



Committee: Directly to Council
Committee Review: N/A
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: To receive testimony/final action - vote expected

AGENDA ITEM #8 AND
ITEM#15B
November 29, 2022
Public Hearing/Action

SUBJECT

Expedited Bill 29-22, Local Laws – Updates to Required Numbers of Councilmember Votes

Lead Sponsor: Council President

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Motion and roll call vote on whether to enact Expedited Bill 29-22.

DESCRIPTION/ISSUE

Bill 29-22 would update provisions of County law to reflect the required numbers of votes due to the expansion of the County Council from 9 to 11 members.

SUMMARY OF KEY DISCUSSION POINTS

- On December 5, 2022, the Council composition will change. Instead of 9 Councilmembers, there will be 11 Councilmembers. The Council will consist of 7 district Councilmembers and 4 at-large Councilmembers.
- Certain vote thresholds in the County Code must be updated to reflect the greater number of Councilmembers, consistent with the Charter.

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M E M O R A N D U M

November 23, 2022

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Expedited Bill 29-22, Local Laws – Updates to Required Numbers of Councilmember Votes

PURPOSE: Public Hearing; Final action – roll call vote expected

The Council President introduced Expedited Bill 29-22 on November 1, 2022. The purpose of the bill is to update the required number of Council votes, throughout the County Code, to align with the expansion of the Council from 9 to 11 members.

The expansion of the Council will occur on December 5, 2022, in accordance with a Charter Amendment approved by the County voters in 2020. The Charter amendment is reflected in Resolution 19-581.

Resolution 19-581 itself updated required voting numbers in the Charter, but several requirements under the Code also need updating.

BILL SPECIFICS

In accordance with the expansion of the Council from 9 to 11 members under Resolution 19-580, voting requirements under the Code would be amended as follows:

- Any aggregate capital budget that exceeds the spending affordability guidelines will require the affirmative vote of 8 Councilmembers, instead of 7 Councilmember;
- Any aggregate operating budget that exceeds the spending affordability guidelines will require the affirmative vote of 8 Councilmembers, instead of 7 Councilmember; and
- Regarding the creation and termination of development districts under Chapter 14 of the Code, overriding an Executive veto of a Council resolution to create or terminate a development district would increase from 6 to 7 Councilmember votes.

SUMMARY OF IMPACT STATEMENTS

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 29-22 will have a minimal, positive impact upon racial equity and social justice outcomes in the County.

OLO anticipates that the bill would have an insignificant impact upon economic conditions in the County.

NEXT STEP: Motion and roll call vote on whether to enact Expedited Bill 29-22.

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Expedited Bill No. 29-22
Concerning: Local Laws – Updates to
Required Numbers of Councilmember
Votes
Revised: 10/22/2022 Draft No. 1
Introduced: _____
Expires: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President

AN EXPEDITED ACT to:

- (1) update provisions of County law to reflect the required numbers of votes due to the expansion of the County Council from 9 to 11 members.

By amending

Montgomery County Code
Chapter 14, Development Districts
Sections 14-6, 14-9, and 14-16

Chapter 20, Finance
Sections 20-25, 20-58, 20-62, and 20-72

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 14-6, 14-9, 14-16, 20-25, 20-58, 20-62, and 20-72 are**
 2 **amended as follows:**

3 **14-6. First Council Resolution.**

4 * * *

5 (d) If the Executive disapproves a resolution adopted under this Section
 6 within 10 days after it is adopted and the Council readopts it by a vote of
 7 [six] 7 Councilmembers, or if the Executive does not act within 10 days
 8 after the Council adopts it, the resolution takes effect.

9 * * *

10 **14-9. Second Council Resolution.**

11 * * *

12 (e) After the public hearing, the Council by resolution approved by the
 13 Executive may create a development district. If the Executive
 14 disapproves a resolution within 10 days after it is adopted and the Council
 15 readopts it by a vote of [six] 7 Councilmembers, or if the Executive does
 16 not act within 10 days after the Council adopts it, the resolution takes
 17 effect.

