

## **Local and Bi-County Legislation – 2017 Session 11-30-16**

### **LOCAL**

#### **MC 1-17, Montgomery County – Property Tax Credit – Public Safety Officers (Delegates Luedtke, Hixson, Platt, Moon, Queen, Reznik & Waldstreicher)**

This bill authorizes the County to enact local legislation to create a property tax credit for a dwelling owned by public safety officers. The term “public safety officer” includes firefighters, emergency medical technicians, and law enforcement officers who are employed by the County’s Fire and Rescue Service and Police Department, as well as the Sheriff’s Office. The maximum credit is \$2,500. However, the County may otherwise establish the amount of the credit, the duration of the credit, and any other additional eligibility criteria. The State Department of Assessments and Taxation (SDAT) is responsible for administering the credit but the County must reimburse SDAT for the cost of administering the credit.

Currently, the County employs 2,818 public safety officers (corrections, fire and rescue, police, sheriff); 1,107 employees reside in the County; 78 employees are correctional officers who are not included in the bill’s definition of public safety officer. The Finance Department is uncertain about the potential cost of reimbursing SDAT for administering the credit. The cost of the credit itself would depend on the credit amount established by the County.

County Executive Position: Support with an amendment that would add correctional officers employed by the Department of Corrections and Rehabilitation to the definition of “public safety officers.”

County Council Position: No position pending review of additional information to be provided by IGR.

#### **MC 3-17, Property Tax Credit for Qualified Enterprise Zone Property – Extension (Delegates Queen, Kaiser & Luedtke & Senator Zucker)**

For businesses that lease real property located in the Burtonsville Crossroads Neighborhood Plan area, State law currently authorizes the County to grant a credit against the property tax imposed on: (1) improvements to real property made by the business before January 1, 2020; and (2) personal property owned by the business. This bill extends the “improvements” credit to January 1, 2025. This date is consistent with the current date that applies under a similar State enabling law to businesses located in the Glenmont Area.

In 2013, the County established a credit against improvements made before January 1, 2020 on real property leased by businesses located in the Burtonsville Crossroads Neighborhood Plan area (County Code §52-108). In June 2016, Council enacted legislation to establish a credit against personal property owned by businesses located in this area (Bill 21-16). That local legislation also added language which requires the County to grant a credit against the property

tax imposed on improvements made before January 1, 2020 “or another date” established in State law. As a result, if MC 3-17 is enacted, the extension from January 1, 2020 to January 1, 2025 will take effect immediately without the need for any additional local legislation.

The Finance Department estimates that this bill will not have a significant fiscal impact. The County has not yet issued any credits against property taxes imposed on improvements to real property in the Burtonsville Crossroads Neighborhood Plan area. The Finance Department estimates that the FY17 cost of the credit against the personal property tax on businesses in this area would be approximately \$9,000.

County Executive Position: Support

County Council Position: Support

#### **MC 4-17, Staggered Election Terms for Members of the County Council (Delegate Carr)**

This bill proposes a constitutional amendment to the Maryland Constitution to authorize the County Council to enact legislation to stagger the terms of office of the members of the County Council, with some members elected during a Gubernatorial General Election cycle and some members elected during a Presidential Election cycle. This bill is a local version of a statewide bill that was introduced during the 2016 Session (HB129), which received an unfavorable report in the House Ways and Means Committee.

If this bill moves forward, there is a need for a technical amendment to substitute the phrase “governing body” for the term “County Council”. It is also somewhat unclear as to whether the local legislation referenced in the bill may override an inconsistent provision of the County Charter. Section 105 of the County Charter requires members of the Council to hold office for a term beginning at noon on the first Monday of December next following the regular election for the Council and ending at noon on the first Monday of December in the fourth year thereafter. This 4-year term requirement seems to conflict with the inevitable transition period that would be required to implement a system of staggered terms, which would require that some Councilmembers serve shorter terms (e.g., 2 years) and some Councilmembers serve longer terms (e.g., 6 years) in order to established staggered terms going forward. If the bill moves forward, it would be helpful to clarify whether the bill is intended to allow local legislation to override any inconsistent Charter provision or to first require a Charter amendment

County Executive Position: No position. The County Executive generally supports the concept reflected in his bill, but does not support the kind of transition period that would be required to initiate a system of staggered terms, with some Councilmembers serve shorter terms and some Councilmembers serve longer terms.

