



AGENDA CATEGORY: Intergovernmental Relations Office

ITEM NUMBER: 2

DATE: January 27, 2021

SUBJECT	MC/PG 100-21: Washington Suburban Sanitary Commission – Video Streaming and Archiving Meetings and Late Payment Charges
SUMMARY	The proposed legislation alters the Open Meetings Act for WSSC Water and makes changes to the late fee from a current assessment of 5% to an “up to” 5% assessment for unpaid water and sewer charges.
SPECIAL COMMENTS	
CONTRACT NO./ REFERENCE NO.	N/A
COSTS	N/A
AMENDMENT/ CHANGE ORDER NO. AMOUNT	N/A
MBE PARTICIPATION	N/A
PRIOR STAFF/ COMMITTEE REVIEW	Carla A. Reid, General Manager/CEO DS CK
PRIOR STAFF/ COMMITTEE APPROVALS	Monica Johnson, Deputy General Manager, Strategy & Partnerships DS MJ Karyn A. Riley, Director, Intergovernmental Relations Office DS KAR
RECOMMENDATION TO COMMISSION	SUPPORT with Amendments
COMMISSION ACTION	



Interoffice Memorandum

TO: Commissioners^{ds}

THRU: Carla A. Reid ^{CR}
General Manager/Chief Executive Officer

Monica J. Johnson ^{MJ}
Deputy General Manager for Strategy and Partnerships

FROM: Karyn A. Riley ^{KAR}
Director, Intergovernmental Relations

DATE: January 27, 2021

SUBJECT: **Position Recommendation: MC/PG 100-21 – Washington Suburban Sanitary Commission – Video Streaming and Archiving Meetings and Late Payment Charges**

Recommended Position

SUPPORT with Amendments

Overview

As drafted, the proposed legislation requires WSSC Water to stream live video of the open meetings of the Commission and to maintain a complete and unedited archived video recording of each open meeting that is live-streamed on our website. Additionally, the bill alters the amount of the late payment charge imposed for unpaid water and sewer charges.

WSSC Water expressed concerns with the proposed legislation. These concerns included: the inability for the Commission to hold a teleconference meeting in the event of an emergency; the absence of protections for Commission actions taken during a meeting during which a technical failure impacted a livestream; and impacts placing a cap on the late fee charges. Based on these considerations, at the November 2020 Commission meeting, WSSC adopted a position of “Oppose” to MC/PG 100-21.

Discussion

Staff met with the bill sponsor and members of the Montgomery County Metro Washington Area Committee to discuss concerns with MC/PG 100-21, as drafted. Based on these discussions and comments from the Montgomery County Executive, the bill sponsor amended the bill to require the Commission to:

- Live-stream all open meetings of the Commission over the internet.
- If video streaming is unavailable, audio streaming of the meeting shall occur.
- If video and audio streaming are unavailable, the meeting shall be recorded and posted to the Commission's website.
- Maintain a complete and unedited archived recording of each open meeting that is live-streamed or recorded.

Provisions were added that protect the validity of actions taken during a meeting for which a technical issue prevented or affected the live-streaming or recording of a meeting so long as the meeting complies with the Open Meetings Act and the issue is not the result of willful action by the Commission. In summary, the Commission must live-stream all open meetings over the internet. If live streaming is unavailable, the meeting must be recorded and posted to the Commission's website. An archive of complete and unedited recordings of each open meeting must be maintain on the Commission's website.

Staff expressed the Commissions' concerns to the bill sponsor regarding the changes to the late payment charge assessed on unpaid water and sewer charges. The Montgomery County Executive indicated his preference to see language limiting the scope of the fee reductions. The bill sponsor amended the bill to remove the language altering the late payment charge to "up to 5%" and added a provision in the Customer Assistance Program statute that provides financial assistance under the program may include the reduction or waiver of fees, including late fees. This amendment expands the assistance the Commission can provide our most vulnerable customers and addresses the County Executive's preference to limit the scope of the reduction.

The Montgomery County House Delegation unanimously passed MC/PG 100-21 FAVORABLE with AMENDMENTS on January 7, 2021. The bill, as amended, now moves to the Prince George's County House Delegation for consideration.

Staff believes that the bill, as amended, addressed the Commission's concerns, provide protections of Commission actions related to open meetings, and stipulates which customers are eligible to receive a reduction in late fees. As such management recommends the Commission change their position to **SUPPORT with Amendments** on MC/PG 100-21.

