

**Public Hearing**

**Councilmembers should bring their copy of the 2010 Report of the Charter Review Commission.**

**MEMORANDUM**

June 25, 2010

TO: County Council

FROM: Amanda M. Mihill, Legislative Analyst   
Justina J. Ferber, Legislative Analyst 

SUBJECT: **Public Hearing:** 2010 Report of the Charter Review Commission

The Charter Review Commission submitted its biennial report to the Council on May 1, 2010. The Report, excluding the Appendix, is attached on ©1. Complete copies of the Report are available from Council staff or online at [http://www.montgomerycountymd.gov/content/council/pdf/SCANNED\\_DOCS/2010charterreviewcommissionreport.pdf](http://www.montgomerycountymd.gov/content/council/pdf/SCANNED_DOCS/2010charterreviewcommissionreport.pdf). To date, Council staff is aware of several petitions circulating, but is not aware of any that have been filed with the Board of Elections.

**Charter Review Commission Recommendations**

**1. Appointment of the Inspector General**

The Commission studied whether the Charter should be amended to allow for an Executive-nominated, Council-confirmed Inspector General and recommended against amending the Charter to make this change. A majority of the Commission felt that the current structure and appointment process for the Inspector General provides the Office with a great deal of independence (see ©10). During the presentation of the Commission's Report on June 15, Executive staff clarified that the Executive is not recommending a change to the appointment process for the Inspector General.

**2. Special Taxing Districts (Charter Section 305, Approval of the Budget; Tax Levies)**

Council staff and some Councilmembers raised the issue of whether to exclude certain special taxing districts from the Charter's limit on the growth of the property tax revenue to the rate of

inflation. The Commission recommended against a Charter amendment to exclude special taxing districts from the Charter limit (see ©12).

**3. Supermajority Provisions for Budget Approval and Tax Levies (Charter Section 305, Approval of the Budget; Tax Levies)**

Before the November 2008 election, Commission members expressed their deep concern with a ballot initiative that would require 9 Councilmembers to vote to approve an operating budget including property tax revenue that exceeds the previous year's revenue plus inflation and recommended against this Charter change. Voters approved the Charter amendment. The Commission expressed its concern about the wisdom of any Charter provision that requires supermajorities and recommended the next Commission consider this issue (see ©17).

**4. Special Fund Above 5% Limit to be Used When Revenue Collections do not Meet Revenue Projections (Charter Section 310, Surplus)**

Several Councilmembers noted that during hard times in the economic cycle, County residents are confronted with increasing needs at the time when County tax revenues are decreasing. Charter §310 limits the accumulation of unappropriated surplus. The Commission began studying a potential revision of §310 to permit the County to save more funds during good times, but ultimately did not recommend a change in §310 (see ©18).

**5. Redistricting Procedure (Charter Section 104, Redistricting Procedure)**

The Commission considered the current procedure for redistricting with the goal of identifying an improved process for determining election districts for members of the County Council. The Commission recommended not to further study this issue at this time. The Commission noted that there was not much time left in their term and recommended that the next Commission consider whether to study the issue further (see ©20).

**6. Hiring Authority for Persons with Disabilities (Charter Section 401, Merit System)**

The Commission, at the request of the Council, considered whether to amend the Charter to allow special hiring authority under the County merit system to recruit, select, and hire persons with disabilities for merit system positions. After much discussion, only a minority of Commission members favored amending the Charter to create a special hiring authority. Although sympathetic with the goals of the proposal, a majority of Commission members did not recommend amending the Charter at this time. See ©23 for a letter from Ms. Nancy Soreng to Council President Floreen explaining the Commission's position on this issue.