County Council Position: Oppose.

**MC 6-17, Montgomery County – Alcoholic Beverages – Limited Distilleries – Class B and D Licenses (Requested by Chair on behalf of Montgomery County Government)**

The County is requesting legislation to create a local license to be issued by the Montgomery County Board of Licensed Commissioners (Board) that will allow Class 9 limited distillery license holders to obtain a Class B-BWL or Class D-BWL license. A Class 9 license is issued by the Comptroller and allows for the establishment and operation of a plant in the State for distilling, rectifying and bottling brandy, rum, whiskey, alcohol, and other spirits. A Class 9 license holder may not distill or sell more than 100,000 gallons of liquor per calendar year. The Class B-BWL and Class D-BWL licenses are local licenses issued by the Board and allow for sale of alcoholic beverages for on premise consumption only.

During the 2016 session, the General Assembly passed a bill (HB 1316) authorizing the Comptroller to issue a Class 9 limited distillery license to a Class B-BWL license holder or a Class D-BWL license holder. The law allows the Class 9 license holder to sell the products they manufacture in a manner consistent with the local Class B or Class D license, for on premise and off premise consumption. The holder of the Class B-BWL or Class D-BWL license may not sell more than 15,500 gallons of product manufactured under the Class 9 limited distillery license in a calendar year.

Under current law, the County cannot issue a Class B-BWL or Class D-BWL license to a Class 9 license holder. Additionally, the County licenses do not allow for off premise sales. DLC is requesting the following: (1) allow Class 9 license holders to obtain the County Class B-BWL or Class D-BWL licenses and (2) allow those Class 9 license holders who obtain a Class B-BWL or Class D-BWL to sell the products they manufacture for both on premise and off premise consumption. These changes will bring distilleries in line with breweries and wineries in the County. It provides distilleries the opportunity to create models similar to a brewpub.

County Executive Position: Support

County Council Position: Support

**MC 7-17, Montgomery County – Beer, Wine, and Liquor Festival License (Requested by Chair on behalf of Montgomery County Government)**

The County is requesting legislation to create an additional festival license that could be issued by the Board. Current law allows for separate beer and wine festival licenses. The local festival licenses are not currently available to distilleries.

DLC has two objectives: First, create a universal festival license available to breweries, wineries and distilleries. The license would be available to those distilleries that hold a State issued Class 1 distillery license, Class 9 limited distillery license or a non-resident distillery permit.

Second, authorize a distillery that obtains a festival license from the Board to sell only the products they manufacture. The County license holder will be subject to the limitations of the State festival license for both on premise and off premise consumption (quarter ounce tastings for on premise consumption and bottle sale for off premise consumption). This change will give distilleries the opportunities afforded to breweries and wineries in the State.

County Executive Position: Support

County Council Position: Support

**MC 8-17, Montgomery County – Alcoholic Beverages Licenses – Hours of Sale (Requested by Chair on behalf of Montgomery County Government)**

The County is requesting legislation to add Martin Luther King's Day to the list of designated federal holidays that allow Class B-BWL and Class B-BWL (H-M) license holders to extend sales of alcoholic beverages for on premise consumption by one hour for the Sunday preceding the federal holiday. A Class B-BWL license allows for the on premise consumption of beer, wine and liquor at restaurants. The Class B-BWL (H-M) allows for on premise consumption of alcohol at hotels and motels. Current law allows license holders to sell alcoholic beverages from 10:00 a.m. on Sunday to 2:00 a.m. the following day (Monday). This change would allow for sales to continue until 3:00 a.m., bringing Martin Luther King's Day in line with six other federal holidays.