Impact

Financial: The waiver or reduction of fees for CAP customers is enabling, thus revenues may be impacted if changes are made to existing policies.

Administrative: Staff must be prepared to live-stream and/or record, and compile minutes of all open meetings of the Commission. The billing system may need to be updated to reflect the ability to charge different late fee rates for CAP customers.

Technological: An archive of complete and unedited recordings of each open meeting must be maintain on the Commission's website. Equipment and/or software necessary to livestream audio-only meetings will need to be procured.

Prior Legislation

None

Other Positions

Montgomery County Executive – Support with Amendments clarifying eligibility for a reduction in late fees.

Montgomery County Council – Hold

By: Delegate Charkoudian
(To be offered in the Metro Washington Area Committee)

AMENDMENTS TO MC/PG 100-21
(Sprint Copy)

AMENDMENT NO. 1

On page 1, in lines 6, after “video” insert “or teleconference audio or other audio”; in line 7, strike “video”; in line 8, strike “videos of the”; in the same line, after “meetings,” insert “providing that the inability of the Commission to comply with certain provisions of this Act due to a certain technical issue does not affect the validity of actions taken by the Commission at the meeting under certain circumstances; requiring the Commission to make certain good faith efforts to a record a meeting that it is unable to live stream and to maintain on its website a complete and unedited archived video recording; providing that financial assistance under the Commission’s Customer Assistance Program may include the reduction or waiver of certain fees;”; strike beginning with “altering” in line 8 down through “circumstances;” in line 10; in line 14, strike “and 25-504(b)”; and in line 19, strike “17-106 and 25-504(c)” and substitute “17-106 and 25-501.1(b)”.

AMENDMENT NO. 2

On page 3, in line 5, after “(E)” insert “(1)”; in line 6, after “VIDEO” insert “OR LIVE TELECONFERENCE AUDIO OR OTHER AUDIO”; in lines 6 and 8, strike “(1)” and “(2)”, respectively, and substitute “(I)” and “(II)”, respectively; in line 9, strike “VIDEO”; and after line 10, insert:

“(2) THE INABILITY OF THE COMMISSION TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION DUE TO TECHNICAL FAILURE THAT ENTIRELY PREVENTS OR OTHERWISE AFFECTS THE QUALITY OF THE LIVE VIDEO OR AUDIO STREAMING OF A MEETING OF THE COMMISSION DOES NOT AFFECT THE VALIDITY OF ANY ACTION TAKEN BY THE COMMISSION DURING THE MEETING IF:

(I) THE COMMISSION OTHERWISE COMPLIES WITH THIS SECTION AND THE OPEN MEETINGS ACT; AND

(II) THE INABILITY TO COMPLY IS NOT DUE TO WILLFUL ACTION BY THE COMMISSION.

(3) IN ADDITION TO COMPLYING WITH THE MINUTES REQUIREMENTS OF THE OPEN MEETINGS ACT UNDER § 3-306 OF THE GENERAL PROVISIONS ARTICLE, IF THE COMMISSION IS UNABLE TO COMPLY

WITH THE REQUIREMENTS OF PARAGRAPH (1)(I) OF THIS SUBSECTION, IT WILL MAKE GOOD FAITH EFFORTS TO RECORD AN OPEN SESSION BY VIDEO OR AUDIO AND MAINTAIN ON ITS WEBSITE A COMPLETE AND UNEDITED ARCHIVED RECORDING OF THE MEETING.”.

On page 3, after line 10, insert:

“25-501.1.

(b) (1) Notwithstanding any other law, on or before July 1, 2015, the Commission shall establish a Customer Assistance Program to provide financial assistance with water and sewer bills to eligible ratepayers.

(2) The Commission shall establish income eligibility standards for a ratepayer to receive financial assistance under this subsection.

(3) FINANCIAL ASSISTANCE UNDER THIS SUBSECTION MAY INCLUDE THE REDUCTION OR WAIVER OF FEES INCLUDING LATE FEES.”.

On pages 3 and 4, strike in their entirety the lines beginning with line 11 on page 3 through line 2 on page 4, inclusive.

EXPLANATION OF THE AMENDMENT

AMENDMENT NO. 1

Technical update to the purpose and function paragraphs.

AMENDMENT NO. 2

Adds teleconference audio or other audio as means by which to the Washington Suburban Sanitary Commission may meet the bill's requirement to live stream Commission meetings.