This packet contains

2010 Commission Report

June 4, 2010 memorandum from Ms. Soreng

Circle

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2010  
*Report of the  
Charter Review Commission*

*May 2010  
Montgomery County, Maryland*



## CHARTER REVIEW COMMISSION

April 30, 2010

Montgomery County Council  
Stella Werner Council Office Building  
100 Maryland Avenue, 6<sup>th</sup> Floor  
Rockville, Maryland 20850

Dear Councilmembers:

As Chair of the Charter Review Commission, it's my pleasure to submit the 2010 Report for the Council's consideration. The Charter provides an effective framework for governance that continues to support the ever-changing needs of the County and its residents.

Since its last report was issued in May 2008, the Commission studied 5 issues related to the current charter and at this time is recommending no changes to the existing charter.

On November 30, 2009 then-Council President Phil Andrews sent the Commission a memorandum stating that the Council voted unanimously to ask the Charter Review Commission to study whether to amend the Charter to allow a special hiring authority to be established in the County merit system that would permit an alternative approach for the recruitment, selection, and hiring of people with disabilities into merit system positions. Any recommendation regarding this proposed change to the Charter will be made after this report has been submitted.

The Commission appreciates the comments it received from government officials and residents because this information helped the Commission identify issues and guided its deliberations on matters that affect County residents. Without the participation of all of these groups, the Commission would not have functioned as effectively.

On behalf of the Charter Review Commission, thank you for the opportunity to serve the County as members of this Commission.

Respectfully submitted,

A handwritten signature in black ink that reads "Nancy Soreng".

Nancy Soreng, Chair  
Charter Review Commission

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# CHARTER REVIEW COMMISSION

## Members

*Nancy Soreng, Chair*

*Alice Gresham Bullock, Vice-Chair\**

*Michael Cogan*

*Karen Czapanskiy*

*Wilbur Friedman*

*Mollie Habermeier*

*Robert Shoenberg*

*Moshe Starkman\*\**

*Judith Vandegriff*

*Anne Marie Vassallo*

*Charles Wolff*

*\*Resigned in January 2010*

*\*\*Appointed in March 2009*



# **2010 Report of the Charter Review Commission**

## **Staff**

**Amanda Mihill, Legislative Analyst, County Council Office**

**Justina Ferber, Legislative Analyst, County Council Office**

**Marie Jean-Paul, Legislative Services Coordinator,  
County Council Office**

**Marc Hansen, Acting County Attorney,  
Office of the County Attorney**

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## I. INTRODUCTION

The Constitution of Maryland, Article XI-A, enables counties to adopt charters to establish local governments. County charters are, in effect, constitutions for county governments because they establish the duties and responsibilities for the different branches of government.

The voters of Montgomery County adopted a charter form of government in 1948. In subsequent general elections, voters adopted several amendments to the original Charter. The current Charter was adopted in 1968, with subsequent amendments.

Charter §509, adopted by amendment in 1976, requires the quadrennial appointment of an eleven-member, bipartisan Commission to study the Charter and make recommendations on potential Charter amendments. Commission members serve four-year terms, and no more than six of the eleven members may be from the same political party.

The Commission researches and evaluates Charter issues raised by the Executive, Councilmembers, other government officials, and the public. A report on the Commission's activities must be submitted to the Council no later than May 1 of every even-numbered year. The biennial report outlines the issues that the Commission considered and recommends Charter amendments to include on the general election ballot. By mid-August, the Council determines which Charter questions in addition to those raised by petition, will be placed on the ballot.

Since its last report was issued in May 2008, the Commission studied 5 issues related to the current charter and at this time is recommending no changes to the existing charter. During this timeframe, the Commission met with two sitting Councilmembers and relevant Executive and Maryland-National Capital Park and Planning Commission staff. The Commission held a public forum on October 6, 2008 and requested comments from various civic, business, ethnic, and nonprofit groups and individuals. Information gathered from these discussions was

evaluated to determine if Charter amendments were warranted to improve governmental performance and accountability.

