

M E M O R A N D U M

July 15, 2020

TO: Government Operations and Fiscal Policy Committee

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Resolution, Proposed Charter Amendment – Property Tax Limit – Limit Tax Rate Increases

PURPOSE: Worksession – Committee to make recommendations

Expected Attendees

Marc P. Hansen, County Attorney

Edward B. Lattner, Chief, Division of Government Operations, County Attorney's Office

Resolution, Proposed Charter Amendment – Property Tax Limit – Limit Tax Rate Increases, was introduced on July 14, 2020 by Lead Sponsors Councilmember Friedson, Council President Katz, and Councilmember Navarro, and Co-Sponsors Councilmembers Alborno, Rice, and Riemer. The resolution is tentatively scheduled for a public hearing on July 21 and final action on July 28.

The Charter amendment proposed under the resolution would prevent the Council from setting an average weighted property tax rate on real property that exceeds the rate of the prior year, unless all current Councilmembers affirmatively vote for the increase.

This new limit on tax rate increases would replace the current “Charter limit” under Section 305, which provides that – unless all current Councilmembers agree – the Council may not levy an ad valorem tax on real property that would produce total revenue (not including certain enumerated types of 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.

BACKGROUND

Charter Section 305 is critically important to the fiscal health of the County and to the structure, functions, and role of County government. Among other provisions, Section 305 contains the following “Charter limit” on the average weighted property tax rate in relation to the County’s prior year’s revenues:

By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of all current 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.

Over the past 40 years, Section 305 has been amended several times, including most recently in 2018, when voters approved the Council’s proposal to require the affirmative vote of “all current Councilmembers” to override the Charter limit. The current proposal would not alter the necessity of an affirmative vote of all current Councilmembers, but – instead of being based on prior year revenues – the limit would be based on the actual tax rate of the prior year.

POTENTIAL ISSUES FOR DISCUSSION

The Committee might wish to discuss the following issues in connection with the proposed Charter amendment.

1. Effect of the Proposal on the Property Tax Rate

Under this amendment, if approved by the voters, the Council would need a unanimous affirmative vote in order to raise the average weighted tax rate on real property above the current rate of \$0.9785 per \$100 of assessed value. For historical context, the County’s average weighted tax rates on real property since 2015 have been:

Fiscal Year	Average Weighted Tax Rate on Real Property Per \$100 of Assessed Value
2021	\$0.9785
2020	\$0.9786
2019	\$0.9814
2018	\$1.0012
2017	\$1.0264
2016	\$0.9870
2015	\$0.996

2. Effect of the Proposal on County Revenues

Under the proposed Charter amendment, property tax revenues would increase based on growth in property tax assessments. Tax revenue growth would no longer be tied to inflation.

Under the current Section 305, the average weighted real property tax rate is determined based upon the County's prior-year real property tax revenues (with certain exclusions) plus inflation. Under the proposed amendment, the tax rate itself would be capped, but revenues could grow based on growth in the assessable base.

3. Comparison to Other Proposals

Alternative approaches to amending Section 305, which the Committee might wish to discuss, include:

(1) Petitioned proposal. A proposal, which has been petitioned to the ballot, to eliminate completely the ability of the Council to override the current revenue limit under Section 305. The current revenue limit would remain in place. The current limit allows the Council to levy a tax that would produce the prior year's revenues (with certain exclusions, such as revenues from new construction) plus inflation.

(2) County Executive proposal. A proposal by the County Executive to:

(A) Require a 2/3 affirmative vote of the Council to increase the average weighted tax rate; and

(B) Limit the potential increase in assessments of owner-occupied principal residences to no more than 3% for purposes of the local Homestead Tax Credit, even though current State law allows for an increase of up to 10%.

Under the Executive's proposal, it would become easier to raise the average weighted tax rate on real property, in that: (1) the current Charter limit on revenues would be removed; and (2) only 2/3 of the Councilmembers (i.e., six Councilmembers) would need to vote for an increase instead of nine. At the same time, the effect of any increase potentially could be offset, for certain property owners, by the new tax limit that the Executive proposes for owner-occupied properties.

For owner-occupied properties, the Executive's proposal would limit the increase in assessments to no more than 3% for purposes of the local Homestead Tax Credit. The Homestead Tax Credit percent provides a cap on large assessment growth. A larger credit (e.g., 10%) allows large assessments to phase-in more quickly. A smaller credit (e.g., 3%) restricts assessment growth for a longer period of time. The purpose of the County Executive's proposal would be to limit the assessment growth, and thus limit the financial impact, of increased property values on owner-occupied residences.

As shown in the table below, the proposed 3% cap would have assisted an average owner-occupied property in two fiscal years (FY15 and FY16) during the time period of FY11 through FY19. During those two years, average growth exceeded the proposed 3% cap.