18 * * *

19 **14-16. Administration of district; Termination.**

20 * * *

21 (f) If the County has not issued any bonds for a district created under this
 22 Chapter, or if all bonds issued to finance a district have been repaid, the
 23 County has been reimbursed for the cost of any infrastructure
 24 improvement funded or reimbursed by the County, and the cost of any
 25 infrastructure improvement to be paid by the County directly from special
 26 assessments or special taxes has been paid, the Council may terminate the

district by resolution approved by the Executive. If the Executive disapproves a resolution within 10 days after it is adopted and the Council readopts it by a vote of [6] 7 Councilmembers, or if the Executive does not act within 10 days after the Council adopts it, the resolution takes effect.

* * *

20-35. County Executive concurrence, veto, Council override.

* * *

(b) If the County Executive does not communicate disapproval of the resolution and the reasons for the disapproval to the Council within 10 days after receiving the resolution, the Council's approval stands. If the County Executive disapproves the resolution, the Council may override the disapproval by an affirmative vote of at least [6] 7 Councilmembers.

* * *

20-58. Approval of Capital Budgets.

Any aggregate capital budget that exceeds the spending affordability guidelines in effect after the first Tuesday in February requires the affirmative vote of [7] 8 councilmembers for approval.

20-62. Approval of Aggregate Operating Budget.

Any aggregate operating budget that exceeds the ceiling on the aggregate operating budget adopted under Section 20-60(c) requires the affirmative vote of [7] 8 Councilmembers for approval.

Sec. 20-72. Use of Fund.

By an affirmative vote of [6] 7 Councilmembers, the Council, after holding a public hearing, reviewing relevant economic indicators, and seeking the recommendation of the Executive, may transfer any amount

53 from the Fund to the General Fund to support appropriations which have
54 become unfunded.

55 **Sec. 2. Expedited Effective Date.** The Council declares that this legislation
56 is necessary for the immediate protection of the public interest. This Act takes effect
57 on December 5, 2022.

Resolution No.:	<u>19-581</u>
Introduced:	<u>August 4, 2020</u>
Adopted:	<u>August 4, 2020</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY MARYLAND**

Lead Sponsor: Councilmember Glass

SUBJECT: Proposed Amendment to County Charter – County Council – Expand Council to 7 District Members and 4 At-Large Members

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.
3. The Council intends to submit for inclusion on the 2020 general election ballot:

Question C: County Council – Increase to 11 Councilmembers

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 2020 general election ballot:

County Council – Increase to 11 Councilmembers

Sec. 102. Composition and Election.

The Council shall be composed of [nine] eleven members, each of whom shall be a qualified voter of Montgomery County. Four Councilmembers shall be nominated and elected by the qualified voters of the entire County. Each of the [five] seven other members of the Council shall, at the time of Nomination and election and throughout the member's term of office, reside in a different Council district, and shall be nominated and elected by the qualified voters of that district. Any change in the boundaries of a Council district after a member is elected shall not render the member ineligible to complete the term for which the member was elected. 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.

Sec. 103. Council Districts.

Montgomery County shall be divided into [five] seven Council districts for the purpose of nominating and electing [five] seven members of the Council. Each district shall be compact in form and be composed of adjoining territory. Populations of the Council districts shall be substantially equal.

* * *

Sec. 111. Enactment of Legislation.

The Council shall enact legislation only after public hearing upon reasonable notice. No legislation shall be enacted by the Council unless it receives the affirmative vote of [five] six members of the Council. Legislation containing a section declaring that it is necessary for the immediate protection of the public health, safety, or interest, and enacted by the affirmative vote of at least [six] seven members of the Council, shall be expedited legislation. Expedited legislation, as defined in this section, is the emergency legislation referred to in Article XI-A, Section 3, of the Constitution of Maryland. Any vote cast by a member on any legislation shall be recorded in the journal of the Council.

* * *

Sec. 118. Removal of Councilmembers.

A member of the County Council may be removed from office by the affirmative vote of not less than [six] seven members of the Council after a public hearing and upon a finding that the Councilmember is unable by reason of physical or mental disability to perform the duties of the office. The decision of the Council may be appealed by the removed Councilmember within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make de novo determinations of fact. A member of the County Council also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland.

* * *

Sec. 205. Vacancy.

A vacancy in the office of the County Executive shall exist upon the death, resignation, disqualification, or removal of the County Executive. Unless the Council has provided by law for filling a vacancy by special election, the following process for filling a vacancy shall apply. When a vacancy has occurred, the Council, by a vote of not less than [five] six members, shall appoint a successor to fill the vacancy within forty-five days of the vacancy.

