

**BALTIMORE COUNTY COUNCIL
NOTES TO THE AGENDA
LEGISLATIVE SESSION 2023**

*Issued: June 10, 2024
Work Session: June 11, 2024
Legislative Day No. 12 : July 1, 2024*

*The accompanying notes are
compiled from unaudited
information provided by
the Administration and
other sources.*



OFFICE OF THE COUNTY AUDITOR

BALTIMORE COUNTY COUNCIL

July 1, 2024

NOTES TO THE AGENDA

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**AGENDA
BALTIMORE COUNTY COUNCIL
LEGISLATIVE SESSION 2024, LEGISLATIVE DAY NO. 12
JULY 1, 2024 10:00 A.M.**

WORK SESSION – JUNE 11, 2024, 12 P.M.

CEB = CURRENT EXPENSE BUDGET
BY REQ. = AT REQUEST OF COUNTY EXECUTIVE

BILLS FOR FIRST CONSIDERATION

MATT CARPENTER, DEPUTY DIRECTOR, OFFICE BUDGET AND FINANCE

1 Bill 44-24 – Mr. Patoka(By Req.) – Employees’ Retirement System

PETE GUTWALD, DIRECTOR, DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

4 Bill 45-24 – Mr. Patoka(By Req.) – Development Impact Fee

COUNCIL

6 Bill 46-24 – Mr. Marks – Zoning Regulations – Uses Permitted – B.L. Zone – Community Buildings and Fraternal Organizations

7 Bill 47-24 – Mr. Patoka – County Charter – County Council – Composition – Number of Councilmembers

Bill 44-24

Council District(s) All

Mr. Patoka (By Req.)

Office of Budget and Finance

Employees' Retirement System

Bill 44-24 amends provisions relating to the pensions of sworn members of the Police Department on Pay Schedule IV, Deputy Sheriffs on Pay Schedule XIII, and Group 4 Plan B members who are sworn personnel of the Fire Department on Pay Schedule V. The Administration advised that all provisions in the bill are products of labor union negotiations.

Members of the Police Department

Beginning January 1, 2025, the following contribution rate increases shall apply to sworn members of the Police Department on Pay Schedule IV who are ERS members; these increases will partially cover (approximately 69% of) the cost of an enhanced accidental disability benefit effective on July 1, 2024 (discussed below).

- The minimum contribution rate shall be 9.55%.
- For a member hired between July 1, 2007 and June 30, 2014, the contribution rate shall be 10.85%.
- For a member hired on or after July 1, 2014, the contribution rate shall be 11.35%.

Beginning July 1, 2024, the minimum retirement allowance for a Police Officer on Pay Schedule IV retiring with an accidental disability shall be equal to sixty-six and two-thirds (66 2/3) percent of the member's average final compensation; under current law, this benefit is equal to fifty (50) percent of the member's average final compensation. The Office of Budget and Finance advised that it is working on a potential amendment to this section of the bill in order to ensure that it properly reflects the intended formula for the proposed retirement allowance.

These changes will result in annual increases to the County's contribution to the ERS; the associated annual increase in the County's FY 2026 contribution will total approximately \$187,000, according to the System's actuary.

Deputy Sheriffs

Beginning July 1, 2024, the contribution rate for Deputy Sheriffs on Pay Schedule XIII shall be 10.3% for an ERS member who began their service on or after July 1, 2007 and before July 1, 2011, and 12.3% for an ERS member who began their service on or after July 1, 2011.

The accrual for Retirement for Deputy Sheriffs retiring with less than 20 years of creditable service for members hired prior to July 1, 2007 is increased from a split benefit that includes 1.82% or 55ths denominator for service years prior to July 1, 2007 and 1.43% or 70ths denominator for service years on or after July 1, 2007 to 1.82% or 55ths denominator for all service years. The Administration advised that since a majority of the pre-July 1, 2007 members have already reached 20 years of service, there would be no cost impact for those members.