County Executive Position: Support

County Council Position: Support

**MC 9-17, Montgomery County – Alcoholic Beverages – Class H-BW Licenses (Requested by Chair on behalf of Montgomery County Government)**

The County is requesting legislation to allow Class H-BW license to be included in the 10 on premise licenses allowed to be held by one individual. The Class H-BW license allows for on premise consumption of beer and wine. This proposal is similar to legislation passed during the 2016 session that allows an individual to hold a BD-BWL license as one of the 10 on premise licenses.

County Executive Position: Support

County Council Position: Support

**MC 10-17, Montgomery County – Archery Hunting – Safety Zone (Requested by Chair on behalf of Montgomery County Government)**

The current safety zone for archery hunting of deer in Montgomery County is 100 yards from a house, church, or other building, or a camp occupied by human beings. It was reduced to 100 yards from 150 yards in 2014. The 2016 recommendation would be to reduce the safety zone to

50 yards. Calvert, Carroll, Frederick, Harford and St. Mary's Counties have a 50-yard archery hunting safety zone. At least one jurisdiction requires that the hunting be done from a tree stand- the general practice for deer hunting with a bow is done from an elevated position.

County Executive Position: Support

County Council Position: Support

**MC 12-17, Montgomery County – Economic Development – Business Improvement Districts (Delegates Smith, Barkley, Carr, Dumais, Hixson, Kelly, Korman, Luedtke, Queen, Reznik & Waldstreicher & Senator Feldman)**

MC 12-17 reflects a second attempt to make it easier to create Business Improvement Districts (BIDs) in Montgomery County. It separates out Montgomery County from the State statute governing BIDs (Title 12, Subtitle 4 of the Economic Development Article) by creating a new subtitle under Title 12 applying only to Montgomery County. The provisions of the new subtitle track the existing State statute identically with two substantive exceptions.

First, the definition of “nonexempt property” is revised to include all taxable real property, which includes residential, except for: (1) residential condo units that did not exist before the date of establishment of the district; (2) homeowners associations; or (3) residential property with fewer than four units.

Second, the conditions that must be satisfied in order to advance an application to create a BID reflect the two-part test recommended by the County last year, which requires agreement by owners of at least: (1) 51% interest in the assessed value of the nonexempt property located within the proposed district; and (2) 51% of the total number of parcels of nonexempt property located within the proposed district.

Statewide legislation was introduced during the 2016 Session (HB 1407) that would have altered provisions in the law perceived to be preventing the ability to create BIDs. State enabling legislation was enacted in 2010; however, six year later, no BIDS had been established in Maryland.

Under existing law, at least 80% of the owners of the total number of nonresidential taxable parcels located in the proposed district must vote in favor of creating the BID before the BID application can be presented to the local governing body for consideration. HB 1407 would have changed that provision to require approval from the owners of at least 51% interest in the assessed value of all taxable property located in the proposed district, which included residential property.

The County supported HB 1407 with amendments to ensure broader support for the creation of the BID by requiring that in addition to the condition proposed in the bill, a second “test” had to be met - that at least 51% of the owners of the total number of parcels of the property, including residential property, must also agree.

A number of questions and concerns were raised during the public hearing on the bill and it was never reported out of the House Environment and Transportation Committee.

The County Attorney has recommended one technical amendment, to replace a reference to “LEGISLATIVE BODY” in new Section 12-604 with “GOVERNING BODY,” which is the reference used in existing law.

County Executive Position: Support with the Amendment

County Council Position: Support with the Amendment

**MC 14-17 Family Life and Human Sexuality Curriculum – Affirmative Consent (Delegates Kelly & Morales)**

This bill requires the Board of Education to provide instruction on the meaning of “affirmative consent” as a part of the Family Life and Human Sexuality curriculum in grades 7 and 10. “Affirmative consent” is defined to mean clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage within each act with the course of sexual activity. The Board of Education voted unanimously to oppose this bill based on concerns about setting a precedent for curriculum being altered or mandated at a state level.