Fiscal Year	Average Annual Residential Assessment Growth
FY11	- 5.6%
FY12	- 6.6%
FY13	- 3.8%
FY14	0.1%
FY15	4.8%
FY16	4.4%
FY17	2.8%
FY18	2.6%
FY19	2.0%

4. Comparison to Other Jurisdictions

Surrounding jurisdictions have taken various approaches to property tax limits within their county charters. In Prince George’s County, the Council may levy a real property tax which would result in a total collection of real property taxes greater than the amount collected in fiscal year 1979 only if the real property tax rate does not exceed Two Dollars and forty cents (\$2.40) for each One Hundred Dollars (\$100.00) of assessed value. (Prince George’s County Charter, Section 812).

Under the Charter of Anne Arundel County: “From and after July 1, 1993, revenues derived from taxes on properties existing on the County property tax rolls at the commencement of the County fiscal year shall not increase, compared with the previous year, more than the Consumer Price Index percentage of change, or by 4.5 percent, whichever is the lesser.” (Anne Arundel County Charter, Section 710).

In Harford County, “The Council shall not levy property tax which would result in a total collection of property taxes greater than the amount collected in fiscal year 1979 and adjusted by the C.P.I. for Urban Wage Earners and Clerical Workers, 1967 = 100, Baltimore, Maryland, as published by the Bureau of Labor Statistics of the United States Department of Labor and the percentage change in the estimated county population as of January 1st in the budget year as determined by the State Department of Health and Mental Hygiene.” (Harford County Charter, Section 515).

In Wicomico County, “[F]om and after July 1, 2001, revenues derived from taxes on properties existing on the County real property tax rolls at the commencement of the County fiscal year shall not increase, compared with the previous year, by more than two percent, or by the Consumer Price Index for all urban consumers (CPI-U) percentage of change for the latest calendar year, determined by the U.S. Department of Labor, whichever is the lesser.” (Wicomico County Charter, Section 706).

Some jurisdictions, such as Frederick County, do not have tax limitations under their charters, but contain balanced budget requirements. For example, the Frederick County Charter states: “After enacting the Annual Budget and Appropriations Ordinance, the Council shall levy the amount of taxes required by the Budget to ensure that the Budget is balanced so that proposed revenues equal proposed expenditures.” (Frederick County Charter, Section 507).

RECOMMENDATION

Determine whether to recommend approval of the Resolution, Proposed Charter Amendment – Property Tax Limit – Limit Tax Rate Increases.

NEXT STEPS

The proposed Charter amendment is tentatively scheduled for a public hearing on July 21 at 7:30 p.m. The GO Committee is expected to make a recommendation to the full Council, which is expected to take final action on July 28. If the Council approves the resolution, the proposal will be placed on the 2020 General Election ballot.

This packet contains:

Resolution

Examples of Tax Limits in Other Jurisdictions

Circle

©1

©4

Resolution No.: _____
Introduced: July 14, 2020
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Councilmember Friedson, Council President Katz, and Councilmember Navarro
Co-Sponsors: Councilmembers Albornoz, Rice, and Riemer

SUBJECT: Proposed Amendment to County Charter

Background

- (1) Section 5 of Article XI-A of the Maryland Constitution, §7-102(c)(3)(i) of the Election Law 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. Section 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 Election Law Article of the Maryland Code, ballot questions for proposed Charter amendments must be certified to the State Board of Elections not later than the 95th day before the general election. County Code §16-16 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 for inclusion on the 2020 general election ballot:

Question A: Property Tax Limit – Limit Tax Rate Increases, which would amend §305 of the Charter.

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 questions, the following Charter amendment must be placed on the 2020 general election ballot:

A

Property Tax Limit – Limit Tax Rate Increases

The County Council proposes to amend Section 305 of the Charter of Montgomery County as follows:

Sec. 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 all current Councilmembers, the Council shall not levy an ad valorem average weighted tax rate 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] exceeds the ad valorem average weighted tax rate on real property approved for the previous year.

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

Question A

Charter amendment by act of County Council

Property Tax Limit – Limit Tax Rate Increases

Amend Section 305 of the County Charter to prohibit the County Council from adopting an average weighted tax rate (per \$100 on assessed value) on real property that exceeds the average weighted tax rate (per \$100 on assessed value) on real property approved for the previous year, unless all current Councilmembers vote affirmatively for the increase. This limit on tax rate increases would replace the current property tax limit, which requires an affirmative vote of all current Councilmembers to levy an ad valorem tax on real property that would produce total revenue (not including certain enumerated types of 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.

FOR AGAINST

This is a correct copy of Council action.

