

MEMORANDUM

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 
Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing/Action:** Bill 28-13, Elected Officials – Compensation

Bill 28-13, Elected Officials – Compensation, sponsored by the Council President at the request of the Committee to Study the Compensation of the County Executive, County Council, Sheriff, and State's Attorney (Committee), was introduced on October 1. Action is tentatively scheduled following the public hearing.

Bill 28-13, as introduced, reflects the recommendations of the Committee, and would increase the compensation of the County Executive and County Council. The Committee did not recommend increases to the compensation of the Sheriff and State's Attorney beyond annual cost-of-living adjustments. The Council will consider whether to accept or modify any of the changes recommended by the Committee after the scheduled public hearing.

In the third year of its term of office, consistent with past practice, the Council established the Committee by Resolution No. 17-563 on October 16, 2012. The Council is authorized to set the compensation for Councilmembers and the Executive by Charter Sections 107 and 204. State law authorizes the Council to set the compensation for the Sheriff and the State's Attorney. Article III, Section 35 of the Maryland Constitution prohibits an increase or decrease in the salary of these elected officials during their term of office. The Council appointed 7 volunteer residents to the Committee by Resolution No. 17-686 on February 26, 2013. The Committee studied this matter for 7 months and issued a final report in September 2013.¹

Bill 28-13 would make the following changes:

County Executive: Increase salary to \$190,000 beginning on December 1, 2014 and, for the remaining three years, by the CPI increase,² if any. With the recommended salary of

¹ A copy of the report is available at:

http://www6.montgomerycountymd.gov/content/council/pdf/reports/2013_compensation_committee_report.pdf

² The annual average percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Baltimore Metropolitan Area, or any successor index, for the 12 months preceding September 1 of that year.

\$190,000 at the start of the next term, the Committee projected the following salary estimates for the next four years:³

Current (effective 12/3/12)	Previously approved (Bill 36-09) 12/2/2013 (2.28%)	12/1/2014 (2.35%)	12/7/2015 (2.45%)	12/5/2016 (3.0%)	12/4/2017 (3.3%)
\$180,250	\$184,360	\$190,000	\$194,655	\$200,495	\$207,111

Councilmembers: Increase salary to \$125,000 beginning on December 1, 2014 and, for the remaining three years, by the CPI increase,⁴ if any. With the recommended salary of \$125,000 at the start of the next term, the Committee projected the following salary estimates for the next four years:⁵

	Current (effective 12/3/12)	Previously approved (Bill 36- 09) 12/2/2013 (2.28%)	12/1/2014 (2.35%)	12/7/2015 (2.45%)	12/5/2016 (3.0%)	12/4/2017 (3.3%)
Councilmembers	\$104,022	\$106,394	\$125,000	\$128,063	\$131,905	\$136,258
Council President ⁶	\$114,425	\$117,034	\$137,500	\$140,869	\$145,095	\$149,883

The Committee recommended retaining the existing Code provisions governing the compensation of the Sheriff and the State's Attorney. Under these provisions, the compensation of the Sheriff and the State's Attorney will be adjusted as follows:

Sheriff: Increase salary in each year of the next term, beginning on December 1, 2014, by the CPI increase,⁷ if any. The Committee projected the following salary estimates for the next four years:⁸

³ Salary projections for December 2013, 2015, 2016 and 2017 are estimates and are based on the County Finance Department's projections for the change in the CPI-U for those years.

<http://montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy14/psprec/psp-revenue.pdf>, page 5-4

⁴ See note 2.

⁵ See note 3.

⁶ The Council President currently receives 10% more than the other Councilmembers. The Committee recommended that the Council President continue to receive the 10% differential.

⁷ See note 2.

⁸ See note 3.

Current (effective 12/3/12)	Previously approved (Bill 36-09) 12/2/2013 (2.28%)	12/1/2014 (2.35%)	12/7/2015 (2.45%)	12/5/2016 (3.0%)	12/4/2017 (3.3%)
\$154,000	\$157,234	\$160,929	\$164,872	\$169,818	\$175,422

State’s Attorney: Increase salary in each year beginning on January 5, 2015, through 2018, by the CPI increase,⁹ if any. The Committee projected the following salary estimates through 2018:¹⁰

Current Term (effective 1/7/13)	Previously approved (Bill 36-09) 1/6/2014 (2.28%)	1/5/2015 (2.35%)	1/4/2016 (2.45%)	1/2/2017 (3.0%)	1/2/2018 (3.3%)
\$199,000	\$203,537	\$208,320	\$213,423	\$219,825	\$227,079

The Committee did not recommend changes in the current benefit packages for any of these elected positions.

