

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

**MEMORANDUM**

TO: County Council

FROM: Amanda M. Mihill, Legislative Analyst  
Michael Faden, Senior Legislative Attorney

SUBJECT: **Worksession:** Proposed Charter Amendments and recommendations of Charter Review Commission

The Charter Review Commission submitted its biennial report to the Council on May 1, 2010. A public hearing on the Report was held on June 29. Council action on ballot questions is tentatively scheduled for July 27. The Commission Report, excluding the Appendix, is attached on ©1. Complete copies are available online at [http://www.montgomerycountymd.gov/content/council/pdf/SCANNED\\_DOCS/2010charterreviewcommissionreport.pdf](http://www.montgomerycountymd.gov/content/council/pdf/SCANNED_DOCS/2010charterreviewcommissionreport.pdf).

**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 that 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 does not recommend a change to the appointment process for the Inspector General.

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

Before the 2008 election, Commission members expressed their deep concern with a ballot initiative that would require 9 Councilmembers to vote to approve a property tax rate that would yield 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 §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 §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 §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 Commission Chair Soreng explaining the Commission's position on this issue.

**Public hearing testimony**

At the public hearing on the Commission report, held on June 29, representatives of the County Executive and other speakers urged the Council to place a Charter amendment on the ballot to allow a special hiring authority for disabled persons. See written testimony, ©25-35. No speaker offered a draft of an amendment, and to date no Councilmember has directed staff to draft one.

### **Charter amendment petitions**

Council staff is aware of several Charter amendment petitions that are being circulated, but the only one filed with the Board of Elections is shown on ©36. That amendment, which would reduce the number of at-large Councilmembers from 4 to 2, has major substantive flaws, which the Board of Elections has pointed out to its proponent. Those flaws include inserting an immediate effective date without designating which 2 Councilmembers elected on the 2010 ballot would not serve, and its failure to conform other Charter provisions, including the 9-vote property tax cap waiver provision, to the smaller number of Councilmembers. If this amendment is submitted as shown, Council staff questions whether it would meet the legal standards for inclusion on the ballot.

Council staff asked Robin Ficker, the primary proponent of two other reputed Charter amendment petitions, to forward the text of those proposed amendments (see email to Mr. Ficker on ©37), but he had not responded when this packet went to print. Council staff can draft the ballot language resolution for each petition when we receive the text of each.

### **Referendum petition**

Council staff is aware of one referendum petition that is being circulated (see ©38-39), which would repeal the emergency medical services transport fee law (Bill 13-10). A resolution to adopt the appropriate ballot language, if that petition receives sufficient signatures, is shown on ©40-41.

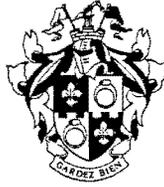
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2010  
*Report of the  
Charter Review Commission*

*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,

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\*\**

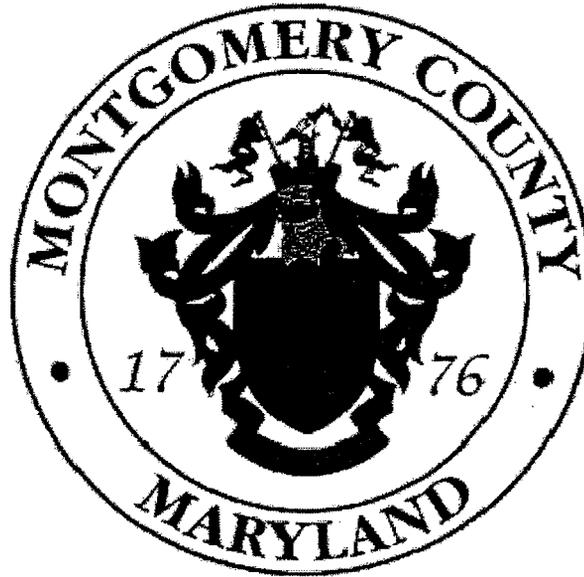
*Judith Vandegriff*

*Anne Marie Vassallo*

*Charles Wolff*

*\*Resigned in January 2010*

*\*\*Appointed in March 2009*



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

## **Staff**

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

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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.)

**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.



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,

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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.



