



**Committee:** Directly to Council  
**Committee Review:** N/A  
**Staff:** Christine Wellons, Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #

AGENDA ITEM #3  
August 4, 2020  
**Introduction/Action**

## **SUBJECT**

Resolution, Proposed Amendment to the County Charter – County Council – Expand Council to 7 District Members and 4 At-Large Members

**EXPECTED ATTENDEES:** N/A

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION:**

- Suspension of Rule 7(c) required to introduce the resolution and act on it the same day.
- Vote expected on whether to adopt a resolution to place on the 2020 general election ballot a question to expand the Council composition to seven district Councilmembers and 4 at-large Councilmembers.

## **DESCRIPTION/ISSUE**

The resolution would place on the ballot a question that, if approved by the voters, would amend the County Charter to:

- expand the County Council to consist of 11, rather than the current 9, Councilmembers;
- increase from 5 to 7 the number of Council districts; and
- elect 7 Councilmembers by district and 4 Councilmembers at large.

## **This report contains:**

Staff Memorandum  
Resolution

Page 1  
©1

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**M E M O R A N D U M**

August 1, 2020

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Resolution, Proposed Charter Amendment – County Council – Expand Council to 7 District Members and 4 At-Large Members

PURPOSE: Action – vote expected

Resolution, Proposed Charter Amendment – County Council – Expand Council to 7 District Members and 4 At-Large Members, is scheduled for introduction on August 4, 2020. The resolution is sponsored by Lead Sponsor Councilmember Glass.

The Charter amendment proposed under the resolution would:

- expand the County Council to consist of 11, rather than the current 9, Councilmembers;
- increase from 5 to 7 the number of Council districts; and
- elect 7 Councilmembers by district and 4 Councilmembers at large.

**BACKGROUND**

Since 1990, Sections 102 and 103 of the County Charter have required that the County Council must consist of 5 Councilmembers elected by district, and 4 Councilmembers elected at-large by the voters of the entire County. Each district Councilmember must reside in the district that the member represents.

In 1968, the voters of Montgomery County adopted the County Charter. The 1968 Charter established a 7-member County Council. All members of the Council were elected at-large, but 5 of the members were required to reside in different districts of the County.

In 1984, two Charter questions appeared on the ballot by petition. One proposal would have amended Section 102 to make 5 of the 7 Council positions district seats. The other proposal would have amended the Charter to make all 7 Councilmembers elected by district. Both ballot measures failed.

In 1986, the Charter Review Commission (CRC) recommended amending the Charter to increase the size of the Council to 9 members, with 5 members elected from separate districts and 4 members elected at-large. The issue was put on the ballot, and the voters amended the

Charter in 1986 to establish the current composition of the Council, consisting of 5 district members and 4 at-large members. The change took effect in 1990.

Subsequent CRCs have considered, but rejected, recommending additional changes to the composition of the Council. In 1992, the CRC studied whether to return to a 7-member Council, but recommended against any change at that time.

In 2004, the CRC considered whether the Charter should provide for more Councilmembers and more district seats, but found “no compelling reason to change the existing Council structure[.]” Also in 2004, a proposed Charter amendment concerning Council elections appeared on the ballot by petition. The amendment would have provided for the election of all Councilmembers by district, but the ballot measure was rejected by the voters.

The 2006 CRC report also recommended no change to the Council structure. Again in 2018, the CRC considered potential changes to the structure of the Council, including whether to decrease or eliminate at-large members and whether to increase the total number of Councilmembers. The 2016 CRC voted to not recommend any changes to the current Council structure.

The current CRC, in its 2020 report, again recommended no changes to the size and composition of the County Council. In particular, the CRC recommended against converting the Council to an all-district Council, in which a voter would be able to vote for only 1 Councilmember instead of 5.

In both 2018 and 2020, the CRC reports contained minority statements arguing in favor of increasing the number of Council districts. The CRC reports are available at <https://www.montgomerycountymd.gov/crc/>.

## OTHER JURISDICTIONS

For purposes of comparison, the following chart shows the Council compositions and populations of Montgomery County and surrounding jurisdictions.<sup>1</sup>

Jurisdiction	Number of District Seats	Number of At-Large Seats	Population
Montgomery County	5	4	1,052,567
Prince George’s County	9	2	909,308
Howard County	5	0	323,196
Frederick County	5	2	255,648
Baltimore City	14	1	602,495
Anne Arundel County	7	0	576,031
District of Columbia	8	5	702,455

<sup>1</sup> Source of Population Data: U.S. Census Population Estimates, 2018, <https://www.census.gov/quickfacts/fact/table/US/PST045218>

Jurisdiction	Number of District Seats	Number of At-Large Seats	Population
Fairfax County, VA	9	1	1,150,795
Loudoun County, VA	8	1	406,850
Arlington County, VA	0	5	237,521

Under the current Montgomery County Council configuration, the ratio of Councilmembers to residents is approximately 1-to-116,952. If the Council were increased to 11 members, the ratio would be approximately 1-to-95,688.

The current population size of a district is approximately 210,513 residents. If the number of districts were increased from 5 to 7, each district would have approximately 150,367 residents.

