


Councilmembers should bring their copy of the 2018 Report of the Charter Review Commission.

MEMORANDUM

June 8, 2018

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: Annual Report of the Charter Review Commission

PURPOSE: Present the 2018 Annual Report of the Charter Review Commission

The Charter Review Commission submitted its annual report to the Council on April 30, 2018. Complete copies of the Report are online at <https://www.montgomerycountymd.gov/crc/Resources/Files/2018-CRC-Report.pdf>. Charter Review Commission Chair Paul M. Bessel and other members of the Commission are expected to attend the Council session to discuss the Report. A public hearing on the recommendations of the Commission and proposed Charter amendments is tentatively scheduled for July 10 at 1:30 p.m.

**Background**

The current Charter Review Commission first met in September of 2015, and submitted its first Report to Council in May 2016. In that Report, the Commission recommended a Charter amendment to authorize the Council to provide by law for a special election to fill a vacancy in the office of County Executive. This amendment was submitted to the voters and approved in November 2016. Since its last Report, the Commission studied several issues related to the current Charter and held a well-attended public hearing on October 18, 2017. The Commission is recommending two changes to the Charter at this time. First, the Commission recommends an amendment to Section 104. This would eliminate the role of the Central Committees of political parties in the selection of the members of the Redistricting Commission that is appointed every ten years to review the boundaries of the Council districts. The Commission also recommends a change to Section 305's requirement to increase the real property tax above any increase in the Consumer Price Index from "a unanimous vote of nine, not seven, Councilmembers" to "a unanimous vote of all current Councilmembers." The specific recommendations are at ©1-2.

## SUMMARY OF ISSUES STUDIED

### *Recommendations Requiring Charter Amendments*

#### ➤ *Selection of members of the Redistricting Commission*

The Charter Review Commission recommends to the County Council that it include on the ballot for November 2018 a proposal to eliminate the role of the central committees of political parties in the selection of the members of the Redistricting Commission that is appointed every ten years to review the boundaries of the Council districts.

#### ➤ *Nine-vote requirement to increase real property tax*

The Charter Review Commission also recommends that the County Council also include on the November 2018 ballot a change to Section 305's requirement to increase the real property tax above any increase in the Consumer Price Index from "a unanimous vote of nine, not seven, Councilmembers" to "a unanimous vote of all current Councilmembers." This change would allow an increase, by a unanimous vote, when there is a vacancy on the Council; under the current provision, such an increase would be impossible even if all serving Councilmembers support it.

### *Recommendations Not Requiring Charter Amendments*

In addition to studying the issues surrounding the above recommendations, members of the Commission studied several other issues which did not result in recommendations requiring Charter amendments.

#### ➤ *Structure of the County Council (At-large and district seats)*

The Montgomery County Council currently is made up of 4 at-large members (elected by all voters in the County), and five district members (elected by the voters in each of five districts, based on a map established every 10 years after the federal census. Several County residents testified in favor of changing this structure at the Commission public hearing held on October 18, 2017, either to eliminate all at-large members or to reduce their number. After much consideration of public input, and many discussions, the Commission recommends that there be no change in the structure of the County Council. A minority statement on this issue is included in the Report.

#### ➤ *Council President Term*

The Council President is elected by his or her colleagues to a single year term. The Commission heard from Councilmember Floreen at its public hearing on this issue, and considered whether to amend the Charter to provide for direct election of the Council President, to a four-year term, by the voters of the County. The Commission considered the benefits of such a process, and contrasted them with the benefits of the existing provisions, and does not recommend a Charter amendment to provide for election of the Council President by the voters of the County.

➤ *Other issues discussed*

The Commission also met with relevant legislative and executive branch staff and examined, but does not make any recommendation on, the following issues:

- procedural matters related to capital improvements, supplementary appropriations, and special appropriations, as provided in Charter Sections 302, 307, and 308, respectively;
- issues related to transfers of funds, surplus, and indebtedness, as provided in Charter Sections 309, 310, and 312, respectively;
- the collective bargaining provisions in Charter Sections 510, 510A, and 511 including the provisions for binding arbitration in Sections 510 and 510A; and
- the possibility of a new section providing for open meetings for all County boards, committees, and commissions.

➤ *Operation of the Commission*

The Commission recommends scheduling an informal meeting between some of its members and members of the next Charter Review Commission at the beginning of the next Commission's term. Commission members felt that they would have benefited from the insight and experiences of members of the prior Commission, and believe that establishing, even informally, some level of continuity, will allow the next Commission to "hit the ground running" and function more efficiently.

## Charter Review Commission Recommendations

### I. Redistricting Commission

The Commission recommends (9-0), that the following amendment to Section 104 of the Charter be submitted to voters at the November 6, 2018 General Election:

#### Section 104 Redistricting Procedure

The boundaries of Council districts shall be review in 1972 and every tenth year thereafter. Whenever district boundaries are to be reviewed, the Council shall appoint, not later than February 1 of the year before the year in which redistricting is to take effect, a commission on redistricting. The Commission shall be composed of [four members from each political party chosen from a list of eight individuals submitted by the central committee of] eleven registered voters who reside in the County. The Commission shall include at least one but no more than four members of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the last preceding regular election. [Each list shall include at least one individual who resides in each Council district. The Council shall appoint one additional member of the Commission. The Commission shall include at least one member who resides in each Council district, and the number of members of the Commission who reside in the same Council district shall not exceed the number of political parties which submitted a list to the Council.] At least one member of the Commission shall reside in each council district. The Commission shall, at its first meeting, select one of its members to serve as its chair. No person who holds any elected office shall be eligible for appointment to the Commission.

By November 15 of the year before the year in which redistricting is to take effect, the Commission shall present a plan of Council districts, together with a report explaining it, to the Council. Within thirty days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If within ninety days after presentation of the Commission's plan no other law reestablishing the boundaries of the Council districts has been enacted, then the plan, as submitted, shall become law. After any redistricting plan or any other law amending the boundaries of Council districts becomes law, the boundaries of the Council districts so established shall apply to the next regular election for Councilmembers and to any special election held or appointment made to fill a vacancy on the Council that occurs after those boundaries are established.

## **II. Charter Tax Cap**

The Commission recommends (8-1), that the following amendment to Section 305 of the Charter be submitted to voters at the November 6, 2018 General Election:

### **Sec. 305. Approval of the Budget; Tax Levies.**

The Council may add to, delete from, increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefor not later than June 1 of the year in which it is submitted.

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by a unanimous vote of [nine, not seven] all current Councilmembers, the Council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section. This limit does not apply to revenue from: (1) newly constructed property, (2) newly rezoned property, (3) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year, (4) property that has undergone a change in use, and (5) any development district tax used to fund capital improvement projects.