OFFICE OF HUMAN RESOURCES

Isiah Leggett  
County Executive

Joseph Adler  
Director

MEMORANDUM

June 29, 2010

TO: Nancy Floreen, President, Montgomery County Council

FROM: Joseph Adler, Director  
Office of Human Resources

SUBJECT: Testimony on Proposed Charter Amendment

Good afternoon. I am Joseph Adler, Director of the Montgomery County Office Of Human Resources. This office is responsible for a wide array of human resources functions, including one of our most critical functions - the hiring processes.

We are, in many respects, the gate keepers to employment for all of the County departments and agencies, which collectively includes a workforce of approximately 9,000 full and part-time employees. Each and every application for employment is processed through our offices and we are intimately involved in the extremely competitive application process for each of the County departments and agencies. Last year alone, we processed over 35, 000 applications for employment.

I am here today to speak on behalf of the County Executive, Isiah Leggett, in his support for the proposed Charter Amendment to establish a special hiring authority for individuals with disabilities. This Amendment is consistent with the other proactive measures to ensure all individuals, including individuals with disabilities, are afforded an opportunity to seek employment at every level of County government.

We have, over the last two years, established a customized employment program for individuals with significant disabilities. Those individuals are largely functioning in entry level positions across every department. While many did not previously have a "work history", that did not keep them from working hard and working successfully. Our success has been overwhelming! Departments have increased productivity and efficiency and at the same time, individuals in this program have earned real life work experience in County government. They have become an invaluable part of our workforce.

The County Executive and Legislative Branch also partnered to adopt a hiring preference for individuals with disabilities. We cannot diminish the significance of that legislation and its long-standing impact on individuals who seek employment with the County. That action alone will undoubtedly result in an increase of representation in

our workforce of individuals with disability and an increase of new talents, skills and contributions of those individuals on the operations of the County.

However, we cannot stop at this juncture. Before us, we have an opportunity to establish a special hiring authority to ensure that individuals with disabilities cannot only obtain employment at our entry level positions, but can do so at our professional, technical and top management ranks. As many of you are well aware, individuals with disabilities have an unemployment rate ranging from 60-70%, while disabled veterans have an unemployment rate of 20%. These statistics do not speak of individuals who are not longer seeking employment because they so discouraged by their inability to find meaningful employment.

For this reason, we cannot help but to support this Charter Amendment. Ultimately, our role is not simply about “processes”, but about the people who simply seek employment.

Under the proposed Charter Amendment, and similar to the Federal government, we in Montgomery County can identify relevant job classifications to fill with qualified individuals with disabilities. I emphasize qualified, because in order to discount this type of hiring practice, opponents will incorrectly assume that the candidates lack the skills, expertise and qualifications in their respective areas. This is not the intent of the Charter Amendment. Over my career history, I have seen numerous well-qualified individuals, who happen to have disabilities, remain unemployed or underemployed performing job duties well below their indisputable level of expertise.

This Charter Amendment will, in part, appropriately employ individuals with disabilities at the level of expertise which they possess.

We are not asking the Council to approve the proposed Charter Amendment as something has never been done before. Instead, we want to join our Federal partners, and set an example to our State and local jurisdiction, in a program that has not only proven to be successful but has resulted in the view the it is the employer of choice and its doors are open to all individuals, particularly those with disabilities.

Thank you for your consideration and we look forward to the adoption of the Charter Amendment.

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Good afternoon

My name is Angela Washington and I serve as Montgomery County's Equal Employment Opportunity Officer. My division, which is located in the Office of Human Resources, is responsible for ensuring compliance with Federal, State and Local discrimination laws as well as County policies and regulations relating to the same.

First, I want to thank the Council for the opportunity to speak regarding the Charter Review Commissions recommendations relating to the creation of a special hiring authority for individuals with disabilities. As you know, recently, the Charter Review Commission opted not to support such an amendment...at this time.

We first want to acknowledge the works of the Charter Review Committee and its thoughtful consideration of the issue, but we have to ask ourselves, if not now...when?

While we are here, individuals with disabilities have-perhaps, the largest rate of unemployment in this County at 68%. It is not simply the right time, but the right thing to do.

In this group of individuals, we also include veterans with disabilities who have an unemployment rate of 20% . These individual are returning to this area in large numbers after honorably serving the Country and face many challenges regarding their medical conditions, and acclimation back into their lives as they knew it.... But in addition...they

must also face high rates of unemployment and underemployment. On average, these disabled veterans in the some age groups earn an average of only \$25,000 a year.

