

Bills 13-18 thru 17-18 – All Councilmembers - Baltimore County Charter

Bills 13 through 17 propose to amend the County Charter in accordance with the recommendations of the Baltimore County Charter Review Commission.

The County Council passed, and the voters of Baltimore County, in November 2016, approved Bill 12-15 which proposed to amend the Charter of Baltimore County to create a decennial Charter Review Commission. This Commission is required periodically to review the Charter and undertake a comprehensive study of its contents, and make findings and recommendations as to the necessity for deleting, adding, or amending its provisions in order to improve the efficiency and operations of County government.

On February 21, 2017, the County Council established the Charter Review Commission (Resolution 16-17). The Commission, chaired by former County Executive Theodore Venetoulis, reported its findings and recommendations to the County Council in a report dated November 6, 2017.

Bills 13 through 17 constitute the Commission recommendations. The bills were introduced on March 5, 2018, will be discussed in a public meeting on March 27, 2018, with final vote scheduled for the Council legislative meeting on April 2, 2018. If approved, the bills will appear on the November 6, 2018 general election ballot for approval or disapproval by the voters.

Bill 13-18

Bill 13-18 makes corrections to 43 Sections of the Charter. The names of County offices and departments are updated, obsolete language is repealed, the functions and duties of certain departments are updated, an obsolete entity is repealed, certain provisions are transferred to other areas of the Charter, and gender-neutral language is substituted throughout the Charter.

Bill 14-18

Bill 14-18 amends 6 sections of the Charter in Article V, titled “The Administrative Services”.

Section 508: A provision of this Section requires the County Attorney to maintain a journal of County Council proceedings. The minutes of the County Council legislative meetings are kept by the Secretary to the Council, as required by Section 302 (b). The minutes are far more complete and detailed than the journal. The requirement of the County Attorney to maintain a journal of County Council proceedings is repealed.

Section 522: This section currently states that the Executive shall appoint the Director of Planning and Zoning (which is now known as the Department of Planning) subject to confirmation by the County Council. It also states that the Director shall serve until he resigns or is removed upon the recommendation of the Executive and approval of a majority plus one of the Council members. In order to be consistent with the Executive’s power over the heads of the offices and departments he appoints, as set forth in Section 402 (d)(9), and the prerogative to remove such appointments in his discretion, as will be codified in the new language of Section 404(b), the existing language of this section providing that the director shall serve until he resigns or is removed upon the recommendation of the Executive and approval of a majority plus one of the Council members is deleted.

Section 533: The County Executive does not serve on the Board of Recreation and Parks as currently provided in the section. The provision is deleted.

Section 540: Language in this section requiring the County Executive to serve as a member of the board of social services is deleted. Under State law, the County Executive is required to appoint a member of his administration to serve on the board but the Executive himself is not required to serve on the board. See §3-501 (d) of the Human Services Article of the Annotated Code of Maryland. No County Executive has served on this board any time recently but has appointed a member from his staff.

Sections 541 and 542: Subsection (b) of these sections requires that police chief and the fire chief, respectively, “shall continue to hold office until such time as he may resign or be removed pursuant to the provisions of this Charter”. Because there are no such provisions for removal of either chief, it is recommended that this language be deleted in both sections and replaced with a reference to Sec. 404(b) - the newly added language in Bill 16-18 for removal of appointed officers in the Executive Branch.

Bill 15-18

Bill 15-18 amends one section in Article III, titled “The Legislative Branch”.

Section 308 (f): The first sentence of this subsection authorizes the County Council to pass a bill prior to the tenth calendar day following its introduction in certain circumstances. This sentence was added to Section 308 by Bill 79-78, approved by the voters on November 7, 1978. There is no relevant legislative history. Whatever the intent of this provision, it conflicts with the requirements of article XI-A, Section 3 of the Maryland Constitution, dealing with the publication of local laws, as applied by the Maryland Court of Appeals in Schaeffer v. Anne Arundel County, et

al. 338 Md. 75 (1995). The sentence is deleted.

Section 308 (h) currently provides that a bill not passed within forty days after its introduction shall fail. The Charter Review Commission recognized there are times when, due to the complexity of a subject matter or public controversy, it would be helpful for a bill to be extended past 40 days in order to allow for additional input from the public and other interested stakeholders. The Commission recommends the 40-day period be extended to 65 days. Bill 15-18 amends Section 308(h) accordingly.

Bill 16-18

Bill 16-18 amends 3 sections in Article IV, titled “The Executive Branch”.

Section 402: In addition to corrections made to this section, including the substitution of gender-neutral language, Bill 16-18 repeals two obsolete paragraphs in subsection 402 (d) that deal with the duty of the County Executive to serve on certain boards and commissions (402 (d) (11)), since the Executive does not serve on any boards (see the similar deletions in Sections 533 and 540 of Bill 14-18). Section 402 (d) (14) is also deleted because the Executive does not issue regulations. The County Code makes provision for the adoption of regulations by departments and offices of county government that are authorized by law to do so. BCC Article 3, Title 7.

In addition, Section 402 (d) (9) is amended to clarify the appointment power of the Executive at the beginning of a term of office. There was some discussion as to whether Section 402 (9) (d) requires the Executive to submit for confirmation the names of all department heads at the beginning of each term (particularly those who are “holding over” and re-appointed by an Executive that is elected to a second term, or a new Executive who retains an existing department head). The language added to this subsection would codify the existing custom and practice of the

Executive submitting appointments (and reappointments) at the beginning of each term for confirmation by the County Council.

Section 403(d): This subsection states that the County Administrative Officer shall exercise supervision over all activities of those offices and departments “whose heads he appoints.” The Administrative Officer does not actually appoint the heads of offices and departments. That is the Executive’s prerogative. The change to this subsection deletes the quoted language “whose heads he appoints,” and reinforces that the County Administrative Officer “supervises” the offices and departments “for which provision is made in this Charter”. The changes also make the section gender-neutral.

Section 404 (b): this subsection states that the Administrative Officer, with approval of the Executive and subject to the merit system, may remove at any time any other officer or employee in the Administrative Services. The change to subsection (b) above reinforces that the Executive (not the Administrative Officer) has the power to remove the heads of offices and departments the Executive appoints in the Executive Branch, unless provisions for removal are set forth in the Charter (such as with the Zoning Commissioner and Deputy Zoning Commissioner, who serve a term and can be removed at the recommendation of the Executive and approval of at least a majority plus one of the Council members; a similar procedure may also remove the People’s Counsel). The Administrative Officer still retains the power to remove other employees of the administrative services of the County. The changes to subsection (b) are consistent with the change made to Section 403(d).

Bill 17-18

Bill 17-18 amends Section 505 of the Charter to add a provision dealing with exempt service employees of the County. The County Council specifically requested the Charter review Commission to review this issue. The change to this section addresses a gap in the manner in

which county government handles exempt service employees of the County, also known as “at-will” employees. Currently there is no system governing the compensation of exempt employees. The change to this section would require that a system be established by the County Council upon the recommendation of the County Executive.