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**PROPOSED HOME RULE CHARTER**

**FOR**

**BALTIMORE COUNTY, MARYLAND**

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**with**

**Reporter's Notes and Index**

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**To be Submitted to the Voters of Baltimore County  
at the  
General Election on Tuesday, November 6, 1956**

## FOREWORD

The work of the Charter Board of Baltimore County would be incomplete were we not to acknowledge, as we now do publicly and gratefully, the financial help extended to us by the County Commissioners, without which we would have been seriously handicapped. Their wholehearted co-operation has been given in many ways, especially in making available to us the opinions of many high ranking men in the County government, as well as the services of Mr. John A. Donaho, President of John A. Donaho & Associates, the nationally known firm which so recently made a study of our County government, and is now engaged in making a desk-to-desk survey.

We are grateful, too, for the suggestions which we have received from the Senator and Members of the House of Delegates from Baltimore County, with whom we met on two occasions, and for their assistance in the passage of certain legislation, which was prepared by our counsel, and which will help to perfect the Charter form of government submitted by us.

The Board also expresses its thanks to Mr. Preston L. Grimm of the Research and Statistical Section of the Board of Education, who supplied us with much of the statistical data used in the course of our work.

We commend gratefully and without reservation the outstanding work of our Reporter, Mr. Arthur W. Machen, Jr. Working all day and every day and many nights, Mr. Machen's industrious and painstaking research, his legal training, his high standing at the Bar, which justified the confidence we placed in him, his executive ability and scholarly attainments, have lightened greatly our labors and have contributed to a marked degree not only to the orderly arrangement of the Charter but to its composition and substance as well.

We express our sincere appreciation of the work of our counsel, Mr. Kenneth C. Proctor. His employment was not full time as was Mr. Machen's, yet, notwithstanding the pressing needs of his large private practice, Mr. Proctor has devoted a substantial part of his time and brought to his work the most careful study of the many and complex legal problems which confronted us and which we propounded to him, as his written opinions on these problems will demonstrate fully.

Finally, we publicly thank The Towson National Bank for the free use of its Board Room for our weekly afternoon and evening sessions.

#### CHARTER BOARD OF BALTIMORE COUNTY

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## REPORT TO THE VOTERS OF BALTIMORE COUNTY

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Under the provisions of Article XIA of the Constitution of the State of Maryland, the voters of the various counties are offered an opportunity to adopt a Home Rule Charter.

In order to avail themselves of this opportunity, the voters of Baltimore County approved the creation of a Charter Board at the general election held on November 2, 1954. It then became the duty of the Charter Board to prepare a Home Rule Charter and to submit it to the people of the County for their consideration at the general election to be held in November, 1956.

Your Charter Board has endeavored to fulfill this trust to the best of its ability. Since our election on November 2, 1954, we have studied the government of Baltimore County and have carefully analyzed the charters of numerous other counties and municipalities throughout the United States. We have held public hearings and many meetings. The views of the citizenry and of civic organizations were actively sought. Many valuable suggestions were made by the people of the County in and out of public service, and these suggestions have had an important part in the democratic process of preparing this Home Rule Charter.

The Charter Board now submits to the voters of Baltimore County this proposed Charter. We believe that it will further modernize the government of the County and will help us to solve many of our governmental problems.

This Report is not a part of the Charter, but is a brief summary prepared by the Charter Board for your conveni-

ence. It represents an outline of some of the essential provisions of the Charter and also contains some of the views formulated by the Charter Board during the course of its studies. It is hoped that this Report will facilitate a better understanding of the Charter, but, in the last analysis, there can be no substitute for reading and studying the entire Charter itself. The Charter Board earnestly recommends such a reading and study by every voter of the County.

## SUMMARY OF PROPOSED CHARTER

### HOME RULE

At the present time all public local laws for Baltimore County are enacted by the State Legislature composed of Senators and Delegates from the entire State. The Home Rule Charter takes away from the State Legislature the control over all major phases of local government and vests it in people most concerned — the voters and taxpayers of Baltimore County.

To date, only two other political subdivisions of this State have taken advantage of the Home Rule provisions of Article XIA of the State Constitution. They are Baltimore City, which adopted its Home Rule Charter in 1918, and Montgomery County, which adopted a Charter in 1948. Many of the reasons for the adoption of Home Rule in the populous areas of Baltimore City and Montgomery County apply with equal or greater force in Baltimore County. The tremendous growth in population in our County is but one of these reasons.

Baltimore County now has an estimated population in excess of 342,500. By 1960, it is estimated that the population will approach half a million people. At the present time there are only about fifteen cities in the entire United States with a larger population. Since there are no incor-

porated towns or municipalities in our County, it is truly one of the largest undivided political subdivisions of local government in the entire United States. Baltimore County is large enough to control its own affairs.

### SEPARATION OF POWERS

The Charter Board believes in the traditional concept of "separation of powers" in the American democratic process. We realize, of course, that the functions of local government are vastly different from those of the governments under the State and Federal Constitutions, but we are unconvinced that these differences justify the vesting of all governmental powers of the County in one council or one board.

At the present time all the executive powers of our local government, and also certain limited legislative and judicial powers, are vested in the Board of County Commissioners. The Baltimore County Charter which we propose will separate these powers. All legislative powers now discharged by the County Commissioners and all those additional ones acquired by Home Rule will be exercised by an elected County Council. The executive powers will be vested in an elected chief executive officer to be known as the "County Executive". And the judicial functions now performed by the County Commissioners will be assigned, together with other quasi-judicial functions, to a County Board of Appeals.

In recommending this form of government, the Charter Board is not unmindful of the progress which has been made in recent years in local municipal reform under the City Manager and County Manager Plans. In any business, large or small, public or private, it is essential that the day-to-day administration be handled by the best trained and best qualified men and women who are available, and,



of course, without regard to their place of residence or their political affiliation. But the self-evident truth of this statement does not, in our view, justify the vesting of all governmental powers in one board or council to be administered by its own appointee, the County Manager.

If our judgment in this respect proves to be at variance with the will of the people, the Charter can easily be amended after its adoption. Meanwhile, we submit that a modern business-like administration can be achieved without doing violence to our traditional concepts of representation in the executive as well as the legislative branches of government. This has been accomplished in the Philadelphia Home Rule Charter of 1951, and a similar system appears in the proposed Baltimore County Home Rule Charter.

#### COUNTY COUNCIL

To exercise the new Home Rule powers, the Charter establishes a County Council elected by the people. It will be composed of seven members, one from each of seven councilmanic districts described in Article II, Section 206 of the Charter.

Councilmen will be elected by the voters of the entire County, but each Councilman will have to reside in one of the seven separate councilmanic districts. We believe that this will insure representation on the County Council for each section of the County with different problems and different interests, but at the same time the Council will have County-wide responsibility.

At the open hearings conducted by the Charter Board before and after the release of the tentative draft of the Charter, many citizens urged that councilmen be elected by and from the voters of each councilmanic district, rather than by the voters of the entire County. For reasons more

fully stated in the Reporter's Notes which are published in the Appendix, such district elections are clearly illegal and probably unconstitutional under the laws and Constitution of the State of Maryland. The election of councilmen by the voters of the entire County, but subject to a residence requirement will give the voters of the County, under the Charter, the maximum degree of representation possible under present law. It is a far greater guarantee of representation than is found in the existing system, whereby all County Commissioners and all representatives in the General Assembly are elected at large without any residence requirement at all.

The County Council will have power to enact laws for the County on the many subjects set out in Article 25A of the Annotated Code of Maryland. These powers, most of which at the present time are exercised by the General Assembly in Annapolis, cover such matters as County property and franchises, health and nuisances, highways, bridges and streets, assessments, levy and collection of taxes, County borrowing, and many other governmental functions. Through the exercise of the referendum privilege and the Charter provisions relating to budgets and borrowing, the people of the County will have the ultimate control over the County purse-strings.

By transferring from the General Assembly to the County Council the power to legislate on local matters, the voters of the County will enable their delegation at Annapolis, with few exceptions, to concentrate on matters of State-wide importance.

Under the proposed Charter, legislative acts of the County Council may, except as otherwise expressly provided, be vetoed by the County Executive. The vote of five members of the Council, however, will pass any law over the executive veto.



The County Council will meet for an annual legislative session in May of each year and at least once each month during the rest of the year. Each Councilman will receive compensation of \$3,000. per year. Councilmen are intended to serve somewhat in the capacity of directors of a business corporation; they are not expected to meet every day.

#### AUDITS

The County Council will appoint a qualified County Auditor. As the personal appointee of the legislative branch, he will check on all financial transactions of the County to make sure that all officers and employees faithfully discharge their public trusts.

The Charter also provides for a biennial audit by an independent firm of certified public accountants. These audits will be made in 1958 and every two years thereafter. Additional audits may be prescribed at any time by the County Council.

#### COUNTY EXECUTIVE

The County Executive will be the official head of the County government. As an elected officer, he will be responsible directly to the people for the efficient administration of the County's affairs. Among many other duties, he must prepare and submit to the County Council a legislative program, an annual balanced budget, and periodic reports. He will be responsible for the execution and enforcement of all County laws. He has an executive veto, and the power to issue executive orders and make investigations. He also appoints the members of, and serves *ex officio* on, certain boards and commissions. Subject to confirmation by the County Council, he will appoint the County Administrative Officer, the County Solicitor and the members of the Appeal Tax Court. His salary will be \$17,500 per year, but the County Council may increase this compensation, effective at the beginning of any term.

#### COUNTY ADMINISTRATIVE OFFICER

Recognizing that the County government is now equivalent to a \$40,000,000. annual business, the Charter Board has provided in the Charter that the administrative affairs of the County shall be run by a man who is highly trained and thoroughly experienced in administrative work. A man with these qualifications will be the County Administrative Officer. He will be appointed by the County Executive, subject to confirmation by the County Council. He, in turn, will appoint subject to confirmation by the County Executive, the heads of all offices and departments other than the County Solicitor and other than the heads of those departments which are regulated by State law. In order to promote continuity in the administration of the County's affairs, his term of four years will begin and end in June following the general elections for County officials. A newly elected County Executive can replace the County Administrative Officer, but he will not be able to do so immediately after the election. The Charter empowers the County Executive to remove the County Administrative Officer, but only after public hearing before the County Council, if requested. The County Administrative Officer will receive \$15,000. per year as compensation, but the County Council is empowered to increase this sum in its discretion.

The Charter Board believes that the creation of the job of County Administrative Officer is one of the most important features of the Home Rule Charter. In any organization of the size of Baltimore County, with its attendant technical problems, the chief executive needs a well qualified and experienced assistant to aid him in the discharge of his administrative responsibilities. The County Administrative Officer will satisfy this need. For the first time in the history of the County, clear lines of executive authority will be established, and yet the ultimate control will rest with the people and their elected representatives.



### THE ADMINISTRATIVE SERVICES

The proposed Charter for Baltimore County establishes six offices and eight departments in the administrative services. The term "office" refers to the agencies performing services for other County agencies. The term "department" refers to the agencies performing services directly for the people.

The offices are: Law, Personnel, Finance, Budget, Central Services and Planning & Zoning. The departments are: Public Works, Permits & Licenses, Public Safety, Recreation, Education, Libraries, Health and Welfare.

The Departments of Education, Libraries, Health and Welfare are, in whole or in part, controlled by State law. The Charter cannot, and does not, in any manner attempt to change the organization or operation of these Departments.

In consolidating and simplifying the existing departmental structure of the County government, the Charter will reduce the number of officers reporting directly to the chief executive authority, but it does not eliminate specific jobs in the administrative services. Indeed, the present County administration has already taken steps to effect some of these departmental reforms, a fact which will simplify the transition from the existing form of government to the form prescribed in the Charter.

Prior to the 1955 session of the General Assembly, there were at least 32 separate officers or agencies in the County government reporting directly to the County Commissioners or vested by law with independence from executive control. One of these officers is elected and three of these agencies are now inactive. At the 1955 session of the General Assembly one more semi-autonomous commission was created and four separate departments or agencies

were consolidated into one. This reduces the number of County agencies from 32 to 30 — or to 27 if the three inactive agencies are treated as non-existent. Under the Charter, this number will be further reduced to 18, viz., the six offices and eight departments above enumerated, the Appeal Tax Court, the County Board of Appeals, the Board of Liquor License Commissioners, and the Baltimore County Revenue Authority. Moreover, to the extent permitted by State law, the Charter places all governmental agencies within the executive span of control. The Charter Board does not believe that a further consolidation of agencies and departments can be made without impairing the flexibility of the Charter and its ability to meet the expanding needs of County government over the years.

With one exception, the Charter prohibits the creation of additional offices or departments except by Charter amendment. This prohibition will prevent the County Council from creating a confused bureaucracy which would destroy the clear lines of executive authority established in the Charter. The one exception has to do with the affairs of the Metropolitan District.

### THE METROPOLITAN DISTRICT

The Metropolitan District is, in effect, a public utility corporation created by the General Assembly for the supply of municipal services, such as water and sewage disposal, to the residents of the County within a designated area surrounding the City of Baltimore. The Charter Board believes that the affairs of the Metropolitan District might well be the subject of a thorough study, perhaps leading to some changes in its organization and administration. The work incident to such a study would be highly technical in character, and could not possibly have been undertaken by the Charter Board. Moreover, any changes in the Metro-

politan District might affect the City of Baltimore, and it seems to us desirable that the City and County cooperate in any study of these matters.

We have accordingly provided in the Charter that the Metropolitan District shall remain, as at present, as a bureau or division of the Department of Public Works. Envisaging, however, the possibility that further studies might recommend the creation of a separate department to carry on its affairs, the proposed Charter empowers the County Council to so provide, when, as and if duly authorized by an act of the General Assembly.

#### PLANNING AND ZONING

Planning for the future growth of the County and the formulation and administration of zoning regulations are closely related functions. Their reorganization is a much needed reform.

Under existing law, the Zoning Commissioner is charged with the responsibility of preparing and enforcing zoning regulations, and his office is under the Department of Public Works. Ultimate zoning responsibility is, however, vested in the County Commissioners. The planning functions of the County have heretofore been administered by a Planning Commission and its subordinate officers and employees.

At the 1955 session of the General Assembly, a bill was enacted to reorganize the planning functions of the County and to create a Department of Planning (Acts of 1955 Ch. 610). This act, makes no changes in the organization or administration of County zoning. Even if the Charter Board could legally reorganize the administration of all these functions under one office (a legal point as to which there is some doubt), such reforms could not take effect

until 1957, after the adoption of the Charter. Meanwhile, the County would have been operating for nearly two years under the new Planning Bill, and the Charter Board cannot at this time predict how this new system will work.

Under these circumstances, the Charter Board proposes in the Charter to create an Office of Planning and Zoning composed of a Director of Planning, a Planning Board and a Zoning Commissioner and Deputy, all of whom will have the same duties and functions as may be provided by law at the effective date of the Charter. The Zoning Commissioner will thus be removed from the Department of Public Works and placed in the Office of Planning and Zoning, but no substantive or procedural changes will be made in his duties and functions. To the extent hereafter permitted by law, the Charter will permit the reorganization of planning and zoning at a later date and after some experience has been gained under the new Planning law.

#### PEOPLE'S COURT

Under Article 25A of the Annotated Code of Maryland, a chartered county has the power "to provide for designating justices of the peace who may constitute a County court". The Charter Board has carefully considered whether it would be desirable in the light of this power to provide for a People's Court to take over the jurisdiction of trial magistrates in civil cases.

Since, however, all legislative powers in Article 25A of the Code will be vested in the County Council after the adoption of the Charter, we have concluded that the question of court reform on the magistrate level had best be left to the County Council. In view of the large land area of the County, comprising some 610 square miles, the Charter Board envisaged some serious practical difficulties in the convenient administration of a People's Court.



At the 1955 session of the General Assembly a bill was enacted creating a People's Court of Baltimore County (Ch. 672). This Court is composed of three judges and staffed by four clerks and three constables. The act does not reduce the number of existing trial magistrates, but merely deprives them of their civil jurisdiction. We understand that this act was prepared under the auspices of the Baltimore County Bar Association, and, undoubtedly, the resulting cost to the County and the practical problems of the administration of a People's Court in this large land area have been given full consideration. After the adoption of the Charter, it may be necessary that further study be given to this matter in the light of practical experience under the People's Court bill, and especially to the possibility of reducing the number of trial magistrates who will hear only criminal cases.

#### BUDGETS AND FISCAL MATTERS

This Charter does not change the taxing power or procedures of the County. It does, however, require the submission of an annual balanced budget to the County Council for its approval. This budget consists of three parts integrated into one document: a current expense budget, a capital budget and capital program and a budget message.

During the last two years great strides have been taken in improving the budgetary procedures of the County. During the last year a program budget and encumbrance accounting system were introduced, whereby departmental expenditures can be controlled on a month-to-month basis. The annual program budget for 1955 represents a tremendous improvement over previous budgets, both in organization and in scope. But, in the opinion of the Charter Board, there is room for still greater improvement, particularly in the field of capital budgets and long-range planning for

capital projects. We submit that the progress which has already been made to date must be preserved for the future and that subsequent administrations must be prohibited from returning to the lax budgetary procedures which plagued the County in the past. For these reasons, the provisions of the Charter dealing with budgetary and fiscal matters are more detailed and more technical than most of the other Charter provisions. With these provisions in the Charter, the control over the spending of public money is placed where it belongs — in the people who pay the taxes. If changes are needed in these provisions, they must be made by the taxpayers and voters through amendment to the Charter. They cannot be made simply by amending the public local laws.

The Charter Board earnestly commends these provisions of Article VII of the Charter to the careful scrutiny of all interested taxpayers.

#### THE BALTIMORE COUNTY REVENUE AUTHORITY

At the 1955 session of the General Assembly, a Baltimore County Revenue Authority was created (Ch. 126). By its express terms this Act creates "an instrumentality of the County Commissioners" which at the same time has "perpetual existence as a Corporation". Its five members will be appointed by the County Commissioners. Under the Charter, therefore, the members would be appointed by the County Executive.

The Revenue Authority has extremely broad powers to construct, operate and maintain public buildings (other than schools), landing fields, bridges, tunnels, parks, swimming pools, stadia, recreation facilities, highways, parking facilities and a host of other projects. The Authority is given power to condemn private property for its corporate purposes. The County Commissioners are empowered to



sell to the Authority "any lands, streets, alleys, buildings, facilities, or other public places" upon payment of their "reasonable value". In the event of such sale, the payment is to be made in cash "or in bonds of the Authority at par".

The Charter Board has not had time to study the details of this law and we are not prepared to express any firm conclusion thereon. We do point out, however, that as a matter of general principle, revenue authorities can be used to accomplish a great deal of good or a great deal of evil.

If they are used to finance expensive but revenue-producing or self-sustaining capital projects, such as toll roads and bridges, airports, tunnels, off-street parking facilities, and the like, revenue authorities can be the means of securing worthwhile public improvements, without involving the credit of the County. But, if they are used to finance the construction of non-revenue-producing projects, such as County office buildings, police stations, fire houses, free public roads, and the like, they may open the door to bad government and political abuses. A moment's reflection will reveal why this is so.

If an Authority receives no income to support a particular project except rent paid by the government, then the Authority's bonds for that project are really supported by taxes, not by "revenue". Among other things, this can constitute a way to escape the legal debt limitation on County borrowing, the Charter provisions dealing with central services (especially in the field of buildings supervision and insurance), and the legal requirement that public borrowing be submitted to referendum. By creating fixed obligations by contract, this use of the Revenue Authority can also curtail the power of the taxpayer to object to the annual County Budget.

To what extent these undesirable results can or will be controlled under the new County Revenue Authority Act,

we cannot now predict. Perhaps the Act contains adequate safeguards in its prohibition against the "levy or pledge" of "any form of taxation", whether "directly, indirectly or contingently" to meet payments on the bonds of the Authority. In any event, the Charter Board was powerless to include any provision on the subject in the Charter, because this matter concerns a public corporation created by the General Assembly.

#### MERIT SYSTEM

In 1953, the County Commissioners adopted a Personnel Ordinance creating a Personnel and Salary Advisory Board and the office of a Personnel Director. By means of this Ordinance some preliminary steps were taken to organize a merit system in the County. It is the view of the Charter Board, however, that this Ordinance, while useful as a preliminary step in the right direction, did not really amount to a merit system. It exempted from the classified service some twenty-three County employees and classes of employees, and the powers of the Personnel and Salary Advisory Board, particularly in the field of investigations and hearings, seemed of questionable sufficiency.

At the 1955 session of the General Assembly, the Personnel Ordinance of the County Commissioners above referred to was introduced in the form of a public local law (Ch. 73) and was passed without substantive change.

The Charter Board recognizes that a civil service system is a mixed blessing, and several organizations and private citizens have suggested that it would be ill-advised to incorporate any merit system in the Charter. Those who have had experience with civil service in the Federal Government seem especially firm in this conviction. While we sympathize with these views, we submit that a governmental subdivision such as Baltimore County, with about



2,000 employees, must of necessity have a more comprehensive personnel policy and more job security than that embraced in present law. Accordingly, the proposed Baltimore County Charter establishes in Article VIII a merit system for County employees. It requires the first County Council to implement these provisions by appropriate legislation at its first session. Although the details of the system will be left to the County Council, the present County Personnel law will have to be amended to conform with the more inclusive Charter provisions.

#### COUNTY BOARD OF APPEALS

Article VI of the proposed Charter creates a County Board of Appeals composed of three members appointed by the County Council. This Article does not create three new jobs since all the functions of the existing Board of Zoning Appeals will be handled by the new appellate body. In addition to the hearing of appeals on zoning matters, the County Board of Appeals will hear and decide a host of other appeals from administrative and adjudicatory orders which are now heard by the County Commissioners and various other boards and agencies.

The Board has carefully considered the possibility of abolishing the existing Appeal Tax Court and of transferring its duties and functions to the County Board of Appeals. Because of some doubt as to the legality of such a move, and because of some fear of overcrowding the docket of the County Board of Appeals with assessment cases (especially when the system of annual reassessments is inaugurated), the Appeal Tax Court is not abolished by the proposed Charter. However, if later experience should indicate the wisdom of such a move, the County Council is empowered to do so, when, as and if authorized by law.

Under Article 25A of the Code of Maryland, the chartered county has no power to legislate on matters relating to the licensing or sale of spirituous or malt liquors. Accordingly, the proposed Charter makes no mention of the Board of Liquor License Commissioners. It will continue to operate as at the present time under State law, and appeals from its orders will not be heard by the County Board of Appeals.

#### TRANSITORY PROVISIONS

The Charter Board recognizes that in the last analysis no government is much better or much worse than the people in public service who administer the laws. The Charter cannot legislate efficiency and honesty. It can only set up the machinery to promote the orderly administration of the County's affairs, and in this manner to protect the voters and taxpayers against the results of incompetence, dishonesty and waste.

In view of these facts, the Charter Board does not feel that it would promote the orderly transition of the County's affairs from the Commissioner form of government to the chartered form of government by sweeping existing officers and employees of the County out of office, especially those who have been elected by the people. Accordingly, the proposed Charter provides that the President of the Board of County Commissioners holding office at its effective date shall serve until the election in 1958 as County Executive. Subject to confirmation by the first County Council, he will appoint the first County Administrative Officer. Although the Charter abolishes the office of County Treasurer and provides that his duties will be performed by the Director of Finance, this change will not be effective until the term of the present elected Treasurer expires in 1958. The Charter also expressly provides that, subject to the provisions of the merit system, all officers and em-

ployees of the County in office at the time of the adoption of the Charter, shall continue to hold their offices thereafter.

There will be a special election shortly after the adoption of the Charter to fill the newly created offices of County Councilmen. In this connection, the experience in other chartered counties warns us that it is especially important to secure a good first County Council composed of outstanding public-spirited citizens who are willing to accept the job as a public service.

#### COST OF COUNTY GOVERNMENT

The Charter Board wishes to make it clear to the taxpayers of the County that, in our view, the cost of the County government is going up, whether or not a Charter is adopted.

Baltimore County is fortunately a wealthy County and its general fund in present times of prosperity seems eminently solvent. But the picture in respect of the capital fund is not so bright. According to figures recently released by the Commission on Governmental Efficiency and Economy, the total general debt of the County has increased 996.5% since 1946. In the same short period, the total debt for schools has increased over Thirty Millions of Dollars (\$30,000,000.00), or One Thousand One Hundred and Fifty per cent. (1,150%). And this does not include the County's \$14,875,000.00 borrowed under the Maryland General Public School Construction Loan, on which the County is obligated to reimburse the State of Maryland for annual interest and retirement charges. Moreover, these figures do not include the Metropolitan District debt which is in excess of \$43,000,000.00.

In view of the tremendous growth in the County population and especially in the school population during the last

few years, a considerable increase in County borrowing was inevitable. We point out, however, that the day of reckoning must come and that the ever-accelerating increase in the public debt must of necessity cause an increase in taxes. Debt service on the general debt is paid from the general fund, and the general fund is, for the most part, made up of tax dollars paid by every taxpayer in the County.

The burden of this debt cannot be lifted simply by the adoption of a Charter. But, by introducing modern methods of fiscal procedures, long-range capital planning, clearer lines of administrative authority and meticulous care over the expenditure of public funds, the way can be paved for giving the taxpayer more for his tax-dollar. And by putting these provisions in a Charter, the ultimate control over this problem is placed in the taxpayers who pay the taxes and the voters who cast their ballots. This Charter is written for them, and it is they who will decide in November of 1956 whether they wish to adopt it as their form of government.

Respectfully submitted,

#### THE CHARTER BOARD OF BALTIMORE COUNTY

Edward H. Burke, *Chairman*

J. Kemp Bartlett, Jr.

Isabel W. Burkhardt

Samuel P. Cassen

Milton R. Smith



## CERTIFICATE OF SUBMISSION

We, the undersigned, constituting the Charter Board of Baltimore County, Maryland, elected by the people of Baltimore County on November 2, 1954, in accordance with the provisions of Article XIA of the Constitution of this State, and empowered thereby to frame a Charter for the government of said County, do hereby certify that the Charter submitted herewith and attached hereto and made a part of this certification by this reference was prepared and unanimously approved by said Board.

The proposed Charter is hereby submitted this Twenty-ninth day of April, 1955, to the Honorable Michael J. Birmingham, President of the Board of County Commissioners of Baltimore County, to be published in the manner required by Article XIA of the Maryland Constitution and to be submitted to a vote of the qualified voters of Baltimore County, Maryland, at the general election to be held on Tuesday, November 6, 1956.

### THE CHARTER BOARD OF BALTIMORE COUNTY

Edward H. Burke, Chairman

J. Kemp Bartlett, Jr.

Isabel W. Burkhardt

Samuel P. Cassen

Milton R. Smith

Arthur W. Machen, Jr.

Reporter to The Charter  
Board of Baltimore County

## CERTIFICATE OF LEGAL COUNSEL

I, Kenneth C. Proctor, having been duly constituted as Legal Counsel for the Charter Board of Baltimore County, do hereby certify that I have read and considered the proposed Charter annexed hereto, and, in my opinion, it conforms in all respects with the Constitution and laws of the State of Maryland.

Kenneth C. Proctor

April 29, 1955.

# CHARTER OF BALTIMORE COUNTY, MARYLAND

## PREAMBLE

We, the People of Baltimore County, in the State of Maryland, in order to obtain the benefits of self-government and home rule, do, in accordance with the Constitution and laws of the State of Maryland, adopt, ordain and establish as our Charter and form of government this

## CHARTER OF BALTIMORE COUNTY, MARYLAND

### ARTICLE I

#### NAME AND RIGHTS OF THE COUNTY

Section 101. *Body Corporate and Politic.* Baltimore County as it now exists constitutes a body corporate and politic. Under this Charter it shall have all rights and powers of local self-government and home rule as are now or may hereafter be provided or necessarily implied by this Charter and by the Constitution and laws of the State of Maryland.

Section 102. *Exercise of Powers.* The powers mentioned in the preceding section shall be exercised only by the County Council of Baltimore County, the County Executive and other agents, officers and employees of the County acting under their respective authorities or under such other authority as may be provided by this Charter or the laws of this State.

Section 103. *Name and Boundaries.* The corporate name shall be "Baltimore County, Maryland", and it shall thus be designated in all actions and proceedings touching its rights, powers, properties, liabilities and duties. Its boundaries and county seat shall be and remain as they are at the time this Charter takes effect unless otherwise changed in accordance with law.



## ARTICLE II

## THE COUNTY COUNCIL

Section 201. *Composition.*

(a) *Residence Requirement.* There shall be a County Council of Baltimore County composed of seven members, each one of whom shall, at the time of his election and for two years prior thereto and during his full term of office, reside in a different one of the seven councilmanic districts described in Section 206 of this Article.

(b) *Mode of Election.* All members of the County Council shall be elected on the general ticket by the qualified voters of the entire County as members of the General Assembly are or may be elected, and they shall likewise be nominated as members of the General Assembly are or may be nominated under provisions of the laws of the State of Maryland; provided, however, that the first County Council to take office after the adoption of this Charter shall be nominated and elected in the manner provided by Section 1103 of Article XI of this Charter.

Section 202. *Qualifications.*

(a) *In General.* In addition to the requirement of residence as provided in Section 201(a) of this Article, the members of the County Council shall possess the same qualifications for their office as are provided in the Constitution of the State of Maryland for the office of State Senator.

(b) *Other Offices.* No person shall qualify or serve as a member of the County Council while he holds any other office or employment for profit of or under the State or County, and no member of the County Council, during his term of office, shall be eligible for appointment to any

County office, position or employment carrying compensation.

(c) *Change of Residence.* If any member of the County Council during his term of office shall move his residence from the councilmanic district in which he resided at the time of his election, his office shall be forthwith vacated; but no member of the County Council shall be required to vacate his office by reason of any change in the boundary lines of his councilmanic district made during his term.

Section 203. *Term of Office.* Members of the County Council shall hold office for terms of four years commencing at the time of their election and continuing until their successors shall qualify. They shall qualify on the first Monday in December following their election, or as soon thereafter as practicable and shall enter upon the duties of their office immediately upon their qualification; provided, however, that the members of the first County Council elected after the adoption of this Charter shall hold office only until the next quadrennial election and until their successors have qualified for office.

Section 204. *Compensation.* Each member of the County Council shall be paid for the performance of his duties as provided in this Charter the sum of Three Thousand Dollars (\$3,000.00) per annum. Such salary shall be in full compensation for all services required by law or by this Charter to be performed by the members of the County Council.

Section 205. *Vacancies.* A vacancy occurring in the office of councilman prior to the expiration of his term shall be filled within forty-five days after the vacancy occurs by appointment by the County Executive of the person whose name shall be submitted to him in writing by the State Central Committee of Baltimore County representing the political party to which the previous member belonged. If



the previous incumbent was not a member of a political party, then the County Executive shall appoint the person selected by the remaining members of the County Council. The member so appointed shall reside in the same councilmanic district as his predecessor and shall serve the unexpired term of his predecessor and until his successor shall qualify.

Section 206. *Councilmanic Districts.* Baltimore County is hereby divided into seven councilmanic districts composed of the following election districts and precincts in effect on May 1, 1955:

<i>Councilmanic District</i>	<i>Present Election District(s) or Parts Thereof</i>
I	Election Districts One and Thirteen.
II	Election Districts Two, Three and Four.
III	Election Districts Five, Six, Seven, Eight and Ten.
IV	Election District Nine.
V	Election Districts Eleven and Fourteen.
VI	Election District Fifteen, exclusive of the portion thereof situate West of Back River and composed of Precincts 1, 4, 5, 7, 11, 14, 15, 16 and 17.
VII	Election District Twelve and the portion of Election District Fifteen situate West of Back River, consisting of Precincts 1, 4, 5, 7, 11, 14, 15, 16 and 17.

Section 207. *Revision of Councilmanic Districts.* At the first annual legislative session of the County Council after the publication of the decennial census figures of the United

States Bureau of Census, beginning with the 1960 census and every ten years thereafter, the County Council shall include as an item of legislative business at said session the revision of the councilmanic districts of the County. The County Council is hereby empowered by legislative act adopted by the affirmative vote of not less than five members to revise, amend or reconstitute, but not to increase the number of the councilmanic districts in effect at such time. Any such act shall not be subject to the executive veto provided in Article III, Section 308(g) hereof, but shall be subject to the referendum provision in Article III, Section 309 hereof.

Section 208. *Sessions of the County Council; Quorum; Rules of Procedure.*

(a) *Annual Legislative Session.* The County Council shall meet in Towson, Maryland, for an annual legislative session in the month of May of each year.

(b) *Other Sessions.* For the purpose of approving the County Budget and performing other duties properly exercisable by the County Council outside of the annual legislative session under the provisions of this Charter, the Constitution and laws of this State, and its own Rules of Procedure, the Council shall meet once each month in Towson, Maryland. The County Council may also meet at such other times and places, and with such notice, as may be specified in its Rules of Procedure. For other than its regular sessions, the County Council may be called into session by the County Executive or by any three councilmen.

(c) *Quorum.* At all meetings of the County Council four members thereof shall constitute a quorum for the transaction of business.

(d) *Rules of Procedure.* It shall be the duty of the County Council to adopt Rules of Procedure.



## ARTICLE III

## THE LEGISLATIVE BRANCH

Section 301. *Composition.* The legislative branch of the County government shall be composed of the County Council and the officers and employees thereof.

Section 302. *Officers.*

(a) *Presiding Officer.* The County Council at its first regular session in each calendar year shall elect from its membership a Chairman who shall preside at all meetings. In the event of his absence or inability to act, the members present, by an order entered in the Journal, shall select one of their number to act as Chairman *pro tem*, who, while so acting, shall have all the authority of the Chairman. On all questions before the County Council, the Chairman or Chairman *pro tem* shall have and may exercise the vote to which he is entitled as a Council member.

(b) *Other Officers and Duties.* There shall be a Secretary appointed by the County Council, who shall keep minutes of its meetings, and such other officers of the County Council as may be provided in its Rules of Procedure. All officers of the Council shall have such other duties and functions in addition to those provided herein as may be specified in such Rules.

Section 303. *Action By Council.* In all of its functions and deliberations, the County Council shall act as a body and shall have no power to create standing committees or to delegate any of its functions and duties to a smaller number of its members than the whole.