The accrual for Retirement for Deputy Sheriffs retiring with less than 25 years of creditable service for members hired on or after July 1, 2007 is increased from 1.43% or 70ths denominator to 1.82% or 55ths denominator for all service years.

According to the System's actuary, these changes will result in an increase to the County's FY 2026 contribution to the ERS of approximately \$73,000.

Group 4 Plan B members who are sworn personnel of the Fire Department

The bill replaces the age 60 with 10 years of creditable service for retirement eligibility with age 55 with 10 years of creditable service effective July 1, 2024. The 30-year at any age retirement eligibility will remain unchanged. The Administration advised that the County would pick up the cost of this benefit and that the first-year cost to the pension plan is estimated to be 0.27%, or \$157,000. The Administration further advised that there would be an OPEB impact estimated at 1.83% of the Plan B Firefighter payroll, or \$913,929, had the OPEB plan been prefunded; however, since the OPEB plan is not prefunded, the cost is expected to be much lower starting with a first year estimated cost of \$7,000. The Office of Budget and Finance advised that it is possible this section of the bill will be deleted via an amendment, depending on the outcome of the labor negotiations process.

All three sections of Bill 44-24 together would result in an increase to the County's FY 2026 contribution to the ERS of approximately \$324,000. Over the next 15 years, the County will contribute an additional \$3.1 million, in today's dollars, to the ERS as a result of the provisions of this bill.

With the affirmative vote of five members of the County Council, Bill 44-24 will take effect on July 1, 2024.

Bill 45-24

Council District(s) All

Mr. Patoka (By Req.)

Department of Permits, Approvals and Inspections

Development Impact Fee

Bill 45-24 amends the method of calculation and timing of collection of development impact fees for new residential development. In general, local governments assess development impact fees and/or excise taxes in order to generate revenue to improve infrastructure and public school and public safety facilities as demand for those services increases from the new development. Currently, the County assesses a development impact fee on new residential development at 1.5 percent of gross sales price and collects the fee at time of settlement or prior to the issuance of a use and occupancy permit.

Bill 45-24 would move the time when development impact fees are collected to prior to the issuance of a building permit rather than at the time of settlement or prior to the issuance of a use and occupancy permit. Additionally, the bill would change the method of calculation to a set dollar amount per square foot instead of a percentage of sales price. Specifically, the fee will be \$6.00 per square foot. As a result of these changes, the definition of “gross sales price” is no longer required and is therefore removed, and the definition of “development impact fee” is updated.

Most peer jurisdictions across Maryland charge impact fees/excise taxes as a flat fee or as a rate per square foot, with Baltimore County being the lone exception that charges as a percentage of gross sale price. The Office of Budget and Finance advised that under the current development impact fee structure, out of 1,674 residential building permits issued in CY 2023, 41 are expected to result in an impact fee at the time of sale, with anticipated revenue totaling \$242,287. The Office further advised that under the proposed fee change, these 41 permits would instead result in \$1,587,114 of impact fee revenue. The average size of the dwellings for these building permits is 5,405 square feet.

Under the current development impact fee structure, for a home selling for \$393,962 (the average sales price of a home in Baltimore County in CY 2023), the development impact fee would be

\$5,909. Assuming that a new home of 5,405 square feet would sell for twice that amount, or \$787,924, the current impact fee would be \$11,819. Under the proposed fee structure, the development impact fee for this same home would be \$32,430, or almost triple the current fee. By way of comparison, the FY 2024 development impact fee/excise tax for a 5,405 square foot single-family detached home in other local jurisdictions would be as follows:

- Anne Arundel County: \$21,546
- Harford County: \$6,000
- Montgomery County (with no easy access to public transportation): \$56,274

For a more modest-sized single-family attached home of 2,400 square feet, the FY 2024 development impact fee/excise tax would be as follows:

- Anne Arundel County: \$16,217
- Harford County: \$4,200
- Montgomery County (with access to public transportation): \$29,569
- Baltimore County: \$14,400

With the affirmative vote of five members of the County Council, Bill 45-24 will take effect 45 days after its enactment.

