

Resolution No.: 17-533
Introduced: July 17, 2012
Adopted: July 31, 2012

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Proposed Amendments to County Charter

Background

(1) §5 of Article XI-A of the Maryland Constitution, §7-102(c)(3)(i) of the Elections Article of the Maryland Code, and §16-14 of the Montgomery County Code provide that amendments to the Charter of Montgomery County may be proposed by a resolution of the County Council. §5 of Article XI-A of the Constitution also provides that amendments to the Charter may be proposed by a petition signed by at least 10,000 registered voters of the County and filed with the President of the County Council.

(2) Under §7-103(c)(3)(i) of the Elections Article of the Maryland Code, proposed Charter amendments must be certified to the County Board of Elections on or before the third Monday in August in the year of a general or Congressional election at which those Charter amendments will be submitted to the voters. §16-16 of the County Code provides that a ballot title or summary, prepared by the County Council, of all proposed Charter amendments must appear in print on the voting machine or ballot.

(3) The Council intends to submit to the County Board of Elections for inclusion on the 2012 general election ballot Question A, Merit System – Hiring Individuals with Disabilities, which would amend §401 of the Charter.

(4) A petition to repeal §§510, 510A, and 511 of the Charter has been circulated and may be filed. A determination has not been made whether the petition has the required number of signatures and otherwise qualifies for inclusion on the 2012 general election ballot.

(5) A petition to amend §305 of the Charter has been circulated and may be filed. A determination has not been made whether the petition has the required number of signatures and otherwise qualifies for inclusion on the 2012 general election ballot.

Action

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

1) Subject to the approval of the County Attorney as to the form of the question, the following Charter amendment must be placed on the 2012 general election ballot:

A

Merit System - Hiring Individuals with Disabilities

The County Council proposes to amend Section 401 of the Charter of Montgomery County as follows:

SECTION 401 Merit System

The Council shall prescribe by law a merit system for all officers and employees of the County government except: (a) members of the Council, the County Executive, the Chief Administrative Officer, the County Attorney; (b) the heads of the departments, principal offices and agencies, as defined by law; (c) any officer holding any other position designated by law as a non-merit position; (d) one confidential aide for each member of the Council; (e) two senior professional staff members for the Council as a whole as the Council may designate from time to time; (f) three special assistants to the County Executive as the Executive may designate from time to time; (g) special legal counsel employed pursuant to this Charter; (h) members of boards and commissions; and (i) other officers authorized by law to serve in a quasi-judicial capacity.

Any law which creates a new department, principal office, or agency, or designates a position as a non-merit position, requires the affirmative vote of six Councilmembers for enactment. Any law which repeals the designation of a position as a non-merit position requires the affirmative vote of five Councilmembers for enactment.

Officers and employees subject to a collective bargaining agreement may be excluded from provisions of law governing the merit system only to the extent that the applicability of those provisions is made subject to collective bargaining by legislation enacted under Section 510, Section 510A, or Section 511 of this Charter.

The merit system shall provide the means to recruit, select, develop, and maintain an effective, nonpartisan, and responsive work force with personnel actions based on demonstrated merit and fitness. Salaries and wages of all classified employees in the merit system shall be determined pursuant to a uniform salary plan. The council shall establish by law a system of retirement pay.

The Council by law may exempt probationary employees, temporary employees, and term employees from some or all of the provisions of law governing the merit system, but the law shall require these employees to be recruited, selected and promoted on the basis of demonstrated merit and fitness.

The Council by law may establish within the merit system a program to recruit and select qualified individuals with severe physical or mental disabilities on a noncompetitive basis.

The ballot for this question must be designated and read as follows:

Question A

Charter amendment by act of County Council

Merit System – Hiring Individuals with Disabilities

Amend Section 401 of the County Charter to allow the County to operate a program within the merit system to recruit and select qualified individuals with severe physical or mental disabilities on a noncompetitive basis.

FOR AGAINST

2) Subject to the approval of the County Attorney as to the form of the question, the following Charter amendments must be placed on the 2012 general election ballot if the petition containing the amendment qualifies for inclusion on the 2012 ballot.

B

Collective Bargaining

By petition the voters of Montgomery County propose to repeal Sections 510, 510A, and 511 of the Charter of Montgomery County as follows:

SECTION 510 [Collective Bargaining] Reserved

[The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County police officers. Any law so enacted shall prohibit strikes or work stoppages by police officers.]

SECTION 510A [Collective Bargaining—Fire Fighters] Reserved

[The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County career fire fighters. Any law so enacted shall prohibit strikes or work stoppages by career fire fighters.]

SECTION 511 [Collective Bargaining—County Employees] Reserved

[The Montgomery County Council may provide by law for collective bargaining, with arbitration or other impasse resolution procedures, with authorized representatives of officers and employees of the County Government not covered by either Section 510 or Section 510A of this

Charter. Any law so enacted shall prohibit strikes or work stoppages for such officers and employees.]

The ballot for this question must be designated and read as follows:

Question B

Charter amendment by petition

Collective Bargaining

Repeal Sections 510, 510A, and 511 of the County Charter to abolish the requirement to enact laws authorizing collective bargaining with County employees with binding arbitration or other impasse resolution procedures.

FOR AGAINST

C

Fuel-Energy Tax – Annual Limit

By petition the voters of Montgomery County propose to amend Section 305 of the Charter of Montgomery County as follows:

SECTION 305 Approval of the Budget; Tax Levies

The Council may add to, delete from, increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefor not later than June 1 of the year in which it is submitted.

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of nine, not seven, Councilmembers, the Council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section. This limit does not apply to revenue from: (1) newly constructed property, (2) newly rezoned property, (3) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year, (4) property that has undergone a change in use, and (5) any development district tax used to fund capital improvement projects.

Unless approved by an affirmative vote of nine, not seven, Councilmembers, the Council shall not levy a fuel-energy tax to finance the budgets that will produce total revenue that exceeds the total revenue produced by the fuel-energy tax in the preceding fiscal year plus a percentage of the previous year's fuel-energy tax revenues that equals any increase in the Consumer Price Index as computed under this section.

The ballot for this question must be designated and read as follows:

Question C

Charter amendment by petition

Fuel-Energy Tax – Annual Limit

Amend Section 305 of the County Charter to require a unanimous vote of all nine members of the County Council to increase the fuel-energy tax rate above the rate of inflation.

FOR

AGAINST

This is a correct copy of Council action.

Approved as to form and legality:

Linda M. Lauer

Linda M. Lauer, Clerk of the Council

Marc P. Hansen

Marc P. Hansen, County Attorney