Section 304. *Enumerated Powers Not to be Exclusive.* The enumeration of powers in this Charter shall not be held or deemed to be exclusive, but, in addition to the

powers enumerated herein, implied thereby, or appropriate to the exercise thereof, the County Council shall have and may exercise all legislative powers which, under the Constitution and laws of this State, it would be competent for this Charter specifically to enumerate.

Section 305. *Limitation on Exercise of County Council's Powers.* In the exercise of all its powers, the County Council shall be subject to the express limitations imposed by this Charter and by all applicable provisions of the Constitution and laws of this State.

Section 306. *Legislative Powers of County Council.* The County Council shall be the elected legislative body of the County and is vested with all the law-making power thereof, including all such powers as may heretofore have been exercised by the General Assembly of Maryland and transferred to the people of the County by the adoption of this Charter. The County Council shall also have and may exercise all legislative powers heretofore vested in the County Commissioners of Baltimore County, including the power to accept gifts and grants. The County Council may enact public local laws for the County and is authorized to repeal or amend such local laws as have heretofore been enacted by the General Assembly of Maryland upon matters covered by the Express Powers Act of 1918 (Article 25A of the Annotated Code of Maryland, 1951 Edition) as now in force or hereafter amended. The County Council may also provide for the enforcement of all ordinances, resolutions, by-laws and regulations adopted under the authority of law by fines, penalties and imprisonment, within the limits prescribed by law.

Section 307. *The Metropolitan District.*

(a) *In General.* The Metropolitan District, established by the Acts of the General Assembly of Maryland of 1924,



Chapter 539, commonly known and hereinafter referred to as "The Metropolitan District Act", and now operating pursuant to said Act as amended, shall upon the adoption of this Charter be under the jurisdiction of the County Executive and the County Council instead of the County Commissioners as heretofore.

(b) *Division of Executive and Legislative Functions.* The affairs of the Metropolitan District shall continue, as heretofore, to be administered as a division of the Department of Public Works, as more particularly provided in Article V of this Charter. The County Executive, or the Chief Engineer of the Metropolitan District acting under his authority and under the supervision of the County Administrative Officer, shall have in respect of the Metropolitan District all duties and powers relating to the appointment and discharge of staff, professional and clerical employees, subject, however, to the merit system provisions of Article VIII hereof, the preparation of all accounts and reports, the giving of notices, the fixing of special assessments and connection charges, and all other executive functions relating to the day-to-day administration of the affairs of the District as may be provided in the Act aforesaid. The County Council shall have in respect of the Metropolitan District all duties and powers relating to the approval of extensions to the boundaries of the Metropolitan District, the issuance of bonds or other evidences of indebtedness by the District, and all other legislative functions which prior to the adoption of this Charter were vested in the County Commissioners under the Act aforesaid.

(c) *Compensation.* The compensation provided in this Charter for the members of the County Council and the County Executive having taken into account the nature and extent of their respective duties under this section, the members of the County Council and the County Executive

shall receive no additional compensation for the performance of their duties provided herein.

(d) *Purpose of this Section; Rules of Construction.* The purpose of this section is to provide for the orderly transition of the rights, powers, duties and obligations of the County Commissioners under The Metropolitan District Act to the County Council and County Executive under this Charter. Except for the provisions of subsection (c) of this section, nothing contained herein or elsewhere in this Charter shall be held or construed to alter or amend the provisions of The Metropolitan District Act, or to enlarge, diminish or change in any manner whatsoever the rights, duties, powers and obligations of the Mayor and City Council of Baltimore under and by virtue of said Act, or the rights, duties, powers and obligations of any party to any contract made pursuant thereto.

#### Section 308. *Legislative Procedure.*

(a) *Public Meetings.* All meetings of the County Council shall be open to the public.

(b) *Enacting Clause.* The style of the enacting clause for all laws of the County Council shall be: "Be it enacted by the County Council of Baltimore County, Maryland", and all laws shall be passed by original bill.

(c) *Titles.* Each law enacted by the County Council shall embrace but one subject, and that shall be described in its title; and no law, or section of law, shall be revived or amended by reference to its title or section only.

(d) *Votes Required.* No bill shall become law unless it be passed by the affirmative vote of not less than four members of the County Council, or such greater number as may elsewhere be required in this Charter, and on its final passage the yeas and nays shall be recorded in the Journal.



(e) *Publication of County Laws.* On the introduction of any bill, a copy thereof shall be posted on an official bulletin board to be set up by the County Council in a public place, and additional copies shall be made available to the public and to the press. Every copy of each bill shall bear the name of the councilman introducing it and the date it was introduced for the consideration of the Council; and no bill shall be passed before the tenth calendar day after such date, except by the consent of at least five members. Upon the passage of any bill by the County Council, it shall receive such publication as may from time to time be required by law.

(f) *Effective Date of Laws; Emergency Measures.* All public local laws and ordinances enacted by the County Council shall take effect forty-five days after their enactment, unless by the affirmative vote of five members of the County Council any such law or ordinance shall be declared to be effective on a later date, or declared an emergency measure affecting the public health, safety or welfare, in which latter event the same shall take effect from the date of its enactment. The term "emergency measure" shall not include any measure creating or abolishing any office or changing the salary, term or duty of any officer, or granting any franchise or special privilege, or creating any vested right or interest.

(g) *Executive Veto.* Upon the passage of any legislation by the County Council including any public local law, ordinance or other act having the force of law, with the exception only of such measures as may in this Charter be made expressly exempt from the executive veto, the same shall be presented within two calendar days to the County Executive for his approval or disapproval, and within ten days after such presentation he shall return any such legislation to the County Council with his approval endorsed

thereon or with a statement in writing of his reasons for not approving the same. Upon approval by the County Executive any such legislation shall stand enacted. Any such legislation presented to the County Executive and returned with his veto may be reconsidered by the County Council. His objections shall be entered upon the Journal of the Council, and, not later than at its next regular session, the County Council may consider the enactment thereof notwithstanding the executive veto. The vote thereon shall be taken by yeas and nays to be recorded in the Journal, and if five members of the Council vote in the affirmative, the legislation shall stand enacted. Whenever the County Executive shall fail to return any such legislation within ten days after the date of its presentation to him, the Secretary of the County Council shall forthwith record the fact of such failure in the Journal, and such legislation shall thereupon stand enacted.

(h) *Failure of Bills.* Any bill not passed within forty days after its introduction shall fail.

### Section 309. *The Referendum.*

(a) *Scope of the Referendum.* The people of Baltimore County reserve to themselves the power known as "The Referendum", by petition to have submitted to the registered voters of the County, to approve or reject at the polls, any enacted law or ordinance or part of any such law or ordinance of the County Council. The referendum petition against any such law or ordinance shall be sufficient if signed by ten per centum of the qualified voters of the County calculated upon the whole number of votes cast in the County for Governor at the last preceding gubernatorial election. Such petition shall be filed with the Board of Supervisors of Elections of Baltimore County within forty-five days after the enactment of the law to be re-



ferred to the voters at the next general election; provided, however, that if more than one-half but less than the full number of signatures required to complete any referendum petition against such law or ordinance be filed within forty-five days from the date of its enactment, the time for the law to take effect and the time for filing the remainder of signatures to complete the petition shall be extended for an additional thirty days with like effect. An "emergency measure" as defined in Section 308 of this Article shall remain in force from the date of its enactment notwithstanding the filing of such petition, but shall stand repealed thirty days after having been rejected by a majority of the qualified voters voting thereon. No law making any appropriation for maintaining the County government, or for maintaining or aiding any public institution, not exceeding the next previous appropriation for the same purpose, shall be subject to rejection or repeal under this section. The increase in any such appropriation for maintaining the County government or for maintaining or aiding any public institution shall only take effect as in the case of other laws, and such increase, or any part thereof, specified in the petition may be referred to a vote of the people of the County upon petition as above provided.

(b) *Form of Petition.* A petition may consist of several papers, but each paper shall contain the full text of the Act or the part of the Act petitioned upon; and there shall be attached to each such paper an affidavit of the person procuring the signatures thereon that, to the said person's own personal knowledge, each signature thereon is genuine and bona fide, and that to the best of his knowledge, information and belief the signers are registered voters of the State of Maryland and Baltimore County, as set opposite their names; and no other verification shall be required.

(c) *Furthering Legislation.* The provisions of this section shall be self-executing; provided, however, that legis-

lation in furtherance hereof and not in conflict herewith may be enacted by the County Council.

Section 310. *Non-Interference with Executive Branch.* Unless for the purpose of inquiry or information, neither the County Council nor any member thereof shall deal directly with any officer, agent or employee in the executive branch of the County government other than the County Executive. Except through legislation duly enacted, neither the County Council nor any member thereof shall, either directly or indirectly, give orders to any officer, agent or employee of the executive branch of the County government, nor shall they in any manner attempt to influence or coerce any such officer, agent or employee in the performance of his duties.

Section 311. *County Auditor.* The County Council shall by resolution appoint a County Auditor who shall hold office for an indefinite term at the pleasure of the Council and shall receive such compensation as the Council may determine. He shall be a certified public accountant licensed for the practice of his profession under the laws of this State, and shall be appointed on the basis of his knowledge of governmental accounting and auditing and his experience pertaining to the duties of his office. He shall, on or before July 1, of each year, prepare and submit to the County Council and to the County Executive a complete financial audit for the preceding fiscal year of all offices, departments, institutions, boards, commissions and other agencies of the County government except only those whose entire records, accounts and affairs are completely audited each year by the State government. Such audit shall include a report thereon, together with such explanatory comments as the Auditor may deem appropriate. The report and explanatory comments shall be published in at least two newspapers of general circulation in



the County, and copies of the complete audit shall be open to the inspection of the public and the press in the County Auditor's office. All records and files pertaining to the receipt and expenditure of County funds by all officers, agents and employees of the County and all offices, departments, institutions, boards, commissions and other agencies thereof shall, at all times, be open to the inspection of the County Auditor. He shall promptly call to the attention of the County Council and the County Executive any irregularity or improper procedure which he may, from time to time, discover. The County Council shall have the power to implement the provisions of this Section and to assign additional duties and functions to the County Auditor not inconsistent with those provided herein. All actions of the County Council pursuant to this Section shall be exempt from the executive veto.

Section 312. *Biennial Audit.* A financial audit of all offices, departments, institutions, boards, commissions and other agencies of the County government, except only those whose entire records, accounts and affairs are completely audited each year by the State government, and covering their operations for the preceding two fiscal years, shall be made in 1958 and every two years thereafter by an independent firm of certified public accountants whose members are licensed for the practice of their profession under the laws of this State. The selection of such firm and its employment by contract shall be made before the end of the year 1957 and every two years thereafter by the County Executive with the advice and consent of the County Council. The completed biennial audit shall be submitted to the County Council and to the County Executive, and copies shall be made available to the public and the press no later than September 1, 1958, and every two years thereafter on the same day. All records of the County Auditor and all records and files pertaining to the

receipt and expenditure of County funds by all officers, agents and employees of the County and all offices, departments, institutions, boards, commissions and other agencies thereof shall be open to the inspection of the accountants conducting the biennial audit. The County Council shall have the power to implement the provisions of this Section by legislative act not inconsistent herewith, and to require such additional independent audits as it shall deem necessary.

## ARTICLE IV

### THE EXECUTIVE BRANCH

Section 401. *Composition.* The executive branch of the County government shall consist of the County Executive, the County Administrative Officer, and all officers, agents and employees under their supervision and authority.

#### Section 402. *County Executive.*

(a) *Nature and Term of Office; Mode of Election; Qualifications; Salary.* The County Executive shall be the chief executive officer of the County and the official head of the County government. In such capacity, he shall be the elected executive officer mentioned in Section 3 of Article XIA of the Constitution of this State. He shall be nominated in the primary elections in the same manner as other elected County officials and shall be elected on the general ticket by the qualified voters of the County to serve for a term of four years and until his successor shall be elected and qualify; provided, however, that the first County Executive to take office after the adoption of this Charter shall be selected in the manner specified in Article XI, Section 1105 hereof. The County Executive shall be a qualified voter of the County, not less than thirty years of age, and shall have been a resident of the County for at least five years next preceding his election. He shall devote his full



time to the duties of his office and, subject to the provisions of Section 405 of this Article, shall be paid an annual salary of Seventeen Thousand Five Hundred Dollars (\$17,500.00).

(b) *Vacancy.* Whenever for any cause the office of the County Executive shall become vacant, the same shall be filled by the affirmative vote of not less than four members of the County Council. The person so elected by the Council shall possess the same qualifications for the office as hereinbefore provided in Section 402(a) hereof, shall belong to the same political party as his predecessor (unless his predecessor was not a member of a political party) and shall serve the unexpired term of his predecessor and until his successor shall qualify.

(c) *Temporary Absence of County Executive.* During the temporary disability or absence from the County of the County Executive, the County Administrative Officer shall serve as Acting County Executive. If both the County Executive and the County Administrative Officer are temporarily disabled or absent from the County, the Director of the Budget, as the Acting County Administrative Officer, shall also serve as Acting County Executive, unless the County Council designates the head of another Office in the administrative services, or the Director of Public Works or the Director of Public Safety to serve as Acting County Executive. If a County Executive fails actively to perform the daily duties and responsibilities of his office for a continuous period of six months, his office may be declared vacant by the affirmative vote of not less than four members of the County Council, and such vacancy shall thereupon be filled in the manner above provided in Section 402(b) of this Article. An Acting County Executive shall have the same rights, duties, powers and obligations as an elected incumbent of said office, exclusive, however, of the power of executive veto.

(d) *Duties of the Office.* The County Executive shall be responsible for the proper and efficient administration of such affairs of the County as are placed in his charge or under his jurisdiction and control under this Charter or by law. In addition to and not by way of limitation of his general duties of supervision and management of the executive branch of the County government, he shall have the following express responsibilities, duties and powers:

1. To supervise, direct and control, subject to law and the provisions of this Charter, the administrative services of the County;
2. To present to the County Council the annual County Budget in the manner and form hereinafter in this Charter provided;
3. To communicate to the County Council at least once a year a general statement of the finances, government and affairs of the County, with a summary statement of the activities of the several departments and offices thereof;
4. To present to the County Council from time to time such other information concerning the business and affairs of the County as he may deem necessary, or as the County Council by resolution may request, and to recommend such measures for legislative action as he may deem expedient;
5. To see that the County officers, boards, agencies, commissions, departments and employees faithfully perform their duties, and to employ, with the approval of the County Council, experts and consultants in connection with any of the functions of the County government;
6. To see <sup>that</sup> ~~that~~ the laws of the State pertaining to the affairs, good order and government of the County, and the acts, resolutions, ordinances and public local laws of the County are duly executed and enforced within the County;



7. To make or cause to be made any study or investigation which in his opinion may be in the best interests of the County, including but not limited to investigations of the affairs, functions, acts, methods, personnel or efficiency of any department, office or officer under his jurisdiction;

8. To veto, in his discretion, legislative acts of the County Council, in the manner, at the times and subject to the limitations provided in Article III, Section 308(g) of this Charter;

9. To appoint, subject to confirmation by the affirmative vote of not less than four members of the County Council, the County Administrative Officer, the County Solicitor and the members of the Appeal Tax Court, and to approve all appointments made by the County Administrative Officer as hereinafter provided;

10. To appoint the members of all boards, commissions and authorities created in or pursuant to this Charter or by law;

11. To serve on all boards and commissions on which a County Commissioner was, prior to the adoption of this Charter, required to serve as a member, exclusive, however, of the Board of Health;

12. To sign on the County's behalf all deeds, contracts and other instruments which prior to the adoption of this Charter required the signature of the President or any member of the Board of County Commissioners, and to affix the County seal thereto;

13. Except as otherwise expressly provided in this Charter, to issue or cause to be issued all administrative orders, licenses and permits which prior to the adoption of this Charter were issued or granted by the County Commissioners; subject, however, to the right of any party

aggrieved thereby to appeal to the County Board of Appeals as provided in Article VI of this Charter.

14. To prepare and issue, or cause to be prepared and issued, rules and regulations of the character which prior to the adoption of this Charter were prepared or issued by the County Commissioners, provided that before taking effect all such rules and regulations shall be approved by the County Council;

15. To appoint a confidential clerk or secretary who shall be known as "Secretary to the County Executive", who shall have and may exercise all powers and functions heretofore conferred on the Secretary of the Board of County Commissioners, including but not limited to the power to attest the signatures of all County officials;

16. To delegate, with the approval of the County Council, any of the duties of his office to the County Administrative Officer, with the exception, however, of his power of executive veto;

17. To perform such other duties as may be prescribed by this Charter or required by ordinance or resolution of the County Council or as may be necessarily implied from the powers and duties herein specified.

#### Section 403. *County Administrative Officer.*

(a) *Qualifications; Mode of Selection; Salary.* The County Administrative Officer shall be appointed solely on the basis of his integrity and of his executive and administrative qualifications for the performance of the duties of his office as hereinafter set forth. He shall have had, prior to his appointment, at least five years' experience as an executive either in public service or private business, or both. He shall also be thoroughly familiar with modern accounting methods and budget procedures. At the time of his appointment, he may, but need not be, a resident of Bal-



timore County or of the State of Maryland, but during his tenure of office he shall at all times reside within the County. He shall devote his full time to the duties of his office, and, subject to the provisions of Section 405 of this Article, shall be paid an annual salary of Fifteen Thousand Dollars (\$15,000.00).

(b) *Term of Office.* The term of office of the County Administrative Officer shall be four years beginning on the first day of June in the year following the election of a County Executive provided in this Charter. The County Administrative Officer shall continue to hold office until his successor shall qualify.

(c) *Vacancy.* A vacancy in the office of County Administrative Officer shall be filled by appointment for the balance of the unexpired term. Such an appointment shall be made in the same manner and subject to the same qualifications as an original appointment.

(d) *Nature of Office and Duties.* The County Administrative Officer shall exercise supervision over all activities of those offices and departments whose heads he appoints, and the boards and commissions connected therewith. He shall be responsible directly to the County Executive. In addition to and not by way of limitation of his general duties of supervision as above provided, the County Administrative Officer shall have the following express powers and duties:

1. To appoint, subject to approval by the County Executive, the heads of all offices and departments of the County government for which provision is made in this Charter, with the exception, however, of the County Solicitor and those appointed by other authority under the public general laws of this State;

2. To be the Chief Budget Officer of the County and to prepare and submit to the County Executive for his ap-

proval and submission to the County Council all County budgets, prepared in the manner and form provided in Article VII of this Charter;

3. To make periodic reports, with such recommendations as he may deem appropriate, to the County Executive concerning the affairs of the County government;

4. To hold periodic staff meetings with his subordinate officers in the administrative services;

5. To make any study or investigation which in his judgment may be in the best interests of the County, including but not limited to the affairs, functions, acts, methods, personnel or efficiency of any department, office or officer under his jurisdiction;

6. To perform such other administrative duties as may be delegated to him by the County Executive;

7. To do and perform such other duties as may be prescribed by this Charter or required by ordinance or resolution of the County Council or as may be necessarily implied by the powers and duties herein specified.

#### Section 404. *Removal of Appointive Officers in Executive Branch.*

(a) *County Administrative Officer.* The County Executive may remove the County Administrative Officer during the term for which he shall have been appointed, provided, however, that at least thirty days before such removal becomes effective, the County Executive shall notify, in writing, the County Administrative Officer of his reasons for such removal and shall simultaneously submit a copy of such notice to the County Council. The County Administrative Officer may reply in writing and may request a public hearing before a joint meeting of the County Council and the County Executive. Such hearing shall be held



not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested, the County Executive may remove the County Administrative Officer from his office. Simultaneously with the filing with the County Council of his notice of removal of the County Administrative Officer, the County Executive may suspend the County Administrative Officer from his office for the ensuing thirty days, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary. In the event of the removal of the County Administrative Officer, he shall receive his salary for the next three calendar months following the filing of the notice of removal as aforesaid.

(b) *Removal of Other Appointive Officers.* Subject to the Merit System provisions of the County Personnel Law as set forth in Article VIII of this Charter and with the approval of the County Executive, the County Administrative Officer may remove at any time any officer or employee in the administrative services of the County.

Section 405. *Change in Compensation of County Executive and County Administrative Officer.* The County Council, by the affirmative vote of not less than five of its members, shall have power to increase the compensation provided in this Charter for the County Executive and the County Administrative Officer, and thereafter, upon a similar vote to reduce such compensation; provided, however, that in no event shall such compensation be reduced to a figure lower than that provided in this Charter, except by amendment thereto, nor shall the compensation of the County Executive be increased or reduced during his current term.

Section 406. *Temporary Appointments.*

(a) *County Administrative Officer.* During the temporary absence of the County Administrative Officer, or if the office

of County Administrative Officer shall become vacant, the Director of the Budget shall serve as Acting County Administrative Officer pending, in the case of a vacancy, the appointment of a successor to fill the balance of the unexpired term. In his capacity as Acting County Administrative Officer, the Director of the Budget need not possess, but the successor shall possess, all those qualifications hereinabove in this Article specified for an original appointee.

(b) *Other Officers.* Subject to the approval of the County Executive, the County Administrative Officer may, in the case of a vacancy or temporary absence, designate any person to serve as acting head of any office or department in the administrative services until the appointment of a successor. Unless at the time of such appointment the temporary appointee is a subordinate officer in the office or department to which he is designated as acting head, he shall possess all the qualifications for the office specified in Article V of this Charter for an original appointee.

(c) *Limitation on Term of Temporary Appointees.* No person shall serve as Acting County Administrative Officer or acting head of any office or department for a period longer than sixty days without the approval of the County Council.



## ARTICLE V

## THE ADMINISTRATIVE SERVICES

## OUTLINE OF ORGANIZATION

Section 501. *General Supervision.* Except as otherwise provided herein or in the public general laws of this State, the administrative services of the County shall be subject to the supervision and control of the County Administrative Officer, who shall be responsible solely to the County Executive for their efficient operation and management.

Section 502. *Composition; Restrictions on Creation of Additional Offices and Departments.* The administrative services shall consist of the offices and departments hereinafter enumerated and described. Except as otherwise herein expressly provided, no additional offices or departments shall be created except by amendment to this Charter. Existing or additional duties and functions may, however, from time to time be assigned to or reassigned among existing offices or departments by directive of the County Administrative Officer or by legislative act of the County Council. New bureaus or divisions of existing offices and departments shall not be created except by legislative act of the County Council.

Section 503. *Offices.* There shall be the following offices in the administrative services:

- (1) Office of Law
- (2) Office of Personnel
- (3) Office of Finance
- (4) Office of the Budget
- (5) Office of Central Services
- (6) Office of Planning and Zoning

Section 504. *Departments.* There shall be the following departments in the administrative services:

- (1) Department of Public Works
- (2) Department of Permits and Licenses

- (3) Department of Public Safety
- (4) Department of Recreation
- (5) Department of Education
- (6) Department of Libraries
- (7) Department of Health
- (8) Department of Welfare

Section 505. *Term and Compensation of Officers and Employees in the Administrative Services.* Subject to the applicable merit system provisions of the County Personnel Law, all officers, agents and employees in the administrative services of the County shall hold such terms and receive such compensation as may from time to time be provided by this Charter or by law.

Section 506. *Staff and Clerical Personnel.* With the approval of the County Administrative Officer and subject to the merit system provisions of the County Personnel Law and the applicable provisions of public general law, the head of each office and department shall have the power to employ such staff and clerical personnel as may be necessary to carry out the duties and functions of his office or department. No such employment shall be undertaken if the cost thereof exceeds the available appropriation or allotment therefor.

## OFFICES OF THE ADMINISTRATIVE SERVICES

A. *The Office of Law.*

Section 507. *The County Solicitor.* The Office of Law shall be administered by the County Solicitor. He shall be a resident of the County and a member in good standing of the Bar of the Court of Appeals of Maryland and of the Circuit Court for Baltimore County. He shall have been actively engaged in the general practice of his profession in this State for at least five years prior to his appointment.



Section 508. *Powers and Duties.* The County Solicitor shall be the legal adviser of the County and of its several offices, departments, boards, commissions and other agencies. Except as provided in Section 510 of this Article, no office, department, board, commission or other agency or branch of the County government shall have any authority or power to employ or retain any legal counsel other than the County Solicitor. The County Solicitor shall also be the legal adviser and legislative draftsman for the County Council; he shall be responsible for the maintenance of the Journal of the County Council. He shall, upon request, give advice and opinions upon any legal questions affecting the interests of the County when the same are submitted to him (1) by resolution of the County Council, (2) by written request of the County Executive or the County Administrative Officer, or (3) with the approval of the County Administrative Officer, by written request of the head of any office or department in the administrative services. All deeds, bonds, contracts, releases and other legal papers and instruments involving the interests of the County shall, before their execution or delivery, be submitted to the County Solicitor and shall be approved by him in writing as to their form and legal sufficiency. The County Solicitor shall have such additional duties as may from time to time be provided by law.

Section 509. *Assistants to County Solicitor.* The County Solicitor, with the approval of the County Executive, may appoint such assistants to serve as members of his legal staff as may be necessary for the proper conduct of the public business of his office, subject, however, to such limitations as to number, term and compensation as may be provided from time to time by this Charter or by law.

Section 510. *Temporary Additional Legal Assistance.* Nothing in this Article contained shall be construed as preventing the County Executive, with the approval of the County Council, from engaging the services for a temporary period of any attorney or attorneys for legal work of an extraordinary nature when the work to be done is of such character or magnitude as to require legal services in addition to those provided by the regular staff of the Office of Law. By resolution which shall not be subject to the executive veto, the County Council may, by the affirmative vote of not less than five members, from time to time employ attorneys or other qualified persons in place of the County Solicitor to serve as special legislative draftsmen or codifiers.

Section 511. *Prohibitions.* Neither the County Solicitor nor any assistant in his office may at any time, while holding such office, practice as an attorney before the County Council or any office, department, board, commission or agency of the County in any capacity other than as representing the County's interests.

#### B. *The Office of Personnel.*

Section 512. *Composition of Office.* The Office of Personnel shall consist of the Director of Personnel, the Personnel and Salary Advisory Board, and their subordinate officers, agents and employees. The Office shall be administered by the Director of Personnel. He shall be responsible directly to the County Administrative Officer and shall possess the qualifications for his office provided in Article VIII of this Charter and such other qualifications as may be provided in the County Personnel Law.

Section 513. *Duties of Director of Personnel.* The Director of Personnel shall have such duties and perform such functions as are provided in Article VIII of this Charter and



such other duties and functions, not inconsistent therewith, as may be provided in the County Personnel Law.

*C. The Office of Finance.*

Section 514. *The Director of Finance.* The Office of Finance shall be administered by the Director of Finance, who shall be appointed on the basis of his experience in financial administration. He shall be responsible directly to the County Administrative Officer.

Section 515. *General Powers and Duties of the Director of Finance.* Except as otherwise provided in Article XI of this Charter, the Director of Finance shall have and exercise all the powers and all the fiscal duties now or hereafter vested in or imposed upon the County Comptroller and the County Treasurer, and he is hereby designated as the Collector of State taxes in the County. His office shall also be responsible for all functions heretofore discharged by the existing Transfer and Machine Billing Department. He shall have charge of the administration of the financial affairs of the County, including the collection of State and County taxes, special assessments, the Metropolitan District charges, fees and other revenues and funds of every kind due to the County; the enforcement of the collection of taxes in the manner provided by law; the custody and safekeeping of all funds and securities belonging to or by law deposited with, distributed to or handled by the County; the disbursement of County funds; the keeping and supervision of all accounts; and such other functions as may be prescribed by the County Administrative Officer or by legislative act of the County Council not inconsistent herewith.

Section 516. *Specific Powers and Duties.* The Director of Finance shall have the following specific powers and duties:

(a) To keep accounts for each item of appropriation made by the County Council so that each account shall show

in detail the appropriations made thereto, the amounts drawn thereon and the unencumbered balance;

(b) To submit monthly to the County Administrative Officer, the County Executive and the County Council a summary of revenues and expenditures detailed as to appropriations and funds in such manner as to show the current financial condition of each office and department of the County government;

(c) To submit at least once a year to the County Council a complete financial statement showing the assets, liabilities and financial condition of the County;

(d) To control all County expenditures on the basis of authorized budgetary allotments and to report thereon to the several offices, departments, boards, commissions and other agencies of the County government;

(e) To examine, audit and approve all bills, demands or charges against the County and to determine the regularity, legality and correctness of the same;

(f) To deposit funds of the County in such banks or trust companies as the County Executive may designate, subject to such adequate requirements as to security and interest as may be provided by law;

(g) To perform such other duties not inconsistent with those herein enumerated as may be required by the County Administrative Officer or by law.

Section 517. *Appropriation to Control Expenditures.* No money shall be drawn from the treasury of the County, nor shall any obligation for the expenditure of money by the County be incurred by any officer, board or commission authorized to expend County money, except in pursuance of law or of the appropriation or allotment therefor. All fees received by all County officers or employees in connection with their official duties shall be accounted for and paid into the County treasury.



#### D. *The Office of the Budget.*

Section 518. *The Director of the Budget.* The Office of the Budget shall be administered by the Director of the Budget. He shall be appointed solely on the basis of his administrative experience and technical training for the duties of his office. He shall be responsible directly to the County Administrative Officer who shall be the Chief Budget Officer of the County.

Section 519. *Powers and Duties.* The Director of the Budget shall be responsible for the formulation of the Budget under the supervision of the County Administrative Officer in accordance with the procedures set out in Article VII of this Charter; the study of the organization, methods and procedures of each office, department, board, commission, institution and agency of the County government; the submission to the County Administrative Officer of periodic reports on their efficiency and economy, and such other duties and functions as may be assigned to him by the County Administrative Officer or by legislative act of the County Council.

#### E. *Office of Central Services.*

Section 520. *The Director of Central Services.* The Office of Central Services shall be administered by the Director of Central Services. He shall be appointed solely with regard to his qualifications for the duties of his office and shall be responsible directly to the County Administrative Officer.

Section 521. *Duties and Functions of the Office of Central Services.* The Office of Central Services shall be responsible for the administration of the central purchasing policies of the County set forth in Article IX of this Charter, and the Director of Central Services shall act as County Purchasing Agent. Unless otherwise provided by public

general law, the Office of Central Services shall also be responsible for the making, renewal and cancellation of all contracts of insurance in which the County, or any office, department, institution, board, commission, or other agency of the County government is named as insured; for the maintenance, operation and management of all land and buildings owned or operated by the County and all other functions heretofore performed by the Superintendent of Buildings; and for making available to the other offices, departments, boards, institutions and agencies of the County such duplicating, stenographic, mail, messenger, stores, transportation, central garage, automotive maintenance, or other central services as may be assigned thereto from time to time by directive of the County Administrative Officer or by legislative act of the County Council.

#### F. *Office of Planning and Zoning.*

Section 522. *Organization of Office.* The Office of Planning and Zoning shall be composed of a Director of Planning, a Planning Board, a Zoning Commissioner and Deputy Zoning Commissioner. The Director of Planning, the Zoning Commissioner and Deputy Zoning Commissioner shall be appointed by the County Administrative Officer, subject to confirmation by the County Executive. The members of the Planning Board shall be appointed by the County Executive. Unless and until otherwise provided by legislative act of the County Council in accordance with Section 524 of this Article, the Director of Planning, the Planning Board, the Zoning Commissioner and Deputy Zoning Commissioner shall have and perform such duties as are provided by law in effect at the time of the adoption of this Charter.

Section 523. *Duties of the Office.* The Office of Planning and Zoning shall be charged with the responsibility and duty of planning for the future development and growth



of the County, including the preparation and revision of a Master Plan and the preparation and revision from time to time of rules and regulations governing subdivisions. It shall also be responsible for the preparation and administration of a zoning map and of zoning rules and regulations which shall constitute a zoning code. All plans and maps and all rules and regulations hereafter adopted, amended or repealed by the Office of Planning and Zoning, or any board, commission or officer thereof, shall, prior to taking effect as law, be approved by ordinance of the County Council. All reclassifications and all orders of the Zoning Commissioner may be appealed in the manner provided in Article VI of this Charter and not otherwise.

Section 524. *Reorganization of Office of Planning and Zoning.* To the extent hereafter permitted by law, the County Council shall have the power by legislative act to reorganize the Office of Planning and Zoning, to provide for and define the duties of a Director of Planning and Zoning as head of said office, to provide for his appointment in the same manner as the heads of other offices and departments in the administrative services, to fix and determine the powers, duties and compensation of the Planning Board, to redesignate the Planning Board by some other name so as more clearly to indicate the scope of its duties and functions, to redefine the duties or abolish the office of Deputy Zoning Commissioner, and, in general, to coordinate and centralize the planning and zoning functions of the County in such manner as may be to the best interests of the County and its future development and growth.

#### DEPARTMENTS IN THE ADMINISTRATIVE SERVICES

##### A. *Department of Public Works.*

Section 525. *Director of Public Works.* The Department of Public Works shall be administered by the Director of

Public Works who shall be a professional engineer registered under the laws of this State, and shall have had responsible charge of engineering works over a period of at least ten years prior to his appointment. He shall have such other qualifications as may be provided by law. He shall be appointed solely with regard to his qualifications for the duties of his office and shall be responsible directly to the County Administrative Officer.

Section 526. *Functions of Department of Public Works.* The Department of Public Works shall have and perform such functions and duties as may be provided from time to time in the public local laws of Baltimore County, with the exception, however, of all functions of the Zoning Commissioner and those relating to building permits and building and zoning laws and regulations. The Department shall have such other functions as may be provided by directive of the County Administrative Officer or by legislative act of the County Council not inconsistent with this Charter or the provisions of applicable law.

Section 527. *The Metropolitan District.* As provided in Article III, Section 307 of this Charter, the Metropolitan District shall continue as heretofore to be administered as a division of the Department of Public Works. Nothing in this Charter contained, however, shall be held or construed as preventing the County Administrative Officer, by directive, or the County Council, by legislative act, from reorganizing the Metropolitan District as a separate department or from transferring its duties and functions, in whole or in part, to other offices and departments in the administrative services of the County to the extent permitted by law.

##### B. *Department of Permits and Licenses.*

Section 528. *Director of Permits and Licenses.* The Department of Permits and Licenses shall be administered



by a Director of Permits and Licenses who shall be appointed solely with regard to his qualifications for the duties of his office. He shall be responsible directly to the County Administrative Officer.