Strikes the term “video” from the archiving requirements to reflect that live streamed audio and livestreamed video meetings must be archived on the Commission's website.

Provides that, in the event of a technical failure that entirely prevents or affects the quality of live streaming of a meeting as required by the bill, the validity of any action taken by the Commission during such a meeting is unaffected so long as the meeting otherwise complies with other requirements for a meeting of the Commission and with the Open Meetings Act and is not the result of willful action by

the Commission.

Requires that, in addition to complying with minutes requirements of the Open Meetings Act, the Commission make good faith efforts to record a session that it is unable to live stream and to maintain the recording of such a meeting on its website.

Provides that financial assistance may include the reduction or waiver of fees, including late fees, under the Customer Assistance program.

Removes language authorizing the Commission to establish a late payment charge within a range up to 5% of the unpaid charges.

L5

11r0420

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Moriarty

Typed by: Lynn

Stored – 10/29/20

Proofread by _____

Checked by _____

By: **Montgomery County Delegation and Prince George's County Delegation**

Requested by: Delegate Charkoudian

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission – Video Streaming and Archiving**
 3 **Meetings and Late Payment Charges**

4 **MC/PG 100–21**

5 FOR the purpose of requiring the Washington Suburban Sanitary Commission to stream
 6 live video of the open meetings of the Commission; requiring the Commission to
 7 maintain on its website a complete and unedited archived video recording of certain
 8 live-streamed videos of the open meetings; altering the amount of a certain late
 9 payment charge imposed by the Commission for unpaid water and sewer usage
 10 charges under certain circumstances; and generally relating to the Washington
 11 Suburban Sanitary Commission.

12 BY repealing and reenacting, without amendments,
 13 Article – Public Utilities
 14 Section 16–101(a) and (b) and 25–504(b)
 15 Annotated Code of Maryland
 16 (2020 Replacement Volume and 2020 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article – Public Utilities
 19 Section 17–106 and 25–504(c)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter deleted from existing law.

1r0420

1lr0420

1 Annotated Code of Maryland
2 (2020 Replacement Volume and 2020 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 **Article – Public Utilities**

6 16–101.

7 (a) In this division the following words have the meanings indicated.

8 (b) “Commission” means the Washington Suburban Sanitary Commission.

9 17–106.

10 (a) The Commission shall determine the times and places of its meetings.

11 (b) The Commission shall keep minutes in the usual corporate form.

12 (c) (1) The votes of the commissioners shall be:

13 (i) taken and recorded for any action that:

14 1. authorizes, modifies, or rescinds a water or sanitary sewer
15 extension; or

16 2. adopts or amends a water or sewer program of extensions;

17 (ii) taken separately; and

18 (iii) recorded as yeas, nays, or abstentions.

19 (2) The Commission shall record in the minutes:

20 (i) the name of a commissioner who votes or abstains;

21 (ii) the reason for an abstention;

11r0420

1 (iii) a brief summary of the matters on which a vote is taken; and

2 (iv) any disclosure made under § 19–103 of this article.

3 (d) The minutes shall be open to public inspection at the principal office of the
4 Commission during business hours.

5 **(E) THE COMMISSION SHALL:**

6 **(1) STREAM LIVE VIDEO OF THE OPEN MEETINGS OF THE**
7 **COMMISSION; AND**

8 **(2) MAINTAIN ON ITS WEBSITE A COMPLETE AND UNEDITED**
9 **ARCHIVED VIDEO RECORDING OF EACH OPEN MEETING THAT IS LIVE–STREAMED IN**
10 **ACCORDANCE WITH THIS SUBSECTION.**

11 25–504.

12 (b) (1) The Commission shall bill for the amount of water and sewer usage
13 charges to each property served monthly, every other month, four times a year, or twice a
14 year, as the Commission determines.

15 (2) On receipt each bill is payable to the Commission.

16 (c) (1) A late payment charge of **UP TO** 5% of the unpaid charges shall be
17 added and collected as part of the bill if:

18 (i) the Commission sends out a bill for water and sewer usage
19 charges in the regular course of business;

20 (ii) for a service period of less than 3 months, the bill is not paid 20
21 days from the date of sending; or

22 (iii) for a service period of 3 months or more, the bill is not paid 30
23 days from the date of sending.

11r0420

1 (2) The late payment charge is in addition to and not in substitution for or
2 derogation of any other right or remedy granted to the Commission by any other law.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 4
October 1, 2021.