

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2012 Legislative Session**

Bill No. CB-63-2012

Chapter No. 83

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Members Franklin and Davis

Co-Sponsors \_\_\_\_\_

Date of Introduction October 23, 2012

**BILL**

1 AN ACT concerning

2 Office of Ethics and Accountability

3 For the purpose of creating an Office of Ethics and Accountability within Prince George’s  
4 County Government; providing for the budget, powers and authority of the Office of Ethics and  
5 Accountability; providing for periodic reports and review of the activities of the Office of Ethics  
6 and Accountability; and generally relating to the Office of Ethics and Accountability.

7 BY adding:

8 SUBTITLE 2. ADMINISTRATION.

9 Sections 2-298 through 2-309,  
10 The Prince George's County Code  
11 (2011 Edition).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
13 Maryland, that Sections 2-298 through 2-309 of the Prince George's County Code be and the  
14 same are hereby added:

15 SUBTITLE 2. ADMINISTRATION.

16 **DIVISION 17A. OFFICE OF ETHICS AND ACCOUNTABILITY.**

17 **Sec. 2-298. Office established.**

18 There is hereby established an Office of Ethics and Accountability.

19 **Sec. 2-299. Purpose.**

20 The purpose of the Office of Ethics and Accountability is to provide increased  
21 accountability and oversight in the operations of the County government by identifying fraud.

1 abuse, and illegal acts therein.

2 **Sec. 2-300. Executive Director; Term; Qualifications; Appointment and Removal.**

3 (a) The Office shall be headed by an Executive Director, appointed by the County  
 4 Executive and confirmed by the County Council in accordance with the provisions of Section  
 5 322 of the Charter for Prince George's County, Maryland. The County Executive shall conduct  
 6 an open search process for the Executive Director to meet the qualifications required under  
 7 subsection (c) of this section, and may use measures, such as regional or national recognized  
 8 organizations or a professional search firm(s), to review and select an Executive Director  
 9 candidate for appointment.

10 (b) The term of office of the Executive Director shall be 4 years, and shall serve a  
 11 staggered term to begin on July 1 of the second year after the County Executive and County  
 12 Council are elected. An Executive Director shall not serve more than two full 4-year terms, not  
 13 including any time served as Executive Director to complete an unexpired term, and shall be  
 14 subject to appointment for a second 4-year term in accordance with the provisions of Section 322  
 15 of the Charter for Prince George's County, Maryland.

16 (c) The Executive Director shall be professionally qualified, by experience or education, in  
 17 auditing, government operations, or financial management, and shall be selected solely on the  
 18 basis of professional ability and personal integrity, without regard to political affiliation.

19 (d) The Executive Director may be removed by the County Executive prior to the  
 20 expiration the term for which he was appointed only for cause, subject to the approval of the  
 21 County Council by a vote of a two-thirds majority of the full Council. The cause of removal shall  
 22 be stated in writing and a public hearing held on the removal.

23 **Sec. 2-301. Executive Director; Powers and Duties; Compensation.**

24 The Executive Director shall also serve as the Executive Director of the Board of Ethics, and  
 25 shall supervise the operations of the administrative staff of the Office of Ethics and  
 26 Accountability, including the hiring, direction and discharge of all Office of Ethics and  
 27 Accountability staff members in accordance with the County personnel laws. The Executive  
 28 Director and his staff shall be compensated as provided in the classification plan of the County.

29 **Sec. 2-302. Budget.**

30 The Office of Ethics and Accountability shall be funded as a separate budget entity in the  
 31 Annual Budget and Appropriation Ordinance. Any decrease in appropriations from the prior

1 fiscal year, in either the proposed or adopted budget, shall be accompanied by a written  
 2 justification for the decrease. Subject to the provisions of Article VIII of the Charter, it is  
 3 authorized to expend funds derived from private grants, the State or the United States to carry  
 4 out its functions and activities, and to cooperate with any agency of the State or the United States  
 5 in carrying out its functions and activities.

6 **Sec. 2-303. Authority.**

7 The Office of Ethics and Accountability is authorized to engage in the following specific  
 8 functions:

9 (a) Evaluate, investigate and inspect the activities, records, and individuals with contracts,  
 10 procurements, grants, agreements, and other financial or programmatic arrangements undertaken  
 11 by or on behalf of the County Government and any other function, activity, process, or operation  
 12 conducted by County government;

13 (b) Conduct criminal, civil, and administrative investigations;

14 (c) Provide information and evidence that relates to criminal acts to appropriate law  
 15 enforcement officials;

16 (d) Initiate such reviews of operations of the County Government as deemed appropriate;

17 (e) Receive and investigate complaints from any source or upon its own initiative  
 18 concerning alleged abuse, fraud, and service deficiencies including deficiencies in the operation  
 19 and maintenance of facilities;

20 (f) Conduct joint investigations and projects with the Office of Audits and Investigations  
 21 and other oversight or law enforcement agencies.

22 (g) Issue public reports as set forth in Section 2-305 of this Division;

23 (h) Establish policies and procedures to guide functions and processes conducted by the  
 24 Office;

25 (i) Provide support to the County Board of Ethics established by Section 2-292 of this  
 26 Subtitle;

27 (j) Make recommendations to the County Executive and County Council which would  
 28 assist in the promotion of efficiency, accountability, and integrity in County government; and

29 (k) Do all things necessary to carry out the functions set forth in this Division.