Section 529. *Functions of the Department.* The Department shall be responsible for the administration and enforcement of all laws and regulations relating to permits and licenses of all kinds, including those relating to weights and measures, electrical installations, building and construction, plumbing, taxicabs, dogs, miscellaneous industrial and commercial uses, water, sewer and gas installations, public gatherings and tourist camps. All licenses and permits issued by the Department shall be approved by such other officers or agencies of the County as may from time to time be provided by law. The Department shall do and perform such other related duties and functions as may be assigned thereto by directive of the County Administrative Officer or by legislative act of the County Council.

Section 530. *Effect on Existing Boards.* The functions heretofore discharged by the Electrical Administrative Board, the Plumbing Board, the Bureau of Standards, and all other boards and agencies connected with the functions of the Department of Permits and Licenses shall be administered as units of said Department. Nothing in this Charter contained shall be held or construed as preventing the County Council, by legislative act permitted by general law, from reorganizing, reconstituting or abolishing any of such boards or agencies.

#### C. Department of Recreation.

Section 531. *Director of Recreation.* The Department of Recreation shall be administered by the Director of Recreation. He shall be thoroughly trained and experienced in theory and practice relating to public recreation, and shall

possess such other qualifications for the duties of his office as may be provided by law. He shall be appointed by and responsible directly to the County Administrative Officer.

Section 532. *The Recreation Board.* There shall be a Recreation Board consisting of seven members appointed by the County Executive in the same manner as the members of other boards and commissions, who, prior to the adoption of this Charter, were appointed by the County Commissioners. The qualifications and the term of office of members of the Board shall be as provided from time to time by law, and the County Executive shall serve thereon as an *ex officio* member.

Section 533. *Duties and Functions of Recreation Board.* Unless and until otherwise provided by legislative act of the County Council, the Recreation Board shall have and perform such duties and functions relating to the formulation of plans and policies for public recreation, the organization of recreation councils and the establishment of recreation programs as, prior to the adoption of this Charter, were performed by the Board of Recreation, subject, nevertheless, to all provisions of this Charter, including those dealing with the employment, suspension and discharge of personnel, the expenditure of County funds, the making of purchases, and the award of contracts.

#### D. Department of Public Safety.

Section 534. *Director of Public Safety.* The Department of Public Safety shall be administered by a Director of Public Safety, who shall be appointed solely on the basis of his qualifications for the duties of his office. He shall be responsible directly to the County Administrative Officer.

Section 535. *Functions and Duties of the Department of Public Safety.* The Department of Public Safety shall be responsible for the administration of the affairs of the



Police Department, the Fire Department, the County Jail, and the Civil Defense Agency, which shall hereafter be designated and known as the Police Bureau, the Fire Bureau, the Jail Bureau, and the Bureau of Civil Defense, respectively. The Department of Public Safety shall be responsible for traffic safety and engineering, the control of air pollution, and shall have and perform such other duties and functions as may from time to time be assigned thereto by directive of the County Administrative Officer or by legislative act of the County Council. Matters relating to the chain of command and discipline of personnel of the various bureaus in the Department of Public Safety shall not be affected by their organization under one department.

Section 536. *Duties of the Bureau of Civil Defense.* The Bureau of Civil Defense shall constitute the local organization for civil defense required to be established by State law. The director and alternate of said Bureau shall be appointed by the Governor of this State upon the recommendation of the County Executive. The Bureau shall have such duties and functions as may from time to time be provided by Federal or State law or by legislative act of the County Council not inconsistent therewith.

#### E. Department of Education.

Section 537. *Composition; Administration under State Law.* The Department of Education shall consist of the County Board of Education, the Superintendent of Schools, and all other officers, agents and employees in the County public school system. The Board of Education shall be constituted and shall do and perform such duties and functions as may from time to time be provided by State law. All references in this Charter to the head of an office or department shall be construed as including the Superintendent of Schools as head of the Department of Education, but nothing in this Charter contained shall be held or construed as

affecting or in anywise changing the organization, operation and administration of the County school system by the Board of Education as provided in State law.

#### F. Department of Libraries.

Section 538. *Composition; Administration under State Law.* The Department of Libraries shall consist of the County Board of Library Trustees, the County Librarian and all other officers, agents and employees in the public library system of the County. The Board of Library Trustees shall be constituted and shall do and perform such duties and functions as may from time to time be provided by State law. All references in this Charter to the head of an office or department shall be construed as including the County Librarian as head of the Department of Libraries, but nothing in this Charter contained shall be held or construed as affecting or in anywise changing the organization, operation and administration of the County library system by the Board of Library Trustees as provided by State law.

#### G. Department of Health.

Section 539. *Composition; Functions; Administration under State and County Law.* The Department of Health shall consist of the County Health Officer and all officers, agents and employees under his authority and supervision or under the authority and supervision of the County Board of Health. Upon the adoption of this Charter, the County Council shall constitute the County Board of Health in lieu of the County Commissioners as heretofore. With the advice and consent of the State Board of Health, the County Executive shall submit to the County Council his recommendation for the appointment of a County Health Officer, and when approved by the Council, the same shall constitute the appointment required by State law. All references in this Charter to the head of an office or department shall



be construed as including the County Health Officer as head of the Department of Health, but nothing in this Charter contained shall be held or construed as affecting or in anywise changing the administration of the County health programs in accordance with the requirements of State law.

#### H. *Department of Welfare.*

Section 540. *Composition; Functions; Administration under State and County Law.* The Department of Welfare shall consist of the Board of Welfare, the Director of Welfare and all officers, agents and employees under their authority and supervision. The members of the County Board of Welfare shall be appointed and shall do and perform such duties and functions as may from time to time be provided by State law. The County Executive shall serve as a member of said Board *ex officio* instead of a County Commissioner as heretofore. In addition to all duties and functions heretofore performed by the Board of Welfare, it shall be responsible for the operation and development of the County Home and such other related welfare activities as may be assigned thereto by directive of the County Administrative Officer or by legislative act of the County Council not inconsistent with general law. All references in this Charter to the head of an office or department shall be construed as including the Director of Welfare as head of the Department of Welfare, but nothing in this Charter contained shall be held or construed as affecting or in anywise changing the administration of the County welfare program in accordance with the requirements of State law.

### REORGANIZATION OF DEPARTMENTS UNDER STATE LAW

Section 541. *Furthering Legislation.* If the General Assembly shall at any time transfer to the voters of the County or to the County Council jurisdiction or control over the affairs of any of the departments of the County government in excess of the jurisdiction or control vested in the County government by law or by this Charter, then to the extent of such transfer, the County Council may by legislative act provide for the reorganization of such departments and the administration of their affairs under County law.

### ARTICLE VI

#### COUNTY BOARD OF APPEALS AND APPEAL TAX COURT

Section 601. *County Board of Appeals; Appointment; Term; Compensation.* There is hereby created and established a County Board of Appeals consisting of three members who shall be appointed by the County Council for three year terms, provided, however, that the first County Board of Appeals appointed pursuant hereto shall consist of one member appointed for a term of one year, one for a term of two years, and the third for a term of three years. Thereafter, all appointments or reappointments shall be for three year terms, except that an appointment to fill a vacancy occurring before the expiration of a term shall be for the remainder of the unexpired term. All members of the Board shall be residents of Baltimore County, and appointments shall be made so that not more than two members of the Board shall be members of the same political party. As compensation, each member of the Board shall be paid at the rate of Thirty-six Hundred Dollars (\$3600.00) per year, unless such compensation be changed as provided in Section 606 of this Article.



Section 602. *Powers and Functions of County Board of Appeals.* The County Board of Appeals shall have and may exercise the following functions and powers, which are hereby severally transferred from the Board of Zoning Appeals, the Board of License Appeals and the County Commissioners:

(a) *Appeals From Orders Relating to Zoning.* The County Board of Appeals shall have and exercise all the functions and powers of the Board of Zoning Appeals of Baltimore County and of the County Board of Appeals described in Article 25A of the Annotated Code of Maryland as such functions and powers may be prescribed from time to time by law. All references in law to the Board of Zoning Appeals shall be construed to refer to the County Board of Appeals created by this Article. As soon as the County Board of Appeals has been duly constituted by the appointment and qualification of its members as herein provided, the Board of Zoning Appeals of Baltimore County shall cease to exist. All cases pending before the Board of Zoning Appeals at such time and all cases subsequently arising which otherwise would have been subject to its jurisdiction shall be heard by the County Board of Appeals. In all cases, the order of the County Board of Appeals shall be final unless an appeal be taken therefrom in the manner provided in Section 604 of this Article.

(b) *Appeals From Orders Relating to Licenses.* The County Board of Appeals shall have and exercise all the functions and powers of the Board of License Appeals as such functions and powers are prescribed in the public local laws of the County in effect at the time of the adoption of this Charter. All references in said laws to the Board of License Appeals shall be construed to refer to the County Board of Appeals created by this Article. As soon as the County Board of Appeals has been duly constituted by the

appointment and qualification of its members as herein provided, the Board of License Appeals shall cease to exist.

(c) *Appeals from Orders Relating to Building.* The County Board of Appeals shall, in lieu of the County Commissioners as heretofore, hear and decide all appeals from orders relating to building.

(d) *Appeals from Executive, Administrative and Adjudicatory Orders.* The County Board of Appeals shall hear and decide appeals from all other administrative and adjudicatory orders as may from time to time be provided by Article 25A of the Annotated Code of Maryland (1951 Edition), as amended, or by legislative act of the County Council not inconsistent therewith.

Section 603. *Rules of Practice and Procedure.* Subject to the approval of the County Council, the County Board of Appeals shall have authority to adopt and amend from time to time rules of practice and procedure to cover the conduct of its proceedings. Such rules may include matters relating to filing fees, meetings and hearings conducted by the Board, the manner in which the Chairman of the Board shall be selected and the term for which he shall serve as Chairman, and all other matters deemed appropriate or necessary for the Board to conduct its proceedings. Said rules and regulations when approved by the County Council shall have the force and effect of law. All decisions by the County Board of Appeals shall be made after notice and opportunity for hearing *de novo* upon the issues before said Board. All hearings held by the Board shall be open to the public, and the Board shall cause to be maintained complete public records of its proceedings, with a suitable index.

Section 604. *Appeals from Decisions of the Board.* Within thirty days after any decision by the County Board of



Appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the Circuit Court for Baltimore County, which shall have power to affirm the decision of the Board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require. Whenever such appeal is taken, a copy of the notice of appeal shall be served on the Board by the Clerk of said Court, and the Board shall promptly give notice of the appeal to all parties to the proceeding before it. The Board shall, within fifteen days after the filing of the appeal, file with the Court the originals or certified copies of all papers and evidence presented to the Board in the proceeding before it, together with a copy of its opinion which shall include a statement of the facts found and the grounds for its decision. Within thirty days after the decision of the Circuit Court is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the Court of Appeals of this State. The review proceedings provided by this section shall be exclusive.

Section 605. *Employees of the Board.* The Board may appoint such employees, and the County Executive shall make available to the Board such services and facilities of the County as are necessary or appropriate for the proper performance of its duties. The County Solicitor or some member of his legal staff designated by him shall serve as counsel to the Board.

Section 606. *Furthering Legislation.* The County Council shall have the power to enact furthering legislation not inconsistent with the provisions of this Article to implement and define the powers and functions of the County Board of Appeals as herein specified. The County Council may by legislative act increase the compensation of the members of the County Board of Appeals provided in

Section 601 of this Article and thereafter decrease such compensation, provided, however, that no such reduction shall affect the compensation of a member of the County Board of Appeals during his current term, and in no event shall the Council have the power to decrease the compensation of members of the Board below the figure provided in this Charter. To the extent permitted by public general laws of this State, the County Council shall also have the power, by legislative act, to prescribe other appeals to be heard by the County Board of Appeals in addition to those specified in this Article.

Section 607. *Composition and Functions of Appeal Tax Court.* The County Executive shall, subject to confirmation by the County Council, appoint the members of the Appeal Tax Court. The members shall serve such terms and shall have and perform such duties and functions as may from time to time be provided in Article 81 of the Annotated Code of Maryland (1951 Edition), title: "Revenue and Taxes", subtitle: "Appeal Tax Courts". The Appeal Tax Court shall operate as heretofore as a separate agency of the County government; provided, however, that if and when the General Assembly shall authorize the transfer of the duties and functions of the Appeal Tax Court to the County Board of Appeals, then, and to the extent of such authority, the County Council shall so provide by legislative act.



## ARTICLE VII

## BUDGETARY AND FISCAL PROCEDURES

Section 701. *Fiscal Year.* Unless and until changed in accordance with the provisions of State law, the fiscal year of the County shall be the calendar year. Its budget year shall correspond with the fiscal year.

Section 702. *Definition of Terms Used in This Article.*

(a) The term "County government" shall include all offices, departments, institutions, boards, commissions, agencies and their officers, agents and employees who receive or disburse County funds.

(b) The term "capital project" shall mean any physical public betterment or improvement and the acquisition of property of a permanent nature for public use.

(c) The term "capital budget" shall mean the plan of the County to receive and expend funds for capital projects during the first fiscal year included in the capital program.

(d) The term "capital program" shall mean the plan of the County to receive and expend funds for capital projects during the fiscal year covered by the capital budget and the next succeeding five fiscal years thereafter.

Section 703. *Comprehensive Scope of Budget.* The County Budget shall consist of the current expense budget, the capital budget and capital program and the budget message, which shall be combined as one document. It shall represent a complete financial plan for the County reflecting all receipts and disbursements from all sources, including all revenues, all expenditures, and the surplus or deficit in all general and all special funds of the County government.

Section 704. *Formulation of Current Expense Budget.* Not less than one hundred twenty days prior to the end of each fiscal year, the head of each office, department, institution, board, commission and other agency of the County government shall furnish to the Director of the Budget estimates of the revenues and expenditures of their several operations for the ensuing fiscal year. Estimated revenues shall be detailed as to source, and estimated expenditures as to program or project. All such estimates shall be submitted with such other supporting data as the Director of the Budget may request. The data so submitted shall thereupon be reviewed by the County Administrative Officer, and the current expense budget compiled therefrom for transmission to the County Executive for his approval.

Section 705. *Formulation of Capital Budget and Capital Program.*

(a) *Submission of Data for Referendum.* In each year of a general election in the County, the County Executive shall cause to be placed on the ballot for referendum all questions relating to the issuance of bonds or other evidences of indebtedness as may require the approval of the voters of the County as provided in Section 718 of this Article. Such questions shall be determined as follows:

(1) At such time or times as the County Administrative Officer may direct, the Director of Planning shall transmit to the Director of the Budget the recommendations of the Planning Board for borrowing for capital projects to be undertaken in the next ensuing two fiscal years and of a character requiring authorization by referendum.

(2) The County Administrative Officer shall then review such recommendations with the Director of the Budget in the light of the existing capital program, and shall submit to the County Executive a borrowing plan for the forthcoming referendum.



(3) After approving or modifying such plan, the County Executive shall submit the same to the County Council which shall have the power to approve, reduce or disapprove, but not to increase, the amount of borrowing therein proposed. The action of the Council thereon shall be by ordinance which shall be exempt from the executive veto, and no question relating to such borrowing and which by law may require the authorization of the voters shall be placed on the ballot without first receiving such approval by the County Council. Said ordinance shall specify the purposes or classes of projects for which the funds are to be borrowed, and each question to be submitted to the voters shall include only one such purpose or class of projects.

(b) *Preparation of Capital Budget and Capital Program.* At such time or times as the County Administrative Officer may direct, each office, department, institution, board, commission or other agency of the County government shall submit to the Director of the Budget for transmission to the Office of Planning and Zoning an itemized list of the capital projects which such agency proposes to undertake in the ensuing fiscal year and the next succeeding five fiscal years thereafter. After consideration by the Planning Board, the Director of Planning shall transmit to the Director of the Budget the list of projects recommended by said Board to be undertaken in the periods aforesaid and its estimates of the cost thereof. The County Administrative Officer, with the assistance of the Director of the Budget, shall consider such recommendations with the other budget proposals and shall submit to the County Executive, together with the current expense budget, a complete capital budget and capital program.

(c) *Inclusion in Capital Budget of Items Not Yet Approved by Referendum.* In election years, when questions

relating to County borrowing are to be placed on the ballot, the capital budget as approved by the County Executive and proposed by him to the County Council may contain items to be financed by borrowing to be approved at the forthcoming election in the same year; but no such item which by law may require the approval of the voters shall be included in the County Budget as finally adopted by the County Council unless a favorable vote by referendum shall first have been recorded thereon as provided in Section 718 of this Article.

Section 706. *Submission and Contents of the County Budget.* Not later than sixty days prior to the end of the fiscal year the County Executive shall submit to the County Council the proposed County Budget for the ensuing fiscal year.

(a) *Contents of the Current Expense Budget.* The proposed current expense budget shall contain not less than the following information: (1) a statement of all revenue estimated to be received by the County during the ensuing fiscal year, classified so as to show the receipts by funds and sources of income; (2) a statement of debt service requirements for the ensuing fiscal year; (3) a statement of the estimated cash surplus, if any, available for expenditure during the ensuing fiscal year, and any estimated deficit in any fund required to be made up in the ensuing fiscal year; (4) an estimate of the several amounts which the County Executive deems necessary for conducting the business of the County to be financed from and not to exceed estimated revenues for the ensuing fiscal year; (5) a statement of the bonded and other indebtedness of the County government and its agencies, including The Metropolitan District; (6) a statement of the proposed contingency reserves which shall not exceed three per centum of the general fund and of any other fund; (7) a comparative statement



of the receipts and expenditures for the last completed fiscal year, the estimated receipts and expenditures of the currently ending fiscal year, and the expenditures recommended by the County Executive for the ensuing fiscal year for each program or project which shall be classified by agency, character and object; and (8) any other material which the County Executive may deem advisable or the County Council may require.

(b) *Contents of the Capital Budget and Capital Program.* The proposed capital budget and capital program shall be so arranged as to set forth clearly the plan of proposed capital projects to be undertaken in the ensuing fiscal year and in each of the next five fiscal years, and also the proposed means of financing the same. The capital budget shall include a statement of the receipts anticipated during the ensuing fiscal year from all borrowing and from other sources for capital projects.

(c) *Contents of the Budget Message.* The budget message shall contain supporting summary tables and shall explain the proposed current expense budget and capital program both in fiscal terms and in terms of work to be done. It shall outline the proposed financial policies of the County for the ensuing fiscal year and describe the important features of the current expense budget. It shall indicate any major changes in financial policies and in expenditures, appropriations and revenues as compared with the fiscal year currently ending, and shall set forth the reasons for such changes. As to the capital program, the message shall include an explanation of changes made by the County Executive in the program presented by the Office of Planning and Zoning. The message shall also include such other material as the County Executive may deem desirable.

Section 707. *Filing of Proposed Budget; Copies.* The proposed County Budget shall be filed with the Secretary of the County Council and a copy shall be delivered to each member of the Council. At least three complete copies shall be open to inspection by the public and the press during regular business hours and under such conditions as may be prescribed by the County Council. The budget message and supporting summary tables shall be reproduced in multiple copies, and a copy shall be made available to any interested person on request.

Section 708. *Public Hearing.* Upon receipt of the proposed County Budget, the Secretary of the County Council shall cause to be published in at least two newspapers published in the County a notice of the place and time of a public hearing on the budget by the County Council. Such hearing shall be held not less than fifteen nor more than twenty days after the date of the filing of the proposed budget by the County Executive.

Section 709. *Action on the Budget by the County Council.* After the public hearing specified in the preceding section, the County Council may decrease or delete any items in the budget except those required by the public general laws of this State and except any provision for debt service on obligations then outstanding or for estimated cash deficits. The County Council shall have no power to change the form of the budget as submitted by the County Executive, to alter the revenue estimates except to correct mathematical errors, or to increase any expenditure recommended by the County Executive for current or capital purposes. The adoption of the budget shall be by the affirmative vote of not less than four members of the County Council on an ordinance to be known as The Annual Budget and Appropriation Ordinance of Baltimore County. The County Council may, at the same time or



thereafter from time to time during the ensuing fiscal year, adopt bond issue authorization ordinances providing the means of financing such capital projects as are to be financed from borrowing in the ensuing fiscal year. All of said ordinances shall be exempt from the executive veto. The Annual Budget and Appropriation Ordinance shall be adopted by the County Council on or before the first day of the last month of the fiscal year currently ending, and if the County Council fails to do so, the proposed budget submitted by the County Executive shall stand adopted, and funds for the expenditures proposed in the current expense budget shall stand appropriated as fully and to the same extent as if favorable action thereon had been taken by the County Council.

*Section 710. Reproduction of Budget; Effective Date; Tax Levy; Appropriations.*

(a) *Reproduction of Budget.* The budget as adopted shall be reproduced in sufficient copies for distribution, free of charge, to the press and the head of each office, department or agency of the County government. Copies of the budget shall likewise be given to any interested person on request, provided, however, that in order to discourage waste the County Council may prescribe a charge for each copy of the adopted budget not to exceed the actual cost of its reproduction.

(b) *Effective Date.* The adopted budget shall take effect on the first day of the fiscal year to which it applies.

(c) *Tax Levy.* When the County Budget shall have been finally adopted in the Annual Budget and Appropriation Ordinance, the County Council shall thereupon levy and cause to be raised the amount of taxes required by the Budget in the manner provided by law.

*Section 711. Transfer of Appropriations.* Transfers of appropriations between general classifications of expendi-

tures within the same office or department may be authorized by the County Administrative Officer. Transfers between offices, departments, institutions, boards, commissions or other agencies of the County government may be made during the last quarter of the fiscal year and then only on the recommendation of the County Executive and with the approval of the County Council.

*Section 712. Supplementary and Emergency Appropriations.*

(a) *Supplementary.* During any fiscal year, the County Council, upon the recommendation of the County Executive on the advice of the County Administrative Officer, may make additional or supplementary appropriations from unexpended and unencumbered funds set aside for contingencies in the County Budget, provided that the Director of Finance shall first certify in writing that such funds are available for such appropriation. No supplemental appropriation shall exceed the amount of the funds so certified.

(b) *Emergency.* To meet a public emergency affecting life, health or property, the County Council may, by ordinance, make emergency appropriations from contingent funds, from revenues received from anticipated sources but in excess of the budget estimates therefor, or from revenues received from sources not anticipated in the Budget for the current fiscal year. To the extent that there may be no available unappropriated revenues to meet such emergency appropriations, the County Council may, by ordinance, authorize the issuance of emergency notes which may be renewed from time to time, provided, however, that such notes and renewals shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made. The total of emergency appropriations in any fiscal year shall not exceed



five per centum of all appropriations (including those for debt service) made in the Budget for such year.

Section 713. *Lapsed Appropriations.* Unless otherwise provided by public general laws, all unexpended and unencumbered appropriations in the current expense budget remaining at the end of the fiscal year shall lapse into the County treasury. No appropriation for a capital project in the capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned; provided, however, that any capital project shall stand abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation therefor.

Section 714. *Work Programs and Allotments.* Before the beginning of each fiscal year the head of each office, department, institution, board, commission or other agency of the County government shall submit to the County Administrative Officer, when required by him, a work program for such year. Such program shall include all appropriations for the operation and maintenance and purchasing of equipment and shall show the requested allotments of appropriations for such office, department, institution, board, commission or agency by fiscal periods within the fiscal year. The County Administrative Officer shall review the requested allotments in the light of the work program of the office or agency concerned, and may, with the approval of the County Executive, revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total appropriation available to such office or agency for the fiscal year. A copy of the allotment as finally adopted by the County Administrative Officer shall be filed with the Director of Finance, who shall approve all expenditures for the various offices, departments, institutions, boards, commissions and other

agencies of the County to be made from the appropriations on the basis of the allotments and not otherwise. The allotments may be revised during the fiscal year in the same manner as the original allotment was made. If at any time during the fiscal year the County Administrative Officer shall ascertain that the available income, plus unexpended balances, for the year may be less than the total appropriations, he shall reconsider the work programs and allotments of the several offices and agencies as aforesaid, and shall recommend a revision thereof to the County Executive so as to forestall the making of expenditures in excess of the income and fund balances.

Section 715. *Appropriation Control and Certification of Funds.* No office, department, institution, board, commission or other agency of the County government shall during any fiscal year expend, or contract to expend, any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose in excess of the amounts appropriated or allotted for the same general classification of expenditure in the Budget for such fiscal year, or in any supplemental appropriation as hereinabove provided; and no such payment shall be made nor any obligation or liability incurred, except for small purchases in an amount less than Fifty Dollars, unless the Director of Finance shall first certify that the funds for the designated purpose are available. Any contract, verbal or written, made in violation of this section shall be null and void, and if any officer, agent or employee of the County shall knowingly or wilfully violate this provision, such action shall be cause for his removal from office by majority vote of the County Council. Nothing in this section or elsewhere in this Charter contained shall prevent the making of contracts of lease or for services providing for the payment of funds at a time beyond the fiscal year in which such contracts are made, provided



the nature of such transactions reasonably requires the making of such contracts.

Section 716. *Restrictions on Capital Projects; Amendment to Capital Budget After Adoption of Budget.* No obligations of the County shall be authorized in any fiscal year for or on account of any capital project not included in the County Budget as finally adopted for such year; provided, however, that upon receipt of a recommendation in writing from the County Executive and the Planning Board, the County Council may, by the affirmative vote of five members, amend the County Budget in accordance with such recommendation.

Section 717. *Borrowing Limitations.* Unless and until otherwise provided by legislative act of the County Council within the limitations provided by public general law, the aggregate amount of bonds and other evidences of indebtedness outstanding at any one time shall not exceed eight per centum upon the assessable basis of the County; provided, however, that (a) tax anticipation notes or other evidences of indebtedness having a maturity not in excess of twelve months, (b) bonds or other evidences of indebtedness issued or guaranteed by the County payable primarily or exclusively from taxes levied in or on, or other revenues of, special taxing areas or districts heretofore or hereafter established by law, and (c) bonds or other evidences of indebtedness issued for self-liquidating and other projects payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services, shall not be subject to, or be included as bonds or evidences of indebtedness in computing or applying the per centum limitation above provided. All bonds or other evidences of indebtedness issued under the authority of The Metropolitan District Act (The Acts of the General Assembly of Maryland of 1924, Chapter 539, as amended)

shall be construed as exempt, under clauses (b) and (c) above, from the per centum limitation in this section provided, but shall continue as heretofore to be subject to the per centum limitation as from time to time provided in said Act.

Section 718. *Referendum on Borrowing.* Before any bond or other evidence of indebtedness of the County shall be issued, except (a) emergency or tax anticipation notes or other evidences of indebtedness having a maturity not in excess of twelve months, and (b) self-liquidating obligations including all bonds or other obligations issued under the authority of The Metropolitan District Act, as amended, the full amount of any such borrowing shall be submitted to a referendum of the registered voters of the County for their approval or rejection. The determination of questions so to be submitted for referendum shall be made in the manner provided in Section 705(a) of this Article. No bonds or other evidences of indebtedness, with the exceptions above provided, shall be issued unless a majority of the voters voting on the referendum at such election shall indicate their approval thereof.

Section 719. *Form and Term of Bonds.* All bonds shall be in serial form and payable, as consecutively numbered, in annual installments, the first of which shall be payable not more than two years from the date of issue. Bonds shall be authenticated by the manual signature of the Director of Finance or his authorized Deputy, and shall bear the facsimile signature of the County Executive and a facsimile of the seal of the County attested by the facsimile signature of the Secretary to the County Executive. Bonds may be registerable or non-registerable as to principal or interest. All interest coupons transferable by delivery shall be attached to the bonds and shall be authenticated by the facsimile signature of the County Executive. All bonds



shall be made payable within the probable useful life of the improvement or undertaking with respect to which they are to be issued, or, if the bonds are to be issued for several improvements or undertakings, then within the average probable useful life of all such improvements or undertakings. In the case of a bond issue for several improvements or undertakings having different probable useful lives, the County Council shall determine the average of said lives, taking into consideration the amount of bonds to be issued on account of each such improvement or undertaking, and the period so determined shall be the average period of useful life. The determination of the County Council as to the probable useful life of any such improvement or undertaking shall be conclusive. No bonds shall mature and be payable more than forty years after their date of issuance except bonds issued under the authority of The Metropolitan District Act, as amended.

Section 720. *Contents of Bond Issue Authorization Ordinance.* The Bond Issue Authorization Ordinance referred to in Section 709 of this Article shall include a statement of the purpose or purposes of the issue, and if the purpose is to finance one or more capital projects, it shall describe each of them sufficiently for purposes of identification. The Ordinance shall estimate the cost of the project or projects and the portion thereof to be defrayed from sources, specifically named, other than the proposed bond issue. The Ordinance shall also include the amount of the proposed issue; a statement showing that the proposed issue is within the legal limitation on the indebtedness of the County or the Metropolitan District, as the case may be; the probable useful life of the project or average probable useful life of the projects to be financed; the date of the issue; the dates of the first and last serial maturities; the dates on which the interest shall be paid; a declaration that the principal of and the interest on the proposed issue are to be paid by

*ad valorem* taxes on real estate and tangible personal property and intangible property subject to taxation by the County without limitation of rate or amount, and, in addition, upon such other intangible property as may be subject to taxation by the County within limitations prescribed by law, (except for self-liquidating bonds, including those issued under the authority of The Metropolitan District Act); and that the full faith and credit of the County are pledged to such payments. The Ordinance shall also recite the procedure for the public sale of the proposed issue and shall contain such other matters relating to the authorization, issuance or sale of the issue as the County Council shall deem desirable.

Section 721. *Supplemental Legislation by County Council.* The County Council may adopt budget and fiscal laws not inconsistent herewith or with the applicable provisions of the Constitution and public general laws of this State to implement the objects and purposes of this Article. Any such laws may include, but shall not be limited to, the definition of the various funds included in the County Budget, their reorganization and consolidation to the extent permitted by law, a requirement of down payments on capital projects from current funds, the establishment of a reserve for permanent public improvements, the procedure for the sale of bonds, notes and other evidences of indebtedness of the County, and all such other matters as may in the judgment of the County Council promote the orderly administration of the fiscal affairs of the County and protect its credit.



## ARTICLE VIII

## MERIT SYSTEM

Section 801. *County Council to Establish and Maintain Merit System.* At its first annual legislative session after the effective date of this Charter, the County Council shall enact a County Personnel Law establishing a merit system of personnel administration. The County Personnel Law shall provide for the division of all employees in the County government into the classified and the exempt service, the latter to consist of (1) all elected officials, (2) the County Administrative Officer, the Zoning Commissioner and his Deputy, the Director of Planning, the heads of all offices and departments, and the heads of the Police, Fire and Civil Defense Bureaus, (3) all employees of the Department of Education and all employees covered by the State merit system, (4) the members of the Appeal Tax Court and all boards and commissions (except otherwise classified employees serving thereon *ex officio*), (5) all professional consultants performing temporary or part time services, (6) all attorneys at law, (7) not more than one confidential clerk or private secretary for the County Executive, nor more than one for the County Administrative Officer, (8) the County Auditor, and (9) such seasonal or occasional employees and such non-supervisory employees paid on an hourly basis as may be specifically exempted from the effect of the County Personnel Law or from the plans, rules and regulations adopted pursuant thereto.

Section 802. *Contents of County Personnel Law.* The County Personnel Law shall provide for the following:

(a) The administration of the affairs of the office established by this Charter and known as "The Office of Personnel" by a Director of Personnel who shall be qualified by special training and at least five years' experience in

personnel administration in public service or private industry, or both, and who shall be appointed in the same manner as the heads of other offices and departments in the administrative services.

(b) A Personnel and Salary Advisory Board composed of registered voters of the County who favor the application of merit principles to public employment, and who shall receive no compensation for their services except reasonable and necessary expenses. The number and term of office of the members of the Personnel and Salary Advisory Board shall be as provided in the County Personnel Law. Said law may provide for the election of not more than one member of the Board by the employees in the classified service and may also provide that the Director of Personnel shall serve *ex officio* as a member thereof, but no other members of the Board shall hold any other public office.

(c) Authority in the Director of Personnel to approve and certify all payrolls of employees in the classified service.

(d) Authority in the Personnel and Salary Advisory Board to set up and revise a job classification plan, a compensation plan, and to establish rules and regulations for examinations, certifications and other necessary details of personnel administration.

(e) A provision that, upon the adoption of such plans, rules and regulations, the Director of Personnel shall transmit them to the County Executive for submission to the County Council for legislative action thereon. No such plan, rules or regulations shall have the force and effect of law unless and until the same be included in a public local law to be adopted by the County Council in the manner provided in Article III of this Charter.



(f) The disciplining of employees, including dismissal for cause by appointing officers.

(g) Appeals to the Personnel and Salary Advisory Board in case of disciplinary actions by appointing authorities and from decisions of the Director of Personnel in cases involving examinations and examination ratings; provided, however, that if the Director of Personnel shall be a member *ex officio* of the Personnel and Salary Advisory Board, he shall be disqualified from participating in any appeals from his own decisions.

(h) The conditions under which employees at the time of the adoption of the County Personnel Law may acquire merit system status.

(i) Prohibition against any kind of assessment for political purposes upon employees in the classified service, and against their participation in any political activities or electioneering on County property during business hours.

(j) Prohibition against any kind of discrimination in the employment, suspension or dismissal of employees in the classified services on account of race, color, creed, sex or political affiliation.

(k) Penalties for the violation of this Article and the laws, plans, rules and regulations adopted pursuant thereto.

(l) Special rules and regulations, to be first approved by the Director of Public Safety, and relating to the employment, promotion, suspension and dismissal of employees of the Fire Bureau and the Police Bureau.

(m) Such other matters as may be necessary to fulfill the purpose of the merit system as hereby established, including adequate staffing and financial support for the needs of the Office of Personnel.

Section 803. *Appeals to the Personnel and Salary Advisory Board to be Exclusive.* In case of any appeal to the Personnel and Salary Advisory Board, its decision shall be final on all parties concerned, and there shall be no further appeal therefrom to the County Board of Appeals or to any Court. Any question involving the jurisdiction of the Personnel and Salary Advisory Board may, nevertheless, be heard by the Circuit Court for Baltimore County or any other Court with jurisdiction over the parties and the subject matter.