These are disabled vets did not leave us with these disabilities...they returned home-after combat, with these disabilities.

Yet, these numbers do not accurately reflect the number of those individuals who have tried over and over again, to seek employment and have become discouraged....and simply given up.

When we speak of unemployment...particularly as it relates to individuals with disabilities...we must speak of underemployment...and perhaps the real issue that employers face is with the misconception regarding the qualifications, expertise and frankly the desire of those individuals to earn a position that simply pays the bills, supports a household, allow them to enjoy some simple pleasures in life and certainly..... ensure that they have the necessities.

Employment is merely not a financial issue....it oftentimes defines who we are..what our contributions are to rest of the world.

The Charter Amendment is intended to ensure that individuals with disabilities can seek employment at every level of County Government... not simply at the lower paying salaries or lower grade classifications. Nor is the Amendment intended to employ unqualified individuals...we've heard those same argument as it relates to proactive

employment of women and minorities.. and we look around and see success stories of those individuals in top management ranks and political offices.

There is reservation that we are only addressing one class of individuals-but I say that individuals with disabilities are of every race, ethnicity, religion, sex and national origin. They are of every protected class.

We are also mindful that in these economic times, this Amendment may not have come at the right time for some....Opponent say that everyone is unemployed....

Yes, we know and individuals with disabilities are unemployed ....at a significantly higher rate.

So we ask...how long do we wait...

How much longer can they wait?

We think this is the time.

I thank you for your opportunity to speak to you regarding the importance of this Charter Amendment and request that Council support placing it on the ballot.

My name is Mark Maxin and I am Chairman of the Commission on People with Disabilities. Thank you for having this hearing today to provide comment to you regarding the Charter Commission's recommendation not to put the Schedule A hiring authority on the November ballot.

- Today is a snapshot in time, and reminds us of how far we have come and how far we must go regarding the hiring of individuals with disabilities.
- The Charter Commission rejected the special hiring authority for 3 principal reasons:
  - **Reason 1:** Reluctance to support such a broad change in language without knowing how the program would work
    - **Response:** Schedule A is not a new program; it is a program with a well n path in the Federal government.
    - How it works - **Schedule A Appointing Authorities:** These authorities describe special jobs and situations for which it is impractical to use standard qualification requirements and to rate applicants using traditional competitive procedures.

For example, you must use a Schedule A exception to hire attorneys because, by law, OPM cannot develop qualification standards or examinations for attorney jobs. You can use exceptions for other special jobs, including chaplain, law clerk trainee, medical doctor, dentist, certain interpreters, experts for consultation purposes, and some others.

Other Schedule A exceptions will enable you to fill any job under special circumstances. Examples include:

- When you have a critical hiring need to fill a short-term job or to fill a continuing job pending completion of examining, clearances, or other procedures.
- When you have a temporary or part-time job in a remote or isolated location.
- When you must hire a non-citizen because no qualified citizen is available.
- When you must quickly staff a temporary board or commission established by law or Executive order.

You can also use Schedule A authority to hire applicants with mental retardation or a severe physical or psychiatric disability to fill any job in which the person is able to perform with or without reasonable accommodation. Applicants with disabilities frequently apply for consideration under Schedule A. You can use a Schedule A authority to hire them on a "trial" basis. Then, after 2 years of successful performance, you may noncompetitively convert them to a permanent appointment in the competitive service or they may remain on the excepted service appointment.

- This was raised before the Charter Commission
- I have some vide Pamphlets for you that entail how it would work

**Reason 2:** Concern that carving out special hiring authority to just one class of chronically unemployed or underemployed individuals would overlook and possibly be discriminatory to other chronically unemployed groups that are equally worthy of consideration.

- **Response:** Such a policy has been in place for years in fed government and not found to be discriminatory.
- Under a supreme court analysis, supported by the County's attorney office, there is a rational basis for such a provision (high unemployment-past discrimination) and this would not be discriminatory.
- No groups are as chronically underemployed as disabled Americans.

**Reason 3:** 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 recent hiring preferences for persons with disabilities and new County training for employers, making it unnecessary to authorize such a fundamental change to the Merit system through the Charter Amendment.