30 **Sec. 2-304. Powers.**

31 The Office of Ethics and Accountability is provided the following powers to accomplish the

1 intent of this Division:

2 (a) The right to obtain full and unrestricted access to all records, information, data, reports,  
 3 plans, projections, matters, contracts, memoranda, correspondence, and any other materials,  
 4 including electronic data, of the County Government;

5 (b) The authority to administer oaths or affirmations and take testimony relevant to any  
 6 inquiry or investigation undertaken pursuant to this Division;

7 (c) The right of access to the head of any public entity, when necessary for purposes  
 8 related to the work of the Office; and

9 (d) The power to require County employees to cooperate with the Office's investigations  
 10 regarding fraud, waste, corruption, illegal acts, and abuse. County employees failing or refusing  
 11 to cooperate shall be subject to the discipline provisions of the Personnel Law or provisions of  
 12 any applicable collective bargaining agreement.

13 **Sec. 2-305. Referrals.**

14 The Office of Ethics and Accountability shall refer matters, as appropriate, for further civil,  
 15 criminal, and administrative action to appropriate administrative and prosecutorial agencies.

16 (a) When a matter is being referred to the Office of the State's Attorney for possible  
 17 criminal prosecution, the Executive Director shall provide the affected individual or entity with a  
 18 copy of the report or recommendations and such person or entity shall have 10 working days to  
 19 submit a written explanation or rebuttal of the findings before the matter is referred, and such  
 20 timely submitted written explanation or rebuttal shall be attached to the report or  
 21 recommendations provided to the State's Attorney. The requirements of this subsection (a) shall  
 22 not apply when the Executive Director, in conjunction with the State's Attorney, determines that  
 23 supplying the affected person or entity with such report will jeopardize a pending criminal  
 24 investigation.

25 (b) The Executive Director shall provide ongoing guidance to the Chief Administrative  
 26 Officer regarding significant problems or deficiencies within the operations of the County  
 27 government and provide recommendations to resolve those issues, and shall provide  
 28 recommendations for specific integrity programs which emphasize detection, prevention, and  
 29 correction of problems relating to fraud, corruption, and abuse within County government.

30 **Sec. 2-306. Whistleblower Protection.**

31 Anyone who has the authority to take or direct others to take, recommend, or approve any

1 personnel action, shall not, with respect to this authority, take or threaten to take any action  
2 against another as reprisal for making a complaint or disclosing information to the Office of  
3 Ethics and Accountability, unless the complaint was made or the information disclosed with the  
4 knowledge that it was false or with willful disregard for its truth or falsity.

5 **Sec. 2-307. Records Disclosure.**

6 Investigation reports of the Office of Ethics and Accountability shall be public records  
7 subject to disclosure under the Maryland Public Information Act. During the course of  
8 investigation activities, all records will be considered deliberative in process and not available  
9 for outside review. Names and identities of individuals making complaints and information  
10 protected by whistleblower protection or other legislation will not be disclosed without the  
11 written consent of the individual unless required by law or judicial process.

12 **Sec. 2-308. Reporting Office Activities.**

13 (a) The Executive Director shall report the findings of the Office's work to appropriate  
14 elected and appointed leadership and to the public. The Executive Director shall report  
15 investigative matters to the appropriate administrative body for action in circumstances where  
16 such body exists, and shall report criminal investigative matters to the appropriate law  
17 enforcement agencies.

18 (b) Within 60 days of the end of each fiscal year, the Executive Director shall issue an  
19 annual report that separately lists reports and other investigative or assistance efforts completed  
20 during the fiscal year. The report shall list the accomplishments of the Office of Ethics and  
21 Accountability and shall be provided to the County Executive and the Clerk of the County  
22 Council. Upon issuance, notice shall be given to the public of the issuance of the report and the  
23 report shall be posted on the County Government website.

24 **Sec. 2-309. Quality Review.**

25 Investigations, inspections and reviews shall be subject to quality assurance reviews by an  
26 appropriate professional, non-partisan, objective group every three to five years. A copy of the  
27 written report resulting from this review shall be furnished to the County Executive and the  
28 County Council, and shall be made available to the public.

29 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
30 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
31 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of

1 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
2 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
3 Act, since the same would have been enacted without the incorporation in this Act of any such  
4 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

5 SECTION 3. BE IT FURTHER ENACTED that for Fiscal Year 2013 only, the operations  
6 of the Office of Ethics and Accountability shall be funded through the approved appropriations  
7 for the Board of Ethics in the Adopted Fiscal Year 2013 Budget and Appropriation Ordinance.

8 SECTION 4. BE IT FURTHER ENACTED, that this Act shall take effect forty-five (45)  
9 calendar days after it becomes law.

Adopted this 20<sup>th</sup> day of November , 2012.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Andrea C. Harrison  
Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Rushern L. Baker, III  
County Executive

KEY:  
Underscoring indicates language added to existing law.  
[Brackets] indicate language deleted from existing law.  
Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.

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