On November 30, 2009 then-Council President Phil Andrews sent the Commission a memorandum stating that the Council voted unanimously to ask the Charter Review Commission to study whether to amend the Charter to allow a special hiring authority to be established in the County merit system that would permit an alternative approach for the recruitment, selection, and hiring of people with disabilities into merit system positions. The memorandum requested comment by July 1, 2010. The Commission has not completed its deliberations on the topic. Any recommendations regarding this proposed change to the Charter will be made after this report has been submitted.

## **II. SUMMARY OF CHARTER REVIEW COMMISSION'S RECOMMENDATIONS**

### **A. RECOMMENDATIONS FOR CHARTER AMENDMENTS**

The Commission is not recommending any Charter changes at this time.

### **B. RECOMMENDATIONS REQUIRING NO CHARTER CHANGES**

#### **1. APPOINTMENT OF THE INSPECTOR GENERAL**

County Executive Leggett suggested that the Charter be amended to allow for an Executive-nominated, Council-confirmed Inspector General. The Commission recommends 7-0-2 (1 Commissioner absent and 1 position vacant) against amending the Charter to make this change. A majority of the Commission felt that the current structure and appointment process for the Inspector General provides the Office with a great deal of independence. (Refer to the information beginning on page 4.)

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**2. SPECIAL TAXING DISTRICTS**  
**Section 305, Approval of the Budget; Tax Levies**

Council staff and some Councilmembers raised the issue of whether to exclude certain special taxing districts from the Charter's limit on the growth of the property tax revenue to the rate of inflation. The Commission voted 7-2 (1 Commission member absent and 1 position vacant) to recommend against a Charter amendment to exclude special taxing districts from the Charter limit. (Refer to the information beginning on page 6.)

**3. SUPERMAJORITY PROVISIONS FOR BUDGET APPROVAL AND TAX LEVIES**  
**Section 305, Approval of the Budget; Tax Levies**

Before the November 2008 election, Commission members expressed their deep concern with a ballot initiative that would require 9 Councilmembers to vote to approve an operating budget including property tax revenue that exceeds the previous year's revenue plus inflation and recommended against this Charter change. Voters approved the Charter amendment. The Commission remains concerned about the wisdom of any Charter provision that requires supermajorities and recommends the next Commission consider this issue. (Refer to the information beginning on page 11.)

**4. SPECIAL FUND ABOVE 5% LIMIT TO BE USED WHEN REVENUE COLLECTIONS DO NOT MEET REVENUE PROJECTIONS.**  
**Section 310, Surplus**

Several Councilmembers noted that during hard times in the economic cycle, County residents are confronted with increasing needs at the time when County tax revenues are decreasing. Charter §310 limits the accumulation of unappropriated surplus. The Commission began studying a potential revision of §310 to permit the County to save more funds during good times. The Commission 7-1-1 (1 Commissioner absent and 1 position vacant) did not recommend a change in §310. (Refer to the information beginning on page 12.)

**5. REDISTRICTING PROCEDURE**  
**Section 104, Redistricting Procedure**

The Commission considered the current procedure for redistricting with the goal of identifying an improved process for determining election districts for members of the County Council. The Commission recommended 6-2-1 (1 Commissioner absent and 1 position vacant) not to further study this issue at this time. The Commission noted that there was not much time left in their term and recommends that the next Commission consider whether to study the issue further. (Refer to the information beginning on page 14.)

**III. ISSUE AREAS**

**A. RECOMMENDATIONS FOR CHARTER AMENDMENTS**

The Commission is not recommending any Charter changes at this time.

**B. RECOMMENDATIONS REQUIRING NO CHARTER CHANGES**

**1. APPOINTMENT OF THE INSPECTOR GENERAL**

**Background**

The May 2008 Report of the Charter Review Commission included a discussion of whether the Commission should recommend a Charter amendment to include the Inspector General as an entity in the Executive Branch who would be nominated by the County Executive and confirmed by the Council. (See memorandum from Office of the County Attorney on page A-32.) That report reviewed the history of the Office and described the research that the Commission conducted up to the time the report was submitted. At that time, Commission members felt that there were several issues that still needed to be considered before making a recommendation on the matter, including:

- Independence: In the initial establishment of the Office of Inspector General, the independence of the Inspector General was considered to be critical. Would an Inspector General appointed by any County Executive, rather than the Council, be as independent?
- Funding: How would funding for the office be affected by a change in structure? Would the independence of the office be impacted by which branch allocates funding?
- IG Access: Would an Inspector General appointed by the County Executive have the same access to departments and agencies, staff and records as under the current arrangement? Would subpoena power be needed or appropriate?<sup>1</sup>

In addition, the Commission agreed that prior to recommending a change in the appointment process, additional research into other local Offices of Inspectors General could be helpful in addressing some of these issues.

### **Discussion**

Between April and October of 2008, Commissioners interviewed the Director of the Office of Legislative Oversight and the Montgomery County Inspector General (see statement from the Inspector General on page A-42), conducted research on the internet and held a public forum to seek input on the questions before them. Commissioners learned that there are only about 12 counties in the nation that have Inspectors General. Among those counties, there is not a universal pattern of authorization, funding, appointment, or scope of responsibility. They also learned that in Montgomery County, the Inspector General has broader jurisdiction to examine complaints of fraud, waste and abuse across county government agencies, than the several Inspectors General within the Maryland state government where they are department specific.

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<sup>1</sup> Regarding access to records, there was some concern that the Inspector General has been constrained in the ability to obtain information from bi-county and state agencies such as Montgomery County Public Schools, Washington Suburban Sanitary Commission and the Maryland National Capital Park and Planning Commission. However, this is not a Charter issue.

Therefore, the Commissioners decided to focus their decision on what is or is not working in Montgomery County, Maryland.

The consensus of those interviewed by the Commission and those who testified at the public forum is that the Office of Inspector General enjoys a great deal of independence and the results produced by that Office are not being compromised by the current structure. The current system for funding the Office also seems to provide adequate controls for maintaining independence.

The Commission also discussed the reappointment process. Some Commissioners were concerned that a change in the reappointment process could affect the independence of the Office. If the County Executive was responsible for reappointment, it could be difficult for an Executive to be objective about the person in an Office who has produced, and released to the public, reports that are critical about activities under the oversight of the Executive Branch.

### **Recommendation**

The Commission voted 7-0-2 (1 Commissioners absent and 1 position vacant) to recommend against amending the Charter to provide for an Executive-nominated, Council-confirmed Inspector General. (See minority statement on A-31).

## **2. SPECIAL TAXING DISTRICTS**

### **Section 305, Approval of the Budget; Tax Levies**

#### **Background**

The May 2008 Report of the Charter Review Commission included a discussion of whether the Commission should recommend a Charter amendment to exclude special taxing districts from the Charter §305 limit that property tax revenues in a fiscal year not exceed the revenue generated from the previous fiscal year plus the rate of inflation. (See memorandum and

attachments from Glenn Orlin on page A-47.) That report reviewed the current status of special taxing districts and discussed the following potential benefits of removing them from the §305 limits:

1. The taxes are imposed on a defined set of payers, not on County residents as a whole.
2. In the case of the parking lot districts and the urban districts, the benefits often accrue to a wide range of residents (and non-residents) using the services of the district.
3. The special taxes allow the benefits to be created much more quickly and efficiently than other means of financing these projects
4. Noise abatement district expenditures are repaid completely and with interest.
5. Other kinds of limited-area projects or programs might be funded in this way.
6. Removing the special taxing districts from the Charter tax limitation would encourage the use of this valuable fiscal tool.

At the time of its May 2008 report, the Commission had voted 6-3 (2 Commission members absent) that it should devote more time to study of this proposal before deciding whether to recommend excluding certain revenues from special taxing districts from the property tax limitation. Commission members also believed that input from the public and municipalities would be beneficial. At the Commission's October 6 public forum, one individual spoke on the topic and urged that the Charter, in respect to special taxing districts, remain unchanged. Though invited, no municipalities provided testimony on the topic.