**SPECIFICS OF THE RESOLUTION**

The resolution would place the following question on the 2020 general election ballot.

**County Council – Increase to 11 Councilmembers**

Amend the County Charter to:

- expand the County Council to consist of 11, rather than the current 9, Councilmembers;
- increase from 5 to 7 the number of Council districts; and
- elect 7 Councilmembers by district and 4 Councilmembers at large.

**FOR**

**AGAINST**



In addition to amending Sections 102 and 103 of the Charter in order to expand the size of the County Council, the ballot question, if approved, would make conforming amendments to various Charter sections that govern the required numbers of votes for specific actions. For example, as shown in the text of the resolution:

- 6 Councilmembers, instead of the current 5, would have to vote affirmatively to enact legislation (Section 111);
- 7 Councilmembers, instead of the current 6, would have to vote affirmatively to override a veto (Section 204); and
- 7 Councilmembers, instead of the current 6, would have to vote affirmatively to approve a special appropriation (Section 308).

The resolution would have no effect on Councilmember term limits, which are determined under Section 105 of the Charter. Nor would the resolution affect redistricting requirements; under

Section 103, Council districts must be compact in form, composed of adjoining territory, and have substantially equal populations.

This packet contains:  
Resolution

Circle #  
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Resolution No.: \_\_\_\_\_  
Introduced: August 4, 2020  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Councilmember Glass

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**SUBJECT:** Proposed Amendment to County Charter – County Council – Expand Council to 7 District Members and 4 At-Large Members

**Background**

- (1) Section 5 of Article XI-A of the Maryland Constitution, §7 -102(c)(3)(i) of the Election Law Article of the Maryland Code, and § 16-14 of the Montgomery County Code provide that amendments to the Charter of Montgomery County may be proposed by a resolution of the County Council. Section 5 of Article XI-A of the Constitution also provides that amendments to the Charter may be proposed by a petition signed by at least 10,000 registered voters of the County and filed with the President of the County Council.
- (2) Under § 7-103(c)(3)(i) of the Election Law Article of the Maryland Code, ballot questions for proposed Charter amendments must be certified to the State Board of Elections.
- (3) The Council intends to submit for inclusion on the 2020 general election ballot:

Question C: County Council – Increase to 11 Councilmembers

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

1) Subject to the approval of the County Attorney as to the form of the question, the following Charter amendment must be placed on the 2020 general election ballot:

**County Council – Increase to 11 Councilmembers**

**Sec. 102. Composition and Election.**

The Council shall be composed of [nine] eleven members, each of whom shall be a qualified voter of Montgomery County. Four Councilmembers shall be nominated and elected by the qualified voters of the entire County. Each of the [five] seven other members of the Council

shall, at the time of Nomination and election and throughout the member’s term of office, reside in a different Council district, and shall be nominated and elected by the qualified voters of that district. Any change in the boundaries of a Council district after a member is elected shall not render the member ineligible to complete the term for which the member was elected. No member of the Council shall hold any other office of profit in state, county or municipal government. No member of the Council shall be eligible for appointment during the member's term of office to any other office or position carrying compensation created by or under this Charter, except to County Executive in the event of a vacancy.

**Sec. 103. Council Districts.**

Montgomery County shall be divided into [five] seven Council districts for the purpose of nominating and electing [five] seven members of the Council. Each district shall be compact in form and be composed of adjoining territory. Populations of the Council districts shall be substantially equal.

\* \* \*

**Sec. 111. Enactment of Legislation.**

The Council shall enact legislation only after public hearing upon reasonable notice. No legislation shall be enacted by the Council unless it receives the affirmative vote of [five] six members of the Council. Legislation containing a section declaring that it is necessary for the immediate protection of the public health, safety, or interest, and enacted by the affirmative vote of at least [six] seven members of the Council, shall be expedited legislation. Expedited legislation, as defined in this section, is the emergency legislation referred to in Article XI-A, Section 3, of the Constitution of Maryland. Any vote cast by a member on any legislation shall be recorded in the journal of the Council.

\* \* \*

**Sec. 118. Removal of Councilmembers.**

A member of the County Council may be removed from office by the affirmative vote of not less than [six] seven members of the Council after a public hearing and upon a finding that the Councilmember is unable by reason of physical or mental disability to perform the duties of the office. The decision of the Council may be appealed by the removed Councilmember within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make de novo determinations of fact. A member of the County Council also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland.

\* \* \*

**Sec. 205. Vacancy.**

A vacancy in the office of the County Executive shall exist upon the death, resignation, disqualification, or removal of the County Executive. Unless the Council has provided by law for filling a vacancy by special election, the following process for filling a vacancy shall apply. When a vacancy has occurred, the Council, by a vote of not less than [five] six members, shall appoint a successor to fill the vacancy within forty-five days of the vacancy.

\* \* \*

**Sec. 206. Removal of the County Executive.**

The County Executive may be removed from office by the affirmative vote of not less than [six] seven members of the Council after a public hearing and upon a finding that the County Executive is unable by reason of physical or mental disability to perform the duties of the office.