- **Response:** We already know that challenge of hiring disabled employees is great, nothing short of integrating the workplace.
- We already know schedule A in the Federal government works when used effectively and when supervisors are aware of it.
- We already know it can afford supervisors, who wish to utilize the hiring authority (it is voluntary-not mandatory) the opportunity to hire highly qualified employees faster and more efficiently.
- We already know that the federal government considers this as a best practice.
- It simply makes no sense not implement a recognized best practice.

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Good afternoon. My name is Jerry Godwin and I am the Vice-Chair of the Commission on Veterans Affairs. I work for the Department of Economic Development and am an aviation officer in the Maryland Army National Guard having served as a helicopter pilot in Iraq. I am here to recommend to you that the Council place on the November ballot a Schedule A hiring authority for disabled veterans.

Returning disabled veterans face many challenges in readjusting to civilian life but essential to a normalized life is securing employment. Census data from 2007 indicates that there are 56,000 veterans in Montgomery County and that 19% or 10,640 have a disability. The Bureau of Labor Statistics reports that young males between the ages of 18-24 who served in the Gulf War and OIF-OEF have an unemployment rate of 21.6%. The military reports that 208 soldiers from our region have died in the two wars and 1,218 have been wounded in action. 3,700 County veterans have a visual impairment. The Wheaton and Germantown One Stop serves approximately 1,800 veterans a year and have encountered barriers to employment for veterans including ex-offender status, drug history, homelessness, and lack of training. They have a 65% hire rate and see a real benefit to employment for this population for a non-competitive job, given that the veteran is qualified to do the job.

- Here is some information for you to consider in support of a non-competitive hiring authority for disabled veteran. In early 2008, The Community Foundation joined with Montgomery County Executive Isiah Leggett to commission a study to determine the feasibility of a community-based nonprofit response to complement government and national nonprofit efforts to ease the hardships of deployment to Afghanistan and Iraq and post-deployment reintegration for troops and families in the National Capital Region.
- In their report published in October, 2008 they cited the following employment issues regarding veterans:
  1. Guard and reserve soldiers may find their former jobs no longer exist, or their employers have downsized, folded, merged or relocated.
  2. It is "very common" for soldiers to file for bankruptcy following deployments and injuries. Some veterans have fallen into debt and lose their homes waiting for compensation from the VA for their disability claims.
  3. Because of frustration with government agencies, 77% of veterans say they don't even bother to seek reemployment help.
  4. 18% of veterans recently back from deployments are unemployed. Of those who do work, 25% earn less than \$21,000.

I recommend to you that the County model the federal government in being able to give a noncompetitive temporary appointment of more than 60 days (see 5 CFR 316.302(b)(4)) or a term appointment (see 5 CFR 316.402(b)(4)) to a veteran retired from active military service with a disability rating of 30 percent or more; prorated by the Department of Veterans Affairs (VA) within the preceding year as having a compensable service-connected disability of 30 percent or more. There is no grade level limitation for this authority, but the appointee must meet all qualification requirements, including any written test requirement. Reasonable accommodations must be provided for any written test.

The agency may convert the employee, without a break in service, to a career or career-conditional appointment at any time during the employee's temporary or term appointment.

We thank you for your consideration of establishing a non-competitive appointment hiring authority that could help to bring opportunity to disabled veterans who have unselfishly served our country. We as a society need to do more to give back to those who protect us, and allow us to enjoy our freedom.

**Montgomery County Council – Hiring Preference for People with Disabilities**  
**June 29, 2010**

Karen Leggett, Transition Work Group  
Leggett@comcast.net/301-438-7601

I am speaking on behalf of the Transition Work Group, through which adult service providers, school and government staff and parents work together to improve the transition of young people with disabilities from school to independent living. We concentrate on young people with developmental, intellectual and emotional disabilities – those who would have been helped the most by the hiring preference proposed as a charter amendment.

We have come a long way from the days when people with intellectual disabilities were routinely institutionalized. We have also moved beyond the days when it was assumed that these individuals could only work with small groups of their peers at very simple tasks. Now, students with intellectual disabilities are routinely included in regular classrooms. There are college programs for these students, including the Graduate Transition Program at Montgomery College and a four year program at George Mason. And most recently, students with intellectual disabilities are able to seek federal student aid. The next logical step is helping these students be hired, by government and private companies.

