

GENERAL MUNICIPAL LAW, ART 18-A, §§ 856(2), 895-b.

Members of the Montgomery County Industrial Development Agency serve at the pleasure of the appointing authority. An act of the State Legislature would be required to provide a term for these positions.

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Kelli P. McCoski, Esq.
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Informal Opinion
No. 96-19

Dear Ms. McCoski:

You have asked whether terms of office may be established for members of the board of the Montgomery County Industrial Development Agency.

State law has established the Montgomery County Industrial Development Agency. General Municipal Law § 895-b. Its members are appointed by the governing body of the County of Montgomery. Id. The agency has the powers and duties set forth in Title I of Article 18-A of the General Municipal Law and is organized in the manner set forth in that Title.

Except as otherwise provided by special act of the Legislature, an industrial development agency consists of not less than three nor more than seven members "who shall be appointed by the governing body of each municipality and who shall serve at the pleasure of the appointing authority". Id., Article 18-A, Title I, § 856(2). Service "at the pleasure" of an appointing authority is a term with legal significance, meaning that the appointee may be dismissed at will, with no need for a hearing or the making of any particular findings. See, Matter of Fogerty v Warden, 191 Misc 916 (Sup Ct Orange Co), affd, 273 App Div 910 (2d Dept), affd, 297 NY 963 (1948); Op Atty Gen (Inf) No. 88-33. The local establishment of a term for these positions, therefore, would be inconsistent with the provisions of section 856(2) of the General Municipal Law. In that the formation of industrial development agencies is beyond the power of local governments since they are separate legal entities with authority to finance various projects, the county board of supervisors may not modify the provisions of section 856(2). An act of the Legislature would be required.

We conclude that members of the Montgomery County Industrial Development Agency serve at the pleasure of the appointing authority. An act of the State Legislature would be required to provide a term for these positions.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE
Assistant Attorney General
in Charge of Opinions