

MEMORANDUM

TO: Management and Fiscal Policy Committee

FROM: Robert H. Drummer, Legislative Attorney 

SUBJECT: **Worksession:** Bill 31-09, Administration – Consideration of Bills – One Subject

Bill 31-09, Administration – Consideration of Bills – One Subject, sponsored by Council President Andrews, Councilmember Elrich, Councilmember Ervin, Council Vice-President Berliner, and Councilmember Navarro, was introduced on July 28. A public hearing was held on September 15.

Background

The Maryland Constitution, Article III, §29 requires all laws enacted by the General Assembly to contain only one subject. The applicability of this constitutional provision to laws enacted by a home rule county council exercising the legislative power granted to it by a county charter is unclear. Bill 31-09 would apply this State constitutional standard to bills enacted by the Montgomery County Council by requiring them to contain only one subject.

The intent of the one subject rule in the State Constitution is to prevent the attachment of an unrelated provision to a pending bill that must be enacted if the Legislature wants to enact the original bill.¹ The one subject rule also protects the integrity of the Governor's veto power by preventing the Legislature from enacting a law on two disparate subjects that would require a choice between signing both or neither provision into law. Bill 31-09 would apply this same rule to County legislation.

Public Hearing

Both speakers at the September 15 public hearing supported the Bill. Jacques Gelin (©6) and Dwight Cramer (©7-8) each testified that limiting bills to one subject was a good government practice.

¹ *Davis v. State*, 7 Md. 151(1854)

How has the one subject rule in the Maryland Constitution been applied by the Courts?

The one subject rule was added to the Maryland Constitution in 1851. Bill 31-09 would apply a similar one subject rule to County laws.² In *Maryland Classified Employees Association, Inc. v. State of Maryland*, 346 Md. 1 (1997), the Maryland Court of Appeals held that two matters can be considered one subject under the Constitution either because of a direct connection between them, horizontally, or because each matter has a direct connection to a broader subject. The Court went on to uphold a Bill that combined a provision authorizing the privatization of child support collection in 3 Counties with provisions requiring recipients of welfare payments to obtain job training. The Court found that both subjects related to the broader subject of welfare reform.

The Court held that a law enacted by the General Assembly was unconstitutional because it combined more than one subject in *Porten Sullivan corp. v. State*, 318 Md. 387 (1990). In this case, the General Assembly added ethics provisions for members of the Prince George's County Council to a short law governing a Prince George's County transfer tax. The Court rejected the State's argument that both of these matters related to the broader subject of managing the public affairs of Prince George's County.

The Council's practice has been to conform to the one subject rule in enacting legislation.³ Bill 31-09 would codify this practice. **Council staff recommendation:** approve the Bill as introduced.

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² Even if Bill 31-09 is enacted, the Council could still waive the one subject rule for a specific Bill by adding a section to the Bill expressly permitting multiple subjects in that Bill. The Council would, however, be unable to do this if the one subject rule was added to the County Charter.

³ The Council President split up a proposed Bill recommended by the Executive last March on the basis that it contained 3 different subjects. One of the subjects was a Bill that was already pending before the Council. The other two subjects were introduced as separate Bills by the Council President.

Bill No. 31-09
Concerning: Administration-
Consideration of Bills – One Subject
Revised: September 16, 2009
Draft No. 4
Introduced: July 28, 2009
Expires: January 28, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Andrews, Councilmember Elrich, Councilmember Ervin, Council Vice-President Berliner, and Councilmember Navarro

AN ACT to:

- (1) require bills enacted by the Council to contain only one subject; and
- (2) generally amend the law governing Legislative Sessions.

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-82

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

LEGISLATIVE REQUEST REPORT

Bill 31-09

Administration – Consideration of Bills – One Subject

DESCRIPTION: To require bills enacted by the Council to contain only one subject and generally amend the law governing Legislative Sessions.

PROBLEM: The Maryland Constitution, Article III, §29 requires all laws enacted by the General Assembly to contain only one subject. The applicability of this constitutional provision to laws enacted by a home rule county council exercising the legislative power granted to it by a county charter is unclear. This Bill would apply the State constitutional standard to Bills enacted by the Montgomery County Council.

GOALS AND OBJECTIVES: To require bills enacted by the Council to contain only one subject.

COORDINATION:

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: N/A.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: To be researched.

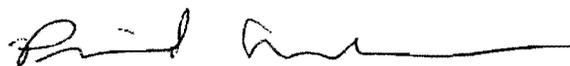
PENALTIES: Not applicable.

MEMORANDUM

July 24, 2009

TO: Councilmembers

FROM: Phil Andrews, Council President



SUBJECT: "Clean-vote", single-subject requirement for legislation

On Tuesday, I will introduce Bill 31-09, which requires that a bill enacted by the County Council be limited to one subject. This has been the practice of the County Council over the years for good reason. Limiting bills to one subject provides accountability by ensuring a clean vote on an issue. In addition, bills with multiple subjects may distort the legislative process by enabling subjects that would not pass on their own to become law as a result of being subsumed in an omnibus bill.