## Discussion

For FY2009 the total revenue generated by the County's four Parking Lot Districts, three Urban Districts, and two Noise Abatement Districts (all are special taxing districts) represents slightly less than 1% of the total ad valorem property tax revenue collected and the assessable value of these districts is about 6% of the total taxable base County-wide.

Assessable value of the three urban districts (which include three of the parking districts) plus the Montgomery Hills parking district and the two noise abatement districts is \$6.95 billion against a total assessable base of \$174.62 billion for the County, or 3.89%. (See Chart on page A-54 for the Montgomery County Real Property Tax Rate Schedule for Levy Year 2009, which identifies the tax rate in the municipalities and several special taxing districts.)

Commission members met with Montgomery County and M-NCPPC Staff members to better understand how special taxing districts are currently used and how they might be used in the future. The Commission learned that there are potential plans to expand the use of special taxing districts in areas of the County which are the subject of newly adopted Master Plans or Sector Plans. Many of the areas of the County are in need of infrastructure expansions or updates and there has been movement to encourage the private sector to assume more of the infrastructure burden with special taxing districts suggested as a tool to finance such infrastructure projects. A special taxing district placed on certain commercial properties was suggested by one Councilmember as a tool to finance a County-wide bus rapid transit system.

If, for example, a Charter amendment were to exclude certain special taxing districts from the Charter §305 limit using a maximum threshold of 2.5% of total revenues collected, then an additional \$20 million could be generated annually for the County's General Fund.

The Commissioners observed that if the Charter were amended to exclude certain special taxing districts from the Charter §305 limit, there could be a potential for a one-time increase in the property tax rate for the first fiscal year in which the special taxing districts are excluded from the Charter cap. After investigation, Commissioners concluded that the potential one-time increase could be addressed through the careful drafting of language in respect to a recommendation for a change to Charter §305. Commission members noted that a recommendation to amend Charter §305 should include a component to educate voters on special taxing districts and how revenue generated by and for them is different from revenue generated by generally levied property taxes. For example, some special taxing districts, such as development districts which are already excluded from the Charter §305 cap, require the consent of a certain percentage of the property owners that would be in the district.

Commission members reviewed a ballot question from 1998 in which an amendment to Charter §305 was proposed to exclude taxes levied by any special taxing district created by County law to provide specific public services that will increase revenues greater than the inflation rate. That ballot question failed with a vote of: 49.8% favoring the Charter amendment to exclude the special taxing districts to 50.1% opposing the amendment. Commission members determined that several questions about special taxing districts remained unclear, including:

- 1) How would exclusion of certain special taxing districts from the Charter be implemented?
- 2) How would “special taxing district” be defined in the Charter?
- 3) Would the Charter be amended to exclude certain special taxing districts or to include those special taxing districts that might remain subject to the Charter §305 cap?

In the 2008 Report, the Commission noted that in the future if special taxing districts are excluded from the Charter limitation, the amount of funding that could be used for this purpose should be limited. The limitation could be stated in terms of either the county-wide *ad valorem* property tax collections or the total assessable land value of the County. Current special taxing district collections are approximately \$12.2 million out of a total of approximately \$1.43 billion collected in *ad valorem* real property taxes, slightly less than 1%.

### **Recommendation**

The Commission voted 7-2 (1 Commissioner absent and 1 vacant seat) to recommend against excluding special taxing districts from the property tax revenue limitations in §305. In declining to pursue recommendation of an amendment to Charter §305, Commissioners expressed unease that exemption of special taxing districts from the Charter cap would lead to frequent, and possibly excessive, use of this financing tool, as a way to raise total tax revenues without constraint from the Charter limit. In addition, Commissioners believed that it could lead to certain sections of the County voting to tax themselves and thus obtaining greater improvements or benefits than other parts of the County which had declined to place themselves in a special purpose special taxing district. Commissioners also provided the following observations:

- 1) An area can try to incorporate if they want the power to tax themselves.
- 2) The Council has the authority and responsibility to distribute funds throughout the County as it sees fit in order to ensure equitable distribution of benefits.
- 3) The idea of a special taxing district to establish a bus rapid transit system, which by itself could cost \$1.5 billion, in addition to the special taxing districts possibly proposed by M-NCPPC, illustrated to the Commission what pressures might be

brought to increase any cap over time and the risk that use of special taxing districts would become the rule.