Montgomery County has long been a leader in reaching out to populations in need – and we need to continue that leadership. By a recent and much appreciated vote of this Council, Montgomery County became possibly the first local government in the country to incorporate a hiring preference for people with disabilities in its code. The Charter Review Commission even suggested that this makes a charter amendment unnecessary. However, this hiring preference will affect primarily people who may be blind, deaf or orthopedically impaired but who can meet the highest intellectual qualifications for a position – people who may have been overlooked in the past because of prejudice, misperceptions and concern that accommodations would be too costly. It will not help the individuals with developmental disabilities who may never be “highly qualified” for a position – but who could be contributing, taxpaying citizens of Montgomery County.

The Charter Review Commission also expressed concern about helping one group of chronically unemployed individuals and not others. We should indeed be concerned about all such groups, but a hiring preference may not be the best way to help some of the others. Immigrants and non-English speakers, for example, may need more opportunities to learn job skills and English so that they can qualify for positions through the regular merit system. A hiring preference, implemented like Schedule A in the federal government, is the “leg up” that could open the door to employment for individuals with developmental and other more severe disabilities.

Whether or not we decide at a later date to revisit the need for a charter amendment to implement a broader hiring preference, we need to collaborate now to improve employment opportunities in and out of government for people with the most limiting disabilities. They are fully included in our schools and in many ways, in our communities. We need to take the next step to fully include them in our workplaces.

Good afternoon, Council Members

My name is Patricia Gallalee and I am here today to speak to you as a private citizen in regard to the proposed Charter amendment on Special Hiring Authority for Persons with Disabilities. I am here today to tell you my personal success with this program.

Recently, I was hired by the Federal Government under Schedule A or Special Hiring Authority for Persons with Disabilities. The overall experience was very positive for me and my manager. She had an available job opening and was asked if she would consider using Schedule A to hire someone with a disability. I had submitted my resume and documented proof of my disability to Human Resources. I was then invited to be interviewed by my manager and different levels of management through a normal interview, reference, and background check process. My manager felt that I was qualified for the job and good fit for the organization. She also had the option not to hire me and to follow the standard hiring process. The experience for me was not only positive because I got the job, but because I have a manager who is willing to look beyond my disability and see the value I could bring to the organization with my skills and experience. Also, the right people were involved from the beginning to help ease my transition into the organization by making a few reasonable accommodations.

The obstacles I face in the workplace are more than physical barriers. They are the misconceptions society dictated for years. I have overcome these misconceptions by working hard at my job to earn a salary so that I could be a taxpayer and consumer like everyone else. I believe real change will happen when more disabled people are in the workplace and coworkers can put their misconceptions aside to see people for their abilities and value they bring to the work. My success can be attributed to those individuals and managers who have seen me for more than a person in a wheelchair.

Years ago, I was at a college leadership retreat at a camp. We decided to have canoe races and to my surprise I was chosen to be on one of the teams. Many people looked at the team captain like he was crazy for choosing me and even quietly commented. He dismissed them and we went on to win the race. At the end of the race, he told me that he chose me because he knew that I was stronger than any of the other girls and I would be the secret to winning the race. That was turning point for many of those student leaders that day, they saw me as more than my disability and I became an equal member of the team. They treated me differently.

Empowering Human Resources and Managers with Special Hiring Authority for Persons with Disabilities will open the door to qualified disabled people who can be hired by Managers who see their abilities and value they can bring to the organization. This amendment to the County Charter will send a clear message that Montgomery County is leading the way in hiring people with disabilities.

Testimony of Sharon Allender  
June 29, 2010

I am here today to support an amendment to the County Charter authorizing a special hiring authority for persons with disabilities.

I commend the Council for its recent adoption of legislation providing a hiring preference for disabled persons who are determined to be in the pool of best-qualified applicants for a position. I also greatly appreciate the Council's support for the Customized Employment Public Intern Project, which provides a wonderful opportunity for disabled persons to gain experience in the workplace and contribute to the work of County agencies.

I think it is important to work towards special hiring authority for disabled persons patterned on the Federal Government's Schedule A authority as a complement to these two initiatives.

My husband and I are parents of a 22-year old young man with multiple disabilities, including physical and developmental impairments. Our son worked very hard to complete a secondary-school special education program. In the end, he earned a high school diploma—not based on graded or standardized tests, but on his demonstration of competency in relevant tasks. He now has a two-year appointment as a file clerk in the County's Public Intern Project. Again, his selection from among applicants for the program was based on his demonstrated mastery of relevant tasks.