County Executive Position: No Position

County Council Position: No Position

**MC 15-17, Montgomery County Liquor Authority (Requested by the County Executive)**

The bill creates a Liquor Control Authority (Authority) as a public benefit corporation that provides a formal separation between the Authority and County government. On October 1, 2019, all liquor control functions and all related assets, obligations, powers and duties will transfer from the Department of Liquor Control (DLC) to the Authority. At that time, the DLC will be abolished.

The Authority will retain control of the wholesale distribution of beer, wine and liquor and retail distribution of off-premises liquor. The Board of License Commissioners, which regulates the sale and distribution of alcohol through issuance of licenses, revocations and fines, will remain a separate entity and will not become part of the Authority.

The Authority will be administered by a Board of Directors who must have experience in retail sales, wholesale distribution or management, or a related business. The Board will be appointed by the County Executive with approval by the County Council. The Board will appoint a Chief Executive Officer to manage the Authority’s operations.

The Authority will be exempt from County procurement requirements and the Authority’s operating and capital budgets are not subject to County approval. The Authority will also have the ability to incur debt and issue bonds.

The intent of the bill is to create a new business model for administering Montgomery County's liquor control functions that will enhance operational efficiencies, customer service, product selection, and revenue generating capacity. In light of the fact that the DLC has been transferring an annual net profit of approximately \$35 million to the County each year, it is intended that the County will obtain a fair return on its investment in assets that are transferred to the Authority by receiving an annual payment of net profits from the Authority.

Current DLC employees who are members of a collective bargaining unit will remain County employees and be assigned to the Authority to perform duties under the direction of the Authority. These employees will remain subject to the County's Collective Bargaining Law, applicable collective bargaining agreements and the County merit system. The County Executive will bargain with the collective bargaining representative for compensation, pension, fringe benefits and hours. The Authority will bargain with the collective bargaining representative for all other purposes.

DLC's management and other non-union employees will be transferred to the employ of the Authority unless the employee declines the transfer. Transferred employees will retain current pay, accrued leave and, until the Authority adopts its own policies regarding compensation, benefits and personnel, will retain County benefits and rights under the merit system.

IGR will be requesting the following technical and corrective amendments to reflect the intent of the bill:

- The purpose paragraph of the bill provides that (1) the County Charter does not apply to the Authority except for certain sections; and (2) the County ethics law applies to the Authority. However, these provisions were inadvertently left out of the body of the bill. IGR has requested a corrective amendment to fix this discrepancy.
- The original draft bill included a provision expressly stating that the Authority's operating and capital budgets will not be subject to County approval. This provision was inadvertently dropped during bill drafting and IGR has requested a corrective amendment to add it back into the bill.
- There is an inaccurate reference to the Board of License Commissioners under provisions of the bill relating to the Local Government Tort Claims Act. This provisions should refer to the Authority, rather than the Board of License Commissioners. IGR has requested a technical amendment to make this change.

County Executive Position: Support with amendments referenced above.

County Council Position: Oppose.

**MC 16-17, Montgomery County – Gaming – Bingo Games (Delegates Kramer, Cullison & Morales & Senator Manno)**

MC 16-17 allows individuals 18 years or older to conduct bingo games involving cash prizes in the common areas of residential property restricted to residents who are at least 55 years old (e.g., Leisure World). Restrictions apply, including limiting: (1) the number of games that may be conducted to once a week; (2) the total amount of consideration that may be won by all players to \$1,000 during a 24-hour period; and (3) individual financial benefit to winnings earned as a game participant. In addition, for purposes of conducting these bingo games, the bill prohibits the use of on-line bingo devices, paid public advertising or promotion, and charging an admission fee.

