 * * *

188 **48-41. Administrative and staff support.**

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

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

194 **68A-5. Advisory committees.**

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

199 * * *

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

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

206 (B) three members represent optional method developers;

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

209 (D) two members represent a residential community in the
210 urban district; and

211 (E) one member represents a residential community in or
212 outside of the urban district and is a member of the Silver
213 Spring Citizens Advisory Board.]

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

221 *Approved:*

222

Philip M. Andrews, President, County Council Date

223 *Approved:*

224

Isiah Leggett, County Executive Date

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

226

Linda M. Lauer, Clerk of the Council Date