The Committee determined that the salary of a Councilmember “now is, and has been, deficient relative to the responsibilities and demands of the job and the leadership skills required,” and that it “lags behind that of each of the other elected positions reviewed by the Committee.” The Committee recognized the “extraordinarily broad” scope of a Councilmember’s work and the fact that a Councilmember has a “24/7-style workload” and “more than 40-hour workweek.” Additionally, the Committee noted that, in recent review cycles, “the salaries of the County Executive, the Sheriff, and the State’s Attorney were adjusted to levels that are more appropriate for their duties and responsibilities,” while there was no such “catch-up” adjustment for the Councilmember salary. *See* ¶6. The recommendation of the Committee would allow the Councilmember salary “to match, in relative terms, significant increases in other elective positions in the past compensation review cycles,” and would “more accurately reflect the scope, complexity, and leadership responsibilities of the job and the values and the demands placed on the position by the community.”¹¹

Bill 28-13 also would clarify (but in our opinion not substantively change) the current law governing annual CPI adjustments to the salaries of the County Executive, County Council, Sheriff, and State’s Attorney. Annual adjustments are based on any increase in the CPI-U, and will continue each year unless modified by the enactment of a new law.

⁹ See note 2.

¹⁰ Salary projections for January 2014, 2015, 2016, 2017, and 2018 are estimates and are based on the County Finance Department’s projections for the change in the CPI-U for those years.

<http://montgoirercountymd.gov/OMB/Resources/Files/omb/pdfs/fy14/psprec/psp-revenue.pdf>, page 5-4

¹¹ *Report of the Committee to Study the Compensation of the County Executive, County Council, Sheriff, and State’s Attorney*, September 2013, pp. 15-17.

Section 10-302 of the recently added Local Government Article of the Annotated Code of Maryland¹² empowers a county to establish a commission to recommend the compensation and allowances to be paid to members of the county legislative body. *See* ©7. This section provides that a county legislative body may reduce or reject the commission’s recommendation, but shall not increase any item. It also includes a provision that “Any change in the compensation and allowances of members of the county legislative body shall be enacted by ordinance before the election of the members of the next succeeding county legislative body and take effect only for the members of the next succeeding legislative body.” It is our opinion that the use of the phrase “take effect only for the members of the next succeeding legislative body” is in reference to a point in time, *i.e.*, the effective date of the change, and does not impose a durational limitation on approved recurring changes such as the annual CPI adjustments. Such interpretation is consistent with the Maryland Constitution’s prohibition on increases or decreases in compensation of elected officials during their term of office.

Council President Navarro may offer an amendment to Bill 28-13. This amendment would implement the Committee’s recommendations for the next Council, but would do so through a phased process. Rather than increase the salaries of the next elected County Council by about 17.5% in December 2014, with CPI adjustments thereafter, the amendment would provide for 6.5% increases in 2014, 2015, and 2016, and a 6.02% increase in 2017. Under this amendment, the compensation of Councilmembers would reach the level recommended by the Committee in the last year of the next term. However, by phasing the increases, the aggregate amount of the salaries paid to Councilmembers during the term would be reduced by \$204,422 as compared to the Committee recommendation. The provisions of Bill 28-13 pertaining to the County Executive, Sheriff, and State’s Attorney would not be changed by this amendment.

<u>This packet contains:</u>	<u>Circle #</u>
Bill 28-13	1
Legislative Request Report	5
Historical Salary Data	6
Md. Code Ann., Local Gov’t, § 10-302	7
Potential Council President Amendment	9

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¹² The Local Government Article was added to the Maryland Code by Chapter 119, 2013 Laws of Maryland, effective October 1, 2013, which revised, restated, and recodified the laws of the State relating to local governments.

Bill No. 28-13
Concerning: Elected Officials -
Compensation
Revised: 9/26/2013 Draft No. 4
Introduced: October 1, 2013
Expires: April 1, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President on behalf of the Committee to Study the Compensation of the County Executive, County Council, Sheriff, and State's Attorney

AN ACT to:

- (1) modify the compensation of the County Executive and County Council;
- (2) clarify the Code provisions governing annual adjustments to the compensation of the County Executive, County Council, Sheriff, and State's Attorney; and
- (3) generally amend the law relating to compensation of elected officials.

By amending

Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-106

Chapter 2, Administration
Sections 2-7 and 2-123A

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

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

1 **Sec. 1. Sections 1A-106, 2-7, and 2-123A are amended as follows:**

2 **1A-106. Salaries of the County Executive and Councilmembers.**

3 (a) *Salary of County Executive.* Except as provided in subsection (c), the
4 County Executive must receive an annual salary of \$190,000 beginning
5 on December 1, 2014 [:

6 (1) \$175,000 beginning on December 7, 2009; and

7 (2) \$180,250 beginning on December 3, 2012].