- 4) The potential, especially with a special taxing district to establish a bus rapid transit system, that the entire County would benefit from a project, but only part of the County would pay for it.

**3. SUPERMAJORITY PROVISIONS FOR BUDGET APPROVAL AND TAX LEVIES.**

**Section 305, Approval of the Budget; Tax Levies**

Before the November 2008 election, Commission members expressed their deep concern with the ballot initiative requiring the vote of 9 Councilmembers to approve an operating budget including property tax revenue that exceeds the previous year's revenue plus inflation. This increase of the required supermajority from 7 to 9 meant that a single Councilmember could block passage of a budget favored by the other 8. This initiative, since it specified 9 members rather than simply unanimity, was also put forward at a time when the Council was reduced to 8 members due to the death of one of the members. Thus even a unanimous vote of the current members could not pass a budget exceeding the Charter limits.

A majority of voters approved the ballot question; however, the Commissioner members remained opposed to the principles behind it. The Commission members therefore, by a vote of 6-1, with two abstentions, voted on December 10, 2008 to consider alternatives to tying property tax increases to something other than a simple majority of the Council vote. On further reflection, however, Commissioners voted at the November 10, 2009 meeting not to pursue the issue further. Some Commissioners noted the brief time period since the voters approved the amendment and felt that the time was not appropriate to consider a different provision.

Furthermore, current economic conditions made it unlikely that a proposed budget requiring a supermajority would be forthcoming for a few years.

The majority of Commission members instead agreed to express their doubts about the wisdom of any Charter provisions requiring supermajorities and to recommend consideration of this issue to the next Charter Review Commission.

**4. SPECIAL FUND ABOVE 5% LIMIT TO BE USED WHEN REVENUE COLLECTIONS DO NOT MEET REVENUE PROJECTIONS.**  
**Section 310, Surplus**

**Background**

Section 310 states that "[a]ny unappropriated surplus shall not exceed five percent of the General Fund revenue for the preceding fiscal year" and thereby limits the accumulation of unappropriated surplus. Section 9-1201 of Article 24 of the Maryland Code enables Montgomery County to establish a reserve account to be used in difficult economic times. Article XII of Chapter 20 of the Montgomery County Code specifies how the fund may be used.

In presentations to the Commission, several Councilmembers noted that during hard economic times, such as the present, County residents are confronted with increasing problems (e.g., unemployment, homelessness, and suicides) at the time when County tax revenues are decreasing, thus impairing County government's ability to deal with these problems. In response, the County could: (1) increase County revenues by raising taxes, borrowing funds, or looking to the Federal government for deficit spending, (2) draw from funds saved in good times, or (3) divert funds from other needs to deal with the incremental costs of hard times. (See memorandum on page A-55 for an explanation of how the Executive's recommended FY11 operating budget uses these techniques.)

Section 310 has been before the voters twice before. In 1988, the voters rejected an amendment proposed by the Council to (1) increase the maximum amount of budgeted unappropriated surplus in the General Fund for any fiscal year from 5 to 7 percent of the General Fund revenue for the preceding fiscal year, (2) require a minimum unappropriated surplus of at least 2 percent of the General Fund revenue for the preceding fiscal year, and (3) clarify when and how to measure the surplus. The tally was 136,574 against, 106,580 for.