Mr. Marks

Zoning Regulations – Uses Permitted – B.L. Zone – Community Buildings and Fraternal Organizations

Bill 46-24 amends the community building use in the Business, Local (B.L.) Zone. Currently, a community building or other structure or land use devoted to civic, social, recreational, and educational activities is permitted by right in the B.L. Zone. However, the current law prohibits the use of a community building as a catering hall and requires the community building to be located in a shopping center in the C.C.C. District. Last, the community building must have a minimum gross floor area of 125,000 square feet.

The bill makes the community building use more generally applicable in the B.L. Zone by eliminating the catering hall prohibition, the locational requirement, and the minimum size requirement. Last, the bill includes fraternal organizations in the list of types of activities a community building may be devoted to.

With the affirmative vote of five members of the County Council, Bill 46-24 will take effect 14 days from the date of its enactment.

Mr. Patoka

County Charter – County Council – Composition – Number of Councilmembers

Bill 47-24 amends the County Charter to increase the membership on the County Council to nine members, all elected by district, starting with the 2026 election. The bill also revises the Councilmanic districts accordingly, contingent upon approval of the ballot question by Baltimore County voters. The bill includes several other Charter amendments required by this change to take effect after the 2026 election, including increasing the membership of the Planning Board and the Board of Appeals.

Beyond the Council composition changes, the bill also amends the Charter to require that, for the purposes of determining compensation, membership on the County Council shall be considered a full-time position. Last, the bill revises the Charter provision governing the Redistricting Commission, including membership and its scope.

History of Council Expansion

Baltimore County adopted a Charter style of Government in 1956, establishing a County Executive and a 7-member County Council. As the Council was originally established, Councilmembers represented the district in which they lived, but all members were elected county-wide. In 1972, the Charter was amended to the current election process where only the voters of the district elect their Councilmember.

In 1950, the County’s population was 270,273. By 1960, the County had added 222,155 residents, leading to a population of 492,428. This remains the fastest period of population growth in Baltimore County’s history. At that time, the average number of residents per Council district was 70,346. Since then, the County’s population has grown to 854,535 residents, according to the 2020 U.S. Census. As such, the current average number of residents per Council district is 122,076.

The question of whether to increase the membership of the Council has been considered several times since 1956 in many different contexts. The 1978 Charter Review Commission recommended that the County “increase the number of Council members to eleven so that the number of constituents each Council member must serve will be reduced, Council members will be better able to represent the constituents they have, and the Council as a body will be better able to grapple with the growing complexity of Baltimore County government.” In the early 1990s, two advocacy groups, from the Dundalk-Essex area and the Randallstown-Pikesville area, made attempts to gather the required 10,000 signatures to place a question on the 1992 ballot and increase the Council membership to nine. Together, the groups collected a little over 7,000 signatures.

In the early 2000s, civil rights groups called for the Council to either expand its membership or create a majority-Black district in response to the County’s changing demographics. In 2001, the Council created the County’s first majority-Black district, and at that time considered but ultimately rejected a bill put forth by then-Councilman Doug Riley to expand the Council to nine members, opting instead to create a redistricting reform commission.

The 2017 Charter Review Commission reviewed the possible expansion of the County Council from seven members to nine, including the potential of at-large members. A majority of the Commission declined to recommend expansion of the Council, concluding that the ratio between a Councilperson and the population in each district was not excessive; however, the Commission noted that, “based on the original composition of the County, the population, and the number of Councilmembers, it is logical to consider a possible increase in the size of the Council in the future, particularly as the population has more than doubled and continues to increase.” As part of its reasoning, the Commission pointed to “the fiscal impact associated with the addition of two new districts, both in initial, start-up and capital costs,” and noted the “yearly increases in the budget” as well as “advances in technology [that] have increased accessibility and communication between constituents and their elected representatives.”

