

MEMORANDUM

TO: County Council

FROM: *MW* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 37-10, Ethics – Ethics Commission - Staff

Expedited Bill 37-10, Ethics – Ethics Commission - Staff, sponsored by the Management and Fiscal Policy Committee, is scheduled to be introduced on June 15, 2010. A public hearing is tentatively scheduled for July 13.

Bill 37-10 would:

- authorize the Ethics Commission, rather than the Chief Administrative Officer, to appoint and remove the Commission’s staff director/chief counsel, who would replace the current Commission Executive Director;
- require the staff director/chief counsel to be a lawyer licensed to practice in Maryland, and authorize the staff director/chief counsel to advise and represent the Commission independent of the County Attorney;
- clarify the working relationship between the Commission and the County Attorney;
- authorize the staff director/chief counsel to appoint, supervise, and remove other Commission staff; and
- exempt Commission staff from membership in a collective bargaining unit.

This packet contains:

Bill 37-10

Legislative Request Report

Circle

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Expedited Bill No. 37-10
Concerning: Ethics – Ethics Commission
– Staff
Revised: 6/11/10 Draft No. 4
Introduced: June 15, 2010
Expires: December 15, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Management and Fiscal Policy Committee

AN EXPEDITED ACT to:

- (1) revise the process to appoint and remove staff for the Ethics Commission;
- (2) require the Commission staff director to be an attorney;
- (3) modify how the Commission may receive legal advice and services;
- (4) exempt staff of the Commission from any collective bargaining unit; and
- (5) generally amend County law related to the Ethics Commission.

By amending

Montgomery County Code
Chapter 19A, Ethics
Section 19A-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:

28 County Attorney may employ special legal counsel to the
 29 Commission under Section 213 of the Charter.] The County
 30 Attorney must provide an attorney to prosecute a case before the
 31 Commission under Section 19A-10 unless the Commission
 32 assigns or retains a different attorney or other staff member to
 33 perform that function. An individual attorney in the office of the
 34 County Attorney who is assigned to provide general legal advice
 35 to the Commission must not be an investigator under Section
 36 19A-9 or prosecute a case before the Commission under Section
 37 19A-10 for one year after the attorney's Ethics Commission
 38 assignment ends.

39 * * *

40 **Sec. 2. Section 33-102 is amended as follows:**

41 **33-102. Definitions.**

42 The following terms have the meaning indicated when used in this [article]
 43 Article:

44 * * *

45 (4) *Employee* means any person who works for the County
 46 government, except:

47 * * *

48 (G) an employee who works for:

- 49 (i) the Office of the County Executive;
- 50 (ii) the Office of the Chief Administrative Officer;
- 51 (iii) the County Council;
- 52 (iv) the Office of the County Attorney;
- 53 (v) the Office of Management and Budget;
- 54 (vi) the Office of Intergovernmental Relations;

- 55 (vii) the Office of Human Resources; [or]
- 56 (viii) the Merit System Protection Board; or
- 57 (ix) the Ethics Commission;

* * *

Sec. 3. Expedited Effective Date; Transition.

60 The Council declares that this legislation is necessary for the immediate
61 protection of the public interest. This Act takes effect on the date when it becomes
62 law. The position of Executive Director of the Ethics Commission is abolished by
63 operation of law on the date that the Commission appoints a staff director/chief
64 counsel, as authorized by County Code Section 19A-5(f), as amended by Section 1 of
65 this Act.

66 *Approved:*

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Nancy Floreen, President, County Council	Date
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70 *Approved:*

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Isiah Leggett, County Executive	Date
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74 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council	Date
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LEGISLATIVE REQUEST REPORT

Expedited Bill 37-10

Ethics – Ethics Commission – Staff

DESCRIPTION: Would revise the process to appoint and remove staff for the Ethics Commission; require the Commission staff director to be an attorney; modify how the Commission may be provided legal advice and services; and exempt staff of the Commission from any collective bargaining unit.

PROBLEM: Recent proposed budget actions arguably could have undermined the effectiveness and independence of the Ethics Commission and its staff.

GOALS AND OBJECTIVES: To enhance the independence of the Ethics Commission and its staff from other elements of County government by authorizing the Commission to select its staff director, who could also function as the Commission's in-house attorney.

COORDINATION: Ethics Commission, County Attorney, Office of Human Resources

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: Minimal.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Michael Faden, Senior Legislative Attorney, 240-777-7905

APPLICATION WITHIN MUNICIPALITIES: Applies only to County Ethics Commission.

PENALTIES: Not applicable