Section 804. *Abolition of Board of Police Department Examiners and Board of Fire Department Examiners.* Upon the adoption of the County Personnel Law as above provided, the Board of Examiners for the Police Department of Baltimore County and the Board of Examiners for the Fire Department of Baltimore County shall cease to exist, and all their powers, duties and functions shall be performed by the Director of Personnel and the Personnel and Salary Advisory Board as may be provided in the County Personnel Law.



## ARTICLE IX

## CENTRALIZED PURCHASING

Section 901. *Responsibility for Purchasing.* The Director of Central Services shall be responsible to the County Administrative Officer for the enforcement of the County purchasing policies established in this Article.

Section 902. *County Purchasing Policies and Practices.* The Director of Central Services shall be the County Purchasing Agent and shall have the following purchasing functions which he may delegate to a Deputy Purchasing Agent in his office and under his supervision:

(a) The making of all purchases and contracting for all public work and services, and for all supplies, material and equipment for all offices, departments, institutions, boards, commissions and other agencies of the County government for which payment is to be made out of County funds.

(b) If recommended by the County Administrative Officer and approved by legislative act of the County Council, the establishment and operation of a County warehouse for County supplies, material and equipment and the maintenance of a sufficient stock of stable commodities to meet the requirements of the County government.

(c) The development and operation of a uniform and modern system of property accounting and stores control based upon perpetual inventory.

(d) The establishment, after consultation with the appropriate County officials, of suitable specifications and standards for all supplies, materials and equipment to be purchased, and the inspection of all deliveries to determine compliance with such specifications and standards.

(e) The establishment and maintenance of a system of requisitions and receipts covering the furnishing of supplies, materials and equipment to the various offices, departments, institutions, boards, commissions and other agencies of the County.

(f) The establishment, with the approval of the County Administrative Officer and by legislative act of the County Council, of reasonable rules and regulations governing emergency purchases and contracts and those involving services or material and equipment of an unusual or non-competitive nature which shall not be subject to competitive bidding.

(g) The sale of surplus, old and waste supplies, materials and equipment of the County, or the transfer of the same between offices, departments or other agencies of the County government.

Section 903. *Application of this Article to Departments and Agencies under State Law.* The provisions of this Article shall apply to the Department of Education and other departments and agencies created by or operating under the public general laws of this State only to the extent requested by them. In the interests, however, of promoting uniformity and of effecting maximum savings for all purchases out of County funds, the purchasing facilities of the Office of Central Services shall always be available to such departments and agencies, and their use shall be encouraged.

Section 904. *Competitive Bidding.* Any single purchase or contract under the jurisdiction of the County Purchasing Agent and involving an expenditure of more than One Thousand Dollars (\$1,000.00), except only emergency purchases and those involving services or material and equipment of a non-competitive nature as may be defined and



governed by the regulations mentioned in Section 902(f) hereof, shall be made from or let by sealed bids or proposals publicly opened after public notice for such period and in such manner as the Purchasing Agent or his authorized deputy shall determine. Such purchases and contracts shall be made from or awarded to the lowest responsible bidder who shall give security or bond for the performance of his contract as determined by the Purchasing Agent or his deputy; provided, however, that no such purchase or contract shall be made or awarded within a period of one week from the date of the public opening of bids. In all cases, the County shall reserve the right to reject any and all bids. All construction, maintenance and repair work shall be subject to the requirements of competitive bidding provided in this section, unless such work is to be done directly by the County through the use of its own laboring force. All materials and supplies used by the County laboring force shall be purchased in accordance with the provisions of this Article.

Section 905. *Conformity with Budget Limitations and Allotments.* No deliveries of supplies, materials or equipment shall be made to any office, department, board, institution, commission or agency of the County government in excess of the available appropriation or allotment therefor, and except for small purchases in an amount less than Fifty Dollars (\$50.00), no payment shall be made out of County funds for the purchase of supplies, materials or equipment, unless the Director of Finance shall first certify that the funds for the designated purpose are available.

Section 906. *Furthering Legislation.* At its first annual legislative session, the County Council shall enact furthering legislation, not inconsistent with the provisions of this Charter or with the public general laws of this State, to implement the purchasing policies herein established. Such

legislation may regulate the practices of the County Purchasing Agent and other officers, agents and employees of the County in regard to the issuance of inquiries, the instructions to bidders, the receipt of bids, the placement of orders and other matters relating to the making of purchases and the award of contracts. Such legislation may prescribe special procedures governing the letting of bids and the award of contracts for the construction of roads, bridges, streets, buildings and those relating to water, sewer and storm water facilities, and may increase the minimum dollar requirement for competitive bidding with respect to such contracts from One Thousand Dollars (\$1,000.00) as provided in Section 904 hereof to a figure not greater than Three Thousand Dollars (\$3,000.00). All such legislation shall be subject to amendment from time to time by the County Council.

Section 907. *Effective Date of this Article.* Inasmuch as the provisions of this Article may be more restrictive and the duties of the Purchasing Agent more inclusive than those in effect at the time of the adoption of this Charter, and in order to provide for the orderly administration of the County's affairs in the transition period following the adoption of this Charter, the provisions of this Article shall take effect coincident with the effective date of the furthering legislation by the first County Council referred to in Section 906 hereof. In any event this Article shall be operative not later than forty-five days following the close of the first annual legislative session of the first County Council.



## ARTICLE X

## MISCELLANEOUS

Section 1001. *Personal Interest of County Officers and Employees in County Business.*

(a) *Prohibitions.* No officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of any contract, job, work or service for the County. No such officer or employee shall accept any service or thing of value, directly or indirectly, from any person, firm or corporation having dealings with the County, upon more favorable terms than those granted to the public generally; nor shall he receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County, or by any person in connection with any dealings with the County, or by any person in connection with any dealings with or proceedings before any branch, office, department, board, commission or other agency of the County.

(b) *Rules of Construction; Exceptions by Resolution of County Council.* The provisions of this section shall be broadly construed and strictly enforced for the purpose of preventing those persons in public service from securing any pecuniary advantages, however indirect, from their public associations, other than their compensation provided by law. In order, however, to guard against injustice, the County Council may, by resolution, specifically authorize any County officer or employee to own stock in any corporation or to maintain a business connection with any person, firm or corporation dealing with the County if, on full public disclosure of all pertinent facts to the County Council by such officer or employee, the Council shall determine

that such stock ownership or connection does not violate the public interest.

(c) *Penalties.* Any officer or employee of the County who violates any of the provisions of this section shall forfeit his office. If any person shall offer, pay, refund or rebate any part of any fee, commission or other form of compensation to any officer or employee of the County in connection with any County business or proceeding, he shall, on conviction, be punishable by imprisonment for not less than one nor more than six months. Any contract made in violation of this section may be declared void by the County Executive or by resolution of the County Council. The penalties in this section shall be in addition to all other penalties provided by law.

Section 1002. *Additional Compensation Prohibited.* No County officer or employee who is compensated for his services by salary shall receive any additional remuneration for serving as an *ex officio* member of a County board, commission or agency.

Section 1003. *Copies of Books and Papers on Demand.* The County Executive shall, with reasonable promptness, furnish to any resident of the County, on demand, a certified copy of any book, account or paper kept by any office or department of the County government, or such part thereof as may be demanded, except police books and papers, and individual personnel records, upon payment in advance by the person demanding the same of a reasonable fee to be prescribed by the County Council. This section shall not apply to any papers prepared by or for use of counsel in any action or proceeding to which the County is a party or for use in any investigation authorized by or under this Charter.



Section 1004. *Inspection of Books, Accounts and Papers.* All books, accounts, papers and records of any office or department, except police books and papers and individual personnel records, shall at all times be open to the inspection of any resident of the County or representative of the press, subject to such reasonable rules and regulations in regard to the time and manner of such inspection as the County Executive, with the approval of the County Council, may make. Public inspection of police records may be permitted to the extent authorized by the County Council or otherwise in accordance with law. This section shall not apply to any papers prepared by or for use of counsel in actions or proceedings to which the County is a party or for use in any investigation authorized by or under this Charter.

Section 1005. *Compilation of Laws.*

(a) *Code of Laws.* At its first annual legislative session and at intervals not greater than every ten years thereafter, the County Council shall provide for a compilation and codification of all public local laws of the County, all rules, regulations, resolutions and ordinances having the force and effect of law theretofore issued or approved by the County Commissioners and all rules, regulations and ordinances of the County Council in effect at such times. Each such codification shall be submitted to the County Council, and, if legalized by law, shall be known as "The Baltimore County Code". It shall be published in book form, together with this Charter, Article 25A of the Annotated Code of Maryland (1951 Edition) as amended, an index, such appropriate notes, citations, annotations and appendices as may be determined by the County Council. The first such codification shall be completed in time for submission to the second annual legislative session of the first County Council for legalization.

(b) *Cumulative Supplement.* As soon as practicable after August 15th of each year, the County Solicitor shall cause to be prepared and published a cumulative supplement to the Baltimore County Code, with an index and such appropriate notes, citations, annotations and appendices as he may deem desirable or as may be required by the County Council.

Section 1006. *Bonding of Officers.* The Director of Finance and such other officers and employees of the County as may be required by public local or general law shall post such bonds in such penalties, with such conditions and with such sureties as may be specified in such laws.

Section 1007. *County Seal.* In accordance with the powers granted to chartered counties of this State by public general law, the County Council shall, by ordinance enacted at its first legislative session, adopt a County Seal, and thereafter it may use and alter the same at pleasure. The Seal shall contain the corporate name of the County and such other information or insignia as the County Council may determine. The County Executive, the Secretary to the County Executive, the Secretary of the County Council and such other officers as may be specified by ordinance of the County Council shall have power to attest to the County seal.

Section 1008. *Subpoena Power.* The County Council, the County Executive, the County Administrative Officer, the Personnel and Salary Advisory Board, the County Board of Appeals, the County Auditor and such other officers or agencies of the County as may be so empowered by legislative act of the County Council or otherwise by law shall have the power to administer oaths, to compel the attendance of witnesses and to require the production of records and other materials in connection with any investigation, inquiry or hearing authorized by this Charter or by law.



Section 1009. *Definitions and Rules of Construction.*

As used in this Charter:

(a) The word "*bill*" shall mean any measure introduced in the County Council for legislative action.

(b) The words "*act*", "*ordinance*", "*public local law*" and "*legislative act*", when used in connection with any action by the County Council, shall be synonymous, and shall mean any bill enacted in the manner and form provided in this Charter.

(c) The word "*resolution*" shall mean a measure adopted by the County Council having the force and effect of law but of a temporary or administrative character.

(d) The word "*law*" shall be construed as including all acts, ordinances, public local laws, resolutions and other legislative acts of the County Council, all ordinances and resolutions of the County Commissioners not hereby or hereafter amended or repealed, and all public general laws and public local laws of the General Assembly in effect from time to time after the adoption of this Charter, whenever such construction would be reasonable.

(e) The words "*passage*" and "*adoption*", when used in connection with the legislative acts of the County Council, shall mean the action by the Council in approving any item of legislative business prior to its submission to the County Executive for his approval or veto.

(f) The word "*enactment*" shall mean the action or means whereby any bill after its passage attains the status of law.

(g) The word "*shall*" shall be construed as mandatory and the word "*may*" shall be construed as permissive.

(h) Whenever in this Charter the masculine gender is used, such words shall be construed to include the feminine

gender, except where such construction would be absurd or unreasonable.

(i) The word "*person*" shall include the words "*corporation*", "*partnership*" and "*association*", unless such a construction would be unreasonable.

(j) The word "*officer*" shall include the word "*councilman*".

(k) The words "*hereafter*" and "*heretofore*" shall refer to the effective date of this Charter, unless such a construction would be unreasonable.

(l) The word "*State*" shall mean the State of Maryland.

Section 1010. *Custody of Papers and Records.* The County Council at its first legislative session shall provide for the custody and safekeeping of all deeds, bonds, contracts, releases, and other papers and instruments involving the interests of the County.

Section 1011. *Separability.* If any Article, section or provision of this Charter shall be held unconstitutional, invalid or inapplicable to any person or circumstance, then it is intended and declared by the people of the County that all other Articles, sections or provisions of this Charter and their application to all other persons and circumstances shall be separable and shall not be affected by any such decision.

Section 1012. *Citation.* This Charter shall be known and may be cited as "The Baltimore County Charter".



## ARTICLE XI

## TRANSITORY PROVISIONS

Section 1101. *Nature of this Article.* The provisions of this Article relate to the transition from the existing Commissioner form of government to the form of government provided in this Charter. Where inconsistent with the foregoing Articles of this Charter, the provisions of this Article shall constitute exceptions thereto.

Section 1102. *Effective Date of this Charter.* As provided in Article XIA of the Constitution of this State, this Charter shall take effect on the thirtieth day following its adoption.

Section 1103. *Special Election for First County Council.* In order that this Charter may become operative promptly after it becomes law, a special election for members of the first County Council shall be held on Tuesday, January 23, 1957. The councilmen so to be elected shall be subject to the residence requirement provided in Article II, Section 201(a), of this Charter. Nomination of candidates for membership in the first County Council shall be submitted to the Board of Supervisors of Elections not later than Monday, December 17, 1956, accompanied in each case by a certificate of each candidate specifying the councilmanic district in which he shall have resided for the time specified by Section 201(a) hereof. Such nominations may be made by: (1) petitions conforming with the requirements provided in Article 33, Section 44 of the Annotated Code of Maryland (1951 Edition), and/or (2) the State Central Committees of Baltimore County of the Democratic and Republican Parties.

Section 1104. *Terms of Office of Members of First County Council.* In order to place the election of the members of the County Council on the quadrennial basis provided in Article XVII of the Constitution of this State, the terms of

the members of the first County Council shall commence on the Monday following their election and shall expire at such time as their successors, elected at the next quadrennial election, shall qualify for office.

Section 1105. *The Method of Selection of First County Executive.* The President of the Board of County Commissioners holding office at the effective date of this Charter shall be the first County Executive. His term of office shall commence on the same day as the terms of the members of the first County Council as above provided, and shall expire at such time as his successor, elected at the next quadrennial election, shall qualify for office.

Section 1106. *The Existing County Commissioners.* The County Commissioners in office at the effective date of this Charter shall continue to hold office and exercise and perform their present powers and duties and shall constitute the County Council until the members of the first elected County Council take office. At such time, the office of County Commissioners shall cease to exist in Baltimore County.

Section 1107. *Reference in State Constitution and Laws to County Commissioners.* In accordance with the provisions of Article XIA of the Maryland Constitution, all references in the Constitution and the laws of this State to the County Commissioners shall, at such time as the elected members of the first County Council take office, be construed to refer to the County Council and to the County Executive whenever such construction would be reasonable. The County Council and County Executive shall succeed to all powers heretofore vested in the County Commissioners by the Constitution and laws of this State.

Section 1108. *Selection and Term of First County Administrative Officer.* The first County Administrative Officer to take office pursuant to this Charter shall be



appointed by the first County Executive. He shall possess the same qualifications for the office as are provided in Article IV hereof, and his term shall begin immediately upon the confirmation of his appointment by the first County Council and shall end when his successor shall qualify.

Section 1109. *The County Treasurer; Additional Bond of Director of Finance.* All powers and duties imposed by law upon the County Treasurer shall continue to be exercised and performed by the County Treasurer until the next general election for officers in the County government occurring after the adoption of this Charter; thereafter, the office of County Treasurer shall stand abolished, and all his powers and duties shall be performed by the Director of Finance as provided in Article V of this Charter. Unless otherwise hereafter provided by law, the Director of Finance shall give the same bonds for the faithful performance of his duties as are now required of the County Comptroller, and, after the abolition of the office of County Treasurer, such additional bonds as may be required of such officer. All references in the laws to the County Treasurer shall, after the abolition of said office, be construed to refer to the Director of Finance, whenever such construction would be reasonable.

Section 1110. *Time Certain Articles Become Operative.* Except as otherwise expressly provided in this Charter, all the provisions of Articles I to X, inclusive, shall become operative at such time as the members of the first County Council take office.

Section 1111. *Existing Laws.* The public local laws of Baltimore County and all rules, regulations, resolutions and ordinances of the County Commissioners in force at the time of the effective date of this Charter are hereby repealed to the extent that they are inconsistent with the

provisions of this Charter, but no further; and to the extent that they are not hereby repealed because of such inconsistency, all such public local laws, rules, regulations, resolutions and ordinances shall continue in full force and effect until repealed or amended; provided, nevertheless, that notwithstanding any inconsistency with the provisions of this Charter, all laws relating to the borrowing authority of the County Commissioners in force at the time of the adoption of this Charter shall remain in full force and effect and may be exercised by the County Council until after the general election to be held in November, 1958.

Section 1112. *Existing Officers and Employees.* All appointed officers and employees of the County holding office at the time the members of the first County Council qualify for office, except those holding offices specifically abolished hereby, shall have the right to continue to be employed at their existing compensation, subject, however, to the provisions of the County Personnel Law.

Section 1113. *Existing Members of Boards and Commissions.* The members of the Board of Recreation and the Personnel and Salary Advisory Board holding office at the effective date of this Charter shall constitute, respectively, the members of the Recreation Board and the Personnel and Salary Advisory Board created by this Charter. The members of all other boards and commissions not expressly abolished by this Charter shall continue to hold the same or corresponding office after the effective date of this Charter; provided, however, that in all cases where a County Commissioner was required to serve *ex officio* as a member of any board or commission in the County government, the County Executive shall serve thereon in such capacity.

Section 1114. *Abolition of Certain Inactive Boards and Commissions.* The Youth Commission of Baltimore County,



the Baltimore County Trade Commission, and the Trustees of the Poor are hereby abolished.

Section 1115. *Existing County Seal.* Until a new County Seal shall have been adopted by the County Council pursuant to the requirements of Article X, Section 1007 of this Charter, the Seal of the Board of County Commissioners shall be and remain the official Seal of the County.

## ARTICLE XII

### MANNER OF TERMINATING THIS CHARTER AND MAKING AMENDMENTS THERETO

Section 1201. *Termination.* The County Council may, by legislative act approved by the affirmative vote of at least six members, propose the termination of this Charter and the return of the County to the County Commissioner form of government in effect prior to the adoption of this Charter. The same proposal may be made by petition signed by twenty per centum or more of the registered voters of the County, or 10,000 or more of such registered voters in case twenty per centum is greater than 10,000. Such petition shall conform with the requirements of Article XIA of the Constitution of the State of Maryland and shall be filed with the County Executive. The question so proposed by act of the County Council or by petition shall be published by the County Executive in at least two newspapers of general circulation in the County once each month for five successive months prior to the next general election or Congressional election occurring after the passage of such act or the filing of such petition. At such election, the question shall be submitted to the voters of the County, and if the majority of votes cast on the question shall be in favor of repealing this Charter, then, at the next quadrennial election, County Commissioners shall be elected under the public general laws of the State of Maryland. When the

County Commissioners so elected have qualified for office, this Charter shall terminate. All laws, regulations and ordinances in effect at the termination of this Charter shall remain in force until changed by action of the General Assembly of Maryland, or the Board of County Commissioners, as provided by the Constitution and public general laws of this State.

Section 1202. *Amendment.* Amendments to this Charter may be proposed by act of the County Council approved by not less than five of its members, and such act shall be exempt from the executive veto. Amendments may also be proposed by petition filed with the County Executive and signed by not less than twenty per centum of the registered voters of the County, or 10,000 or more of such registered voters in case twenty per centum of the number of registered voters is greater than 10,000. When so proposed, whether by act of the County Council or by petition, the question shall be submitted to the voters of the County at the next general or Congressional election occurring after the passage of said act or the filing of said petition; and if at said election the majority of votes cast on the question shall be in favor of the proposed amendment, such amendment shall stand adopted and become a part of this Charter from and after the thirtieth day following said election. Any amendments to this Charter, proposed in the manner aforesaid, shall be published by the County Executive in at least two newspapers of general circulation in the County for five successive weeks prior to the election at which the question shall be considered by the voters of the County.



# REPORTER'S NOTES TO THE PROPOSED HOME RULE CHARTER OF BALTIMORE COUNTY

By ARTHUR W. MACHEN, JR., Reporter

## INTRODUCTION — SCOPE AND PURPOSE OF REPORTER'S NOTES

The Reporter's Notes to the Baltimore County Home Rule Charter constitute unofficial but contemporaneous comment on each section of the Charter.

The Notes are "unofficial" in that they are not to be considered a part of the Charter itself. They are exclusively the responsibility of the Reporter, and any errors, omissions or ambiguities therein should not in any manner be attributed to the Charter Board.

The Notes constitute "contemporaneous comment" in that they are derived from the official records of the Charter Board assembled during the period when the Charter was being drafted. It was the duty of the Reporter to study and evaluate research material and to submit for the consideration of the Charter Board drafts and redrafts of the Charter. The Notes are compiled from this material and these drafts.

During the period when the Charter was being written, meticulous records were preserved which show the evolution of each section, beginning with the first rough draft prepared by the Reporter and ending with the final draft approved by the Board. Minutes of each Board meeting were also maintained, and a number of legal opinions, both written and oral, were delivered by Mr. Kenneth C. Proctor as Legal Counsel. After the adoption of the Charter, these records will be delivered to the appropriate County officials for permanent custody. Meanwhile, they will be preserved by the Charter Board and can be referred to if the need should arise.

STANLEY J. SCHAPIRO  
ATTORNEY

STANLEY J. SCHAPIRO  
BEP COUNTY ATTORNEY



The Reporter's Notes published in this Appendix do not purport to trace the complete legislative history of each section of the Charter, but, rather, are confined to an interpretation of the final draft. In this connection, it seemed of special interest to consider the changes made to the Tentative Draft which was released to the public on March 31, 1955. Accordingly, the Notes explain in some detail why certain recommended changes were made and why others were not.

The Reporter's Notes are intended to serve three primary purposes:

(1) They should be of interest to those voters of the County who wish to make a thorough study of the Charter before voting on the question at the 1956 election. In order to facilitate such a study, an attempt has been made to make the Notes readable as an independently integrated document.

(2) If the Charter is adopted, the Notes may be helpful to the first County Council and the officers and employees of the first administration operating under its provisions. For their special interest, the Notes contain many cross-references and citations which point out the similarities and differences between the Charter and existing law.

(3) The Notes may, in appropriate cases, serve a useful purpose to the Bench and Bar in construing the Charter itself. It should be mentioned, however, that the Notes were not written with this object primarily in mind.

STANLEY J. SCHAPIRO  
ATTORNEY

STANLEY J. SCHAPIRO  
DEP. COUNTY ATTORNEY

## ARTICLE I

### NAME AND RIGHTS OF THE COUNTY

Section 101. *Body Corporate and Politic.* This section refers to the corporate nature of the County before and after the adoption of the Charter.

Numerous decisions of the Court of Appeals of Maryland have held that the County Commissioners constitute a "municipal corporation". See: *Neuenschwander v. Washington Suburban Sanitary Commission*, 187 Md. 67, 74, 48 A. 2d 593 (1946) and the cases therein cited. Under Article 25A, Section 1 of the Annotated Code of Maryland (1951 edition) — hereinafter referred to as the "State Code" — the County retains its corporate entity after the adoption of a Charter.

Section 102. *Exercise of Powers.* Under Article XI A, Section 3 of the State Constitution, all "law-making" power of the chartered county is vested in the county council. The same section also speaks of a "chief executive officer" who may be either elected or appointed. Section 102 of the Charter provides, therefore, that all corporate powers of the County shall be exercised by the County Council, the chief executive and their respective officers, agents and employees.

Section 103. *Name and Boundaries.* Article 25A, Section 1 of the State Code provides that all property and franchises belonging to or in the possession of the "Board of Commissioners of the county and of its agencies shall, immediately upon the adoption of a charter be vested in the said county, as a corporation." The same section also provides that pending legal actions brought against the County Commissioners shall, after the adoption of the charter, be continued "in the name of the county". In view of these provisions, it seemed unnecessary to phrase the corporate name of the County in terms of the officers who exercise its corporate powers — as for example, the "Mayor and City Council of Baltimore". Rather, in the interests of simplicity, it seemed desirable to describe the corporate name in the geographical terms by which it is commonly



known. This is in accordance with the practice in a number of other chartered counties throughout the nation, as for example, Article I, Section 102 of the Santa Clara County Charter, Article I, Section 1 of the St. Louis County Charter, and Article I, Section 2 of the Westchester County Charter.

The second sentence of Section 103 confirms the existing county boundaries and county seat until changed in accordance with law. The county boundaries can be changed by the General Assembly in the manner provided by Article XIII, Section 1 of the State Constitution, but under these provisions no such change can be made "without the consent of a majority of the legal voters residing within the district" affected thereby.

## ARTICLE II

### THE COUNTY COUNCIL

#### Section 201. *Composition.*

(a) *Residence Requirement.* Under Article 25A, Sections 2 and 3 of the State Code as amended by the Acts of 1955, Ch. 556, the members of the County Council must be elected "*on the general ticket*". As pointed out in an opinion delivered to the Charter Board by its Legal Counsel, the phrase "*on the general ticket*" has been construed on at least two occasions by the Attorney General of Maryland to mean, in effect, "*by the voters of the entire County*". The 1955 amendment to the law above cited makes it clear that a charter can nonetheless provide for a residence requirement of the type contained in Section 201 of this Charter.

Any change in the provisions of Article 25A, Sections 2 and 3 of the State Code so as to permit the election of councilmen by and from districts rather than "*on the general ticket*", would raise a constitutional question which might have to be tested in the courts. This question stems from: (1) the provisions of Article VII, Section 1 of the State Constitution, whereby county commissioners are required to be elected "*on the general ticket*", and (2) the

provisions of Article XI A, Section 3 of the State Constitution, under which all references elsewhere in the Constitution and laws of the State to county commissioners are to be construed, in the case of a chartered county, to refer to the county council and the chief executive officer "when-ever such construction would be reasonable". When these two sections are read together, it is at least arguable that by constitutional mandate county councilmen must be elected "*on the general ticket*".

Sections 2 and 3 of Article 25A of the State Code (commonly called the "Lindsay Law") also require the nomination of county councilmen in party primaries. The Court of Appeals upheld this provision in *Ames v. Supervisors of Elections*, 195 Md. 543, 74 A. 2d 29 (1950) and declared invalid a public local law of Montgomery County which would have provided for non-partisan elections.

The language of Section 201(a) in the tentative draft of the Charter was revised in two respects prior to release of the final draft. At the suggestion of a number of interested citizens, the period of residence of a councilman in his councilmanic district prior to his election was increased from one year to two years, and the last clause of the section was reworded slightly to make it absolutely clear that each councilman will have to reside in a different one of the seven councilmanic districts.

(b) *Mode of Election.* This section relates to the election of councilmen on the general ticket but subject to the residence requirement. The language is derived mainly from the provisions of Article 25A, Sections 2 and 3 of the State Code as amended by the Acts of 1955, Ch. 556. (See also in this connection the Notes to Section 201(a) above.) The proviso at the end of the section refers to the mode of election of the first county council, a subject discussed *infra* in the Notes to Section 1103 of Article XI.

#### Section 202. *Qualifications.*

(a) *In General.* This section requires the county councilmen to possess those qualifications of a Maryland State Senator which are set out in the State Constitution, Article



III, Sections 9-12, inclusive. These qualifications are the same as those for a member of the House of Delegates, except that the minimum age requirement is twenty-five years for a Senator (and, hence, a Councilman) rather than twenty-one for a Delegate. He must be a citizen of the State of Maryland who has resided therein for at least three years prior to the date of his election. He cannot be a member of Congress or hold any civil or military office under the United States government. If, after his election, he shall be elected to Congress or appointed to any civil or military office in the federal government, his acceptance thereof requires him to vacate his seat. Ministers, preachers and persons holding any civil office of profit or trust under the State, except justices of the peace, are disqualified from the office.

The constitutional requirement that a State Senator reside in the County which he represents for at least one year prior to his election is less restrictive than the provision of Section 201(a) of the Charter under which a councilman must reside in his particular councilmanic district for two years prior to his election.

The constitutional provisions above referred to do not prohibit a State Senator from holding other County office. A prohibition to this effect, applicable to councilmen, is contained in subsection (b), discussed hereinbelow.

(b) *Other Offices.* The provisions of this section are somewhat more restrictive than those now in force on the State level, because they even prevent a councilman from resigning his seat to accept an appointment to some other County office during the term for which he has been elected. These provisions are common in most modern charters.

(c) *Change of Residence.* The manifest object of this provision is to insure continuous representation in the county council of each of the seven councilmanic districts.

Section 203. *Term of Office.* Article XVII, Section 1 of the State Constitution, the "Fewer Elections Amendment", provides that "all county officers elected by qualified voters, shall hold office for terms of four years, and until their successors shall qualify". In *Benson v. Mellor*, 152 Md. 481,

137 A. 294 (1927), the Court of Appeals held that the purpose of the Fewer Elections Amendment was to require the terms of all elected county officials "to have common beginnings and endings at the same elections", and to prohibit staggered or overlapping terms. In view of this constitutional mandate, the Charter Board had no alternative in specifying that all county councilmen shall be elected at the same time and serve coterminously for a period of four years.

Section 203 of the Charter requires the councilmen to qualify on the first Monday in December following their election, or as soon thereafter as practicable. Under the existing form of government in the County, there is no statutory or constitutional provision specifying the exact date of qualification of county commissioners. The matter is controlled by Article XV, Section 9 of the Constitution, under which all constitutionally elected officers are required to "qualify as soon after their election as practicable" and by Article 25 Section 15 of the State Code under which commissioners are required to meet "within sixty days after their election." According to custom, however, they usually qualify on or about the first Monday in December.

Under the constitutional provision above cited, the terms of constitutionally elected officers "commence from the time of their election", but under decisions of the Court of Appeals, their terms hold over until their successors qualify. See: *Benson v. Mellor*, 152 Md. 481, 488, 137 A. 294 (1927) and cases therein cited. The language of the first two sentences of Section 203 of the Charter follows closely the provisions of Article XV, Section 9 of the State Constitution as so interpreted by the courts.

The proviso at the end of Section 203 refers to the terms of the members of the first County Council, a subject discussed *infra* in the Notes to Article XI, Section 1103.

Section 204. *Compensation.* In prescribing the number, powers, duties and compensation of the members of the County Council, the Charter Board relied on an opinion from the Attorney General of Maryland dated March 14,



1955, and published in the *Daily Record* on May 2, 1955. On the strength of this opinion and the experience in Montgomery County, Counsel for the Charter Board concluded, and the Board agreed that the provisions of Article XI A, Section 6, are self-executing and that the voters of the County, by the adoption of a Charter, are fully empowered to prescribe the number, compensation, powers and duties of the various officers in the legislative and executive branches of the county government.

The Charter Board spent a great deal of time discussing the salaries of county councilmen. During the period of public consideration of the tentative draft, many divergent views were expressed on this subject. Some citizens seemed fearful that the sum of \$3,000 per annum would attract candidates to whom the compensation might be the most appealing feature. Others adhered to the principle that a "laborer is worthy of his hire", and that to reduce the salary in the Charter would serve only to lower the dignity of the office. The Charter Board weighed these recommendations carefully. Although the salaries paid to councilmen in other jurisdictions were also considered, it was extremely difficult to draw any pattern therefrom, because the duties of councilmen vary so widely in the different cities and counties of the nation. Since it was deemed inadvisable to give the County Council power to increase its own compensation, the Charter Board finally resolved that the wiser course of action was to leave the salary figure at \$3,000 per annum as provided in the tentative draft. If experience should later prove this figure too high or too low, the Charter can be amended by a vote of the people of the county.

The second sentence of Section 204 is intended to bar the practice of paying officers of the County additional sums for separate phases of their work, as for example, the present practice of paying county commissioners, in addition to their basic salary, the sum of \$3,000 from the Metropolitan District. (Smith's Code of Public Local Laws of Baltimore County, Title 23, Section 340(a) — hereinafter cited as the "Baltimore County Code"). In this connection, see also Section 307(c) of the Charter and the Notes thereto.

Section 205. *Vacancies.* An early draft of the Charter provided that vacancies in the office of county councilman should be filled by vote of the remaining members. This was in accordance with the provisions of Article I, Section 5(a) of the Montgomery County Charter and also conformed with the Baltimore City Charter (1949 edition), Section 19. After much discussion, the Charter Board eliminated the earlier provisions and provided that vacancies in the office of county councilman should be filled in accordance with the recommendations of the State Central Committee of the political party to which the previous incumbent belonged — unless, of course, the previous incumbent was not a member of a political party.

One of the main reasons for making this change was to avoid an impasse in the selection of a successor councilman. Some difficulties along these lines have been experienced in Baltimore City. Moreover, the filling of a vacancy on the recommendation of the State Central Committee conforms with the existing practice under which vacancies in the office of county commissioner are filled in the same manner. (Article 25, Section 12 of the State Code.) It is also the procedure used to fill vacancies in the General Assembly. (State Constitution, Article III, Section 13.) Although this manner of filling a vacancy places a political stamp on the nature of the office of councilman, the political nature of the office is predetermined by the provisions of Article 25A, Sections 2 and 3 of the State Code. Under these circumstances, the Charter Board believed it preferable to have vacancies filled by the official representatives of the political party to which the previous incumbent belonged.

The concluding sentence of Section 205 is intended to preserve the representative character of the County Council upon the happening of a vacancy by requiring the successor councilman to reside in the same councilmanic districts as his predecessor.

Section 206. *Councilmanic Districts.* The division of the County into councilmanic districts was one of the most time consuming phases of the work of the Charter Board. The plan which was finally adopted was one of many which



were prepared by the Reporter and considered by the Board.

At the conclusion of these Notes, on page 176, there appears in Plate No. 1 a map which graphically represents the division of the County into councilmanic districts as provided in Section 206 of the Charter. With the exception of the boundary between Councilmanic Districts VI and VII, all boundaries conform with existing election district lines.

It is unlikely that any district plan could be free from all possible criticism from all quarters. After much trial and error, however, the members of the Board are convinced that the plan proposed is the best they are capable of producing without making drastic changes in existing election district lines.

The main object of this arrangement is to group together in separate districts areas of common interests, common problems and common ethnological characteristics. Inasmuch as councilmen are elected on the general ticket by the voters of the entire County, the councilmen do not represent constituencies to the extent that would be the case in district elections. Accordingly, a numerical equality of population as between the various districts is not so important and does not constitute the primary consideration in planning their boundaries. Councilmanic District III, for example, has a much smaller population than District VII; however, it has about 42.9% of the land area of the County, whereas District VII has only about 3.7%. The Charter Board believed that both the factors of land area and of population strength are entitled to consideration in solving this problem.