8 (b) *Salary of Councilmembers.*

9 (1) Except as provided in paragraph (2) and subsection (c), a
10 Councilmember must receive an annual salary of \$125,000
11 beginning on December 1, 2014 [:

12 (A) \$94,595 beginning on December 6, 2009;

13 (B) \$99,325 beginning on December 5, 2011; and

14 (C) \$104,291 beginning on December 3, 2012].

15 (2) The Council President must receive an additional amount equal
16 to 10% of the salary of other Councilmembers.

17 (c) *Annual adjustments.*

18 (1) Beginning on [December 2, 2013] December 7, 2015, the
19 salaries of the Councilmembers must be [increased]
20 adjusted annually on the first Monday in December by the
21 annual average percentage increase, if any, in the Consumer
22 Price Index for All Urban Consumers for the Washington-
23 Baltimore Metropolitan Area, or any successor index, for the 12
24 months preceding September 1 of that year.

25 (2) Beginning on [December 2, 2013] December 7, 2015, the salary
26 of the County Executive must be [increased] adjusted annually
27 on the first Monday in December by the annual average

28 percentage increase, if any, in the Consumer Price Index for All
29 Urban Consumers for the Washington-Baltimore Metropolitan
30 Area, or any successor index, for the 12 months preceding
31 September 1 of that year.

32 * * *

33 **2-7. Location of Sheriff's office; compensation of Sheriff; required use of**
34 **vehicle.**

35 * * *

36 (b) *Salary.*

37 (1) Except as provided in paragraph (2), beginning on December 6,
38 2010, the Sheriff must receive an annual salary of \$154,000.

39 (2) Beginning on December 2, 2013, the Sheriff's salary must be
40 [increased] adjusted annually on the first Monday in December
41 by the annual average percentage increase, if any, in the
42 Consumer Price Index for All Urban Consumers for the
43 Washington-Baltimore Metropolitan Area, or any successor
44 index, for the 12 months preceding September 1 of that year.

45 * * *

46 **2-123A. Compensation of the State's Attorney.**

47 (a) Except as provided in subsection (b), beginning on January 3, 2011,
48 the State's Attorney must receive an annual salary of \$199,000.

49 (b) Beginning on January 6, 2014, the salary of the State's Attorney must
50 be adjusted annually on the first Monday in January by the annual
51 average percentage increase, if any, in the Consumer Price Index for
52 All Urban Consumers for the Washington-Baltimore Metropolitan
53 Area, or any successor index, for the 12 months preceding September
54 1 of that year.

LEGISLATIVE REQUEST REPORT

Bill 28-13

Elected Officials - Compensation

- DESCRIPTION:** To modify the compensation of the County Executive and County Council, and clarify the Code provisions governing annual adjustments to the compensation of the County Executive, County Council, and Sheriff
- PROBLEM:** The Council is authorized to set the compensation for the Councilmembers and the Executive by Charter Sections 107 and 204. State law authorizes the Council to set the compensation for the Sheriff and the State's Attorney. Article III, Section 35 of the Maryland Constitution prohibits changes in the salary of these elected officials during their term of office.
- GOALS AND OBJECTIVES:** In the third year of its term, consistent with past practice, the Council established the Committee to Study the Compensation of the County Executive, County Council, Sheriff, and State's Attorney (Committee) by Resolution No. 17-563 on October 16, 2012. The Council appointed 7 volunteer residents to the Committee by Resolution No. 17-686 on February 26, 2013. This Bill would implement the recommendations of the Committee.
- COORDINATION:** Committee to Study the Compensation of the County Executive, County Council, Sheriff, and State's Attorney
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** To be requested.
- EXPERIENCE ELSEWHERE:** See September 2013 Committee Report
- SOURCE OF INFORMATION:** Josh Hamlin, Legislative Attorney
- APPLICATION WITHIN MUNICIPALITIES:** Not applicable.
- PENALTIES:** None.