Because of his developmental impairments, which include speech and language deficits, poor social skills, and executive function problems, it is unlikely that our son could take advantage of the new hiring preference—which requires that he be one of the best qualified applicants. Yet, if he performs successfully in the Intern Project, he will have demonstrated his ability to be a productive employee.

Schedule A authority would allow County managers the discretion to employ individuals such as our son in appropriate positions through non-competitive appointment. The Federal Government has used this approach successfully for decades. There is no reason to believe that the County would be any less successful in implementing a comparable hiring authority.

The multiply disabled face extraordinary barriers in finding employment and have very high rates of unemployment. I am disappointed that the Charter Review Commission's comments fail to recognize the special circumstances of this group.

I urge the Council to continue working towards procedures to help multiply and developmentally disabled persons receive permanent County employment and contribute to the work of the County Government.

## State of Maryland – Charter Amendment Petition

To: President of the Montgomery County Council

We, the undersigned voters of Montgomery County, Maryland, hereby petition to have this amendment of the County Charter submitted to a vote of the registered voters of Montgomery County for approval or rejection at the next general election.

The full text of the proposal appears at the bottom of this petition.

**NOTICE TO SIGNERS:** Sign and print your name (1) as it appears on the voter registration list, OR (2) your surname of registration and at least one full given name AND the initial of any other names. Please print or type all information other than your signature. Post Office Box addresses are not generally accepted as valid. By signing this petition, you agree that the above-mentioned charter amendment proposal should be placed on the ballot as a question at the next general election and that, to the best of your knowledge, you are registered to vote in Maryland and are eligible to have your signature counted for this petition.

**Please Note: The information you provide on this petition may be used to change your voter registration address.**

	DATE (mm/dd/yy)	PRINT FULL NAME	PERMANENT RESIDENCE ADDRESS	CITY	ZIP CODE	DATE OF BIRTH	SIGNATURE, SAME AS PRINTED
1.							
2.							
3.							
4.							
5.							

**FOR ELECTION BOARD USE ONLY**

\_\_\_\_\_ Total Number of Signatures  
 \_\_\_\_\_ Number of Invalidated Signatures  
 \_\_\_\_\_ Number of Valid

Endorsed by: \_\_\_\_\_

Individual circulator's printed or typed name: \_\_\_\_\_  
 Residence Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

**CIRCULATOR'S AFFIDAVIT**

Under penalties of perjury, I swear (or affirm) that: (a) I was at least 18 years old when each signature was obtained; (b) the information given to me is true and correct; (c) I personally observed each signer as he or she signed this page; and (d) to the best of my knowledge and belief: (i) all signatures on this page are genuine; and (ii) all signers are registered voters of Maryland.

\_\_\_\_\_  
 Circulator's Signature Date (mm/dd/yy)  
 (Sign and date when signature collection is completed)

**FULL TEXT OF PROPOSED AMENDMENT TO MONTGOMERY COUNTY CHARTER**

**Sec. 102. Composition and Election.** Notwithstanding any other provision of this Charter, and beginning with the Council taking office on the first Monday of December following the regular election conducted in 2010, the Council shall be composed of nine ~~seven~~ members, each of whom shall be a qualified voter of Montgomery County. Four ~~Two~~ Councilmembers shall be nominated and elected by the qualified voters of the entire County. Each of the five other members of the Council shall, at the time of election, reside in a different Council district, and shall be nominated and elected by the qualified voters of that district. No member of the Council shall hold any other office of profit in state, county or municipal government. No member of the Council shall be eligible for appointment during the member's term of office to any other office or position carrying compensation created by or under this Charter, except to County Executive in the event of a vacancy.

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**Faden, Michael**

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**From:** Faden, Michael  
**Sent:** Thursday, July 08, 2010 4:46 PM  
**To:** 'robinficker@msn.com'  
**Cc:** Jurgensen, Margaret  
**Subject:** Charter amendments

Mr. Ficker-

We are preparing the Council resolutions to adopt ballot language for any Charter amendments that are placed on the ballot by petition. I understand that you are circulating 2 petitions, one for Council and Executive term limits and the other to limit certain taxes the County can impose.

It would assist the process, and lead to earlier resolution of any issues that arise, if you could send the text of each petition to this office. As you know, the Council cannot modify the wording of any proposed amendment. But it needs to see that wording in order to adopt an accurate summary for the ballot question.