It is recognized that the arrangement of councilmanic districts can never be static, and Section 207 is designed to guard against this danger.

**Section 207. Revision of Councilmanic Districts.** Article 25A, Section 5(H) of the State Code empowers the chartered county "to rearrange and create election districts and precincts". However, any such rearrangement would necessarily require a field survey, and, for this as well as many

other practical reasons, the Charter merely groups the existing election districts together into seven councilmanic districts. The only departure made from existing election district lines is the boundary between Councilmanic Districts VI and VII which is established as Back River rather than the boundary between the Twelfth and Fifteenth Election Districts. This one exception seemed justified in the interests of balancing the population of these two highly populated election districts. Moreover, the dividing line selected for this division, Back River, is a natural geographical barrier which cuts the Fifteenth Election District into two parts.

The decennial revision of the councilmanic districts is made mandatory in Section 207. The Charter Board believed that such a mandatory requirement would be adequate without the imposition of a penalty of the type contained in the Philadelphia Home Rule Charter, Article II, Section 2-102, under which the members of the City Council are deprived of their salaries until they have passed, and the Mayor has approved, a redistricting ordinance. Inasmuch as county councilmen in Baltimore County must be elected on the general ticket by the voters of the entire County, the Board felt that there would be little or no incentive to redistrict the County purely for reasons of political advantage, and consequently less danger that the mandatory redistricting provisions would be ignored.

**Section 208. Sessions of the County Council; Quorum; Rules of Procedure.**

(a) **Annual Legislative Session.** Under Article XI A, Section 3 of the State Constitution in effect at the time of the preparation of this Charter, the county council of a chartered county is empowered to sit "not more than one month in each year for the purpose of enacting legislation". Such a month is required to be "so designated for that purpose in the charter". At the request of the Charter Board, a bill was enacted by the General Assembly at the 1955 Session, proposing a constitutional amendment which will enlarge this period to 45 days and will make it clear that such days need not be consecutive. This amendment is known as Chapter 557 of the Acts of 1955, and will be sub-



ject to a State-wide referendum at the general election in 1956, when the Charter will also be submitted to the voters of the County.

The provisions of Section 208(a) were written with both the existing and the proposed constitutional provisions in mind.

The existing constitutional provision has not proven burdensome in Montgomery County. The Court of Appeals of Maryland in *Schneider v. Lansdale*, 191 Md. 317, 61 A. 2d 671 (1948) held that the approval of the county budget and the fixing of the tax rate were not legislative acts of a character which had to be performed during the one-month prescribed for legislation by Article XI A of the Constitution. This case has been construed by the Bench and Bar of Montgomery County as enabling the County Council to perform outside the thirty-day period any legislative acts which the County Commissioners could have performed prior to the adoption of the Charter. Support for this construction is derived from the rationale of the case and particularly a statement in the Court's opinion that the object of the constitutional provision "was not to restrict county authorities in these duties long exercised by them."

It is the opinion of the Charter Board that the adoption of the constitutional amendment above referred to, while perhaps not essential to good government under the Charter, will certainly make the proposed form of government more workable. It will protect the legislative acts of the County Council from attack on narrow technical grounds.

(b) *Other Sessions.* In the tentative draft of the Charter, this subsection was entitled "Other Meetings". The heading was amended so as to make it clear that the annual legislative session in May is a self-contained "session" for parliamentary purposes. (See the technical distinction between a "session" and a "meeting" discussed in Robert's *Rules of Order*, revised edition, 1943, pages 22 and 254.) The regular monthly sessions are designed to keep the legislative branch of the County in close contact with the affairs of the executive branch.

(c) *Quorum.* The tentative draft of this section provided that a "majority" of the members of the council should constitute the quorum. It was called to the Charter Board's attention that in the event of two simultaneous vacancies, a majority of members might be less than four. To avoid such a possibility, the final draft makes it clear that not less than four councilmen can constitute a quorum.

(d) *Rules of Procedure.* This section was added after publication of the tentative draft. The Charter Board believed that the Rules of Procedure should contain matters of parliamentary routine and also suitable provisions for the discipline of members. It was considered inappropriate to put such details in the Charter itself.

### ARTICLE III

#### THE LEGISLATIVE BRANCH

Section 301. *Composition.* This section establishes the composition of the legislative branch of the County government. It requires no explanatory comment.

#### Section 302. *Officers.*

(a) *Presiding Officer.* Article XI A, Section 3 of the State Constitution seems on its surface to require that the elected chief executive officer of the chartered county be termed the "President of the County Council". On the advice of its Legal Counsel, however, the Charter Board concluded that this provision was directory rather than mandatory. This conclusion seems clearly indicated by the context of Article XI A Section 3 wherein the chief elected executive of the county corresponds with the Mayor of Baltimore City.

In the interests of clarity, the Charter Board believed it preferable to denominate the chief elected executive officer as the "County Executive" and to refer to the presiding officer of the County Council as its "Chairman". In view of the fact that the County Executive has the power of veto, and since the form of government in the Charter is based on the "separation of powers" doctrine, it was considered



inadvisable to have the County Executive preside at council meetings, a function which would have been implied by the term "President of the County Council".

(b) *Other Officers and Duties.* The Charter Board recognized the necessity for the employment of other officers by the County Council. In particular, it seemed essential that there be a Secretary who would keep minutes of meetings and would receive on behalf of the Council communications of various kinds from other officers and employees of the County. This officer is also given the power in Section 1007 to attest to the County Seal.

The tentative draft of this section was changed by the insertion of the provision requiring the Secretary of the County Council to "keep minutes of its meetings". Although the Journal of the Council will represent the official legislative record of the Council, it was the belief of the Charter Board that minutes of all Council meetings should also be maintained.

In the tentative draft, Section 302 contained a third subsection entitled "Legal Adviser", which was deleted in its entirety from the final draft. Its substantive provisions are repeated in Section 508, wherein the County Solicitor is designated as legal adviser and legislative draftsman for the Council and his office is also made responsible for the maintenance of the Journal. The Charter Board believed that the County Solicitor must necessarily provide legal services to the legislative branch, but that in view of the "separation of powers" doctrine in accordance with which the Charter is drafted, it was unwise to designate the County Solicitor in Section 302 as an officer of the legislative branch.

Section 303. *Action by Council.* The manifest purpose of this section is to require the Council to act as a unit in all of its deliberations. The Charter Board believed that a legislative body of only seven members could reasonably be required to transact its business without resort to the use of standing committees.

Section 304. *Enumerated Powers Not to be Exclusive.*  
and

Section 305. *Limitation on Exercise of County Council's Powers.* These two sections should be read and considered together. The purpose of Section 304 is to insure that the council has all powers which it would be competent for the Charter specifically to enumerate. The purpose of Section 305 is to set out the general inhibitions which restrict the council in the exercise of all its powers. Thus, Section 304 makes it clear that the council has all legislative powers which it is possible for the Charter to confer on the County's law-making body, and Section 305 establishes that all actions by the council are subject to the Constitution and Public General Laws of the State. Provisions comparable to those contained in Sections 304 and 305 are almost universal in modern charters.

Section 306. *Legislative Powers of County Council.* Article 25A of the State Code, commonly known as the "Express Powers Act", enumerates the powers of chartered counties. These powers are not conferred directly by the Code on the County Council, but rather they are conferred upon the voters of the County. By the adoption of the Charter, the voters of the County are enabled to assign these powers to their elected legislative body.

In drafting this part of the Charter, the Board considered carefully the desirability of quoting verbatim all the powers enumerated in Article 25A. Although this would have had the advantage of placing before the citizens of the County the precise scope of the council's powers, it would also have the disadvantage of including in the Charter language which would become obsolete if amendments were thereafter made to the Express Powers Act by the General Assembly. These difficulties were doubtless recognized by the Charter Boards of Montgomery County, since both their 1944 and their 1948 Charters merely incorporated by reference the legislative powers set out in Article 25A of the Code. This is the procedure finally adopted by the Charter Board of Baltimore County.



The reference to "law-making power" in the opening clause of Section 306 is taken directly from Article XI A, Section 3 of the Constitution, the opening sentence of which reads as follows:

"Each charter so formed shall provide for an elected legislative body in which shall be vested the law-making power of said city or county."

In the second sentence of Section 306, the County Council is given all legislative powers heretofore vested in the County Commissioners. The legal basis for this grant of power stems primarily from the constitutional provision in Article XI A, Section 3 that all references to County Commissioners in the Constitution and laws of this State shall, in the case of a chartered county, be construed to refer to the County Council and the chief executive officer, whenever such construction would be reasonable. Moreover, Article 25A, Section 5(T) of the State Code grants to the chartered county sweeping police powers, covering generally "the peace, good government, health and welfare of the County". It is also worthy of note that Article 25A is said to contain powers granted "as a substitute for and in extension of" the powers granted to county commissioners in Article 25 of the Code. It is the belief of the Charter Board that the County Council, being vested with all "law-making power" of the County has, in the light of these provisions, all home rule powers set out in Article 25A of the Code and, except where inconsistent with Article 25A of the Code, such other powers as may be contained in Article 25. This conclusion seems fortified by the rationale of the Court of Appeals in the case of *Schneider v. Lansdale*, 191 Md. 317, 61 A. 2d 671 (1948).

The tentative draft of the second sentence in Section 306 was revised before release of the final draft to add the concluding clause granting to the County Council the power to accept gifts and grants. The Charter Board believed that this power should be vested exclusively in the elected legislative body of the County.

The third sentence of Section 306, relating to the power of the Council to repeal or amend certain public local laws

enacted by the General Assembly, is derived and practically quoted verbatim from Article XI A, Section 3 of the Constitution which reads in part as follows:

"From and after the adoption of a charter by \* \* \* any county of this State, as hereinafter provided, the \* \* \* County Council of said County, subject to the Constitution and Public General Laws of this State, shall have full power to enact local laws of said \* \* \* County, including the power to repeal or amend local laws of said \* \* \* county enacted by the General Assembly, upon all matters covered by the express powers granted as above provided \* \* \*."

The fourth and concluding sentence of Section 306 relating to the enforcement of laws by the County Council, is derived from Section 5(A) of Article 25A of the Code, which enables chartered counties:

"\* \* \* to provide for the enforcement of all ordinances, resolutions, by-laws and regulations adopted under the authority of this Article by fines, penalties and imprisonment, enforceable according to law as may be prescribed, but no such fine or penalty shall exceed \$100.00 for any offense or imprisonment for more than six months."

An early draft of the Charter contained a further sentence in Section 306 prohibiting the County Council from legislating on any matter covered by the express powers granted to any incorporated town, village or municipality within the County. This prohibition stemmed from the language of Article XI A, Section 3, which so limits the legislative powers of all chartered counties. This sentence was eliminated from the printed draft of the Charter because of the absence of any incorporated town or villages in Baltimore County at this time. If at a later date any municipalities are incorporated in accordance with Article XI E of the Constitution, then the County Council would by constitutional mandate be deprived from legislating on matters included in their municipal charters.



Section 307. *The Metropolitan District.* There is some legal doubt about the power of the chartered county to reorganize an instrumentality which affects not only the affairs of the County itself but also of those of another political subdivision of the State, in this case Baltimore City. Article 25A, Section 5(P) of the State Code does empower the chartered county to legislate on matters relating to certain "special taxing areas," and perhaps a broad construction of this section might allow the Charter to amend the provisions of the Metropolitan District Act now contained in the Baltimore County Code, Title 23, Sections 337 and 362, inclusive. The uncertainty of this conclusion and the fact that any such amendment would affect the interests of the Mayor and City Council of Baltimore seemed to indicate the wisdom of leaving the problem for future study and action.

Accordingly, Section 307 of the Charter is designed to transfer from the County Commissioners to the County Council and the County Executive the jurisdiction over the affairs of the Metropolitan District, without in any manner affecting the substantive provisions of the Metropolitan District Act. Section 307(b) defines the executive powers to be discharged by the County Executive and the legislative powers to be discharged by the County Council. Manifestly, the major legislative functions of the District relate to (1) the issuance of bonds and other evidences of indebtedness and (2) the approval of extensions to the District lines. Most, if not all, of the other affairs of the District may be classified as matters of day-to-day administration.

Under Section 527 of the Charter, the County Council is given the power to reorganize the affairs of the Metropolitan District as a separate department of the County government or in such other manner as may be permitted by law.

During the consideration of the tentative draft of the Charter, the question was raised whether the language of Section 307(b) would present any difficulty of construction in determining what are "executive" and "legislative"

functions. After thorough study of the draft, the Charter Board concluded that no such difficulty would be encountered. In this connection, the budget provisions in Article VII of the Charter will remove any possibility of doubt as to the executive or legislative character of certain functions of the District, the character of which might otherwise be uncertain. For example, capital projects, whether or not of a self-liquidating nature, could not be undertaken unless approved in the Budget, a matter which would necessarily require previous legislative action by the County Council. Upon such approval, the execution of the project so approved would clearly be a function to be discharged by the executive branch of the County government. //

As previously mentioned in the Notes to Section 204, the County Council and County Executive will receive no additional compensation for their services in connection with the Metropolitan District. The provisions in existing law under which County Commissioners each receive \$3,000 per annum for their services as Commissioners of the Metropolitan District is expressly barred by Section 307(c) of the Charter. This prohibition against the receipt of additional compensation would not, of course, preclude the actual payment of part of the executive and legislative salaries from the special funds of the Metropolitan District if such action were approved in the County Budget. Although the Charter Board questions the wisdom of perpetuating this practice, it is an administrative matter which must be resolved by the appropriate officers of the chartered County after the adoption of the Charter.

Section 307(d) establishes that the rights, powers, duties and obligations of the City of Baltimore and of all parties to contracts negotiated by the Metropolitan District are not to be affected or impaired by the adoption of the Charter.

#### Section 308. *Legislative Procedure.*

(a) *Public Meetings.* A requirement of this sort, that Council meetings be open to the public, is found in almost all charters which have come to the attention of the Charter Board. The word "meetings" in the title and substance of this section was substituted for the word "sessions" in the



tentative draft, in order to make it clear that every meeting within every session of the Council must be open to the public.

Article 25, Section 4A of the State Code (1954 Supp.) requires that "all meetings, regular and special, of the board of county commissioners or of the county council of any county in this State" shall be open to the public. The statute goes on to permit "executive sessions," provided that "no ordinance, resolution, rule or regulation shall be finally adopted at such an executive session." The Charter provisions of Section 308(a) are intended to be more restrictive in requiring all official acts of the County Council to be performed in public.

(b) *Enacting Clause.* The style herein prescribed for the enacting clause of local legislation is derived from Article III, Section 29 of the State Constitution.

(c) *Titles.* This provision likewise emanates from Article III, Section 29 of the State Constitution. No comparable provision appears in the Montgomery County Charter, but the subject is covered in general terms by Rule 4, Section 2 of the Montgomery County Rules of Legislative Procedure.

(d) *Votes Required.* This section is derived from Article III, Section 28 of the State Constitution, and a comparable provision appears in Article II, Section 5(e) of the Montgomery County Charter. The tentative draft of this section was changed before publication of the final draft to establish that the affirmative vote of *not less than* four members of the Council is required for the passage of any legislation. (See also the Notes to Section 208(c), *supra*, where a similar change is noted in the provisions dealing with the quorum of the County Council.)

(e) *Publication of County Laws.* The first clause of this section is derived from the provisions of Article II, Section 5(c) of the Montgomery County Charter, which requires the posting of legislation on a bulletin board to be set up by the County Council and the supply of copies for the public and the press. The second and last clause of this section refers to the provisions of Article XI A, Section 3

of the State Constitution, under which "all laws and ordinances \* \* \* shall be published once a week for three successive weeks in at least one newspaper" published in the chartered county.

(f) *Effective Date of Laws; Emergency Measures.* Bearing in mind the possibility that the constitutional amendment proposed by the Acts of 1955, Chapter 557 may be in force when this Charter goes into effect (see Notes to Section 208(a), *supra*), the Charter Board has not provided that laws and ordinances of the Council shall take effect on any particular calendar day, but rather that they shall take effect 45 days after their enactment. However, by a revision which was made in the tentative draft of this section, the County Council is given the power to declare a measure effective on a date beyond the 45-day period. The Council also has the power to declare any measure "an emergency measure" to take effect from the date of its enactment. In this latter respect, the privilege of declaring legislation "emergency" so as to advance its effective date is the same procedure followed on the State level in Article XVI, Section 2 of the State Constitution.

In Article X, Section 1009(f), the word "enactment" is defined as the action or means whereby any bill after its passage attains the status of law. The word "passage", however, is defined in Section 1009(e) as the action of the Council in approving an item of legislative business prior to its submission to the County Executive for his approval or veto. In view of these definitions, the Charter Board revised the tentative draft of this section so as to make it clear that emergency measures are to take effect from the day of their "enactment" rather than from the date of their "passage".

(g) *Executive Veto.* The language of this section follows closely the provisions of Article II, Section 17 of the State Constitution. It resembles in some respects the language of Article III, Section 16 of the St. Louis County Charter.

It will be observed that the constitutional provision above referred to does not specifically require the presenta-



tion of a bill to the Governor within any definite time after its passage by the General Assembly. The requirement of Article III, Section 308(g) of the Charter that the legislation of the County Council be presented to the County Executive within two days after its passage is intended to guard against the practice of holding bills back for a propitious moment for presentation.

The language of the tentative draft of this section of the Charter was revised before the release of the final draft so as to make it clear that reconsideration of vetoed legislation must take place "not later than at its next regular session", rather than at the "convenience" of the County Council. In this connection, it should be noted that each regular monthly meeting of the Council is a separate session. See: Section 208(b).

(h) *Failure of Bills.* At the suggestion of several interested citizens, this section was added to the tentative draft of the Charter. Its self-evident purpose is to fix a deadline after which bills introduced for the consideration of the Council are definitely and finally killed. This provision would supplement the normal rules of parliamentary procedure under which any measure not acted upon at one session automatically fails and cannot be passed at the next session without being reintroduced. (See: *Robert's Rules of Order* (1943 ed.) page 171.)

Section 309. *The Referendum.* This entire section reproduces almost verbatim various provisions of Article XVI of the State Constitution entitled "The Referendum", provisions which apply to laws enacted by the General Assembly. The only minor departure from the constitutional pattern is the provision relating to the form of affidavit of the person securing the signatures. Under the constitutional provision, the person securing the signatures must state under oath that "the signers are registered voters" of the State and County. Under the Charter, this statement will be based on his knowledge, information and belief.

It is of interest that the Montgomery County Charter, Article II, Section 6(b) provides that the referendum petition contain the names of not less than 5% of the registered

voters of the County, whereas the Constitutional provision refers to 10% of the voters who cast their ballots at the last gubernatorial election. On the basis of the election held in 1952 in Baltimore County, 5% of the registered voters would have been approximately 8,300 people, whereas, 10% of the votes cast for governor amounted to about 9,900. Although this difference is not large, the Charter Board believed that the constitutional formula could be more easily determined with certainty than a calculation based on the number of registered voters, a figure which might vary from day to day.

Section 310. *Non-Interference with Executive Branch.* The object of this section is to achieve a "separation of powers" in practice as well as in theory. Although the Charter Board recognized that provisions of this type are difficult to enforce, nevertheless, the Board was led to believe that they are instrumental in protecting able public servants in the executive branch from personal and political interference by the members of the legislative branch. Many of the modern charters contain provisions similar to the provisions of Section 310. See, for example, Article XIII, Section 7 of the San Mateo County Charter.

The tentative draft of Section 310 was revised before release of the final draft by the substitution in the second sentence of the words "except through legislation duly enacted" in place of the words "except by the adoption of legislation". The purpose of this introductory clause was to make it clear that the County Council is empowered to "give orders" to the executive branch by enacting suitable legislation regulating the affairs of the County government. Indeed, Article V of the Charter contains many provisions empowering the County Council by legislative act to assign additional duties and functions to the various offices and departments in the administrative services. Section 310 is not intended to curtail this legislative prerogative, but it is intended to protect the officers, agents and employees of the executive branch from privately exercised coercion and interference.

Section 311. *County Auditor.* This section creates the position of County Auditor, an officer of the legislative



branch of the County government. He is required annually to prepare and submit an internal post-audit of all departments and agencies of the County government which receive or disburse County funds. Legal authority for the creation of this position stems from Article 25A, Section 5(E) of the State Code.

It was the belief of the Charter Board that the annual internal audit should be a comprehensive document including within its scope even those departments of the County government whose affairs are completely audited each year by the State government. However, it was believed that the County Auditor should be entitled to rely on the results of the State audits to the extent that they cover the receipt and expenditure of County funds, and to include such figures in his audit without duplicating the work. The reference in Section 311 to the State audit is intended to facilitate this procedure.

During the consideration of the tentative draft of the Charter, some suggestions were received that the Auditor be appointed by the County Executive or Administrative Officer. The Charter Board believed that this would defeat the whole purpose of an internal post-audit. The County Auditor in this respect is the legislative overseer who maintains a watchful eye over the affairs of the executive branch. See: Article II, Section 14 of the Westchester County Charter, whereunder the County Auditor is appointed by the Board of Supervisors, not by the elected County Executive. And see also: Section 8.09 of the Charter of the City of Richmond where the same principle prevails in a Council-Manager system.

The tentative draft of Section 311 was revised prior to release of the final draft to establish a deadline of July 1st in each year for the submission of the annual audit and to make it clear that such audit applies to the affairs of the County government for the preceding fiscal year.

Under mandatory provisions of the Charter, the audit will be a report to the Council, and copies will be open to the inspection of the public and the press. However, only the Auditor's report and explanatory comments (i.e. letter

of transmittal) need be published in the newspapers at County expense. If the County Council wishes to perpetuate the present practice of publishing detailed financial statements, it is, of course, free to do so, but the Charter Board did not consider it wise to make such publication mandatory. The Charter is replete with provisions requiring official acts to be performed in public, and, by constitutional requirement, the full text of all laws and ordinances must be published three times in at least one County newspaper. The Charter Board believes these provisions far more useful than the mandatory publication of detailed figures which mean very little to the average citizen.

Section 312. *Biennial Audit.* In the interval between the release of the tentative draft of the Charter and the submission of the final draft, this section was rewritten so as to require a biennial audit rather than a quadrennial audit by an independent firm of certified public accountants. It will be observed that the selection of this auditing firm is made jointly by the County Executive and the County Council. The results of the audit are required to be submitted in final form no later than September 1, 1958, and every two years thereafter. Under these provisions, the results of the audit will be available to the public and to the press in ample time for consideration by the voters in election years.

The tentative draft of this section of the Charter was also revised by the deletion of the word "complete" in the opening words of the section, which formerly read: "A complete financial audit \* \* \*." The Charter Board was advised that no serious problem of construction would arise from the term "a complete financial audit", since, under accepted accounting practices, the extent of such an audit would be left to the judgment of the firm engaged for the work. It was felt, however, that by the deletion of the word "complete", a possible source of misinterpretation might be eliminated from the Charter, and that the independent public accountants would thereby be clearly empowered to rely on the work of the internal post-auditor to the extent deemed proper in their judgment.

STANLEY J. SCAPITRO  
ATTORNEY

STANLEY J. SCAPITRO  
WEST COUNTY ATTORNEY



The tentative draft of this section was also revised by the addition of the concluding clause in the last sentence, under which the County Council is empowered "to require such additional independent audits as it shall deem necessary." The Charter Board believed that in view of the appointment of a County Auditor, an audit by an outside firm of certified public accountants should not be required at intervals greater than every two years. If the judgment of the Charter Board in this respect should be erroneous, however, the County Council is empowered to require more frequent audits in its discretion.

#### ARTICLE IV

##### THE EXECUTIVE BRANCH

Section 401. *Composition.* The purpose of this section is to outline the composition of the executive branch of the County government. It is interesting to note in this connection that Article II, Section 1 of the Federal Constitution vests all "executive power" in "a President of the United States". In common parlance, however, the "executive branch" is generally regarded as including the officers and employees of the various departments and bureaus. In the Charter, as in the Federal government, therefore, the ultimate source of "executive power" is vested in the chief elected executive officer, but Section 401 of the Charter recognizes that the "executive branch" is composed also of the subordinate officers, agents and employees under his supervision and authority.

##### Section 402. *County Executive.*

(a) *Nature and Term of Office; Qualifications; Salary.* The language of this section corresponds generally with Article IV, Section 30 of the St. Louis County Charter and Article III, Section 15 of the Westchester County Charter, both of which provide for an elected chief executive officer.

As previously mentioned in the Notes to Section 302(a), the Charter Board has relied on an Opinion of its Legal Counsel holding that Article XI A, Section 3 of the State Constitution does not mandatorily require the chief elected

executive to be known as "President of the County Council". The Board believed that the term "County Executive", as used in the Westchester County Charter, more clearly delineates the nature of the office and the scope of the duties to be performed.

The requirement in the third sentence of Section 402(a) that the County Executive be nominated and elected "on the general ticket" satisfies the provisions of Article VII, Section 1 of the State Constitution, under which county commissioners are required to be elected in this manner.

The tentative draft of this section was revised prior to the release of the final draft so as to eliminate the requirement that the County Executive be a "taxpayer in the County". The Board believed that provisions of this type were somewhat outmoded today, when almost every resident of the County pays taxes in one form or another. The Board believed, moreover, that the term "taxpayer" might raise a problem of construction which might needlessly disqualify from the office a resident of the County who might not hold title to real estate in his own name.

As in the case of the salaries of the members of the County Council, the Charter Board gave a great deal of study to the compensation to be prescribed for the County Executive. The President of the Board of County Commissioners now receives \$12,500, including \$3,000 from the Metropolitan District. The Charter Board believed that this figure was most unrealistic in the light of the responsibility imposed upon the chief executive officer of one of the largest undivided political subdivisions of local government in the country, a position with responsibilities equivalent to those of the president of a \$40,000,000 annual business. In this connection, it is of interest that the County Executive in Westchester County receives \$25,600 and the Mayor of Philadelphia receives \$25,000. In the same jurisdictions the officer corresponding with the County Administrative Officer in the Baltimore County Charter receives \$18,820 and \$22,500, respectively. Believing that the salary scale of officers in public and private service in these jurisdictions is somewhat higher than that prevailing in Mary-



land, the Charter Board finally established a figure of \$17,500 for the annual compensation of the County Executive, and \$15,000 for the County Administrative Officer. However, the County Council is given power in Section 405 to raise and thereafter to lower the salaries of both officers, provided only that the figures established in the Charter are to be taken as a minimum. For further comments on the legal aspects of this matter, see the Notes to Section 405, *infra*.

(b) *Vacancy.* After much deliberation, the Charter Board concluded that a vacancy in the office of the County Executive should be filled by the elected representatives of the people sitting in the County Council rather than by the State Central Committees of the political parties. In this connection, the Charter Board drew a distinction between a vacancy in the office of County Councilman and in the office of County Executive. It was believed that the office of County Executive carries too much prestige and power to be filled by persons other than those elected by and responsible directly to the voters of the County. Each County Councilman, on the other hand, is one member of a seven-man body and, therefore, shares the legislative prestige and power with six colleagues. The Charter Board believed that for reasons stated in the Notes to Section 205, *supra*, nominations by the State Central Committees provide a realistic solution to the problem of vacancies in the County Council, but that this procedure would be most inappropriate in the case of a vacancy in the office of the County Executive.

(c) *Temporary Absence of County Executive.* The manifest purpose of this section is to protect the County from the long-continued absence of its chief elected executive officer. Since the County Administrative Officer is the deputy to the County Executive, it was believed that he should automatically fill the latter office during the temporary absence of the elected incumbent. The next officer in line of succession is the Director of the Budget unless the Council designates one of the other staff officers, or the Director of Public Safety, or the Director of Public Works, as acting County Executive.

If the elected incumbent should remain absent from his office for a continuous period in excess of six months, the County Council is empowered to declare the office vacant and thereupon to proceed to fill the vacancy as provided in Section 402(b). The Charter Board recognized that any attempt to exercise this power would probably result in a court proceeding, but it was believed that the legality of the move to oust the County Executive for a long-continued absence could speedily be determined by *quo warranto* proceedings.

The tentative draft of the last sentence of Section 402(c) was revised prior to release of the final draft so as to exclude from the powers of the Acting County Executive the power of executive veto. The Charter Board, on reconsideration of this point, believed that such power over the legislative acts of the County Council should not be vested in anyone other than the elected County Executive. Of course, the elected incumbent of the office would be answerable to the people if he absented himself voluntarily from his duties at a time when he should be in a position to exercise his veto control over legislation.

(d) *Duties of the Office.* The detailed enumeration of duties of the County Executive as set forth in this section seem self-explanatory and will not be discussed in detail in these notes. Brief mention, however, is hereinbelow made of the changes made in the tentative draft of this section.

A change was made to empower the County Executive to appoint, subject to confirmation by the County Council, the County Solicitor and the members of the Appeal Tax Court. Under the tentative draft, the County Solicitor would have been, like the heads of all other offices and departments, appointed by the County Administrative Officer subject to the approval of the County Executive, and the members of the Appeal Tax Court would have been appointed directly by the County Executive without confirmation by the County Council. Both of these provisions were widely criticized.



On reconsideration, the Charter Board believed that a good case had been made for the appointment of the County Solicitor by the elected chief executive officer of the County, but with the approval of the members of the County Council. It was recognized that the County Solicitor is not merely the holder of an administrative office, but must act in a personal and professional relationship both to the executive and to the legislative branches of the County government. Although the change recommended and accepted by the Board impaired in some respects the symmetry of the departmental organization in Article V of the Charter, the Board felt that the reasons for this change were sufficient to overcome this disadvantage.

Coincident with changing the manner of appointing the County Solicitor, the Charter Board also revised Section 508 relating to his duties. Since his appointment is now no longer to be made by the County Administrative Officer, it was believed that the subordinate officers in the administrative services should be expressly prevented from going "over the head" of the County Administrative Officer by requesting legal opinions on matters affecting their work. Accordingly, all requests for legal opinions from the heads of offices and departments in the administrative services must, under Section 508, be in writing and must be cleared through the County Administrative Officer.

The change in the manner of appointing the members of the Appeal Tax Court was, in the view of the Charter Board, a highly debatable point. Originally, the Board had felt that the members of this body are necessarily susceptible to political pressure and that it would be wiser if their appointment were controlled by one elected officer rather than eight. It was also the belief of the Charter Board that since the Appeal Tax Court is composed of only three members, each councilman might feel constrained to compete for the nomination of a member of the Court from his particular district. At the open hearings conducted by the Charter Board on the tentative draft, however, strong criticisms were voiced on this manner of appointing the members of the Appeal Tax Court, it being emphasized that this procedure would vest in the County Executive exclusive

control over an administrative body whose decisions affect the pocketbooks of every taxpayer of the County. Many citizens suggested that this power should be curbed. It was primarily for this reason that the Board decided to require Council confirmation of the appointment of this important administrative body.

Subsection (14) in the tentative draft was also revised to make it clear that the County Executive is to be empowered to issue all rules and regulations "of the character" which, prior to the adoption of the Charter, were prepared or issued by the County Commissioners. The absence of the italicized words in the tentative draft had resulted in a misconstruction of the purpose of the section. Its object was not to require the County Executive to codify all rules and regulations issued by the County Commissioners, this being a subject covered by Section 1005 of Article X of the Charter. Rather, it was the purpose of Section 402(d)(14) to empower the County Executive to issue such rules and regulations as the County Commissioners, in their capacity as holders of the executive authority of the County, were empowered to issue prior to the adoption of the Charter.

Subsection (16) of the tentative draft was also changed so as to eliminate the power of the County Executive to delegate to the County Administrative Officer his power of executive veto.

#### Section 403. County Administrative Officer.

(a) *Qualifications; Mode of Selection; Salary.* The basic objective achieved by creating the office of County Administrative Officer is to provide the elected chief executive with the services of a highly trained and well qualified administrator to meet the technical demands of modern large-scale government. In this respect, the Charter Board recognized the self-evident fact that the best vote-getters are not always the best administrators. The Charter Board believed that in a governmental organization of the size of Baltimore County, the orderly management of its affairs requires the services of a full-time administrator who is thoroughly familiar with fiscal and accounting procedures, and who is experienced in business or governmental admin-



istration. The presence of such an officer will free the County Executive from the immediate responsibility for administrative detail and will enable him to concentrate on matters of policy.

The qualifications of the County Administrative Officer resemble in some respects the qualifications set out in a number of modern charters for professional administrators. He is required to have had at least five years' experience as an executive in public service or private business, or both, and he is also required to be thoroughly familiar with modern accounting methods and budget procedures. In the belief of the Charter Board, these qualifications will insure the employment of a highly trained and qualified administrator to run the day-to-day affairs of the County government.

The salary prescribed for the County Administrative Officer in the concluding sentence of Section 403(a) was determined in the manner discussed in the Notes to Section 402(a), *supra*. The Board believed that since the ultimate responsibility for the administration of County government rests with the County Executive, he should receive a somewhat higher salary than that of the County Administrative Officer. This same principle was recognized by the framers of the Philadelphia Home Rule Charter in providing that the Managing Director receives \$22,500 per annum, whereas, the Mayor receives \$25,000. In Westchester County, the County Executive receives \$25,600 and the Budget Director (who corresponds in a number of respects with the County Administrative Officer in the Baltimore County Charter) receives \$18,820. Many city managers receive substantially more than this latter sum; for example, in Cincinnati the manager is paid \$35,000 and in Richmond \$22,000.

Under Section 405 of the Charter, the compensation of the County Administrative Officer, like that of the County Executive, can be raised by the County Council. For further comments on the legal aspects of this matter, see the Notes to Section 405, *infra*.

Legal authority for the creation of the office of the County Administrative Officer stems from Article 25A,

Section 5(R) of the State Code, under which chartered counties are empowered to fix the qualifications and term of office of the County executive authority".

(b) *Term of Office.* The Philadelphia Home Rule Charter of 1951, Section 3-403, provides that the term of the Managing Director shall coincide with the term for which a Mayor is elected. Similarly, Article IV, Section 22 of the Westchester County Charter provides that the Budget Director shall be appointed for the term of the County Executive. The Charter Board believed that the principle of both these provisions must necessarily be preserved under the form of government selected for Baltimore County. Since the County Executive is answerable to the people for the results of his administration, he must of necessity be given the tools to carry out his program.