\* \* \*

**Sec. 208. Veto.**

Upon the enactment of any legislation by the Council, the Council President shall within three days deliver it to the County Executive, who within ten days after receiving it shall approve or disapprove it. If the Executive disapproves such legislation, the Executive shall return it to the Council within ten days after receiving it, with the reasons for the Executive's disapproval stated in writing. Not later than 60 days after receiving the Executive's message of disapproval, the Council may, by the affirmative vote of [six] seven members, enact legislation over the disapproval of the Executive. Any legislation which the Executive has neither approved nor disapproved shall become law on the eleventh day after the Executive receives it. The Council may by law further specify how any period of time mentioned in this section is measured.

\* \* \*

**Sec. 217. Reorganization of the Executive Branch.**

The Council may prescribe by law the organization of the Executive Branch of County government. The County Executive may submit to the Council in writing, reorganization plans reallocating powers, functions or responsibilities of the various departments and agencies of the Executive Branch. A reorganization plan shall become law ninety days following its presentation to the Council, if by that time it has not been disapproved by a vote of [five] six members of the Council.



\* \* \*

**Sec. 302. Six-Year Programs for Public Services, Capital Improvements, and Fiscal Policy.**

The County Executive shall submit to the Council, not later than January 15 of each even-numbered year, a comprehensive six-year program for capital improvements. The County Executive shall submit to the Council, not later than March 15 of each year, comprehensive six-year programs for public services and fiscal policy. The six-year programs shall require a vote of at least [five] six Councilmembers for approval or modification.

\* \* \*

All capital improvement projects which are estimated to cost in excess of an amount to be established by law or which the County Council determines to possess unusual characteristics or to be of sufficient public importance shall be individually authorized by law; provided however, that any project declared by the County Council to be of an emergency nature necessary for the protection of the public health or safety shall not be subject to this requirement if the project is approved by the affirmative vote of [six] seven Councilmembers. Any project mandated by law, statutory or otherwise, interstate compact, or any project required by law to serve two or more jurisdictions shall, likewise, not be subject to this requirement. The County Council shall prescribe by law the methods and procedures for implementation of this provision.

\* \* \*

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

\* \* \*

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] seven 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] eight Councilmembers for approval.

\* \* \*

**Sec. 306. Item Veto or Reduction.**

Upon approval of the budget, it shall be delivered within three days to the County Executive who within ten days thereafter may disapprove or reduce any item contained in it. If the County Executive disapproves or reduces any item in the budget, it shall be returned to the Council with the reasons for the disapproval or reduction in writing. The Council may, not later than June 30 of that year, reapprove any item over the disapproval or reduction of the County Executive by the affirmative vote of [six] seven members, except that the affirmative vote of [five] six members shall be required in the case of the budgets of the Council, the Fire and Rescue Commission, the Fire Departments and Rescue Squads, the Housing Opportunities Commission and Montgomery College.

**Sec. 307. Supplemental Appropriations.**

Any supplemental appropriation shall be recommended by the County Executive, who shall specify the source of funds to finance it. The Council shall hold a public hearing on each proposed supplemental appropriation after at least one week's notice. A supplemental appropriation that would comply with, avail the County of, or put into effect a grant or a federal, state, or county law or regulation, or one that is approved after January 1 of any fiscal year, requires an affirmative vote of [five] six Councilmembers. A supplemental appropriation for any other purpose that is approved before January 1 of any fiscal year requires an affirmative vote of [six] seven Councilmembers. The Council may, in a single action, approve more than one supplemental appropriation. The Executive may disapprove or reduce a supplemental appropriation, and the Council may reapprove the appropriation, as if it were an item in the annual budget.

**Sec. 308. Special Appropriations.**

A special appropriation is an appropriation which states that it is necessary to meet an unforeseen disaster or other emergency, or to act without delay in the public interest. Each special appropriation shall be approved by not less than [six] seven Councilmembers. The Council may approve a special appropriation at any time after public notice by news release. Each special appropriation shall specify the source of funds to finance it.

\* \* \*

**Sec. 401. Merit System.**

\* \* \*

Any law which creates a new department, principal office, or agency, or designates a position as a non-merit position, requires the affirmative vote of [six] seven Councilmembers for enactment. Any law which repeals the designation of a position as a non-merit position requires the affirmative vote of [five] six Councilmembers for enactment.

*The ballot for this question must be designated and read as follows:*

**Question C**

**Charter amendment by Council**

**County Council – Increase to 11 Councilmembers**

Amend the County Charter to:

- expand the County Council to consist of 11, rather than the current 9, Councilmembers;
- increase from 5 to 7 the number of Council districts; and
- elect 7 Councilmembers by district and 4 Councilmembers at large.

**FOR**

**AGAINST**

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2) Language included within [brackets] is proposed to be deleted from the Charter. Language that is underlined is proposed to be added to the Charter.

This is a correct copy of Council action.

Approved as to form and legality:

\_\_\_\_\_  
Selena Mendy Singleton, Esquire  
Clerk of the Council

\_\_\_\_\_  
Marc P. Hansen  
County Attorney