In 2021, in response to the continued demographic shifts of the County, civil rights advocacy groups again called on the Council to either increase the number of districts or draw a second majority-Black district. There was also a signature collection campaign to place a question on the 2022 ballot to increase the Council to 11 members, all elected by district. This group was not successful for the 2022 ballot; however, the group restarted its campaign to place the same question on the 2024 ballot.

Council Structure Workgroup

On October 16, 2023, the County Council passed Resolution 32-23 which created the Baltimore County Structure Review Workgroup (the “Workgroup”). This advisory body was created to conduct research and make recommendations on the size and structure of the Baltimore County Council and related matters. As required by Resolution 32-23, the Workgroup conducted research on the composition of peer legislative bodies in the State of Maryland and nationwide and reviewed demographic data and trends for Baltimore County and the State. The Workgroup also obtained data on the potential taxpayer costs associated with a potential increase in the number of Councilmembers.

The Workgroup consisted of 11 voting members and met nine times (in-person and virtually) between November 30, 2023 and March 25, 2024. Through November, December, and early January, the Workgroup received staff presentations on the research topics required under Resolution 32-23. Additionally, staff prepared research packets and a Council Expansion Fiscal Report, as well as supplemental information and research requested by individual members.

In order to gather public input, the Workgroup created a dedicated e-mail address where the public could submit written testimony. The Workgroup also held three public hearings. The Workgroup first held a virtual public hearing to gather general public input on January 22, 2024. After publishing a draft report, the Workgroup also held two in-person public hearings – one in White Marsh and one in Woodlawn – to receive specific public feedback on a set of preliminary recommendations in the report.

The Workgroup published its final report and recommendations (the “report”) on March 31, 2024, which can be found on the Council’s website. Appended to the report are a summary of public input, the text of Resolution 32-23, all Workgroup meeting minutes, all research packets presented to the Workgroup, including a fiscal impact report, and relevant sections of the County Charter. Recordings of all meetings and public input hearings are available on the Council’s website.

Workgroup Recommendations

At the Workgroup’s final meeting March 25, 2024, the Workgroup unanimously voted to approve the report with its final recommendations as follows.

- 1) The Baltimore County Council should expand to nine Councilmembers, all elected by district.
- 2) A Charter amendment question to expand the County Council should be placed on the 2024 ballot for the voters to decide.

- 3) The additional Councilmembers should be elected at the next Councilmanic election in 2026.
- 4) The compensation for Councilmembers should be increased to be commensurate with full-time professionals.
- 5) The County Council's staff budget should be increased proportional to the additional Councilmembers.
- 6) A new provision should be added to the Charter that requires an automatic increase or decrease in the number of Councilmembers based on certain population threshold increases or decreases being reached and linked to the County's normal redistricting cycle and total population, as reported by the decennial Census.

Bill 47-24

Bill 47-24 amends the County Charter to enact the Workgroup's first four recommendations. To enact the first recommendation, the bill amends Section 201 regarding composition of the Council to increase the number of members from seven to nine and Section 206 regarding the number of Council districts to increase the number of districts from seven to nine. To enact the second recommendation, Section 6 of the bill places a question regarding the Charter amendments in the bill on the 2024 ballot.

The third recommendation is enacted by several related provisions. The first step is passage of a bill by the County Council to amend the relevant Charter sections, which may only pass by an affirmative vote of at least five Councilmembers. The second step is the placement of a question on the general election ballot. If a majority of the voters approve the ballot question, the Charter amendment is ratified and goes into effect 30 days after the election. The third step is a revision of the Councilmanic districts from a seven-district configuration to a nine-district configuration by the County Council.

Section 1 of the bill states the Charter amendments related to the first step. Section 6 of the bill requires that a ballot question regarding the provisions of Section 1 be placed on the November 5, 2024 general election ballot (step 2). Sections 3 and 4 of the bill (as well as the exhibits attached thereto) revise the configuration of the Council districts in accordance with the third step. Section 9 of the bill states this new configuration shall be effective 30 days after the 2024 general election and be applicable to the general election on November 3, 2026. Section 8 of the bill states that Sections 3 and 4 (the revision of Council districts) are contingent on the ratification of the 2024 ballot question by the voters of Baltimore County. This "contingency" provision means

that if the bill is passed but the 2024 ballot question regarding section 1 is not approved by a majority of Baltimore County voters, then Sections 3 and 4 shall be null and void with no further action required by the County Council.