The Council hopes to conditionally adopt the ballot language by July 27, assuming that each petition being circulated will receive sufficient signatures, and is scheduled to begin that process on July 13. Accordingly, I would appreciate it if you could forward the text of each amendment to me at your earliest convenience.

Michael E. Faden  
Senior Legislative Attorney  
Montgomery County Council  
240-777-7905  
mike.faden@montgomerycountymd.gov

REFERENDUM PETITION

We, the undersigned registered voters of Montgomery County, Maryland, do hereby petition for a referendum vote on the Bill 13-10, entitled "An Act to (1) authorize the County to impose and collect a fee to recover costs generated by providing emergency medical service transports; (2) provide for a schedule of emergency medical services transport fees, fee waiver criteria, permitted uses of fee revenues, and other procedures to operate the emergency medical services fee program; (3) prohibit a Local Fire and Rescue Department from imposing a separate emergency medical services transport fee; (4) require the Executive to issue certain regulations to implement an emergency medical services transport fee; (5) require a certain annual transfer be made as payment of residents' uninsured portion of the emergency medical services transport fee, and (6) generally amend County law regarding the provision of emergency medical services" enacted by the County Council for Montgomery County, Maryland, at its May 2010 legislative session. (Mont. Co. Code 1965, § 9-14; 1969 L.M.C., ch. 32, § 2.)

If the full text of the bill/ordinance or part of the bill/ordinance referred (the "proposal") does not appear on the back of this signature page or as an attachment, a fair and accurate summary of the substantive provisions of the proposal must appear on the back or be attached, and the full text of the proposal must be immediately available from the petition circulator.

**NOTICE TO SIGNERS:** Sign and print your name (1) as it appears on the voter registration list, OR (2) your surname of registration and at least one full given name AND the initial of any other names. Please print or type all information other than your signature. Post Office Box addresses are not generally accepted as valid. By signing this petition, you agree that the above-mentioned proposal should be placed on the ballot as a referendum question at the next general election and that, to the best of your knowledge, you are registered to vote in Maryland and are eligible to have your signature counted for this petition.

**Please Note: The information you provide on this petition may be used to change your voter registration address.**

DATE (mm/dd/yy)	PRINT FULL NAME	VOTER REGISTRATION ADDRESS	CITY	ZIP CODE	DATE OF BIRTH	SIGNATURE, SAME AS PRINTED
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

CIRCULATOR'S AFFIDAVIT

**FOR ELECTION BOARD USE ONLY**

Total Number of Signatures \_\_\_\_\_

Number of Invalidated Signatures \_\_\_\_\_

Number of Valid Signatures \_\_\_\_\_

Endorsed by: \_\_\_\_\_

Individual circulator's printed or typed name \_\_\_\_\_

Residence Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number \_\_\_\_\_

Under penalties of perjury, I swear (or affirm) that: (a) I was at least 18 years old when each signature was obtained; (b) the information given to the left identifying me is true and correct; (c) I personally observed each signer as he or she signed this page; and (d) to the best of my knowledge and belief: (i) all signatures on this page are genuine; and (ii) all signers are registered voters of Maryland.

Circulator's Signature \_\_\_\_\_ Date (mm/dd/yy) \_\_\_\_\_

**Text of Bill 13-10, Emergency Medical Services Transport Fee**

*The County Council of Montgomery County, Maryland approves the following Act:*

Sec. 1. Section 21-23A is added as follows:

**21-23A. Emergency Medical Services Transport Fee.**

(a) **Definitions.** In this Section the following terms have the meanings indicated:

1. **Emergency medical services transport** means transportation by the Fire and Rescue Service of an individual by ambulance or other Fire and Rescue Service vehicle used for a similar purpose. Emergency medical services transport does not include transportation of an individual under an agreement between the County and a health care facility.
2. **Federal poverty guidelines** means the applicable health care poverty guidelines published in the Federal Register or otherwise issued by the federal Department of Health and Human Services.
3. **Fire and Rescue Service** includes each local fire and rescue department.

(b) **Imposition of fee.** The County must impose a fee for any emergency medical services transport provided in the County and, unless prohibited by other law, outside the County under a mutual aid agreement.

(c) **Liability for fee.** Subject to subsection (d), each individual who receives an emergency medical services transport is responsible for paying the emergency medical services transport fee.