Approved as to form and legality:

Selena Mendy Singleton, Esq.
Clerk of the Council

Marc P. Hansen
County Attorney

PRINCE GEORGE'S COUNTY CHARTER

Section 812. - Tax Rate Limitation.

- (a) (1) Except as provided in this Section 812, the Council shall not levy a real property tax which would result in a total collection of real property taxes greater than the amount collected in fiscal year 1979;
- (2) The Council may levy a real property tax which would result in a total collection of real property taxes greater than the amount collected in fiscal year 1979 if the real property tax rate does not exceed Two Dollars and forty cents (\$2.40) for each One Hundred Dollars (\$100.00) of assessed value.
- (b) In the event that any annual collection of real property taxes exceeds the limits set forth in this section as estimated in the annual budget projections, said excess shall be placed in the contingency fund, and, if not used during the current fiscal year, said excess will be included in the budget estimate for real property taxes in the following fiscal year.
- (c) In the event the County Council shall establish, pursuant to proper authority, any separate class of residential real property tax, then, and in that event, all other classes of real property taxes would be exempt from this section, and the total real property taxes on residential real property shall not exceed the total amount of taxes collected on residential real property in fiscal year 1979.
- (d) In accordance with the provisions of Section 9-105 of the Tax-Property Article of the Annotated Code of Maryland, on or before January 1 of each year, the County Council shall set, by law, the homestead credit percentage for the taxable year beginning the following July 1. The homestead credit percentage shall be no greater than 100% plus the percentage of increase in the Consumer Price Index for the previous twelve months, rounded to the nearest whole number, but not more than 105%.

(Petition ratified Nov. 7, 1978; CB-63-1984, ratified Nov. 6, 1984; CB-89-1992, ratified Nov. 8, 1994; Amended, CB-68-2002, ratified Nov. 5, 2002)

Editor's note— Section 7, Chapter 80, 2000 Laws of Maryland, provides that any limit on a local tax rate in a Charter provision that is expressed as a rate to be applied to an assessment of real property shall be construed to mean a rate equal to 40% times the rate stated in the Charter provision. Accordingly, the \$2.40 rate stated in Section 817B(a)(2) shall be construed to be \$.96

Former Section 817B was renumbered with minor amendments to be Section 812.

ANNE ARUNDEL COUNTY CHARTER

Sec. 710. Reproduction of budget; effective date; tax levy; appropriations.

(a) **Reproduction of Budget.** The budget as adopted shall be reproduced in sufficient copies for distribution, free of charge, to the press and the head of each office, department or agency of the County government. Copies of the budget shall likewise be given to any interested person on request, provided, however, that in order to discourage waste the County Council may prescribe a charge for each copy of the adopted budget not to exceed the actual cost of its reproduction.

(b) **Effective Date.** The adopted budget shall take effect on the first day of the fiscal year to which it applies.

(c) **Tax Levy and Balanced Budget.** (1) When the County budget shall have been finally adopted in the Annual Budget and Appropriation Ordinance, the County Council shall thereupon levy and cause to be raised the amount of taxes required by the budget in the manner provided by law so that the budget shall be balanced as to proposed income and expenditures. (2) Any ordinance adopted under this subsection to levy taxes to balance the budget is exempt from the executive veto. (3) The effective date of a tax levy bill shall be the first day of the fiscal year to which it applies.

(d) **Property Tax.** From and after July 1, 1993, revenues derived from taxes on properties existing on the County property tax rolls at the commencement of the County fiscal year shall not increase, compared with the previous year, more than the Consumer Price Index percentage of change, or by 4.5 percent, whichever is the lesser. The Consumer Price Index shall be determined by the preceding January computation by the U.S. Department of Labor. (Bill No. 72-82; Res. No. 56-92)

HARFORD COUNTY CHARTER

Section 515. Tax Levy and Balanced Budget.

(a) When the County budget shall have been finally adopted in the Annual Budget and Appropriation Ordinance, the Council shall thereupon levy and cause to be raised the amount of taxes required by the budget in the manner provided by law so that the budget shall be balanced as to proposed income and expenditures.

(b) The Council shall not levy property tax which would result in a total collection of property taxes greater than the amount collected in fiscal year 1979 and adjusted by the C.P.I. for Urban Wage Earners and Clerical Workers, 1967 = 100, Baltimore, Maryland, as published by the Bureau of Labor Statistics of the United States Department of Labor and the percentage change in the estimated county population as of January 1st in the budget year as determined by the State Department of Health and Mental Hygiene.

(c) In the event that any annual collection of real property taxes exceeds the limits set forth in this Section, then said excess shall be carried over and applied in the budget in the following fiscal year.....