County Executive Position: Support

County Council Position: Support

**MC 17-17, Montgomery County – Alcoholic Beverages – Licenses (Delegate Barkley)**

MC 17-17 authorizes the holder of a Class 7 micro-brewery license to obtain a Class 5 brewery license in Montgomery County. A holder of a State issued Class 7 manufacturing license may brew and bottle malt beverages on location, obtain a Class 2 rectifying license to bottle malt beverages within a one mile of the Class 7 micro-brewery location, contract to brew and bottle malt beverages on behalf of several other types of manufacturing license holders, and store the finished product under an individual storage permit or at a licensed public storage facility for sale and delivery. In Montgomery County, a Class 7 license holder can distribute the product provided they enter into a written agreement with the Department of Liquor Control.

The Class 7 license holder may not brew or bottle more than 22,500 barrels of malt beverage per calendar year. The holder may sell at retail for on premise consumption up to 4,000 barrels of beer brewed per calendar year and may sell at retail refillable containers and pre-packaged beer.

A Class 5 brewery license is a State issued manufacturing license. The holder of a Class 5 license may not brew more than 500 barrels per year for on premise consumption, can sell up to 288 ounces of beer to an individual participating in a guided tour for off premise consumption, and sell and deliver beer to a holder of a wholesaler's license or a person outside the State that is authorized to acquire beer. The Class 5 license holder is not limited in the amount of beer brewed and bottled for off premise consumption.

This bill was put in at the request of a local micro-brewery that is growing at a rapid pace. The owner would like to have an additional location so she can brew and bottle beer for off premise consumption, while allowing the current location to focus on service and on-premise consumption.

The County supports the goals of this bill and is working with the sponsor on changes to the license that are needed to meet these goals.



County Executive Position: Support with Amendments

County Council Position: Support with Amendments

**MC 18-17, Montgomery County – Alcoholic Beverages – Class A Agency Store Beer, Wine, and Liquor Licenses (Delegate Barkley)**

MC 18-17 authorizes the Montgomery County Board of Licensed Commissioners (the Board) to adopt regulations establishing a Class A agency store beer, wine, and liquor license, subject to the approval of the Montgomery County Executive. The Class A agency store license authorizes the license holder to sell liquor for off premise consumption, as an agent for the Department of Liquor Control (DLC), in addition to beer and wine. The new license may be issued by the Board to a holder of Class A beer and wine license if the criteria established by the Board and DLC are met. The Board and DLC together may adopt limitations on the total number of Class A agency store licenses that are issued, as well as distance restrictions on licenses issued within a certain distance of a County owned store. The annual fee for the Class A agency license is \$5,000. Upon termination of the agency relationship between DLC and the license holder, the Class A beer, wine and liquor license shall terminate and the Board must reissue a Class A beer and wine license to the store.

Under current law, the Board is only authorized to issue Class A licenses for the sale of beer and wine. All liquor purchased at retail must be done at one of the County owned retail liquor dispensaries. No liquor can be sold or purchased at privately owned stores licensed by the Board.

While this bill seeks to address the perceived need for additional retail liquor outlets, it does not create an agency relationship between DLC and the store owner. The purpose of the agency store model is to increase access to liquor sold at retail but retain control and oversight through the use of private contractors.

Establishing a license issued through the Board does not create a contractual relationship between DLC and the store owner. It puts the Board, a licensing and regulatory body, in the position of making business decisions for the DLC which would typically be made by the County.

PFM analyzed this model in their November 14, 2016 memorandum to the Liquor Control Group. While there is some variation among agency store jurisdictions as to the type of store they choose to contract with, the governments retain control over the products sold in the stores, the prices, and hours of operation. In addition, most jurisdictions utilize a commission based system to incentivize the contractor to sell more product.

The County supports the agency concept and suggests amendments that give the DLC the discretion it needs to contract with retail outlets. This would provide the County with the flexibility necessary to create an agency model that best suits its needs.