The Board believed, therefore, that a newly elected County Executive must have the right to replace the County Administrative Officer appointed by his predecessor, as is the case under the Philadelphia and Westchester County Charters. However, the Board did conclude that a "cooling-off period" might be in order, during which the newly elected County Executive would have a chance to become acclimated to the duties and responsibilities of his office and familiar with the capabilities and limitations of the incumbent administrative officer. It was also believed that the six-month waiting period after an election and before the administrative officer might be replaced would help to attract good men to the position. The holder of the position is thereby assured of at least six months within which to look for another job after a turn-over in the elected officials of the County. This is a greater guarantee of job security than exists in most county manager charters.

(c) *Vacancy.* The purpose of this section is self-explanatory. Inasmuch as the appointment of a replacement to the office of County Administrative Officer must be made "in the same manner and subject to the same qualifications as an original appointment", Council confirmation thereof would be required as specified in Section 402(d)(9).



(d) *Nature of Office and Duties.* The enumeration of duties of the County Administrative Officer seem self-explanatory and will not be discussed in detail in these Notes. The only change made in the tentative draft of this section before publication of the final draft was an amendment to subsection 1 so as to eliminate the County Solicitor from the list of the heads of offices and departments appointed by the County Administrative Officer. As mentioned in the Notes to Section 402(d), *supra*, and for the reasons therein stated, the County Solicitor will be appointed by the County Executive subject to confirmation by the County Council.

Although the ultimate source of executive power is vested in the County Executive, the Charter Board deemed it essential that the County Administrative Officer be given the power to appoint the heads of the offices and departments in the administrative services other than the County Solicitor. It was believed that they should be required in the Charter to look to the County Administrative Officer as *their immediate superior*, and in order to establish this relationship, it was essential that he be given the appointive power, albeit subject to confirmation by the County Executive. By means of his power of appointment, his power to reshuffle duties between various officers and bureaus in the administrative services, and his power over budgetary and fiscal matters, the Administrative Officer should be enabled to relieve the County Executive of the day-to-day problems of running the County government.

**Section 404. Removal of Appointive Officers in Executive Branch.**

(a) *County Administrative Officer.* This section of the tentative draft was completely revised before the release of the final draft. In the earlier draft, the County Executive was deprived of the power to dismiss the County Administrative Officer during his term, except with the approval of five members of the County Council. During the period of public debate on the tentative draft, these provisions were widely criticized, particularly by representatives of the National Municipal League. This organization is well known for its advocacy of chartered government under pro-

fessional administrators, particularly city managers and county managers. Their criticisms of Section 404(a) of the Charter were, therefore, considered to be especially well informed on this question.

It was called to the Board's attention that the tentative draft of Section 404 was a typical provision in good council-manager charters. *See*, for example, Article II, Section 10 of the *Model City Charter*. Under charters providing for the city or county manager form of government, however, the professional administrator is employed by the council, and it is altogether proper that the employer be given the right to dismiss its own employee. In the manager charters, therefore, provisions similar to the tentative draft of Section 404 give the professional administrator only the right to defend his stewardship, to state his views publicly before the council which has employed him.

It was noted that these provisions, when incorporated in a charter providing for an elected chief executive, are incongruous. They do violence to the "separation of powers doctrine" under which the Charter is framed. In the case of a possible dispute between the Council and the County Executive, an intolerable impasse might arise under which the Council would refuse to sanction the dismissal of an incompetent Administrative Officer. This situation might be more likely to occur if the County Council were dominated by a political party opposed to that of the County Executive.

On careful consideration of these points, the Charter Board decided that Section 404(a) should be rewritten in its entirety so as to permit the County Executive to dismiss the County Administrative Officer without the approval of the County Council. However, the County Administrative Officer is still given the right to a public hearing, the same right to defend his stewardship which is given in county manager charters to the professional administrator. The Charter Board believes that this right to a public hearing gives the administrator the same (if not greater) protection as provided in county manager charters and that it will deter a county executive from proposing his dismissal for unworthy or ulterior reasons.



(b) *Removal of Other Appointive Officers.* It seems essential to the orderly administration of any organization that the person charged with the duty of running its affairs be empowered to hire and fire his immediate subordinates. This principle is reflected by the fact that almost all charters exclude the line and staff department heads from the protection of Civil Service. Under Section 404(b) of the Charter, therefore, the County Administrative Officer is given the power, with the approval of the County Executive, to dismiss those officers whom he appoints.

Section 405. *Change in Compensation of County Executive and County Administrative Officer.* As mentioned in the Notes to Section 402(a) and 403(a), the Charter Board believed it essential to the flexibility of the form of government proposed in the Charter, and its ability to meet changing conditions over the years, that suitable provisions be made for increasing and decreasing the compensation of the County Executive and the County Administrative Officer. Section 405 is designed to accomplish this objective.

This section flatly prohibits any increase in the compensation of the County Executive during his current term, a prohibition required by Article III, Section 35 of the State Constitution.

The language of Section 405 would not prohibit the Council from increasing the compensation of the County Administrative Officer during his term, but any such increase might run afoul of the provisions of Article III, Section 35 of the State Constitution, above referred to. This provision states that "the salary or compensation of any public officer" shall not "be increased or diminished during his term of office". In the case of *Calvert County v. Monnett*, 164 Md. 101, 164 Atl. 155 (1933), the Court of Appeals indicated that the words "any public officer" were to be broadly construed and that the intention of the constitutional provision was "to gather within the prohibition against extra compensation all persons for whom compensations have been fixed in advance for services of any kind." Whether or not this constitutional provision as so interpreted by the Court of Appeals would apply to any increase

in the compensation of the County Administrative Officer during his term might depend on the provisions of his contract of employment. A provision authorizing an increase in compensation with the approval of the County Council in accordance with Section 405 of the Charter, might dispell the constitutional question.

#### Section 406. *Temporary Appointments.*

(a) *County Administrative Officer.* In view of the intimate relationship between the County Administrative Officer and budgetary matters, a relationship emphasized by the designation of the County Administrative Officer as "Chief Budget Officer of the County", the Charter Board believed that in the case of his temporary absence or in the case of a vacancy in the office, the Director of the Budget should serve as Acting County Administrative Officer. Under Section 406(c), the Director of the Budget could not hold this temporary appointment for more than 60 days without approval of the County Council.

(b) *Other Officers.* The purpose of this section is to establish the procedure for designating acting heads of any office or department in the administrative services.

(c) *Limitation on Term of Temporary Appointees.* The manifest object of this section is to insure that the heads of the offices and departments in the administrative services possess the adequate qualifications for their offices. The Charter Board believed that in order to promote the orderly administration of the affairs of County government, temporary appointments should be held to a minimum term. The requirement that the matter be referred to the County Council after a period of 60 days will provide a deterrent, although perhaps not a guarantee, that temporary appointees will not hold office indefinitely.

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## ARTICLE V

## THE ADMINISTRATIVE SERVICES

## OUTLINE OF ORGANIZATION

Section 501. *General Supervision.* The purpose of this section is to delineate the authority of the County Administrative officer as the immediate supervisor of the day-to-day affairs of county government. As the deputy or "right-hand man" to the elected chief executive, the County Administrative Officer is responsible solely to him for their efficient operation and management. The County Executive, in turn, is answerable directly to the people.

Section 502. *Composition; Restrictions on Creation of Additional Offices and Departments.* In accordance with the recommendations of the firm of John A. Donaho & Associates, the firm of management consultants conducting a desk-to-desk survey of the County government at the time of the preparation of this Charter, the administrative services of the County government have been divided into "Offices" and "Departments". The "Offices" perform primarily staff functions, that is to say, their major purpose is to provide services for other units of the County government. The "Departments" perform primarily line functions, that is to say, their major purpose is to provide services directly for the people.

In ascribing different names to the governmental units performing staff and line functions, the Charter Board was not purporting to draw any distinction between their relative importance. Indeed, a moment's reflection will show that some of the departments are more important and their affairs more complex than some of the offices, and vice versa. All the offices and all the departments are included within the "departmental structure" of the County government, and the sole purpose of referring to them by different names is to clarify the character or class of the functions they are to perform.

In Plate No. 2 which appears at the end of these Notes, the departmental structure of the County government un-

der the Charter is set forth on a chart, whereby the lines of executive authority can readily be perceived.

The tentative draft of Section 502 of the Charter was revised before release of the final draft to make it clear that new bureaus or divisions of existing offices and departments are not to be created except by legislative act of the County Council. No change was made in the provisions of the tentative draft empowering the County Administrative Officer by directive or the County Council by legislative act, to assign or reassign duties and functions among existing offices or departments.

In order to preserve the clear lines of authority set out in the Charter, Section 502 prohibits the creation of additional offices and departments except by Charter amendment, with, however, one exception which has to do with the Metropolitan District. Under Section 527 of the Charter, the affairs of the District may be removed from the jurisdiction of the Department of Public Works and reorganized under a new department to the extent permitted by law. As mentioned in the Notes to Section 307, *supra*, the Charter Board believes that the reorganization of the affairs of the Metropolitan District should be done only after careful study by a fully qualified board or commission with sufficient time and staff to explore the problem to its depths.

Section 503. *Offices.* This section merely enumerates the six staff offices in the administrative services.

Section 504. *Departments.* This section merely enumerates the eight line departments in the administrative services.

Section 505. *Term and Compensation of Officers and Employees in the Administrative Services.* Because of the permanence of the Charter, corresponding as it does, in some respects, to a constitutional document, the Charter Board believed it inappropriate and impractical to specify the term and compensation of county officials other than the members of the County Council, the County Executive and the County Administrative Officer. Subject to the

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County Personnel Law, therefore, these officers under Section 505, will hold such terms and be paid such compensation as may from time to time be provided by law.

The Charter Board considered it unnecessary to specify, as is done in Section 165 of the Baltimore City Charter of 1949, the times at which county officers and employees are to be paid. The Board believed that this was a matter of administrative detail which could well be determined by directive of the County Administrative Officer, or by legislative act of the County Council.

**Section 506. Staff and Clerical Personnel.** This section recognizes the necessity for the employment of subordinate officers and employees in the administrative services, but leaves such details to the officials who will administer the affairs of the County government under the Charter. The last sentence of Section 506 specifically prohibits the employment of staff and clerical personnel beyond the available appropriation or allotment therefor.

#### OFFICES OF THE ADMINISTRATIVE SERVICES

##### A. The Office of Law.

**Section 507. The County Solicitor.** This section emanates principally from Title 15A, Section 185B of the Baltimore County Code (1953 Supp.) which establishes a Department of Law to be headed by a County Solicitor. This section of existing law also requires the County Solicitor to be "a member of the Baltimore County Bar" and to "maintain an office in Towson". Section 507 of the Charter follows the pattern of existing law except that in the Charter the Solicitor is required to have been actively engaged in the practice of his profession in this State for at least five years prior to his appointment.

**Section 508. Powers and Duties.** This section follows the pattern of Title 15A, Section 185C of the Baltimore County Code (1953 Supp.) with the following principal differences:

(1) The Charter provision does not enumerate the various departments and agencies of the County government

to be represented by the County Solicitor, but states generally that he shall be the legal adviser "of the County and of its several offices, departments, boards, commissions and other agencies."

(2) Section 508 specifies that the County Solicitor shall be the legal adviser and legislative draftsman for the County Council and shall be responsible for the maintenance of the Journal. The Charter Board envisaged, in this respect, that an Assistant County Solicitor would undoubtedly be assigned the duty of supervising the Journal, but, bearing in mind the many complications and court cases resulting from defects in the Journal of the General Assembly, the Charter Board thought it advisable to place ultimate responsibility on the County Solicitor for maintenance of the Council Journal.

(3) The County Council as well as the officers in the executive branch of the County government are given the power to request legal opinions from the County Solicitor. See also: the Notes to Section 402(d), *supra*, for further comment on this point.

(4) Responsibility is placed on the County Solicitor for the approval of all legal documents affecting the County's interests as to their form and legal sufficiency. This provision resembles Section 65 of the Baltimore City Charter of 1949.

**Section 509. Assistants to County Solicitor.** This section empowers the County Solicitor to appoint, with the approval of the County Executive, such additional assistants as may be necessary to carry out the duties of his office. Of course, the number of such assistants would, under Section 506 of the Charter, be subject to the available appropriation or allotment therefor.

**Section 510. Temporary Additional Legal Assistance.** This section is derived primarily from the second paragraph of Title 15A, Section 185F of the Baltimore County Code (1953 Supp.) which authorizes the employment of outside attorneys for "work of an extra or unusual nature." The concluding sentence of the section, however, is new matter,

and empowers the County Council to employ other attorneys as special legislative draftsmen or codifiers. The Charter Board envisaged the necessity of employing outside attorneys or other qualified persons to draft legislation of an unusual type; the provision also protects the Council from sole dependance on the executive branch of the County government for the drafting of its legislation.

The reference in Section 510 to "codifiers" is discussed more fully in the Notes to Section 1005, *infra*, whereunder the Council is required to cause to be prepared a new Baltimore County Code. The Charter Board recognized that it would be physically impossible for the existing staff of the County Solicitor's office to compile the first edition of the new Code.

Section 511. *Prohibitions.* This section is taken almost verbatim from the first paragraph of Title 15A, Section 185F of the existing Baltimore County Code (1953 Supp.). It flatly prohibits the County Solicitor or any assistant in his office from practicing before any agency of the County government in any capacity other than as representing the County's interests.

#### B. The Office of Personnel.

Section 512. *Composition of Office.*  
and

Section 513. *Duties of Director of Personnel.*

Because the qualifications, duties and functions of the Director of Personnel and of the Personnel and Salary Advisory Board are enumerated in detail in Article VIII of the Charter. Sections 512 and 513 are intended only to outline briefly the composition of the office and the general character of the duties to be performed. The details of these matters are discussed in the Notes to the various sections of Article VIII of the Charter.

#### C. The Office of Finance.

Section 514. *The Director of Finance.* This section establishes the Director of Finance as head of the office and sets out in general terms his qualifications.

In this connection, mention should be made of the County Finance Law passed by the General Assembly at the 1955 Session. Acts of 1955, Ch. 390. Under this law, the duties and functions relating to the formulation of the County budget are placed within the jurisdiction of the Department of Finance, but are set up in a separate "Bureau of the Budget".

The Charter Board is advised that the vesting of budgetary functions in a separate bureau was purposely done to facilitate its transition to a separate Office in the event that the Charter is adopted. The Charter Board believed that in the form of government proposed in the Charter it was desirable to separate the agency dealing with budgetary matters from the agency dealing with the collection and disbursement of County funds. Moreover, in the form of government proposed in the Charter, the Director of the Budget is closely allied with the County Administrative Officer in his capacity as chief budget officer. He is also responsible for studying the efficiency and economy of other offices, departments and agencies in the County government. It seemed inappropriate under this system to make the Director of the Budget a subordinate officer in another department or agency.

It was further recognized by the Charter Board that the functions of the Director of Finance and the Director of the Budget are complementary rather than inter-related. It is the duty of the Director of the Budget to develop the work program and financial plan for the County. It is the duty of the Director of Finance to make sure that the financial plan is carried out in accordance with law.

Section 515. *General Powers and Duties of the Director of Finance.* The language of this section resembles in many respects the provisions of Article V, Section 26 of the Westchester County Charter. There, as also in the Montgomery County Charter, the Director of Finance is assigned the fiscal duties both of the County Comptroller and the County Treasurer. The Charter Board believed that the collection, custody and disbursement of all County funds



should, in the interests of efficiency and economy, be vested in one chief financial officer.

Legal authority for abolishing the office of County Treasurer is conferred on the voters of the County in Article 25A, Section 5(R) of the State Code. See, however, the Notes to Section 1109, *infra*, pointing out that the abolition of the office of Treasurer does not take effect until the term of the present incumbent expires in 1958.

In transferring to the Director of Finance the responsibility for performing the duties of the County Treasurer and the duties of the existing Transfer and Machine Billing Department, the Charter does not abolish specific jobs, since the work to be done by the County Treasurer's office and the Transfer and Machine Billing Department will have to be performed after the adoption of the Charter as well as before. However, the Charter does coordinate and centralize these duties and functions under the jurisdiction of one chief financial officer.

Section 516. *Specific Powers and Duties.* Many of the details of this section are also found in Article V, Section 27 of the Westchester County Charter. Because the Office of Finance is the core of the County's financial organization, the Charter Board deemed it more important to enumerate in detail the duties of the office than would otherwise be the case.

Section 517. *Appropriation to Control Expenditures.* The substance of this section appears, designedly, in two other places in the Charter. See: Section 715 and Section 905. A number of good modern charters follow this practice of restating a provision of this type in the articles dealing with the Director of Finance, the Director of the Budget and the County Purchasing Agent.

The second sentence of Section 517 specifically requires all county officers and employees to account for all fees received in connection with their official duties and requires the same to be accounted for and paid into the County Treasury.

#### D. *The Office of the Budget.*

Section 518. *The Director of the Budget.*  
and

Section 519. *Powers and Duties.*

For reasons stated more fully in the Notes to Section 515, *supra*, the Charter Board deemed it essential to establish the Office of the Budget as a separate agency of the County government. It is recognized that initially this office will probably have a small staff, but as the budgetary problems of the County grow in complexity, the importance of this office will become increasingly apparent.

Because the duties of the Director of the Budget and the details of budgetary procedures are set out fully in Article VII of the Charter and are discussed in the Notes thereunder, they will not be repeated here.

#### E. *Office of Central Services.*

Section 520. *Director of Central Services.*  
and

Section 521. *Duties and Functions of the Office of Central Service.*

The only two functions directly assigned by the Charter to the Office of Central Services are (1) the functions of the County Purchasing Agent and (2) the functions of the existing Superintendent of Buildings. Under present law, the centralized purchasing policies of the County are administered pursuant to an ordinance of the County Commissioners, pursuant to the Acts of 1949, Ch. 766, codified in the Baltimore County Code, Title 4, Section 58B. The Superintendent of Buildings is now a separate departmental organization, also created by ordinance of the County Commissioners.

The Office of Central Services is a central "housekeeping agency" which supplies services of a ministerial character to the other agencies and units of the County government. Experience in other places has shown it to be essential to place such central services in a separate unit of government. If, for example, a central garage were placed under

the jurisdiction of one of the operating departments, an equitable distribution of the service to other agencies in the County government would be much more difficult to achieve. This arrangement would also deter the operating department from its primary function of rendering services to the public.

The concluding sentence of Section 521 is designed to encourage the transfer of additional "housekeeping duties" to the Office of Central Services.

#### F. Office of Planning and Zoning.

Section 522. *Organization of Office.* The purpose of this section is to confirm the planning and zoning functions existing under present law. For reasons stated in the *Report to the Voters*, no attempt is made in the Charter to reorganize planning and zoning under one departmental head. Instead, the new Office of Planning and Zoning will, in effect, have three heads — a Director of Planning, a Planning Board and a Zoning Commissioner. The Charter Board is far from satisfied that this is an ideal arrangement, but in view of the limitations of existing law and the changes made thereto by the General Assembly in the 1955 Session, it would have been totally impractical, if not illegal, to attempt any reorganization in the Charter itself.

At the present time, the Zoning Commissioner and the Director of Planning have adjacent offices in the County Office Building and, necessarily, cooperate closely in the discharge of their duties. Technically, however, the Zoning Commissioner is a subordinate officer under the Director of Public Works. In the judgment of the Charter Board, this system confuses two unrelated line and staff functions. By removing the Zoning Commissioner from the Department of Public Works and placing him in the Office of Planning and Zoning, no substantive changes are made in his powers and duties.

Mention should be made of the fact that Section 522 was completely rewritten after release of the tentative draft because the earlier draft had referred to the Director of Planning as the "head of the Department".

Section 523. *Duties of the Office.* This section contains a general outline of planning and zoning functions to be performed by the Office. The Charter Board believes that if, as, and when a modern, workable and legally enforceable Master Plan for the development of the entire County is worked out, and after more experience has been gained under the new zoning regulations adopted by the County Commissioners on March 1, 1955, the functions of zoning and planning can and should be reorganized under the jurisdiction of one director.

Section 524. *Reorganization of Office of Planning and Zoning.* The purpose of this section is to invite the County Council to reorganize this office at a later date when legal authority therefore is provided by Article 25A of the State Code and when such reorganization can be smoothly accomplished.

### DEPARTMENTS IN THE ADMINISTRATIVE SERVICES

#### A. Department of Public Works.

Section 525. *Director of Public Works.* The tentative draft of this section was revised before release of the final draft so as to make the qualifications of the Director of Public Works conform with the provisions of existing law. The language of the tentative draft had required the Director to be "a civil engineer registered under the laws of this State" and to "have had at least ten years' experience in the practice of his profession prior to his appointment." It was suggested to the Charter Board that the meaning of the section would be improved if the language were to conform with the standard terminology used to describe the qualifications of professional engineers in public service. Accordingly, the words above quoted were deleted from the Charter, and the final draft requires the Director of Public Works to be "a professional engineer registered under the laws of this State" and to have had "responsible charge of engineering works over a period of at least ten years prior to his appointment". This language conforms with Title 23, Section 278 of the Baltimore County Code, as amended by the Acts of 1953, Chapter 493. Under



the Charter, the Director of Public Works is also required to have "such other qualifications as may be provided by law" and, accordingly, the educational requirements set forth in Title 23, Section 278 of the County Code will still apply after the adoption of the Charter unless and until amended by the County Council.

Section 526. *Functions of Department of Public Works.* Under this section, the Department of Public Works will continue to perform the same duties and functions as may be prescribed in the public local laws of Baltimore County in effect at the time of the adoption of the Charter and as thereafter from time to time amended, with, however, the exception of (1) the functions of the Zoning Commissioner and (2) the functions relating to building permits and building and zoning laws and regulations. As previously mentioned in the Notes to Section 522, the Charter places the Zoning Commissioner in the Office of Planning and Zoning. The functions heretofore discharged by the Department of Public Works and relating to building permits and building laws and regulations are transferred to the Office of Permits and Licenses, more particularly discussed in the Notes to Section 529, *infra*.

During the discussion of the tentative draft of the Charter, a number of inquiries were made as to the propriety of transferring to other agencies of the County government the functions heretofore discharged by the Department of Public Works and relating to building and zoning matters. The Charter Board considered these questions carefully. In this connection, it should be emphasized that in reorganizing the departmental structure of the County, the Charter is not directly concerned with matters of administrative detail; rather, the objective of the Charter has been to establish an outline structure of good government, with related activities grouped together, with clear lines of executive authority, and, above all, with well defined areas of responsibility. The internal administration of County government within this structure is a matter which can and must be left to those charged with running the affairs of the government over the years.

In view of these considerations, the removal of the Zoning Commissioner from the Department of Public Works is not so drastic a step as it might appear on the surface. To the extent that any actions of the Zoning Commissioner should be cleared through or approved by the Director of Public Works, such clearance can be prescribed by directive of the County Administrative Officer or by legislative act of the County Council.

The same considerations apply in the case of the functions now discharged by the Department of Public Works and relating to building permits. The Charter Board has established a Department of Permits and Licenses which, in practical effect, is a central licensing bureau. The fact that this agency will issue licenses and permits which are now issued by a host of unrelated agencies in the existing County government is, in the belief of the Charter Board, a step forward in the interests of good departmental organization. But the existence of this organization does not preclude the County Administrative Officer by directive, or the County Council by legislative act, from requiring that permits issued by the central bureau be first cleared with or approved by other appropriate agencies of the County government.

See also in this connection the Notes to Section 529, *infra*, where this point is considered further.

Section 527. *The Metropolitan District.* The substance of this section is fully discussed in the Notes to Section 307, *supra*. Similar provisions are repeated in Article V for purposes of clarity.

#### B. Department of Permits and Licenses.

Section 528. *Director of Permits and Licenses.* This section is self-explanatory, and establishes the Director of Permits and Licenses as the head of the Department.

Section 529. *Functions of the Department.* The tentative draft of this section was completely rewritten before release of the final draft. The purpose of the amendment was to establish more clearly the nature of the department as a

central licensing agency. As discussed above in the Notes to Section 526, the fact that permits and licenses will be issued by this department does not impair the right or duty of other appropriate agencies in the County government to approve the applications therefor. The second sentence of this section is designed to make this point abundantly clear. It reads as follows:

"All licenses and permits issued by the Department shall be approved by such other officers or agencies of the County as may from time to time be provided by law."

This section also places on the Department of Permits and Licenses the responsibility for inspections and the enforcement of all laws and regulations relating to permits and licenses issued under its authority. In this connection, although the Charter does not remove the Buildings Engineer from the Department of Public Works and place him under the jurisdiction of the Department of Permits and Licenses, a reassignment of his duties is indicated by the departmental structure in the Charter.

Section 530. *Effect on Existing Boards.* The primary purpose of this section is to require the Electrical Administrative Board, the Plumbing Board, and the Bureau of Standards to operate as units of the Department of Permits and Licenses rather than as separate and independent units of the County government. Their functions, in the belief of the Charter Board, are closely related to certain permits and licenses which emanate from this Department. By placing them within its jurisdiction, the Charter should achieve a greater measure of efficiency and economy through co-ordination of related staff activities.

### C. Department of Recreation.

Section 531. *Director of Recreation.* The qualifications of the Director of Recreation are set forth in the Acts of 1951, Chapter 507, Section 367D, now codified in the 1953 Supplement to the Baltimore County Code, Title 23A, Section 367D. These qualifications are incorporated by reference in Section 531 of the Charter.

The power of a chartered county over matters relating to public recreation is set forth in broad terms under the provisions of Article 25A, Section 5(W) of the State Code.

Section 532. *The Recreation Board.* The number and qualifications of the members of the Board of Recreation are set forth in Title 23A, Section 367B of the Baltimore County Code. These provisions are incorporated by reference in Section 532.

Section 1113 of the Charter, one of the transitory provisions contained in Article XI, expressly states that the members of the Board of Recreation holding office at the effective date of the Charter shall constitute the Recreation Board described in Section 532.

Section 533. *Duties and Functions of Recreation Board.* Section 533 of the Charter was completely rewritten during the period of consideration of the tentative draft. The purpose of the revised section is to perpetuate the power of the existing Recreation Board relating to the "formulation of plans and policies for public recreation, the organization of recreation councils and the establishment of recreation programs." Under these provisions, the Recreation Board will continue as heretofore to develop and plan the recreation policy of the County. Under the Charter as under the county commissioner form of government, the status of the Recreation Board can be changed by legislative act of the elected representatives of the people. Unless and until such change is made, however, the affairs of the Department of Recreation will be administered very much as heretofore.

After careful deliberation, the Charter Board was unconvinced that it was either necessary or desirable to grant complete autonomy to the Recreation Board. Indeed, the spokesmen for the Board of Recreation who criticized the tentative draft of the Charter, seemed gratified that departmental status was given to the functions of public recreation, and they also agreed that the Department should be administered subject to all provisions of the Charter relating to the "employment, suspension and discharge of personnel, the expenditure of County funds, the making of purchases and the award of contracts." Although the Di-



rector of Recreation will, under the Charter, be appointed like the heads of other offices and departments in the administrative services under County law, he will be responsible for discharging the policies enunciated by the Recreation Board. In this manner, ultimate responsibility will be vested in the elected representatives of the people, but, the policy-making character of the Board of Recreation will be unchanged.

#### *D. Department of Public Safety.*

Section 534. *Director of Public Safety.* A Department of Public Safety was created at the 1955 Session of the General Assembly (Acts of 1955, Ch. 173). This law will be codified in a new sub-title to the Baltimore County Code, to be known as "Title 22A. Public Safety". The basic reforms contained in this law are perpetuated in the Charter, Sections 534-536, inclusive.

Under Section 534, the Director of Public Safety is made responsible directly to the County Administrative Officer as are the heads of all other offices and departments in the administrative services other than the County Solicitor.

Section 535. *Functions and Duties of the Department of Public Safety.* The provisions in this section follow closely the pattern of Section 277A of the new Public Safety Law hereinabove referred to.

In the tentative draft of this section, the Bureau of Civil Defense was redesignated as "The Bureau of Disaster Services". On the strong recommendation of the Director of Civil Defense in Baltimore County, the Charter Board decided that it would be wiser not to make this change in the name of the agency.

The last sentence of Section 535 was written in recognition of the military nature of the bureaus in this department and the necessity for special rules and regulations pertaining to the chain of command and the discipline of employees. In this connection, attention should be directed to Section 802(1) of the Charter under which the County Personnel Law is required to specify special rules and

regulations, "to be first approved by the Director of Public Safety, and relating to the employment, promotion, suspension and dismissal of employees of the fire bureau and the police bureau."

It should be noted parenthetically at this point that policemen and firemen are not expressly exempt from the merit system for Baltimore County established by the General Assembly at the 1955 Session (Acts of 1955, Ch. 73). However, the Public Safety Law (Acts of 1955, Ch. 173) empowers the County Commissioners to establish rules and regulations "pertaining to the employment, promotion and discharge of policemen, firemen, etc.". Under this provision, it would, presumably, be the responsibility of the County Commissioners to decide whether the employees of the Department of Public Safety are, or are not, to be covered by the merit system. Under the Charter, they will be covered, but policemen and firemen will be subject to special rules and regulations not applicable to other employees.

Section 536. *Duties of the Bureau of Civil Defense.* Under Article 41, Section 209 of the State Code, each political subdivision of the State is required "to establish a local organization for civil defense" and to "have a director and alternate who shall be appointed by the Governor upon the recommendation of the Mayor or governing body of the political subdivisions." Section 536 of the Charter is designed to satisfy this requirement of State law.

Under Title 30 of the Baltimore County Code, Sub-title: "Defense and Disaster", the County government is expressly authorized to make appropriations for public defense, disaster or other emergency.

#### *E. Department of Education.*

Section 537. *Composition; Administration under State Law.* Under the provisions of Article 77 of the State Code, the Board of Education of Baltimore County is established as a separate unit of the County government. As a practical matter, the only control vested in the County Commissioners over the affairs of the Board of Education stems

from the Commissioners' power over financial matters. In this and in all other respects, the Department of Education will continue after the adoption of the Charter to be administered as heretofore under State law. Section 537 is designed to make it expressly clear that the Charter does not affect in any manner the organization, operation or administration of the County school system.

#### F. Department of Libraries.

Section 538. *Composition; Administration under State Law.* The State law controlling public libraries is contained in Article 77 of the State Code, Ch. 15, Sections 173-195, inclusive. Under Section 177, the County Commissioners are empowered to operate and maintain a public library system under the jurisdiction of a Board of Library Trustees. Under Section 183, the Librarian is appointed by the Board of Library Trustees. Since these provisions of public general law are applicable to a chartered county as well as to a county operating under the commissioner form of government, the Charter makes no changes therein.

Under Article 77, Section 181 of the State Code, the members of the Board of Library Trustees are appointed by the Governor.

As in the case of the Departments of Education, Health and Welfare, the Charter expressly provides that its provisions shall not be construed as affecting or in anywise changing the administration of the affairs of this department in accordance with the requirements of State law.

#### G. Department of Health.

Section 539. *Composition; Functions; Administration Under State and County Law.* Unlike the Departments of Education and Libraries, the Department of Health is not exclusively controlled by State law. Article 43 of the State Code, title: "Health", is the public general law which controls the administration of health programs throughout the entire State. However, the County Commissioners under the commissioner form of government and the County

Council under the chartered form of government, have definite powers in relation to health matters under their police power. These functions are generally recognized in the Baltimore County Code, Title 11, Section 119, under which the Board of County Commissioners is constituted "a local board of health for Baltimore County" and is required to "exercise all the powers and duties of a board of health as provided in Article 43" of the State Code. See also: Article 43, Section 45 of the State Code which similarly constitutes the Board of County Commissioners as "a local board of health". It follows, therefore, that the administration of the County health program is a function of local government which is closely related to and controlled by State law.

Under the Charter, the County Council will constitute the County Board of Health in lieu of the County Commissioners as heretofore. In that capacity, the Council will be empowered to enact rules and regulations and to discharge other functions and duties conferred on the County Commissioners in the existing state and local laws.

Under Article 43, Section 46, the local Board of Health is required to appoint for a four-year term "a health officer who shall be a well-educated physician and who, by virtue of his appointment, shall be a Secretary and executive officer of the local board of health". This appointment must be made with "the advice and consent of the State Board of Health". In view of these provisions, the Charter Board considered it desirable to require the County Executive to confer with the State Board of Health in regard to the appointment of a County Health Officer and then to submit this recommendation to the County Council for its approval. In this manner, the County Health Officer will be appointed under the Charter by the "local board of health", but with the "advice and consent of the State Board of Health".

As in the case of the Departments of Education, Libraries and Welfare, the Charter expressly provides that its provisions shall not be construed as affecting or in anywise changing the administration of the affairs of this department in accordance with the requirements of State law.



#### H. Department of Welfare.

Section 540. *Composition; Functions; Administration Under State and County Law.* As in the case of the Department of Health, the affairs of the Department of Welfare are controlled both by State and County law.

Under Article 88A, Section 13(a), the State Department of Public Welfare is empowered to create in each county a local welfare board "which Board shall be an administrative department of the local government". Under Section 14(a) of the same Article, a County Commissioner is required to serve *ex officio* on the local welfare board. Under the Charter, therefore, the County Executive will serve on the Baltimore County Board of Welfare in this capacity. (See also: Section 402(d)(11), p. 18, *supra*.)

Under Article 88A, Section 14(c) of the State Code, the six lay members of the local welfare board are appointed for six-year terms by the County Commissioners from a list submitted by the State Department of Public Welfare and containing twice the number of persons to be selected. Under the Charter, the same procedure will be followed, except that the selection of board members will be made jointly by the County Executive and the County Council rather than by the County Commissioners as heretofore. This joint responsibility stems from the provisions of Article XI A, Section 3 of the Constitution, whereunder all references in the Constitution and laws of this State to County Commissioners are to be construed, in the case of a chartered county, to refer to the county council and the chief executive officer of the county, whenever such construction would be reasonable.

The public local laws of Baltimore County on the subject of Welfare are contained in Title 30 of the Baltimore County Code, whereby the County Commissioners are authorized to contribute to the support and maintenance of women having dependent minor children without means of support, and also to contribute to such charitable organizations having headquarters in the County as the commissioners, in their discretion, may deem proper. Under Title 30, Section 425 of the Baltimore County Code, the County Commis-

sioners are further authorized to appropriate funds for the hospitalization of indigent and destitute residents of the County. All these powers are transferred to the County Council and the County Executive, to be exercised by legislative act after the adoption of the Charter.