In 2000, the voters approved an amendment first proposed by the Charter Review Commission, to amend Sections 307, 308, and 310 to allow the Council to (1) approve a supplemental appropriation for any purpose, by vote of at least 6 Councilmembers, during the first half of a fiscal year, and (2) redefine emergency appropriations as special appropriations and broaden the reasons the Council may approve a special appropriation. The tally was for 213,498, against 96,708.

### **Discussion**

Each of the possible governmental responses to the hard times dilemma of increased needs and decreased resources, when considered by itself, appears problematic. Elected officials may also be hesitant to raise substantial amounts of revenues by increasing the property tax rate or the County income tax or by imposing additional excise taxes (e.g., energy tax, hotel/motel tax, telephone tax, admissions/amusement tax).<sup>2</sup> Revenues from the Federal government will fall far short of closing the current deficit, and Charter §312 prohibits indebtedness for a term of more than one year to fund the operating budget. Accordingly, the Commission considered ways to encourage saving money during good economic times. It is generally recognized that the existence of savings is considered important by the bond rating agencies, and that the County's

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<sup>2</sup> According to the Washington Post, March 11, 2010, p. A21, some states have recently increased taxes.

bond rating is dependent on the savings. Conversely, however, speakers<sup>3</sup> indicated that legislative bodies are reluctant to tax in good economic times to save for hard times. The Commission noted that despite this reluctance, the Montgomery County Revenue Stabilization Fund has amassed roughly \$120 million in the past 15 years. One speaker<sup>4</sup> suggested that there are alternatives to increasing the rate of savings in good economic times.

### **Recommendation**

The Commission believes that §310 in its current form is sufficient for various reasons, including that changes in §310 would not increase the ability of the County to deal with hard times, and that requests to the electorate to change §310 might lead to counterproductive results. Additionally, Commissioners had a greater understanding of the County's Revenue Stabilization Fund, which is an emergency fund that was established in the 1990s to support government appropriations that become unfunded. The law requires that if the County receives more revenue than what was projected from certain economically sensitive sources (income tax, real property transfer tax, recordation tax, and investment income), a certain percentage must be put into this Fund, up to the Fund cap. Therefore, the Commission, 7-1-1, recommended against a change in the language of §310.

## **5. REDISTRICTING PROCEDURE**

### **Section 104, Redistricting Procedure**

#### **Background**

A Redistricting Commission must be appointed to redraw the boundaries of County Council districts after each decennial census. In 1998, §104 of the County Charter was amended to enlarge the Redistricting Commission from five members to nine. It was hoped at the time

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<sup>3</sup> Timothy Firestine, Chief Administrative Officer, on October 14, 2009, and Nick Johnson and Phil Oliff came from the Center on Budget Priorities on March 11, 2009.

<sup>4</sup> Mr. Firestine.

that this larger group would be more representative of the County. (See discussions in the 1996 and 1998 reports of the Charter Review Commission.) The current Charter Review Commission considered this subject again with the goal of identifying an improved process for determining election districts for members of the County Council. They studied jurisdictions nationwide to see what limits they place upon the formation and operation of their Redistricting Commissions.

### **Discussion**

Montgomery County's Redistricting Commission is dominated by the two main political parties, each of which nominates eight candidates for membership. In order for a political party to have representation on the Redistricting Commission, the Charter requires that 15% of the total votes for all candidates for Council in the last preceding regular election be cast by members of that party. The County Council is required to appoint four members from each slate submitted by a qualifying party and name a ninth member of its own choosing. Unless the Council appoints an unaffiliated voter, a member of a third party, or a party reaches the 15% participation threshold, this denies participation in the redistricting process to the nearly 25% of voters who register with no party or a smaller party. The only stated qualifications for membership on the Redistricting Commission are that a Commissioner cannot hold an elective office, at least one must reside in each Council District, and the number of members of the Commission who reside in the same Council district must not exceed the number of political parties which submitted a list to the Council.