There are three additional related provisions of the Charter that are necessary to amend if the number of Councilmembers is increased. These three provisions are found in Section 2 of the bill. These sections will be included in the 2024 ballot question but will not go into effect until 30 days after the 2026 election.

The first related Charter provision is Section 522 regarding the membership of the Planning Board. Currently, Section 522 states that the Planning Board consists of 15 members, with eight members being appointed by the County Executive and each member of the County Council appointing one member, for a total of seven Council appointees. The bill increases the total number of Planning Board members to 17 to accommodate potentially two additional Councilmembers. The bill also revises the staggered-term provision such that the terms of at least five members shall expire every year.

The second related Charter provision is Section 601 regarding the membership of the Board of Appeals. Currently, Section 601 states that the Board consists of seven members. The bill amends this to state that the membership shall consist of “an equal number of members as the number of County Councilmembers established by this Charter.” The bill also amends the political composition requirement to state that no more than two-thirds of the Board (meaning six out of nine), rather than five members, may be registered as members of the same political party.

The last related Charter provision is Section 1201 regarding termination of the Charter. Currently, Section 1201 states that the Charter may be terminated by an affirmative vote of at least six (of the seven) members of the Council. The bill amends this number to eight (of the nine).

In addition to the Council size recommendations, Bill 47-24 also enacts the Workgroup’s fourth recommendation that “the compensation for Councilmembers should be increased to be commensurate with full time professionals.” Specially, Section 1 of the bill amends Charter Section 204 regarding compensation to add a sentence that states “membership on the council shall be considered a full-time position for the purpose of determining compensation.” This is the same language that appears in the Charters for Montgomery and Prince George’s Counties to indicate that their Councilmembers should be compensated as full-time professionals.

Section 1 of the bill makes some related changes to Charter Sections 206 and 207. Specifically in Section 206, the bill clarifies that, following the 2026 general election, revisions of Council districts may only be enacted through the redistricting process set forth in Section 207. This change specifies when such a revision can occur to two circumstances only: after each decennial census; or upon ratification of Charter amendments to increase or decrease the number of Council districts.

In Section 207, subsection (a) is revised to allow the Council to establish a redistricting commission the year after ratification of Charter amendments to increase or decrease the number of Council districts, in addition to the existing circumstance the year after a decennial census. The prohibition on recommending legislation to increase or decrease the number of Council districts is also revised to allow such a recommendation if the redistricting commission was established pursuant to ratification of relevant Charter amendments to increase or decrease the number of Councilmembers.

Finally, the bill also changes the membership of a redistricting commission, as set forth in Section 207(a). Currently, a redistricting commission is composed of five members appointed by the County Council. The bill amends this to state the commission shall be composed of an equal number of members as the number of County Councilmembers established by this Charter, with one member nominated by each Councilmember and confirmed by the County Council.

A final provision in the bill is related to the Baltimore County Board of Education. Currently, § 3-2B-01 of the Education Article of the Annotated Code of Maryland relating to the composition and method of election of the Baltimore County Board of Education states that there are seven elected members whose districts are the same as the Council districts. Section 5 of the bill requires the County Executive and the Council to send a letter after the 2024 general election to the County's delegation to the Maryland General Assembly stating that this section of the Maryland Code should be updated. However, Section 8 of the bill states that Section 5 is contingent upon the ratification of the 2024 ballot question and if it is not ratified by Baltimore County voters, then Section 5 shall be null and void without further action required by the County Council.

The estimated fiscal impact associated with Bill 47-24 is as follows:

- Approximately \$1.4 million in increased annual operating costs; and
- Approximately \$12.2 million in (one-time) capital improvement costs.