Express power to legislate on such matters is also conferred by Article 25A, Section 5(T), under which the chartered county has the conventional "police power" relating to the "peace, good government, health and welfare of the County".

Section 540 of the Charter assigns to the Department of Welfare the functions heretofore discharged by the "County Home", now a separate agency of the County government. Under Article 25A, Section 5(C), the chartered county has full power to "erect, establish, maintain and control hospitals, alms houses, pest houses, or other similar institutions".

As in the case of the Departments of Education, Libraries and Health, the Charter expressly provides that its provisions shall not be construed as affecting or in anywise changing the administration of the affairs of this department in accordance with the requirements of State law.

#### REORGANIZATION OF DEPARTMENTS UNDER STATE LAW

Section 541. *Furthering Legislation.* The purpose of this section is to grant an express power to the County Council to reorganize the affairs of any of the departments under State law to the extent that authority therefor may hereafter be granted by the public general laws of this State.

#### ARTICLE VI

##### COUNTY BOARD OF APPEALS AND APPEAL TAX COURT

Section 601. *County Board of Appeals; Appointments; Terms; Compensation.* The legal authority for the creation of a County Board of Appeals is contained in Article 25A, Section 5(V) of the State Code, as amended by the Acts of 1953, Chapter 199. This statute expressly authorizes the chartered county to enact local laws providing for the es-

establishment of a County Board of Appeals "whose members shall be appointed by the county council". The chartered county may also provide for the number, qualifications, terms and compensation of the members of the board, for the adoption by the board of rules and practice governing its proceedings, and for appeals from its decisions in the manner prescribed by State law.

During the consideration of the tentative draft of the Charter, some criticism was voiced as to the provisions of Section 601, whereunder the members of the Board of Appeals are to be appointed by the County Council, and not by the County Executive. Although the Charter Board recognized some merit in this criticism, the question seems foreclosed by the express provisions of Article 25A, Section 5(V) of the State Code above quoted. Moreover, the Charter Board also recognized some valid conceptual reasons for making the County Board of Appeals an arm of the legislative branch. Its primary function will undoubtedly be the hearing of appeals in zoning cases, a function long recognized as quasi-legislative in character.

Section 601 of the Charter provides that each member of the County Board of Appeals shall serve for overlapping terms of three years. Under existing law, the members of the Board of Zoning Appeals serve coterminously. See: Baltimore County Code, Title 23, Section 366(e).

The compensation of the members of the County Board of Appeals is fixed in Section 601 at the figure of \$3,600 per year, this being the same compensation now paid to members of the Board of Zoning Appeals. Under Section 606, however, the County Council is given the power to raise this compensation and thereafter to decrease it, provided that the figure of \$3,600 per year shall be taken as a minimum. In this connection, the Charter Board recognized the difficulty of fixing fair compensation for newly created offices before practical experience has demonstrated what figure would represent fair and just compensation. The establishment of a minimum figure with power in the County Council to increase it at a later date is the same practice which was followed in Article IV in relation to the

salaries of the County Executive and County Administrative Officer. (See: Notes to Sections 402(a), 403(a), and 405, *supra*.)

Section 602. *Powers and Functions of County Board of Appeals.* The purpose of this section is to outline the various appeals to be heard by the newly created board. Subsections (a), (b) and (c) refer specifically to appeals from orders now heard by other administrative agencies; subsection (d) is a "catch-all" provision designed to transfer to the County Board of Appeals the right to hear and decide appeals from all other administrative and adjudicatory orders as may now or hereafter be provided by law.

(a) *Appeals from Orders Relating to Zoning.* Express authority for the transfer of this function from the Board of Zoning Appeals to the County Board of Appeals is derived from the language of Article 25A, Section 5(V). This statute authorizes the County Board of Appeals to hear and decide questions relating to "an application for a zoning variation or exception or amendment of a zoning ordinance map". See: *Montgomery Co. v. Merlands Club*, 202 Md. 279, 96 A. 2d 261 (1952), a zoning case heard on appeal from a decision of the Montgomery County Board of Appeals after the abolition of the Board of Zoning Appeals in that county.

The last two sentences of Section 602(a) are designed to cause the transfer of all duties and functions of the old Board of Zoning Appeals to the new County Board of Appeals, and to establish the manner in which further appeals may be taken from its decisions to the courts.

(b) *Appeals from Orders Relating to Licenses.* Sections 210 and 211 of Title 17 of the Baltimore County Code create a Board of License Appeals composed of the Building Engineer, the Zoning Commissioner and the County Health Officer. Their primary functions seem limited to the hearing of appeals dealing with walkathons, amusements, carnivals, moving pictures, and other licenses covered by the sub-title "Motion Picture and Other Public Exhibitions". The Charter Board was led to believe that although the Board of License Appeals has been duly constituted by



legislative act of the General Assembly, its duties, if any, are extremely limited. To the extent, however, that appeals may hereafter be taken from such administrative orders, the Charter Board deemed it desirable to abolish this additional appellate agency and to transfer all its functions to the new County Board of Appeals.

(c) *Appeals from Orders Relating to Building.* Under Title 23, Section 283 of the Baltimore County Code, the County Commissioners are given power to hear appeals from orders relating to building permits issued by the Buildings Engineer. Although such permits will, under the Charter, be issued by the Department of Permits and Licenses, the Charter Board felt it essential to preserve the right of appeal now guaranteed by public local law.

(d) *Appeals from Executive, Administrative and Adjudicatory Orders.* As hereinabove indicated, this subsection is a "catch-all" designed particularly to include within the jurisdiction of the County Board of Appeals all matters now or hereafter covered by Article 25A, Section 5(V) of the Code. In addition to zoning matters, this section of the Code refers to the following cases to be heard by the County Board of Appeals:

"\* \* \* the issuance, removal, denial, revocation, suspension, annulment, or modification of any license, permit, approval, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order; and the assessment of any special benefit tax \* \* \*."

Section 603. *Rules of Practice and Procedure.* Express authority for the establishment of special rules of practice and procedure for the County Board of Appeals is contained in Article 25A, Section 5(V) (3) of the State Code.

Subsection (4) of Article 25A, Section 5(V) requires that the County Board of Appeals shall hear cases "on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board." This provision of controlling law forms the basis for the requirement in Section 603 that decisions by the County

Board of Appeals shall be made after notice and "hearing *de novo* upon the issues before said Board". The last sentence of Section 603 is intended to preserve the public character of all actions and proceedings before the County Board of Appeals, and especially to require that complete public records of the Board's proceedings and a suitable index be maintained.

Section 604. *Appeals from Decisions of the Board.* This section is derived almost verbatim from the concluding portion of Article 25A, Section 5(V) as amended by the Acts of 1953, Ch. 199. It seemed to the Charter Board that the procedure set out in the statute was somewhat unusual in that it resembles the practice normally followed on a writ of *certiorari*. The 1953 amendment to this section changed the last sentence which previously authorized the Court of Appeals to grant *certiorari* on decisions of the Circuit Court originally heard by the Board of Appeals. In view of the fact that the controlling statutory provisions set out the procedure in such meticulous detail, the Charter Board considered it desirable, if not essential, to conform closely with this statutory language.

Section 605. *Employees of the Board.* This section is of a formal nature which recognizes the necessity for adequate staff and clerical personnel to service the County Board of Appeals.

Section 606. *Furthering Legislation.* As hereinabove mentioned in the Notes to Section 601, this section is primarily designed to empower the County Council to increase the compensation of the members of the County Board of Appeals if, as and when such action is deemed desirable. The Charter Board further recognized that Article 25A, Section 5(V) might at some future date be amended to enlarge the jurisdiction of the County Board of Appeals, and it was deemed advisable to allow the County Council to take advantage of any such legislation without the necessity of amending the Charter.

Section 607. *Composition and Functions of Appeal Tax Court.* The Appeal Tax Court is constituted under Article 81, Sections 243-245, inclusive, of the State Code. Section

243 empowers the County Commissioners of each county "to create by resolution an Appeal Tax Court consisting of three members". Section 245 of the same Article, however, provides that this sub-title shall apply only in Baltimore and Montgomery Counties, and it would accordingly appear that these two counties are the only counties in the State which now are empowered to create this agency. Manifestly, the Appeal Tax Court serves to relieve the governing body of the County, whether it be a Board of County Commissioners or a County Council, from the onerous duty of hearing appeals in assessment cases.

Under the existing commissioner form of government, the members of the Appeal Tax Court are appointed by the County Commissioners. As more particularly discussed in the Notes to Section 402(d)(9), *supra*, the Charter Board decided on reconsideration of the tentative draft to require the appointment of the members of the Appeal Tax Court by the County Executive subject to confirmation by the County Council. The reasons for this provision are discussed fully in the Notes to Section 402(d)(9) and will not be repeated here.

The Charter Board considered carefully the wisdom of transferring the functions of the Appeal Tax Court to the County Board of Appeals, bearing in mind that in Baltimore City the Board of Municipal Appeals hears both assessment and zoning cases. A spokesman for the State Tax Commission indicated that this reform in Baltimore County might be a desirable one. However, Article 25A, Section 5(V) contains no language expressly authorizing the County Board of Appeals to hear tax assessment cases, and it is of further interest that, notwithstanding the creation of a County Board of Appeals in Montgomery County, their Appeal Tax Court continues to function as a separate agency. In view of these considerations, Section 607 of the Charter leaves the Appeal Tax Court as an independent agency of the County government, charged with the duty of hearing appeals in assessment cases as provided in the State Code. If and when, however, the General Assembly expressly authorizes the transfer of its duties and functions

to the County Board of Appeals, then, to the extent of such authority, the County Council must, under Section 607 of the Charter, so provide by legislative act.

## ARTICLE VII

### BUDGETARY AND FISCAL PROCEDURES

Section 701. *Fiscal Year.* Under the provisions of State law, a county is empowered to establish its fiscal year either on a calendar basis or the period from July 1 to June 30. The procedure for changing a fiscal year is set forth in Article 19, Section 35 of the State Code. The fiscal year of the County at the time of the writing of the Charter was on a calendar year basis, a policy confirmed by the new County Finance Law, Acts of 1955, Ch. 390, Section 46. Although it was recommended to the Charter Board that the County's fiscal year be changed to conform with that of the State and Federal governments, it would have been impossible for the Charter to have complied with the procedural requirements of State law above referred to. Accordingly, the final draft of the Charter leaves the County's fiscal year on a calendar basis unless and until changed by future County administrations.

It is not without interest that Article 19, Section 35 of the State Code was amended by the 1955 General Assembly (Acts of 1955, Ch. 4) so as to require all cities and towns incorporated after January 1, 1955, to adopt a July 1-June 30 fiscal year. This is in accordance with the modern trend throughout the country.

It will also be observed that throughout Article VII of the Charter, the various deadlines are set forth in terms of days from the end of the fiscal year. In this manner, the same schedule can be maintained even if the fiscal year is hereafter changed.

Section 702. *Definition of Terms used in this Article.* The manifest purpose of this section is to define various terms used in Article VII about which there might otherwise be some doubt.



Section 703. *Comprehensive Scope of the Budget.* This section sets forth at the outset of Article VII the three major items which, when integrated into one document, represent a complete financial plan to be known as the "County Budget". Provisions of this sort are common in almost all modern municipal charters and budget laws. See, for example, Section 47 of the new County Finance Law for Baltimore County (Acts of 1955, Ch. 390); Westchester County Charter, Article XIV, Section 78; Model City Charter, Article IV, Section 46.

Section 704. *Formulation of Current Expense Budget.* This section is procedural in scope and seems to require no explanatory comment.

Section 705. *Formulation of Capital Budget and Capital Program.*

(a) *Submission of Data for Referendum.* The questions relating to borrowing and of a character to be approved by the voters on referendum are set forth in Section 718 of the Charter. Inasmuch as general elections occur in the County only every two years, it will be necessary in election years to place on the ballot borrowing questions relating to projects to be undertaken in the next succeeding two fiscal years. The new County Finance Law (Acts of 1955, Ch. 390) prescribes in Section 50 a two-year capital budget and a six-year capital program, whereas the Charter provides for a one-year capital budget and a six-year capital program. This was done in order to minimize the necessity for changes in the capital budget after its adoption, a necessity more likely to occur over a two-year span than over a one-year span. It also makes the capital budget coincide with the term covered by the current expense budget, thereby integrating the County Budget into one "complete financial plan" for the ensuing fiscal year. It was, accordingly, necessary in Section 705 of the Charter to specify first the procedure for securing voter approval on the questions covered by Section 718, and then to prescribe the procedure for the preparation of the capital budget and capital program in the light of the authority thus secured from the electorate.

Under Section 705(a)(3), legislative action of the County Council is required before borrowing questions may be placed on the ballot. The last sentence of this subsection was added to the tentative draft at the suggestion of the Commission on Governmental Efficiency and Economy, the manifest purpose being to curb the tendency in some jurisdictions of submitting to the voters in one question a group of unrelated capital projects to be financed by borrowing. This new charter provision requires specifically that "each question to be submitted to the voters shall include only one such purpose or class of projects".

(b) *Preparation of Capital Budget and Capital Program.* Most of this section is procedural in scope and requires no explanatory comment, except in regard to one change made in the tentative draft on the recommendation of the Commission on Governmental Efficiency and Economy.

The tentative draft had required the Director of Planning to transmit to the Director of the Budget the recommendations of the Planning Board for capital projects, together with "*its plan for financing the same*". It was suggested that this language might be construed as converting the Planning Board into a fiscal agency. The Charter Board had no such intention, the purpose of the italicized words being merely to require the Planning Board to think not only in terms of worthwhile capital projects but also in terms of their approximate cost. Otherwise, it was feared that the Planning Board might be encouraged to submit recommendations for capital projects, the cost of which might be totally impractical. In order to eliminate this ambiguity in the tentative draft, the words "*its estimates of the cost thereof*" were substituted for the words "*its plan for financing the same*".

In this connection it should be mentioned that the new County Finance Law (Acts of 1955, Ch. 390) creates in Section 50 a "Board of Finance" composed of three voters appointed by the County Commissioners. This Board must prepare a "means of financing" the capital program recommended by the Office of Planning, and, in the view of the Charter Board, it may serve a very useful purpose. Whether

or not there should continue to be a Board of Finance to give fiscal advice in addition to that supplied by the regular administrative officers is a question of administrative detail which, upon adoption of the Charter, is left to the decision of the County Council.

(c) *Inclusion in Capital Budget of Items not yet Approved by Referendum.* In view of the fact that borrowing questions may be submitted to the voters only every two years, and since the fiscal year is on a calendar basis, it will be impossible in election years to know in advance of the November election exactly what items will be approved or disapproved at the polls. The purpose of Section 705(c), therefore, is to allow the budget planners to include in the capital budget for an election year items not yet approved in the referendum, but subject, nevertheless, to a requirement that the County Council must delete these items from the final County Budget unless the required approval be given at the referendum.

Section 706. *Submission and Contents of the County Budget.* This section enumerates the minimum contents of the three items which comprise the integrated County Budget, i.e., the current expense budget, the capital budget and capital program, and the budget message. Their contents as prescribed in the Charter correspond generally with the requirements specified in Sections 47 and 50 of the new County Finance Law (Acts of 1955, Ch. 390).

Section 707. *Filing of Proposed Budget; Copies.* Under Section 48 of the new County Finance Law (Acts of 1955, Ch. 390), the county commissioners are required to publish "a general summary of the budget" in the County newspapers, this procedure being in accordance with existing practice. Section 46 of the new law also requires that the proposed budget "be open to public inspection." Section 707 of the Charter goes somewhat further in requiring that at least three complete copies of the proposed budget be open to inspection by the public and the press and that the budget message and supporting summary tables be reproduced in multiple copies to be made available to any interested person on request.

Section 708. *Public Hearing.* The requirement of public hearing by the Council on the budget is standard in all modern budget laws, and a comparable provision appears in Section 48 of the new County Finance Law (Acts of 1955, Ch. 390).

Section 709. *Action on the Budget by the County Council.* Under the existing commissioner form of government, there is no separation of powers and, in effect, therefore, the county commissioners present their proposed budget to themselves for action. In approving or disapproving what they themselves have proposed, the commissioners are, of course, free to increase or decrease any item. Under the Charter, however, the form of government will be based on the "separation of powers" doctrine, under which the proposed County Budget will be prepared by the executive branch and submitted to the legislative branch for approval. Under these circumstances, the Charter Board felt it essential to prohibit the County Council from increasing any item in the current expense or capital budget submitted to that legislative body for action. This is in accordance with the procedure followed on the State level, where the General Assembly is prohibited from increasing any item in the operating budget recommended by the Governor except those relating to the General Assembly and the judiciary. See: Constitution of Maryland Article 3, Section 52(6).

Section 709 prescribes that the adoption of the budget shall be on an ordinance to be known as the "Annual Budget and Appropriation Ordinance of Baltimore County". If this ordinance is not adopted on or before the first day of the last month of the fiscal year currently ending, the proposed budget submitted by the County Executive shall stand adopted. This provision, which is common in most modern charters and budget laws, will obviate the possibility of a stalemate between the County Executive and the County Council on budgetary matters.

The annual budget and appropriation ordinance will constitute formal legislative approval of the entire County Budget, including the capital budget and capital program. Items in the capital budget to be financed by borrowing are,



however, subject to further legislative action to be taken in bond issue authorization ordinances, the minimum contents of which are prescribed in Section 720 of the Charter.

The portion of Section 709 which refers to the bond issue authorization ordinances was revised after release of the tentative draft so as to make it clear that such ordinances may be adopted at the same time as the Annual Budget and Appropriation Ordinance, but may also, in the discretion of the County Council, be adopted at a later date or dates. The Charter Board believed that the better procedure would be to adopt bond issue authorization ordinances at the same time that the budget is finally approved. In that manner, complete action on the budget and on provisions necessary to finance the same would be taken before the close of the fiscal year currently ending. However, on the advice of County Bond Counsel, and in order to promote the flexibility of the Charter, the Board decided that it would be unwise to include a mandatory provision on this subject.

**Section 710. *Reproduction of Budget; Effective Date; Tax Levy; Appropriations.***

(a) *Reproduction of Budget.* The purpose of this section is to insure that a complete copy of the County Budget as finally adopted may be made available to any interested person on request, a privilege not guaranteed under existing law. Provisions of this sort are almost universal in modern charters and good budget laws. Experience in some jurisdictions, however, has shown that this privilege can be abused with a resulting waste of public money. Accordingly, Section 710(a) provides that the County Council may prescribe a charge for each copy of the adopted budget, not to exceed the actual cost of its reproduction.

(b) *Effective Date.* These provisions are self-explanatory.

(c) *Tax Levy.* The power of the County Council to levy taxes is set forth in Article 25A, Section 5(P). Under a decision of the Court of Appeals in *Schneider v. Lansdale*, 191 Md. 217, 61 A. 2d 671 (1948), action by the County Council in approving the budget and in levying taxes need not be

performed in the annual legislative session prescribed in Article XI A, Section 3 of the State Constitution.

**Section 711. *Transfer of Appropriation.*** The provisions of this section correspond generally with the second paragraph of Section 53 of the new County Finance Law (Acts of 1955, Ch. 390). Under this law, however, transfers between offices and departments, etc. may be made in the last quarter of the fiscal year by the County Commissioners on the recommendation of their own appointee, the Director of Finance. Under the Charter, based as it is on the "separation of powers" doctrine, such transfers can only be made on the recommendation of the County Executive and with the approval of the County Council. This recognizes the legislative character of the act sanctioning an appropriation transfer, an act which, in effect, amends the Budget as previously adopted by the County's legislative body. Although appropriation transfers must be controlled in this manner, they may serve a very useful purpose in reducing the need for supplementary appropriations, a subject discussed in the Notes to the next section of the Charter.

**Section 712. *Supplementary and Emergency Appropriations.***

(a) *Supplementary.* The language of this section in the tentative draft was revised prior to release of the final draft to make it conform with the language of Section 51 of the new County Finance Law (Acts of 1955, Ch. 390). The tentative draft had required that supplementary appropriations be made from "*unexpended or unappropriated surpluses set aside for contingencies in the County Budget*". On reconsideration, the Charter Board believed that the language of the new County Finance Law on this subject was more precise. Therefore, in lieu of the words above italicized, the Board substituted the words "*from unexpended and unencumbered funds set aside for contingencies in the County Budget*".

During consideration of the tentative draft, it was suggested to the Charter Board that Section 712(a) might be construed as inviting supplementary appropriations, a prac-

tice which many people believed should be sharply curtailed, if not prohibited. The Charter Board carefully considered this criticism. The Board agreed that supplementary appropriations do violence to good budget planning, but the Board felt that to prohibit them would be most unrealistic and unwise. Occasions may arise, for example, where an agency such as the Board of Education may rely on an appropriation from the State government which does not materialize. If such a deficit is not made up by the County government, the work for which the funds were earmarked cannot be performed. Assuming that the work is essential, and that funds cannot be provided by an appropriation transfer, the money can and should be provided from unencumbered funds set aside for contingencies in the County Budget. Such, indeed, is the basic purpose of the reserve for contingencies, and with adequate safeguards against abuse, supplementary appropriations may satisfy an essential governmental need.

(b) *Emergency.* The substance of this section corresponds with the provisions of Sections 51(a), (b) and (c) of the new County Finance Law. The limitation on the amount of emergency appropriations in any fiscal year to 5% of all operating appropriations including those for debt service, is also found in the County Finance Law. During the consideration of the tentative draft, some criticism was expressed as to the wisdom of any such limitation, but after deliberation, the Charter Board decided that the five per cent limit in existing law should be preserved. The Model City Charter, Article VI, Section 103 is even more restrictive in fixing the limit at three per cent.

Section 713. *Lapsed Appropriations.* This section closely resembles Section 54 of the new County Finance Law (Acts of 1955, Ch. 390). This provision will not apply to the Board of Education, which, under public general law, is entitled to retain for future expenditure any saving made in an appropriation for a preceding fiscal year. (See: Article 77, Section 65 of the State Code under which the annual school budget is required to show "the unexpended balance on hand or in the treasury of the county board of education \* \* \*".) All agencies of the County government not sub-

ject to such exemption by general law will, however, under Section 713 of the Charter, as under Section 54 of the County Finance Law, be required to surrender any unexpended or unencumbered appropriations to the County Treasury at the end of each fiscal year.

The provisions of Section 713 dealing with appropriations for capital projects are intended to bar the practice of undertaking capital projects many years after the original appropriation therefor, a privilege reportedly abused in Baltimore City. It was believed that a three-year waiting period, during which appropriations for such purposes must be encumbered or expended, provides an adequate safeguard.

Section 714. *Work Programs and Allotments.* Provisions of this sort are typical of good budget laws and modern charters, and this section corresponds generally with Section 52 of the new County Finance Law (Acts of 1955, Ch. 390). By use of the work program and allotment, each agency of the County government is required to plan its needs for funds in relation to the work it proposes to do.

The concluding sentence of Section 714 requires the County Administrative Officer to recommend to the County Executive a revision in the work programs and allotments if, "at any time", it may appear that the total appropriations may exceed the available income. Although there are variations in the language of the two provisions, this part of Section 714 of the Charter is substantially the same as Section 52 of the County Finance Law.

During consideration of the tentative draft, it was suggested that deficit spending should be "prohibited", not merely "forestalled". Although the Charter Board agreed with the desirability of preventing deficits, it considered a prohibition somewhat unrealistic. In the event of an acute depression, or sudden disaster affecting the local economy, the available income might unexpectedly fall below the estimated amounts in the County Budget; in such event, the Charter Board believed that the only practical solution is to require the executive branch of the government to



take immediate and positive action to forestall a deficit. A flat prohibition against deficit spending could not accomplish anything more.

Section 715. *Appropriation Control and Certification of Funds.* As hereinabove indicated in the Notes to Section 517, *supra*, the substance of Section 715 appears in two other places in the Charter — in Section 517 dealing with the Director of Finance and in Section 915 dealing with Centralized Purchasing. All these provisions are designed to prohibit unequivocally the making of any expenditure in excess of the amounts appropriated or allotted therefor, save only small purchases in an amount less than \$50.00.

The concluding sentence of Section 715 is designed to permit the making of contracts of lease or for services on a long-term basis, provided the nature of such transactions reasonably requires the making of such contracts. The language of this section is derived verbatim from Chapter 6, Section 6.20 of the Charter of the City of Richmond. A somewhat similar provision is contained in Section 54A of the new County Finance Law (Acts of 1955, Ch. 390).

Section 54A of the County Finance Law also exempts from appropriation control "the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds". This subject is covered in more restrictive terms in Section 716 of the Charter, discussed hereinbelow.

Section 716. *Restrictions on Capital Projects; Amendment to Capital Budget After Adoption of Budget.* Section 715 of the Charter controls the expenditure of funds in the operating budget, and Section 716 controls the expenditure of funds in the capital budget. In both cases, expenditures cannot be made unless supported by an appropriation in the County Budget as finally adopted.

The proviso at the end of this section permits an amendment to the capital budget during the fiscal year upon receipt of a recommendation in writing from the County Executive and the Planning Board and with the approval of not less than five members of the County Council. Similar

provisions are contained in the Westchester County Charter, Article XIV, Section 84.

During consideration of the tentative draft, some citizens expressed to the Charter Board the belief that the capital budget should be no more susceptible of amendment after its adoption than the current expense budget. While recognizing the merits of this point, the Charter Board concluded that it is much wiser to control than to prohibit governmental activities which are admittedly undesirable but sometimes necessary. It is thus conceivable that during a fiscal year a *bona fide* need might arise for undertaking without delay a capital improvement which could not be anticipated when the budget was prepared. Rather than to prohibit this undertaking until the next budget season, the Charter Board felt it wiser to permit it with suitable safeguards. The consent of the Planning Board and the County Executive, the extraordinary vote of the County Council, and, above all, the requirement of voter approval for borrowing should provide adequate protection against abuse.

Section 717. *Borrowing Limitations.* In Article 25A, Section 5(Q) of the State Code, the aggregate amount of bonds and other evidences of indebtedness outstanding at any one time by a chartered county may not exceed 10% of the assessable basis of the county. Under existing law, as amended by Chapter 115 of the Laws of 1955, Baltimore County is limited to 8% of its assessable base. An early draft of the Charter incorporated the same 8% limitation in Section 717 and would have required a charter amendment to increase the limitation beyond that figure. Shortly before release of the tentative draft and after discussions with the County Commissioners and County Solicitor concerning the borrowing plans for schools for the next four years, it appeared to the Charter Board wiser to empower the County Council to raise the debt limitation within the limits prescribed by Article 25A, Section 5(Q). Without such express power in the Council, the 8% limitation could not be changed until November 1958, the earliest date at which the Charter could be amended after its adoption, and any increase so authorized could not take

effect for purposes of borrowing plans until 1960 when questions relating to borrowing are submitted for referendum. Power in the Council to raise the limitation will obviate any such delay.

Article 25A, Section 5(Q) exempts from the 10% limitation: (a) tax anticipation notes, or other evidences of indebtedness with a maturity of less than one year, (b) bonds or other evidences of indebtedness payable primarily or exclusively from taxes levied on or revenue of special taxing areas or districts, and (c) bonds or other evidences of indebtedness issued for self-liquidating projects or those payable primarily or exclusively from the proceeds of assessments or charges for special benefits or services. These exceptions are reproduced in Section 717 of the Charter. The concluding sentence of the section is designed to make it clear that the bonds of the Metropolitan District are not subject to this limitation nor are they to be included in computing the amount of outstanding bonds for the purpose of determining the borrowing power of the County. A similar exemption appears in the Acts of 1955, Ch. 115, and in the Acts of 1955, Ch. 7. Bonds of the Metropolitan District will continue, as heretofore, to be subject to the per centum limitation provided in the Metropolitan District Act, as now in force or hereafter from time to time amended. The present limit specified in said Act as last amended by the Acts of 1955, Ch. 7, is 7% of the total assessable basis of real and tangible property within the District.

The borrowing power of the County Commissioners is prescribed in Chapter 644 of the Acts of 1949, as amended by Chapter 485 of the Acts of 1953 and Chapter 115 of the Acts of 1955. The provisions of Article 25A, Section 5(Q) of the State Code confer on the chartered county extremely broad borrowing powers, the voters of the County being empowered:

"\* \* \* to provide for the borrowing of moneys on the faith and credit of the County and for the issuance of bonds or other evidence of indebtedness therefor in such sums, for such purposes, on such terms and

payable at such times and from such taxes or other sources as may have been or may be provided by or pursuant to local law, subject to any limitations imposed by the charter \* \* \*." (Emphasis supplied.)

In view of this provision, the chartered county will have borrowing power no more restrictive than that now vested in the County Commissioners pursuant to the public local laws, but subject only to "the limitations imposed by the charter."

Section 718. *Referendum on Borrowing.* As previously mentioned in the Notes to Section 705(a), *supra*, the voters of the County, at the 1954 general election, approved Chapter 620 of the Acts of the General Assembly of 1953 (Baltimore County Code, 1953 Supp., Title 4, Section 58C) requiring a referendum on all County borrowing, exclusive of: (1) self-liquidating bonds; (2) bonds for all authorized public purposes except public school purposes during the calendar years 1955 and 1956 in an aggregate amount in each year not to exceed  $\frac{1}{4}$  of 1% of the total assessable basis of the County; and (3) certificates of indebtedness or loans for public school purposes during the years 1955 and 1956. At the 1955 session of the General Assembly, this law was indirectly, but not expressly, amended by Chapter 115 of the Acts of 1955 to the extent that said law exempts from the referendum provisions all bonds or other evidences of indebtedness issued under the authority of the Metropolitan District Act. An express exemption from the referendum is also contained in the Acts of 1955, Ch. 7, which amends Section 356 of Title 23 of the Baltimore County Code (part of the Metropolitan District Act). These amendments were required because of some doubt as to whether such bonds were, in practice as well as in theory, "self-liquidating", and the clarification which these amendments accomplish is perpetuated in the Charter. For obvious reasons, the Charter also excludes from the borrowing referendum emergency and tax anticipation notes.

The Charter Board believed that inasmuch as the voters of the County had spoken on this issue at the 1954 election, the Board was confronted with a clear mandate of the



people to preserve the referendum privilege on County borrowing, subject only to the minor clarifying amendments above referred to.

Section 719. *Form and Term of Bonds.* The purpose of this section is to specify the minimum requirements for the form of County bonds and their maximum term. Within these limits the County Council is fully empowered in Section 721 to enact fiscal laws to implement these provisions of the Charter.

Brief mention will be made hereinbelow of the changes made to the tentative draft of Section 719 and of the suggested changes which were not made:

(1) At the suggestion of County Bond Counsel, the first sentence of Section 719 was revised so as to require the first annual installment of principal on County bonds to be paid not more than two years from the date of issue, rather than *one* year. This will conform with the existing practice. The Model County and Municipal Bond Law, Article V, Section 2, provides, in this respect, an eighteen month period. The Charter Board believed that the difference was insubstantial, it being of major importance only that a reasonably short period be specified between the date of issuance and the first payment on principal.

(2) It was called to the attention of the Charter Board that Section 402(d)(15) confers on the Secretary of the County Executive all powers and duties discharged by the Secretary to the County Commissioners; that under present law this officer is the only person required to authenticate County bonds by manual signature; but that under Section 719 of the Charter, the duty of affixing a manual signature is imposed on the Director of Finance. After considering the point, the Charter Board decided that the express provisions of Section 719 would clearly control the general provisions of Section 402(d)(15), and that upon the adoption of the Charter the only manual signature to be affixed to County bonds would be that of the Director of Finance.

(3) The third sentence of Section 719 was revised by the deletion of the introductory words: *If the bonds are to be non-registerable as to interest \* \* \**. On reconsidera-

tion, the Charter Board believed that these words might cause difficulty of construction, since registered bonds sometimes have coupons attached to the original issue.

(4) The third sentence was also revised so as to require only the facsimile signature of the County Executive on the coupons. The tentative draft had also required the facsimile signature of the Director of Finance.

(5) It was suggested to the Charter Board that all references to the "probable useful life" of capital projects be deleted from Section 719. The Board recognized that the determination of "useful life" with any degree of precision is extremely difficult, and in order to avoid the raising of legal questions affecting the validity of the issue, the determination of the useful life by the County Council is made absolutely conclusive for all purposes. This is the same procedure followed in the Model County and Municipal Bond Law, Article III, Section 3(3) and Article V, Section 6. Without disputing the practical problems in determining "useful life", the Charter Board believed these provisions to be salutary, if only that they warn the County Council not to impose on future generations the obligation of paying for projects long after they may have ceased to serve any useful public purpose.

(6) It was suggested to the Charter Board that the last sentence of Section 719 be revised so as to make the maximum term of County bonds, other than those of the Metropolitan District, thirty years rather than forty. (The maximum term of Metropolitan District bonds is fifty years, as provided in the Metropolitan District Act, codified in the Baltimore County Code, Title 23, Section 356, as last amended by the Acts of 1955, Ch. 7.) While agreeing thoroughly with the policy behind this suggestion, the Charter Board was reluctant to incorporate in a quasi-constitutional document a provision which might prove unduly restrictive under changing conditions in the bond market over the years. The forty-year provision in Section 719 is a *maximum*, and there is nothing to prevent the County Council under the authority of Section 721 from reducing the period to thirty years or even less, and thereby effecting desirable savings in interest costs.

Section 720. *Contents of Bond Issue Authorization Ordinance.* Like Section 719, this section establishes minimum standards which can and undoubtedly should be supplemented by the County Council by the adoption of the fiscal laws referred to in Section 721.

The only change made in the tentative draft of this section was in the clause describing the taxes pledged for the payment of bonds, other than self-liquidating bonds and those of the Metropolitan District. The tentative draft had referred only to *ad valorem* taxes on real estate, and, at the suggestion of County Bond Counsel the clause was expanded to refer to tangible and intangible personal property subject to taxation within the limits prescribed by law.

Section 721. *Supplemental Legislation by County Council.* As mentioned above in the Notes to Sections 719 and 720, the purpose of this section is to empower the County Council to legislate on budgetary and fiscal matters within the broad scope of Article 25A, Section 5(Q) of the State Code (referred to above in the Notes to Section 717), subject only to the limitations provided in the Charter.