County Executive Position: Support with Amendments

County Council Position: Support with Amendments

**MC 19-19, Montgomery County – Alcoholic Beverages – Tasting at Dispensaries**  
**(Requested by Chair on behalf of Montgomery County Government)**

The County is requesting legislation that would clarify its legal authority to hold on-premise tasting events in its County operated stores. Until recently, the stores had been offering liquor tastings based on advice from the Comptroller's Office that the law allowed this practice. However, after reviewing the Alcohol Article as republished after the code revision process, clarifying the law in this regard is necessary. Therefore, the tastings have been suspended until this can occur.

This bill would allow small samples of liquor to be consumed on-premise for the sole purpose of holding tasting events. It would allow supplier and private wholesale sales personnel to hold tasting events in the County operated stores. County operated stores currently have authority to sell alcohol for off-premise consumption only.

All liquor used in the tastings must come from the store's inventory. State and County requirements for a solicitor's permit will apply to the supplier or wholesales personnel who choose to hold a tasting at the County operated stores as they do when tastings are held at the privately operated beer and wine stores.

County Executive Position: Support

County Council Position: Support

**MC 20-17, Montgomery County – Alcoholic Beverages – Class A Licenses (Delegates Barkley, Barve, Dumais, Fraser-Hidalgo, Frick, Kelly, Miller, Reznik & Waldstreicher)**

MC 20-17 authorizes the Montgomery County Board of License Commissioners to issue a second Class A license to an individual who already holds a Class A license issued by any board of license commissioners in the State. In Montgomery County, a Class A license holder may sell beer and/or wine for off premise consumption. This bill would allow an individual to hold two Class A licenses at the same time. At least one of the two licenses will be for a Class A retail store in Montgomery County.

Current law allows an individual to hold no more than one Class A license anywhere in the State. Delegate Barkley introduced statewide bills to increase the number of Class A licenses from one to two during the 2015 and 2016 Sessions. Neither bill was reported out of the House Economic Matters Committee.

County Executive Position: No Position

County Council Position: Support

### **MC 21-17, Montgomery County – Deer Hunting – Sundays (Delegate Fraser-Hidalgo)**

This legislation would allow time-specified Sunday deer hunting on private property in Montgomery County during the State’s authorized hunting season. Under the bill, Sunday hunting would be allowed in Montgomery County from 30 minutes before sunrise until 10:30 a.m.

County Executive Position: No Position

County Council Position: No Position

### **MC 22-17, Montgomery County – Maximum Speed Limit in Business and Residential Districts (Delegates Moon & Korman)**

This is one of three local speed limit bills that Delegate Moon worked on with Councilmember Riemer. It is enabling legislation intended to give Montgomery County greater flexibility to lower speed limits, particularly on residential streets. The bill authorizes the County to lower the “default” speed limit on residential and business district roads that do not have a posted speed limit. The current default speed limit on unposted roads is 30 mph. This bill would authorize the County to lower that limit to as low as 20 mph.

The Montgomery County Police Department (MCPD) and the Montgomery County Department of Transportation (MCDOT) oppose this bill in its current form. MCPD and MCDOT have expressed concern that under the proposal, a majority of the County’s roadways could be subjected to an unrealistically low speed limit and that enforcement would be difficult.

County Executive Position: Oppose in current form

County Council Position: No position pending review of amendments recommended by MCPD and MC DOT.

### **MC 23-17, Montgomery County – Maximum Speed Limits Outside Urban Districts (Delegates Moon & Korman)**

This is one of three local speed limit bills that Delegate Moon worked on with Councilmember Riemer. It is enabling legislation intended to give Montgomery County greater flexibility to lower the speed limit on certain County roads to 15 mph. The current floor is 25 mph, with certain exceptions. The County would be required to take action and “in most instances” perform a traffic study before making the change. The change would be most desirable in urban pedestrian zones or other areas with high pedestrian safety issues.