In order to determine whether there might be a better way to select a redistricting Commission and to draw district lines, members of the Commission did independent research and submitted their findings to the Commission for review. These reports are included in the Appendix beginning on page A-56. They include:

- Procedures for Better Redistricting, January 11, 2010
- Whether a Charter Amendment Should Impose Standards on a Councilmanic redistricting plan, December 8, 2009
- Redistricting Commission and Criteria in Six States, December 8, 2009
- Redistricting Procedures in Maryland Counties and Baltimore City, November 30, 2009
- Summary of Non-Governmental Organization Recommendations on Redistricting, January 3, 2010
- Political Science Literature about Redistricting Process, December 2, 2009
- A Menu of Issues and Possible Charter Changes, January 13, 2010

In contrast to our bi-partisan Redistricting Commission, many “good government” groups recommend non-partisan commissions that, in theory, would not deliberately draw district lines to favor a political party, a group, or a person. Some states list specific standards for how to draw the lines. A few such as California go further and try to assure that members of a Redistricting Commission are representative of the electorate and unbiased.

The memorandum on page A-56 gives a compact summary of the Charter Review Commissioners research findings, preceded by some motivation for the study.

### **Recommendations**

After the Charter Review Commission had reviewed the above research, the ad hoc Redistricting Study Committee Chair (Wolff) offered a menu of possible changes in the County Charter. (See Memorandum on A Menu of Issues and Possible Charter Changes on page A-85.) Commissioners did not reach consensus on a different approach for forming a Redistricting Commission. For a variety of reasons, the Commission-voted to close discussion of this subject and voted 6-2-1 not to pursue the issue further. The Commission noted that there was not much time left in their term and recommends that the next Commission review their extensive research and consider whether to study the issue further.

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CHARTER REVIEW COMMISSION

MEMORANDUM

June 4, 2010

TO: Nancy Floreen, President  
Montgomery County Council

FROM: Nancy Soreng, Chair  
Charter Review Commission

SUBJECT: **Charter Review Commission Position on Special Hiring Authority for Persons with Disabilities**

This memorandum responds to the Council's November 30, 2009 memorandum asking the Charter Review Commission to study whether to amend the Charter to allow special hiring authority under the County merit system to recruit, select, and hire people with disabilities for merit system positions. The County Attorney determined that such a system would require an amendment to the County Charter.

In order to receive background information and answer Commissioners' questions about this issue, the Commission met with the following individuals, some on multiple occasions, between December 9, 2009 and March 10, 2010.

- Leslie Ruben, Legislative Analyst, Office of Legislative Oversight
- Joseph Adler, Director, Office of Human Resources
- Angela Washington, Montgomery County Equal Employment Officer, Office of Human Resources
- Ricky Wright, Disability Program Manager, Office of Human Resources
- Joan Karasik, Transition Working Group
- Karen Leggett, Transition Working Group
- Betsy Luecking, Disability Policy Specialist, County Department of Health and Human Services
- Mark Maxin, Chair, Commission on People with Disabilities.

The Commission was also provided with copies of the June 10, 2008, Office of Legislative Oversight report, *Hiring Persons with Disabilities: A Review of County Government Practices*.

After much discussion, only a minority of Commission members favored amending the Charter to create a special hiring authority. Although sympathetic with the goals of the proposal,

a majority of members do not recommend amending the Charter at this time to authorize a special hiring authority under the merit system for people with disabilities. Members expressed a variety of reasons for not supporting such an amendment, including:

- Reluctance to support such a broad change in Charter language without knowing how the program would be implemented.
- Concern that carving out a special hiring authority for just one class of chronically unemployed or underemployed individuals would overlook and possibly be discriminatory to other chronically unemployed or underemployed groups that are equally worthy of special consideration.
- A desire to allow time for the County, to implement and evaluate recent changes in County job opportunities, policies and practices intended to promote and facilitate the hiring of persons with disabilities, including the recently enacted hiring preference for persons with disabilities, and new County training programs for employers, potentially making it unnecessary to authorize a fundamental change to the merit system through a Charter Amendment.

The Commission appreciates the opportunity to provide comment on this issue.