The reference in Section 721 to a "reserve for permanent public improvements" is of interest in view of the provisions of Section 54B of the County Finance Law (Acts of 1955, Ch. 390), which empowers, but does not require, the County Commissioners to establish such a reserve, provided that appropriations therefrom are to be made "only to finance improvements included in the capital budget or to make a down payment thereon". If so used, such a reserve might be the beginning of a much-to-be desired pay-as-you-go policy for capital improvements.

## ARTICLE VIII

### MERIT SYSTEM

Section 801. *County Council to Establish and Maintain Merit System.* The Acts of 1955, Ch. 73 established a merit system for county employees. This statute copied an ordinance of the County Commissioners under which a Depart-

ment of Personnel had operated informally since 1953. The "Personnel Act" passed by the General Assembly thus serves only to confirm the legality of a measure previously adopted by the Commissioners.

Under the Charter, action by the General Assembly on this subject will no longer be required. Article 25A, Section 5(R) expressly empowers a chartered county through the exercise of its home-rule powers "to establish a merit system, if deemed desirable, in connection with the appointment of all County officials and employees not elected or appointed under the Constitution and the Public General Laws".

In exercise of the power so conferred, Article VIII of the Charter requires the County Council to establish and maintain a "County Personnel Law". The Charter Board anticipated that the 1953 ordinance of the County Commissioners above referred to would be codified as a Public Local Law prior to the adoption of the Charter, and, accordingly, the Charter should not be construed as requiring the County Council to adopt an entirely new system but only to make the old system conform with the more restrictive provisions of the Charter. Under these circumstances, it is important to compare the existing law with the corresponding provisions in the Charter.

Section 255C(b) of the Personnel Act lists twenty-four County employees and classes of employees who are to be in the "exempt service". This part of the statute reads as follows:

"(1) All elected officials and members of boards and commissions.

"(2) The following appointive administrative heads of departments:

All unclassified employees

Solicitor and all members of his staff

Comptroller

Secretary to County Commissioners

Assistant Secretary to County Commissioners

Health Officer



Purchasing Agent  
 Superintendent of Buildings  
 Superintendent of Weights and Measures  
 Personnel Director  
 Director of Public Works  
 Director—Division of Engineering  
 Chief Design Engineer  
 Chief Engineer of Metropolitan District  
 Roads Engineer  
 Buildings Engineer  
 Zoning Commissioner  
 Chief of Sanitation Department  
 Chief of Land Acquisition Department (R/W)

"(3) Volunteer personnel and personnel appointed to serve without pay.

"(4) Consultants and counsel rendering temporary professional service.

"(5) All seasonal and part-time employees.

"(6) Non-supervisory employees paid on an hourly basis."

An examination of Section 801 of the Charter readily discloses that exemptions 1, 3, 4, 5 and 6 above quoted will apply under the Charter as under existing law. The meaning of exemption 2 in the Personnel Act was, however, far from clear to the Charter Board. It refers to "the following administrative heads of departments", and yet the list contains many who are not "heads of departments" — such as "All unclassified employees", and "Assistant Secretary to County Commissioners". The list also would exclude from the merit system a number of engineers whom the Charter Board believed entitled to the job security provided thereby.

Under these circumstances, the Charter Board decided that the best procedure to follow in Section 801 was to list specifically the officers and employees who shall be exempt from the classified service under the merit system. The

tentative draft of this section was revised so as to make it abundantly clear that the County Administrative Officer, the Zoning Commissioner and Deputy, the Director of Planning and the heads of the Police, Fire and Civil Defense Bureaus are to be in the exempt service.

The "confidential clerk or private secretary" for the County Executive and for the County Administrative Officer mentioned in exemption 7 is intended to describe a personal secretary or stenographer for these two officers, and does not refer to the officer described in Section 402(d)(15) as "Secretary to the County Executive". The holder of this office takes over the functions of the "Secretary to the County Commissioners" and has other specific duties defined in the Charter. His term of office is necessarily determined by the will of each County Executive who, under Section 402(d)(15), is given the absolute power to appoint him.

Section 802. *Contents of County Personnel Law.* The substance of this section resembles Article VI, Section 75 of the St. Louis County Home Rule Charter of 1950. These provisions constitute the minimum standards of any good personnel law and, for the most part, seem self-explanatory. Several subsections, however, deserve brief comment.

Subsection (c) confers on the Director of Personnel the authority for payroll certification. Although the present administration of the Department of Personnel contains no machinery for discharging this duty, the Charter Board believed that payroll certification constitutes an essential financial and personnel safeguard. Provisions of this sort are common in modern charters and civil service laws. See: St. Louis County Charter, Article VI, Section 75(3); Westchester County Charter, Article XV, Section 97; Dayton Charter, Section 103; Model City Charter, Article VII, Section 112(7); Annotated Code of Maryland (1951 ed.), Article 64A, Section 33.

Subsection (g) relating to hearings before the Personnel and Salary Advisory Board should be read in connection with Section 1008 of the Charter under which the Board is given subpoena power. Under Section 255EE of the exist-

ing Personnel Act, the Board is given only the power to "request any employee of the county to attend and testify".

Subsection (i) is intended primarily to ban the practice of displaying political posters and campaign material in public offices which supply services to the people, and to prohibit employees in the classified services from engaging in other political activity on County property during business hours.

Subsection (j) in the tentative draft was amended at the suggestion of several citizens so as to prohibit discrimination against county employees on the grounds of "political affiliation".

[As mentioned *supra* in the Notes to Section 535, subsection (1) of Section 802 is intended to preserve the military discipline of the employees in the Police and Fire Bureaus, notwithstanding their inclusion in the Merit System. The present County Personnel Act seems on the surface to include policemen and firemen in the classified service, but the new Public Safety Law (Acts of 1955, Ch. 173) empowers the County Commissioners to establish special rules and regulations pertaining to their "employment, promotion and discharge". To what extent such rules and regulations may exempt policemen and firemen from the merit system under existing law, the Charter Board cannot predict. At all events, the Board agreed that these employees should be subject to special rules of discipline not applicable to other employees in the classified service, but the Charter Board saw no valid reason why such rules and regulations should not be administered within the framework of a central personnel office. Policemen and firemen are County employees, and, with the exceptions above noted, should receive the same treatment and benefits afforded other employees.]

The tentative draft of Section 802(1) was criticized by the Commission on Governmental Efficiency and Economy in that it seemingly conferred on the Director of Public Safety a "veto power" over an act of the County Council. Although no such result was intended, the Charter Board readily agreed that the draft was susceptible to this con-

struction. The subsection was, accordingly, rewritten to make it clear that the Director of Public Safety must approve the special rules and regulations applicable to policemen and firemen *before* such rules and regulations are submitted to the Council, rather than after.

Section 803. *Appeals to the Personnel and Salary Advisory Board to be Exclusive.* The object of this section is self-evident.

Section 804. *Abolition of Board of Police Department Examiners and Board of Fire Department Examiners.* This section of the Charter was written after the passage by the General Assembly of the new "County Personnel Act" (Acts of 1955, Ch. 73) but before the passage of the Public Safety Law (Acts of 1955, Ch. 173). During this interval it appeared that policemen and firemen would be fully subject to the new merit system, a conclusion as to which there is now some doubt in view of the language of Section 277B of the Public Safety Law, to be codified in Title 22A of the County Code. At all events, the Charter Board decided, for the reasons mentioned above in the Notes to Section 802(1), that the facilities of the Office of Personnel can and should be used for the employment of policemen and firemen. Under these circumstances, the Boards of Examiners for the Police and Fire Departments need no longer be formally constituted as such, although their functions may readily be prescribed in the special rules and regulations governing the employment of policemen and firemen.

This conclusion is fortified by an examination of the membership of these two boards. The Fire Department Examiners consist of the President of the Board of County Commissioners, the Chief Engineer of the Fire Department and "an experienced physician". (Baltimore County Code, Title 10, Section 101.) The Board of Police Department Examiners is similarly constituted, except that the Police Chief serves in place of the Fire Chief. (Baltimore County Code, Title 20, Section 260.) If the elected executives of the County are ever to be freed of unwelcome pressures in regard to the employment and promotion of policemen and firemen, they should have no direct responsibility



for such routine administrative details. The Charter Board did not believe that the County Executive under the Charter, any more than a County Commissioner under the present system, should serve on a board which is directly concerned with the "appointment, promotion and removal" of policemen and firemen. These functions should, in accordance with modern personnel practice, be discharged by the Office of Personnel in cooperation with the Department of Public Safety, and the Charter so provides.

## ARTICLE IX

### CENTRAL PURCHASING

**Section 901. Responsibility for Purchasing.** This section imposes on the Director of Central Services the responsibility for County purchasing.

**Section 902. County Purchasing Policies and Practices.** The present Purchasing Department of the County was established by ordinance of the County Commissioners dated February 1, 1950, pursuant to the Acts of the General Assembly of 1949, Ch. 766, now codified in the Baltimore County Code (1953 Supp.), Title 4, Section 58B. This public local law provides in part as follows:

*"Materials and supplies of every kind, character and description, including stationery and printed matter needed and used by the various departments, boards and bureaus of Baltimore County shall be purchased by or through the Purchasing Department."* (Emphasis supplied.)

Despite the sweeping nature of the above quoted provisions, the ordinance of the Commissioners which formally creates the Department exempts from its jurisdiction "construction contracts for the building of roads, bridges, water mains, water pumping stations, water storage tanks, sanitary sewer systems, sewerage pumping stations and storm sewer system". With certain qualifications hereinafter discussed, the Charter reverts to the public local law above quoted, in placing within the jurisdiction of the Purchasing

Agent all purchases of "materials and supplies of every kind, character and description".

Section 902(f) permits the establishment of reasonable rules and regulations governing emergency purchases and contracts and those pertaining to services and equipment of a non-competitive nature. These provisions are essential to promote flexibility.

Needless to say, all purchases of interests in land, not being included in the terms "materials" or "equipment" are exempt from the provisions of centralized purchasing and competitive bidding.

**Section 903. Application of this Article to Departments and Agencies Under State Law.** Under Article 77, Section 71 of the State Code as amended by the Acts of 1955, Ch. 37, the Board of Education has the power to make its own purchases of supplies and equipment. The Charter cannot and does not purport to change this situation. At the same time, the Charter Board did believe that some materials and equipment needed by the Department of Education might well, in the interests of economy, be purchased through the Office of Central Services. The policy of preserving the independence of the school system has little relation to the purchase of office supplies, furniture, automobiles, tires and other similar articles which must be purchased in bulk for other County agencies. Section 903 is designed to encourage the Department of Education and the other departments under State law to use the facilities of the Office of Central Services where savings will result. A corresponding provision in Article VII, Section 1(b) of the Montgomery County Charter has, according to reports, stimulated worthwhile cooperation in that County between the Board of Education and the local government.

**Section 904. Competitive Bidding.** The first sentence of this section fixes at \$1,000 the minimum dollar value of purchases or contracts for which competitive bidding is required, with the exception, of course, of emergency and non-competitive purchases as defined in Section 902(f). The ordinance of the County Commissioners under which the County's purchasing policies are now administered

gives the Purchasing Agent full discretion to determine whether competitive bidding "is not in the best interest of the County" on any purchase.

The proviso at the end of the second sentence of Section 904 requires a delay of at least one week between the date of public opening of bids and the making of a purchase or the award of a contract, except in the case of emergency and non-competitive transactions. The manifest purpose of this provision is to prevent the quick opening of bids and the award of a contract before the unsuccessful bidders, the public and the press have had a chance to appraise the situation.

The final two sentences of Section 904 concern the relationship between the centralized purchasing policies and the use of force account labor. In Title 23, Section 291 of the Baltimore County Code (1953 Supp.) competitive bidding is required on all road construction work with an estimated outlay of \$10,000 or more; under the Charter, Section 902, this figure is reduced to \$1,000 unless and until the County Council sees fit to raise this figure to \$3,000. Under the Baltimore City Charter (1949 ed.) Section 37, competitive bidding is required on all purchases and contracts in excess of \$2,000.

Section 291 of the Baltimore County Code goes on to provide that "after receiving bids" on road construction jobs, the County Commissioners may proceed to have the work done by force account labor if, as a result, it can be done "at lower cost". The Charter Board believed this latter provision of existing law to be unduly restrictive. Accordingly, Section 904 provides that all construction, maintenance and repair work, a phrase which necessarily includes work on roads, must be subject to competitive bidding unless the work is to be done by force account labor. In that event, all materials and supplies used by the County's laboring force must be purchased in the manner provided in Article IX.

Section 905. *Conformity with Budget Limitations.* This section corresponds with Sections 517 and 715, and has been fully discussed in the Notes to those sections.

Section 906. *Furthering Legislation.*  
and

Section 907. *Effective Date of this Article.*

These sections should be read and considered together. Since the purchasing policies and practices in the Charter are somewhat different from those now in force, the Charter Board considered it desirable to require the County Council at its first legislative session to enact supplemental legislation setting up the machinery to put these policies and practices into operation. In order not to disturb the continuity of government in the period before this legislation takes effect, Section 907 provides that Article IX shall become operative coincident with the effective date of the supplemental legislation, or, in any event, not later than forty-five days after the close of the first annual legislative session.

## ARTICLE X

Section 1001. *Personal Interest of County Officers and Employees in County Business.* The manifest object of this section is to prohibit in the most positive terms the personal interest of any officer or employee in any county contract or business. Whether or not such abuses are practiced today (and the Charter Board was presented with no evidence that they are), it seemed essential to include in the Charter an unequivocal prohibition against insurance premium "kick-backs", forwarding fees involving proceedings before County agencies, split commissions on real estate transactions and other public contracts, and a host of other practices which history has established as the basis of much governmental corruption.

In view of the definition of the word "officer" in Section 1009(j), the provisions of Section 1001 will apply to "county councilmen".

Under existing law, Article 25, Section 26 of the State Code, County Commissioners are prohibited, in broad terms, from having any interest, direct or indirect, in the profits or emoluments of any agreement or contract to which the County is a party. It was the consensus of the



Charter Board that the policy behind this general provision should be made applicable to all officers and employees holding a public trust in the County government.

Section 1001 (b) is intended to provide a realistic solution to the problem of the inconsequential infraction, a problem inherent in any blanket prohibition of this kind. The Charter Board recognized that it is impossible to define in a statutory or charter provision what is a "substantial financial interest", the question being answerable only after consideration of the facts of the individual case. Section 1001 (b), therefore, requires such facts to be disclosed to the County Council, and the Council may by resolution exonerate an officer or employee from what might otherwise constitute an infraction of Section 1001 (a).

Section 1001 (c) contains self-explanatory penalties for violations of this section. It will be noted that these penalties apply not only to County employees but also to any private person who offers or pays to any employee any part of any fee, commission or other form of compensation in connection with any County business or proceeding.

Section 1002. *Additional Compensation Prohibited.* The purpose of this section is clear and requires no comment.

Section 1003. *Copies of Books and Papers on Demand.*  
and

Section 1004. *Inspection of Books, Accounts and Papers.*

These sections are closely related and should be considered together. They insure the right of public inspection of public business. They are similar to Article VIII, Sections 2 and 3 of the Montgomery County Charter, but eliminate the Montgomery County provisions relating to court orders for their enforcement. The Charter Board believed that if a private citizen were denied the rights guaranteed by these sections, he could readily enforce his rights by *mandamus* proceedings.

Section 1005. *Compilation of Laws.* If the voters of the County assume the responsibilities of home rule by the adoption of the Charter, the Charter Board believed it essential that the Bench and Bar of the County be pro-

vided with a modern Code of Laws. Section 1005 is intended to accomplish this result.

The Charter Board recognized that the preparation of the first County Code after the adoption of the Charter would be a task of some magnitude. Under the commissioner form of government, the resolutions and ordinances of the County Commissioners are filed in voluminous minute books, and in some cases it is extremely difficult, if not impossible, for the private citizen to determine what actions of the Commissioners still have the force and effect of law. It will, therefore, be extremely time-consuming and onerous to go through the old minute books to compile the resolutions and ordinances which should be included in the new Code, but the Charter Board believed this work to be essential to the administration of good government. As pointed out in the Notes to Section 510, the County Council is empowered to engage attorneys and "other qualified persons" as "codifiers".

The Montgomery County Charter requires a recodification of the County Code every five years, whereas Section 1005 of the Baltimore County Charter calls for a recodification at intervals not greater than every ten years. With an annual Cumulative Supplement as required in Section 1005 (b), the Charter Board believed that a decennial recodification would probably suffice. However, the question is in the last analysis left to the County Council for decision in the light of practical experience.

Section 1006. *Bonding of Officers.* This section seems self-explanatory.

Section 1007. *County Seal.* Under Article 25A, Section 1 of the State Code, a chartered county has the right to "have, use and alter at pleasure a common seal". The purpose of Section 1007 of the Charter is to exercise this power, leaving to the County Council the duty of working out the formal details.

Section 1008. *Subpoena Power.* The object of granting subpoena power to various officers and agencies seems self-evident.

Section 1009. *Definitions and Rules of Construction.* The purpose of Section 1009 is simply to remove questions of construction which might otherwise arise as to the meaning of various terms used throughout the Charter.

Section 1010. *Custody of Papers and Records.* This section was added to the tentative draft in the belief that a County of the size of Baltimore County should have legislation covering the custody of important papers not specifically entrusted to the Director of Finance under Sections 515 and 516.

Section 1011. *Separability.* A separability clause is, of course, a standard provision of all modern charters or legislative acts of this complexity.

Section 1012. *Citation.* The purpose of this section is self-evident.

## ARTICLE XI

### TRANSITORY PROVISIONS

Section 1101. *Nature of this Article.* As the title implies, this Article applies to the period between the adoption of the Charter and the institution of the new form of government provided therein. Since the Article relates to delicate questions of constitutional law, a number of its sections follow closely the corresponding provisions of the Montgomery County Charter which have been considered by the Maryland Court of Appeals.

Section 1102. *Effective Date of this Charter.* This section has reference to Article XI A, Section 1 under which a charter becomes the law of the County from and after the thirtieth day from the date of the election at which it is approved by the voters.

Section 1103. *Special Election for First County Council.* A provision similar in legal effect to Section 1103 was sustained by the Court of Appeals in *County Commissioners v. Supervisors of Elections*, 192 Md. 196, 63 A. 2d 735 (1949), a case involving Article IX, Section 3(a) of the Montgomery County Charter. In that County a special

election for the first County Council took place thirty-five days after the effective date of the Charter.

Nominations for the first councilmanic election in Montgomery County were made only by the petition of 500 registered voters. This same method was prescribed in the tentative draft of the Baltimore County Charter. In the final draft, however, this provision was revised at the suggestion of the Citizens' Committee for Charter Government so as to permit nominations to be made also by the State Central Committees of the two major political parties. On reconsideration, this amendment seemed a practical and realistic one which may induce men of high character to stand for election to the first County Council. The political parties would undoubtedly submit a slate of candidates in any event, and if their Central Committees succeed in proposing men and women of ability and integrity, there may be no need to resort to nominations by petition. This privilege is guaranteed by Article 35 Section 44 of the State Code but is not widely used.

In *County Commissioners v. Supervisors of Elections*, *supra*, the Court of Appeals held that in providing for its first elective council, the chartered county has "implied power" to prescribe "the means and conditions under which such election shall be held".

Section 1104. *Terms of Office of Members of First County Council.* This section is derived from Article IX, Section 3(b) of the Montgomery County Charter and seems self-explanatory.

Section 1105. *The Method of Selection of First County Executive.* Under Article 25A, Section 5(R) of the State Code the chartered county is given power "to fix the qualifications and term of office of such County executive authority as may be established, and to fix its compensation". This power seems clearly to carry with it the power to fix the term and method of selection of the first County Executive.

The Charter Board had two basic reasons for providing in Section 1105 that the President of the Board of County



Commissioners holding office at the effective date of the Charter should automatically be the first County Executive:

First, the Board believed that it would be extremely difficult to persuade good men from both political parties to run in an election for a full time political office to serve for less than twenty-two months, i.e. January 1957 to November 1958. This would be especially true where, as here, the election would be held only a few weeks after a general presidential election. The same problem should not be encountered for the office of County Councilman, an office which is far from "full-time" and which offers many challenging opportunities without the burdens of executive responsibility.

In the second place (and perhaps more importantly) the Charter Board recognized that many of the reforms provided in the Charter are not self-executing, but will require skilful handling on the part of governmental officials and patience on the part of the public. A substantial part of this responsibility will be imposed on the first County Council whose members will be serving without previous experience in the office and who will be responsible for enacting some legislation of far-reaching importance. The Charter Board believed that this task would be materially lightened and the interests of the County best served if continuity were insured in the executive branch during the two-year transition period.

Section 1106. *The Existing County Commissioners.* This section avoids an *inter regnum* by retaining the County Commissioners in office until the first County Council has been elected and qualified. The section is quite similar to Article IX, Section 4(a) of the Montgomery County Charter, a provision which was referred to and upheld by the Court of Appeals in *County Commissioners v. Supervisors of Elections*, 192 Md. 196, 63 A. 2d 735 (1949).

Section 1107. *Reference in State Constitution and Laws to County Commissioners.* This section is derived from Article XI A, Section 3 of the State Constitution which provides in the case of a chartered county that all references in the Constitution and laws to County Commissioners shall

be taken to mean the County Council and chief executive officer whenever such construction would be reasonable. Although this constitutional provision designates the executive officer as "President of the County Council", the Charter Board relied on an opinion of its Legal Counsel, holding that the Charter may validly designate the chief executive officer as the "County Executive".

Section 1108. *Selection and Term of First County Administrative Officer.* The object of this section seems self-evident.

Section 1109. *The County Treasurer; Additional Bond of Director of Finance.* Although Section 515 provides that the Director of Finance shall be responsible for the duties now discharged by the County Treasurer, the transitory provisions of Article XI, being inconsistent therewith, constitute exceptions thereto. Section 1109 is manifestly intended to postpone the abolition of the office of County Treasurer until the date of the general election in November 1958. See also: The Notes to Section 515 *supra* for a discussion of the reasons for placing within the Office of Finance the functions discharged by the County Treasurer.

The bonds required of the County Comptroller under existing law are specified in Title 4, Section 58A of the Baltimore County Code, and the bonds required of the County Treasurer are stated in Title 5, Section 60.

Section 1110. *Time Certain Articles Become Operative.* As stated in Section 1102, the Charter takes effect as the law of the County thirty days after its adoption. The first County Council will be elected on January 23, 1957 in accordance with Section 1103, and during this intervening period the County Commissioners under Section 1106 will hold over with their existing powers and duties. To avoid any misunderstanding as to the powers of the Commissioners in this transition period, Section 1110 postpones the operative date of Articles I to X, inclusive, until the first county council is elected and the members have qualified. During the transition period, therefore, the County Commissioners will by Charter mandate perform the powers and duties which they were entitled to perform prior to the adoption of the Charter.

It will be remembered that Article IX, relating to Centralized Purchasing, does not become operative until after the first legislation session of the County Council. See Section 907 and the Notes thereto, *supra*.

Article IX, Section 5 of the Montgomery County Charter is very similar in substance and effect to Section 1110 of the Baltimore County Charter. It is one of the sections referred to and approved in *County Commissioners v. Supervisors of Elections*, 192 Md. 196, 63 A. 2d 735 (1949).

Section 1111. *Existing Laws*. Under Article XI A, Section 3 of the State Constitution, the provisions of the Charter and legislative acts of the County Council may be inconsistent with and thereby repeal or amend the public local laws of the County on all matters covered by the Express Powers Act, i.e. Article 25A of the State Code. Accordingly, Section 1111 provides that to the extent of such inconsistency, all public local laws of the County and all rules, regulations, resolutions and ordinances of the County Commissioners are to be considered repealed, and to the extent that such inconsistency may not exist, such laws, rules, regulations, resolutions and ordinances are to remain in full force and effect until hereafter amended or repealed. A very similar provision was contained in the Montgomery County Charter, Article IX, Section 6 and was referred to in *Bratburd v. State*, 200 Md. 96, 88 A. 2d 446 (1952).

During the consideration of the tentative draft, County Bond Counsel suggested to the Charter Board that prior to the adoption of the Charter the County Commissioners may make borrowing commitments in reliance on the provisions of existing law, and may also secure at the 1956 general election voter approval for borrowing in the next two years. In order to avoid any questions as to the validity of such acts, a proviso was added to the end of Section 1111 so that all laws relating to the borrowing authority of the County in force at the adoption of the Charter shall remain in effect until the general election in November 1958. In view of this provision, any actions or procedures taken by the County Council between 1956 and 1958 and

relating to borrowing, will be valid and not subject to question if they meet the requirements of the Charter or the requirements of existing law.

Section 1112. *Existing Officers and Employees*. This section preserves the right of all appointive officers and employees of the County to continue to hold their positions at their existing compensation after the adoption of the Charter, with the exception only of the holders of those offices specifically abolished. Since no appointive offices other than certain boards and commissions are abolished in the Charter, the practical effect of this section is to preserve existing jobs subject to the effect of the County Personnel Law and the pre-existing right of appointing authorities to dismiss for cause.

Needless to say, this section is not intended to restrict in any manner the rights of the first County Executive and first County Administrative Officer in their appointment or removal of department heads. Rather, the purpose of Section 1112 is to make it abundantly clear to the officers and employees of the County that the Charter itself does nothing to impair their job security.

Section 1113. *Existing Members of Boards and Commissions*. The principal effect of this section is to perpetuate the membership of the existing Recreation Board and Personnel and Salary Advisory Board. Their terms of office would be reckoned from the dates of their appointment, and no new appointment would be required pursuant to the Charter. Although not mentioned by name, the same result will obtain as to the Planning Board and other boards and commissions not specifically abolished by the Charter.

Section 1114. *Abolition of Certain Inactive Boards and Commissions*. The Youth Commission, the Trade Commission and the Trustees of the Poor are three inactive agencies which are abolished by Section 1114.

Section 1115. *Existing County Seal*. The self-evident purpose of this section is to preserve the legality of the existing County Seal until a new one shall have been adopted under Section 1007.



## ARTICLE XII

MANNER OF TERMINATING THIS CHARTER AND  
MAKING AMENDMENTS THERETO.

Section 1201. *Termination.* Although Article XI A of the State Constitution sets forth the procedure for amending a Charter after its adoption, the Constitution contains no provisions relating to the termination of a Charter and the return to the commissioner form of government. Nevertheless, the Charter Board felt it essential to provide in the Charter itself the means of effecting its termination. Section 1201 accomplishes this objective.

Termination of the Charter can only be accomplished by submitting the question to a referendum of the qualified voters of the County. A proposal for termination can be instituted either by (1) legislative act of the County Council or (2) a petition signed by not less than 10,000 registered voters.

Manifestly, the termination of the Charter after its adoption is not to be taken lightly. Accordingly, Section 1201 requires that the legislative act of the Council proposing termination must be approved by a vote of not less than six members of the County Council. This act would be subject to the executive veto, but since five votes of the Council will override a veto, the question could not be blocked by the County Executive unless two councilmen were to change their votes. Once the question has been proposed, whether by legislative act of the Council or by petition, it must be published in at least two County newspapers once each month for five successive months prior to the next general election. This provision will insure that the voters of the County are given at least five months prior to an election to debate the question.

Section 1202. *Amendment.* The Charter Board believed that amendments to the Charter should be facilitated rather than discouraged. Despite all the efforts which have been taken to make the Charter adaptable to changing conditions over the years, amendments will inevitably be required.

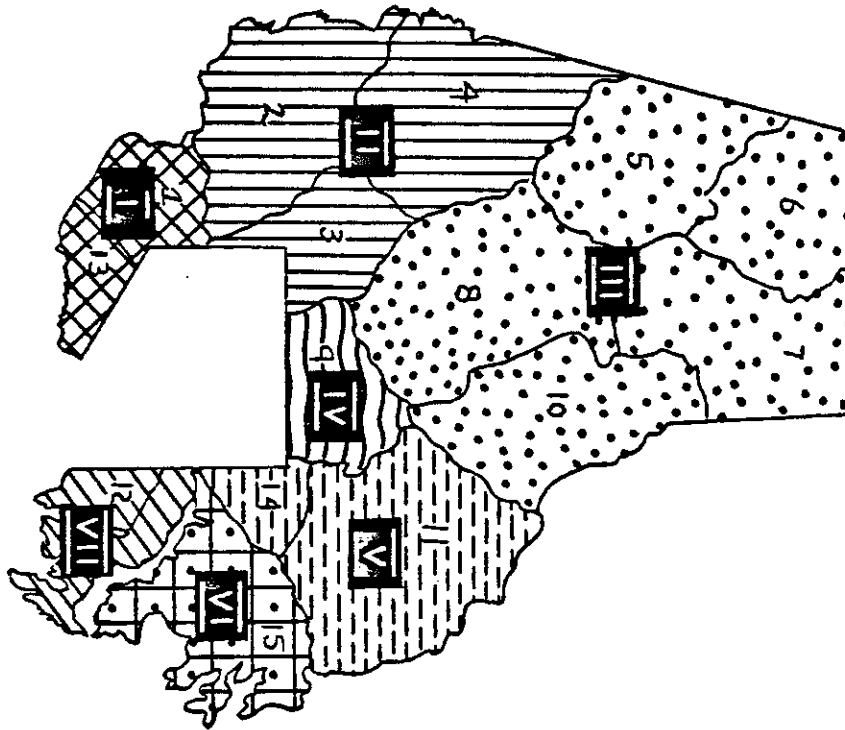
Amendments may be proposed by legislative act of the County Council or by petition signed by not less than 10,000 registered voters. An act of the Council proposing a charter amendment is made expressly exempt from the executive veto, this being in accord with the practice on the State level. See: Article XIV, Section 1 of the State Constitution; Niles, *Maryland Constitutional Law*, 334; *Warfield v. Vandiver*, 101 Md. 78, 60 A. 538 (1905).

The formalities required of a petition proposing a Charter amendment are covered by the provisions of Article XI A, Section 7 of the State Constitution.

The publication of a proposed amendment is required by Article XI A, Section 5, which prescribes publication "by said Mayor of Baltimore or President of the County Council once a week for five successive weeks prior to said election in at least one newspaper published in said City or County". For reasons more fully stated in the Notes to Sections 302(a) and 402(a), the Charter Board construed the constitutional designation of the chief executive officer as "President of the County Council" to be directory rather than mandatory. Hence, the "County Executive", rather than the "President of the County Council", is required in Section 1202 to cause the publication of the proposed Charter amendments in the County newspapers. It should also be mentioned that the constitutional provision for publication "in at least one newspaper" was considered by the Charter Board a minimum requirement; in view of the large land area of the County and the difficulty of achieving wide circulation of one newspaper therein, the Charter requires the proposed amendments to be published in "at least two newspapers".

## PLATE NO. 1

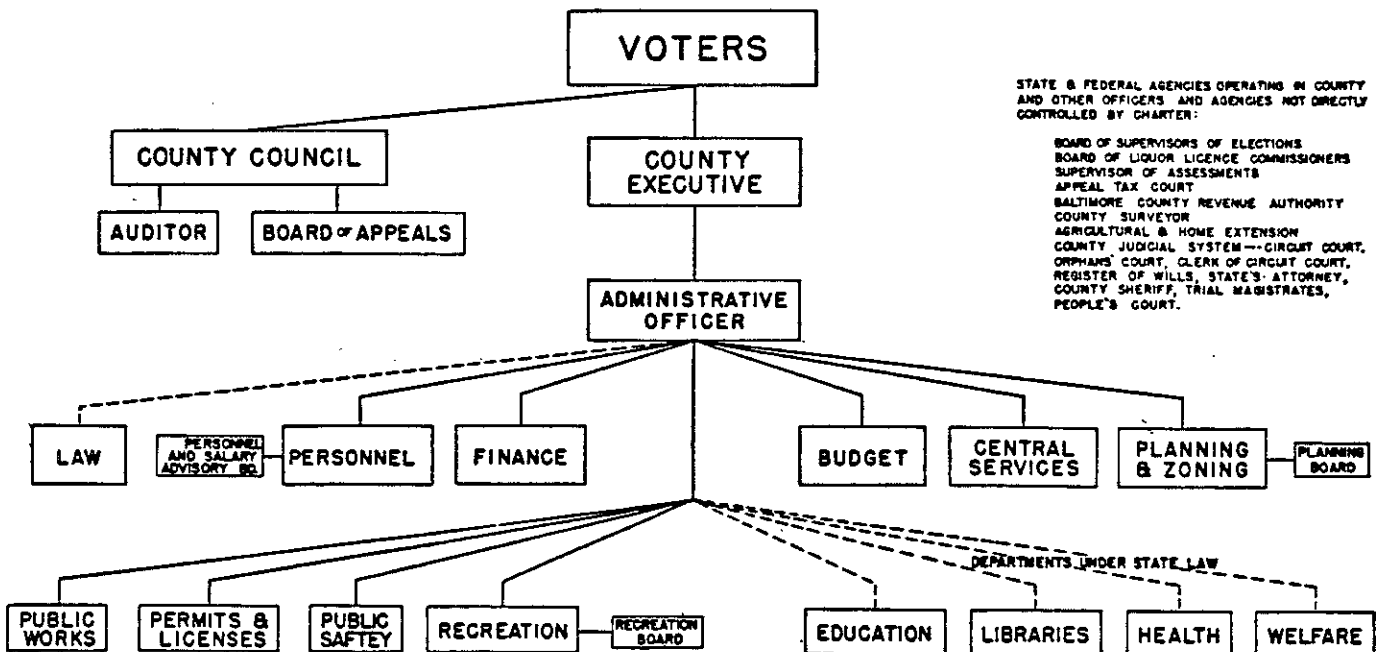
Arrangement of Councilmanic Districts in Section 206 of  
Proposed Home Rule Charter for Baltimore County



Roman numerals indicate councilmanic districts prescribed in the Charter.  
Arabic numerals indicate existing election districts.

## PLATE NO. 2

## GOVERNMENTAL ORGANIZATION OF BALTIMORE COUNTY UNDER PROPOSED HOME RULE CHARTER



Note: Dotted line between Administrative Officer and Office of Law indicates appointment of County Solicitor by County Executive, subject to confirmation by County Council.

Dotted line between Administrative Officer and Departments of Education, Libraries, Health and Welfare indicates their independence, in varying degrees, from control by public local law.



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