MCPD and MCDOT oppose this bill in its current form. The concern is that 15 mph is too low and that voluntary compliance is unrealistic. Further, MCPD reports that it does not have the resources to conduct speed enforcement at that level.

County Executive Position: Oppose in current form

County Council Position: No position pending review of amendments recommended by MCPD and MCDOT

**MC 24-17, Montgomery County – Reductions of Maximum Speed Limits Near Schools (Delegates Moon & Luedtke)**

This is one of three local speed limit bills that Delegate Moon worked on with Councilmember Riemer. It is enabling legislation intended to give Montgomery County greater flexibility to lower the speed limit on walk to school routes without conducting a traffic study of the area. The change would allow the County’s “Safe Routes to School” program to quickly implement engineering changes to improve pedestrian safety and bike access to County schools.

MCPD and MCDOT have unofficially opposed this bill and will be sending a written position. The departments have reported that speed studies are considered to be a necessary piece of information for engineering and enforcement when it comes to traffic/pedestrian safety.

County Executive Position: Oppose

County Council Position: Oppose

**MC 26-17, Montgomery County – Law Enforcement Vehicles – Automated External Defibrillator (Delegate Sol-Gutierrez)**

This legislation would require all Montgomery County patrol vehicles used by law enforcement officers who are first-responders or trained in cardiopulmonary resuscitation (CPR) and the operation and use of automated external defibrillators (AED) to be equipped with an AED by October 1, 2020.

Montgomery County Police reports that it has 195 AEDs in police vehicles across all work shifts and geographic areas of the County, as well as an additional 14 AEDs in police facilities. At approximately \$1,800 per unit with a life expectancy of eight years, MCPD’s operating budget currently funds approximately 50 new AEDs per year. It should be noted that Montgomery County also has a robust Fire Rescue Service with advanced life support capabilities.

As drafted, MC 26-17 will apply to approximately 1,200 police vehicles in the County- creating for the County a large unfunded mandate with a narrow compliance period that will compete with other funding priorities.

County Executive Position: Oppose

County Council Position: Oppose

## **BI-COUNTY**

### **MC/PG 101-17 WSSC – Service Rates (Carr and Korman)**

Current law requires WSSC to establish a service rate for all properties that is uniform throughout the Sanitary District. This bill authorizes WSSC to establish one or more customer classes for any service rate or charge.

The bill is a reintroduction of a late-filed bill from last year. The County Executive and County Council took no formal position on that bill. Similarly, WSSC did not take a formal position. However, when this concept was offered as an amendment to a different bill during the 2016 session, WSSC and the County Executive opposed the amendment as premature in light of the fact that WSSC had just initiated a rate structure study. The Council supported the amendment as harmless because it was enabling only. This year, WSSC has not yet taken a position on MC/PG 101-17.

During the 2016 Interim, WSSC has continued its rate structure study and is evaluating a variety of changes, some of which would require different rates for different customer/property classes. WSSC is planning to complete its rate structure study next summer and to share its recommendations with the County Executives and County Councils of Montgomery County and Prince George's County in the Fall of 2017, so that a new rate structure can be implemented in FY19. Since any option that requires different rate classes for different types of customers/properties cannot be implemented without a change to State law, WSSC is evaluating whether there is a need to seek legislative changes during the 2017 Session.

County Executive Position: No position at this time – pending review and evaluation of WSSC position.

County Council Position: No position at this time – pending review and evaluation of WSSC position.

### **MC/PG 102-17 – WSSC – Discrimination – Prohibited (Carr)**

This bill modifies provisions of the Public Utilities Article that prohibit WSSC, its contractors and subcontractors from discriminating against an employee or applicant on the basis of “sex, race, creed, color, age, mental or physical handicap, disability, sexual orientation, or national origin”. This bill adds “religion, marital status, and gender identity” to that list. The sponsor of this bill believes that the bill makes technical changes to provisions of the Public Utilities Article to conform those provisions to other provisions of State law that are already applicable to WSSC.