(d) **Hardship waiver.**

1. The Fire Chief must waive the emergency medical services transport fee for any individual whose household income is at or below 300 percent of the federal poverty guidelines. An individual must request a waiver on a form approved by the Fire Chief.
2. The Fire Chief may deny a request for a waiver if an individual who claims financial hardship under this Section does not furnish all information required by the Fire Chief.

(e) **Payment of Residents' Uninsured Portion of the Emergency Medical Services Transport Fee.**

1. Tax revenues received by the County must be treated as payment, on behalf of County residents, of the balance of each resident's portion of the emergency medical services transport fee that is not covered by the resident's insurance.
2. The County Council must annually transfer from the General Fund to the Consolidated Fire Tax District Fund an amount that the Council estimates will not be covered by residents' insurance as payment of all residents' uninsured portion of the emergency medical services transport fee.

(f) **Obligation to transport.** The Fire and Rescue Service must provide emergency medical services transport in accordance with applicable medical protocols to each individual without regard to the individual's ability to pay.

(g) **Restriction on Local Fire and Rescue Departments.** A local fire and rescue department must not impose a separate fee for an emergency medical transport.

(h) **Use of revenue.** Except for the transfer received from the General Fund under subsection (e) and in the first fiscal year this fee is implemented, the revenues collected from the emergency medical services transport fee must be used to supplement, and must not supplant, existing expenditures for emergency medical services and other related fire and rescue services provided by the Fire and Rescue Service.

(i) **Regulations; fee schedule.** The County Executive must adopt a regulation under method (2) to implement the emergency medical services transport fee program. The regulation must establish a fee schedule based on the cost of providing emergency medical services transport. The fee schedule may include an annual automatic adjustment based on inflation, as measured by an index reasonably related to the cost of providing emergency medical services transports. The regulation may require each individual who receives an emergency medical services transport to provide financial information, including the individual's insurance coverage, and to assign insurance benefits to the County.

Sec. 2. **Implementation.** The emergency medical services transport fee authorized by County Code §21-23A, enacted by Section 1 of this Act, may be collected for any emergency medical services transport that occurs on or after July 1, 2010. Collection may occur retroactively to that date if necessary during the first fiscal year the emergency medical services transport fee is implemented.

Resolution No.: \_\_\_\_\_

Introduced: \_\_\_\_\_

Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT: Ballot title for referendum on County Law**

**Background**

(1) Section 114 of the County Charter provides that any legislation enacted by the County Council, with certain exceptions, must be submitted to a referendum of the voters on petition of 5% of the registered voters of the County.

(2) The County Board of Elections received a petition for a referendum on Chapter 15 of the Laws of Montgomery County, 2010, entitled "An Act to:

- (1) authorize the County to impose and collect a fee to recover costs generated by providing emergency medical service transports;
- (2) provide for a schedule of emergency medical services transport fees, fee waiver criteria, permitted uses of fee revenues, and other procedures to operate the emergency medical services fee program;
- (3) prohibit a Local Fire and Rescue Department from imposing a separate emergency medical services transport fee;
- (4) require the Executive to issue certain regulations to implement an emergency medical services transport fee;
- (5) require a certain annual transfer be made as payment of residents' uninsured portion of the emergency medical services transport fee; and
- (6) generally amend County law regarding the provision of emergency medical services."

The Board of Elections has not determined whether the petition was accompanied by sufficient signatures to place the referred law on the ballot.

(3) Under Section 7-103(c)(3)(i) of the Elections Article of the Maryland Code, each proposed ballot question must be certified to the Board of Elections on or before the third Monday in August in the year in which there will be a general or Congressional election at which the ballot question is to be submitted to the voters.

(4) County Code §16-16 provides that a ballot title or summary, prepared by the Council, of each proposed ballot question must appear in print on the voting machine or ballot. County Code §16-9 specifies the form of referendum questions.

**Action**

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

The following question must be placed on the 2010 general election ballot:

**Question A**

**Referendum on Law Enacted by County Council**

**Emergency Medical Services Transport Fee**

Shall the Act to impose an emergency medical services transport fee become law?

**FOR AGAINST**

This resolution is effective only if the petition for a referendum on Chapter 15 of the Laws of Montgomery County, 2010, qualifies for inclusion on the 2010 ballot. If one or more other questions are placed on the 2010 ballot and one is designated as Question A, the Board of Elections must reletter this question accordingly.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

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