The concern about multiple-subject legislation is not academic. In March, the County Executive sent over a bill for introduction containing three very different subjects. Prior to introduction, I had our legislative attorneys divide the bill to adhere to the single-subject practice that the Council has followed for many years (one of the subjects of the bill duplicated a bill pending before the Council, so it was not introduced).

The Council should stop this potentially significant problem in its tracks, as a previous Council did with regard to regulations when it approved legislation in 1984 that limits a regulation to one subject. Councilmember Elrich has agreed to co-sponsor this "clean-vote" bill, and I would welcome your co-sponsorship as well. Its enactment would institutionalize a good-government practice in our County.

BILL 31-09



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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

September 1, 2009



TO: Phil Andrews, Council President
FROM: Joseph F. Beach, Director
SUBJECT: Council Bill 31-09, Administration – Consideration of Bills – One Subject

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

The proposed legislation requires bills enacted by the Council to contain only one subject and generally amend the law governing Legislative Sessions. The Maryland Constitution Article III, paragraph 29 requires all laws enacted by the General Assembly to contain only one subject. This Bill would apply the State constitutional standard to bills enacted by the Montgomery County Council by requiring them to contain only one subject.

FISCAL SUMMARY

There is no anticipated fiscal impact to the County. The Bill requires no additional resources to implement, as one bill; one subject has been the practice of the Council regarding legislation over the years.

ECONOMIC IMPACT STATEMENT

The Department of Finance reviewed the bill and determined that there is no economic impact to the County.

The following contributed to this analysis: John Cuff of the Office of Management and Budget, and David Platt of the Department of Finance.

JFB:jc

Attachment

- c: Timothy L. Firestine, Chief Administrative Officer
- Kathleen Boucher, Assistant Chief Administrative Officer
- Jennifer Barrett, Department of Finance
- Mike Coveyou, Department of Finance
- David Platt, Department of Finance
- Beryl Feinberg, Office of Management and Budget
- John Cuff, Office of Management and Budget

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MONTGOMERY COUNTY
COUNCIL

Office of the Director

Statement of Jacques Gelin in support of Bill 31-09
September 15, 2009

President and members of the County Council: I urge you to support this bill that requires all bills enacted by this body to contain only one subject. Frankly, I am somewhat embarrassed to even have to make this request for the simple reason that I cannot for the life of me imagine a rational argument why you should not adopt it unanimously.

Our State Constitution, Article III, Section 29 requires all laws enacted by the General Assembly to contain only one subject. Your legislative attorney has advised you that it is unclear whether this constitutional provision applies to laws enacted by a home rule county council exercising the legislative power granted to it by its county charter. This bill is designed to eliminate any ambiguity on this matter.

As the memorandum of the Council President explains, "Limiting bills to one subject provides accountability by ensuring a clean vote on an issue. In addition, bills with multiple subjects may distort the legislative process by enabling subjects that would not pass on their own to become law as a result of being subsumed in an omnibus bill."

Simply stated, this bill is a matter of good governance. Enact it, and do so promptly.

#6-2

MONTGOMERY COUNTY COUNCIL

Testimony on bill 31-09

Dwight Cramer

September 15, 2009

I am Dwight Cramer of North Bethesda, a long time resident of Montgomery County. When I have been in the country (14 years overseas in the foreign service), I have always been interested in the governance of the county.

I am a past president of Common Cause of Maryland and currently serve on the Board again. Common Cause in this state and nationally supports such clean governmental processes as proposed in bill 31-09, now before the Council. I have informed the Common Cause Board about this bill, but it has not had the opportunity to read the bill nor time to study it, so has not taken a position. I am speaking for my self.

Bill 31-09 would codify the practice of confining legislation to one subject. This is a practice that could be lifted from many textbooks on good government that recommend this process to promote open and responsible decision making for legislative bodies. As has happened so many times in other governing bodies, unrelated bills that could not pass in isolation because of the lack of broad support and the fact they represented a very narrow interest, are railroaded through using this technique. This bill would lock the door on such practices before they happen.

We saw just this year an egregious example of how the practice of tacking on unrelated riders to legislation can prove detrimental. When a bill to give the citizens of the District of Columbia the right to elect a voting Representative to the House of Representatives for the first time in history seemed close to success in Congress, an unrelated amendment to repeal most of the city's gun laws was attached and suddenly put the whole proposal on indefinite hold. Whatever your views on guns, this development muddied and confused the principal legislative issue at hand, and led to a dishonest skirting of an historic opportunity for Congress to solve this longstanding injustice.

We should take as an example the Maryland State Constitution which in Article II, Section 29 states "...every law enacted by the general Assembly shall embrace but one subject..." This was no doubt broadly considered before adoption and determined to be in the long term interest of the people of the state. We in this county should do the same.

research, 79% of the public believes Congress will not tackle “the important issues facing America today, like the economic crisis, rising energy costs, reforming health care, and global warming” because of large political contributions.

- The Fair Elections Now Act was introduced on the same day and with a joint press conference in both the House & Senate by Sen. Dick Durbin (D-IL) and Sen. Arlen Specter (D-PA) in the Senate and Rep. John Larson (D-CT) and Rep. Walter Jones (R-NC) in the House. The Senate bill numbers are (S. 752—substance of the bill & S. 751 funding mechanism). The House bill number is HR 1826.