State law currently prohibits employment discrimination by the State or employers with 15 or more employees on the basis of “race, color, religion, sex, age, national original, marital status, sexual orientation, gender identity, genetic information, or disability” (Title 20, Subtitle 6 of the State Government Article). State law also prohibits the State’s contractors and subcontractors from discriminating on the basis of “race, color, religion, ancestry or national origin, gender/sex,

age, physical or mental disability, sexual orientation, or marital status” (Title 19, Subtitle 1 of the State Finance and Procurement Article).

IGR has asked WSSC to advise the County as to whether the provisions of State law referenced above already apply to WSSC, such that the bill is only making technical changes to conform inconsistent provisions in the Public Utilities Article. WSSC has requested an opinion from its General Counsel on this issue – and has not yet taken a position on the bill.

It is worth noting that there are some differences between the provisions of State law referenced above and the language of MC/PG 102-17. State law governing employment discrimination prohibits discrimination on the basis of “genetic information” – in addition to all of the other protected classes identified in MC/PG 102-17. Regarding the State’s contractors and subcontractors, the list of current protected classes under State law does not include “gender identity” – which is included in the list of protected classes identified in MC/PG 102-17. Depending on the conclusions of WSSC’s General Counsel, there may be a need to amend the provisions of MC/PG 102-17 to make the bill consistent with the sponsor’s intent.

County Executive Position: No position - pending review and evaluation of WSSC position.

County Council Position: No position at this time - pending review and evaluation of WSSC position.

#### **MC/PG 104-17 – WSSC – System Development Charge (Moon and Luedtke)**

Current State law requires the Montgomery County Council and Prince George’s County Council to grant a full or partial exemption from the System Development Charge (SDC) for publicly sponsored or affordable housing. Current State law gives the two councils authority to grant a full or partial exemption for revitalization projects and property used for mixed retirement developments, elderly housing, or biotechnology research, development or manufacturing.

In 2013, the General Assembly authorized a full or partial exemption for community based non-profits that provide recreational and educational programs and services to youth. However, the authority for this exemption expired on June 30, 2016 (House Bill 636/Chapter 124 of the Laws of Maryland 2013). This bill reinstates that authority. The bill also authorizes the two councils to establish new exemptions for (1) property that is used primarily for child care or after-school care; and (2) property that is used for a distillery, brewery or winery.

The County Council adopts a resolution each year that outlines criteria for SDC exemptions. This year’s resolution (Council Resolution 18-479) outlines criteria for the following exemptions: (1) publicly sponsored or affordable housing; (2) revitalization projects; (3) property used for biotechnology research, development and manufacturing; (4) elderly housing; and (5) property used primarily for recreational and education programs and services. The resolution also reaffirms the existing SDC exemption cap of \$1 million per year (\$500,000 for each County) and the maximum per project exemption amount of \$50,000 for projects in Montgomery

County. It also reaffirms that unused portions of the annual \$500,000 allocation to both counties are rolled over into the next fiscal year to be allocated to projects in the same jurisdiction.

Montgomery County has never fully exhausted its annual \$500,000 allocation for SDC exemptions. The current balance of funds allocated to Montgomery County is \$6.5 million. The current balance of funds allocated to Prince George's County is \$2.9 million.

County Executive Position: Support with an amendment to strike the proposed exemption for property that is used for a distillery, brewery or winery.

County Council Position: Support

**PG/MC 105-17, Maryland-National Capital Park and Planning Commission – Prince George's County – Appointment Procedures (Requested by the Prince George's Council)**

This bill is a reintroduction from last year. It amends the appointment procedures for Prince George's County Commissioners to require the Council to appoint the Commissioners, with approval of the Executive, rather than the County Executive appointing the Commissioners, with Council approval. The bill received no action in the Prince George's County Delegation last year.

County Executive Position: Awaiting Review

County Council Position: No Position