HISTORICAL SALARY DATA

Position	1990	1994*	1998	2002	2006	2010	Current**
County Executive	\$86,020	\$101,628	\$115,000	\$136,732	\$163,000	\$175,000	\$180,250
County Councilmembers	\$47,423	\$56,029	\$62,500	\$72,557	\$84,721	\$94,040	\$104,022
County Council President	\$52,165	\$61,632	\$68,750	\$79,812	\$93,193	\$103,444	\$114,425
State's Attorney	\$87,712	\$99,175	\$110,000	\$128,898	\$160,000	\$199,000	\$199,000
Sheriff	\$65,000	\$72,397	\$89,500	\$102,000	\$125,000	\$154,000	\$154,000

* No compensation committee in 1994

** Will increase as of December 2, 2013 (January 6, 2014 for State's Attorney)



1 of 1 DOCUMENT

Annotated Code of Maryland
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*** Statutes current through the 2013 General Assembly Regular Session ***
*** Annotations current through September 9, 2013 ***

LOCAL GOVERNMENT
DIVISION III. COUNTIES
TITLE 10. EXPRESS POWERS ACT
SUBTITLE 3. EXPRESS POWERS OF CHARTER COUNTIES AND CODE COUNTIES

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. LOCAL GOVERNMENT Code Ann. § 10-302 (2013)

§ 10-302. County legislative body -- Compensation

(a) Compensation commission. -- By ordinance, a county may establish a commission to recommend compensation and allowances for members of the county legislative body.

(b) Recommendations. --

(1) Within 15 days after the beginning of the fourth year of the term, a commission established under this section, by resolution, shall submit to the county legislative body its recommendation for the compensation and allowances for members of the county legislative body.

(2) Subject to subsection (e) of this section, the commission may recommend an increase or decrease in the compensation and allowances for members of the county legislative body.

(c) Legislative action. -- On receiving the resolution, the county legislative body may reduce or reject the commission's recommendation, but may not increase any item.

(d) Changes in salary. -- Any change in the compensation and allowances of members of the county legislative body shall be enacted by ordinance before the election for the members of the next succeeding county legislative body and take effect only for the members of the next succeeding county legislative body.

(e) Minimum for compensation and allowances. -- The compensation or allowances for members of the county legislative body of a charter county may not be less than provided in the county charter.

HISTORY: An. Code 1957, art. 25A, § 5(AA); 2013, ch. 119, § 2.

NOTES: REVISOR'S NOTE

This section is new language derived without substantive change from former Art. 25A, § 5(AA).

In subsection (a) of this section and throughout this subtitle, the references to "county legislative body" are substituted for the former references to "county council" for accuracy because this subtitle applies to both charter counties, which are governed by a county council, and code counties, which are governed by county commissioners.

In subsection (a) of this section, the reference to a commission "to recommend" compensation and allowances is substituted for the former reference to a commission "empowered to set" compensation and allowances for consistency within this section.

In subsection (b)(1) of this section, the former reference to the commission "set[ting]" the compensation and allowances is deleted as inconsistent with the rest of this section, which requires the commission to submit "its recommendation" for the compensation and allowances.

Also in subsection (b)(1) of this section, the former reference to the term "of each council" is deleted as surplusage.

In subsection (b)(2) of this section, the introductory clause "[s]ubject to subsection (e) of this section" is added for clarity.

Also in subsection (b)(2) of this section, the reference to the "allowances" for members is added for consistency within this section.

In subsection (d) of this section, the reference to "[a]ny change in the compensation ...be[ing] enacted by ordinance" is substituted for the former reference to "[t]he ordinance making any change in the salary ...be[ing] ordained" for clarity.

Also in subsection (d) of this section, the reference to the "compensation and allowances of" members is substituted for the former reference to the "salary paid to" members for consistency within this section.

USER NOTE: For more generally applicable notes, see notes under the first section of this part, subtitle, title, division or article.

AMENDMENT

To Bill 28-13, Elected Officials - Compensation

BY COUNCIL PRESIDENT NAVARRO

On ©2, amend lines 8-14 to read:

- 1 (b) *Salary of Councilmembers.*
2 (1) Except as provided in paragraph (2) and subsection (c), a
3 Councilmember must receive an annual salary of: [[~~\$125,000~~
4 beginning on December 1, 2014]] [:
5 (A) \$94,595 beginning on December 6, 2009;
6 (B) \$99,325 beginning on December 5, 2011; and
7 (C) \$104,291 beginning on December 3, 2012]
8 (A) \$113,310 beginning on December 1, 2014;
9 (B) \$120,675 beginning on December 7, 2015;
10 (C) \$128,519 beginning on December 5, 2016; and
11 (D) \$136,258 beginning on December 4, 2017.

On ©2, amend lines 17-24 to read:

- 12 (c) *Annual adjustments.*
13 (1) Beginning on [~~December 2, 2013~~] [[December 7, 2015]]
14 December 3, 2018, the salaries of the Councilmembers must be
15 [increased] adjusted annually on the first Monday in December
16 by the annual average percentage increase, if any, in the
17 Consumer Price Index for All Urban Consumers for the
18 Washington-Baltimore Metropolitan Area, or any successor
19 index, for the 12 months preceding September 1 of that year.