* * *

Sec. 206. Removal of the County Executive.

The County Executive may be removed from office by the affirmative vote of not less than [six] seven members of the Council after a public hearing and upon a finding that the County Executive is unable by reason of physical or mental disability to perform the duties of the office.

* * *

Sec. 208. Veto.

Upon the enactment of any legislation by the Council, the Council President shall within three days deliver it to the County Executive, who within ten days after receiving it shall approve or disapprove it. If the Executive disapproves such legislation, the Executive shall return it to the Council within ten days after receiving it, with the reasons for the Executive's disapproval stated in writing. Not later than 60 days after receiving the Executive's message of disapproval, the Council may, by the affirmative vote of [six] seven members, enact legislation over the disapproval of the Executive. Any legislation which the Executive has neither approved nor disapproved shall become law on the eleventh day after the Executive receives it. The Council may by law further specify how any period of time mentioned in this section is measured.

* * *

Sec. 217. Reorganization of the Executive Branch.

The Council may prescribe by law the organization of the Executive Branch of County government. The County Executive may submit to the Council in writing, reorganization plans reallocating powers, functions or responsibilities of the various departments and agencies of the Executive Branch. A reorganization plan shall become law ninety days following its presentation to the Council, if by that time it has not been disapproved by a vote of [five] six members of the Council.

* * *

Sec. 302. Six-Year Programs for Public Services, Capital Improvements, and Fiscal Policy.

The County Executive shall submit to the Council, not later than January 15 of each even-numbered year, a comprehensive six-year program for capital improvements. The County Executive shall submit to the Council, not later than March 15 of each year, comprehensive six-year programs for public services and fiscal policy. The six-year programs shall require a vote of at least [five] six Councilmembers for approval or modification.

* * *

All capital improvement projects which are estimated to cost in excess of an amount to be established by law or which the County Council determines to possess unusual characteristics or to be of sufficient public importance shall be individually authorized by law; provided however, that any project declared by the County Council to be of an emergency nature necessary for the protection of the public health or safety shall not be subject to this requirement if the project is approved by the affirmative vote of [six] seven Councilmembers. Any project mandated by law, statutory or otherwise, interstate compact, or any project required by law to serve two or more jurisdictions shall, likewise, not be subject to this requirement. The County Council shall prescribe by law the methods and procedures for implementation of this provision.

* * *

Sec. 305. Approval of the Budget; Tax Levies.

* * *

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] seven 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] eight Councilmembers for approval.

* * *

Sec. 306. Item Veto or Reduction.

Upon approval of the budget, it shall be delivered within three days to the County Executive who within ten days thereafter may disapprove or reduce any item contained in it. If the County Executive disapproves or reduces any item in the budget, it shall be returned to the Council with the reasons for the disapproval or reduction in writing. The Council may, not later than June 30 of that year, reapprove any item over the disapproval or reduction of the County Executive by the affirmative vote of [six] seven members, except that the affirmative vote of [five] six members shall be required in the case of the budgets of the Council, the Fire and Rescue Commission, the Fire Departments and Rescue Squads, the Housing Opportunities Commission and Montgomery College.

Sec. 307. Supplemental Appropriations.

Any supplemental appropriation shall be recommended by the County Executive, who shall specify the source of funds to finance it. The Council shall hold a public hearing on each proposed supplemental appropriation after at least one week's notice. A supplemental appropriation that would comply with, avail the County of, or put into effect a grant or a federal, state, or county law or regulation, or one that is approved after January 1 of any fiscal year, requires an affirmative vote of [five] six Councilmembers. A supplemental appropriation for any other purpose that is approved before January 1 of any fiscal year requires an affirmative vote of [six] seven Councilmembers. The Council may, in a single action, approve more than one supplemental appropriation. The Executive may disapprove or reduce a supplemental appropriation, and the Council may reapprove the appropriation, as if it were an item in the annual budget.

Sec. 308. Special Appropriations.

A special appropriation is an appropriation which states that it is necessary to meet an unforeseen disaster or other emergency, or to act without delay in the public interest. Each special appropriation shall be approved by not less than [six] seven Councilmembers. The Council may approve a special appropriation at any time after public notice by news release. Each special appropriation shall specify the source of funds to finance it.

* * *

Sec. 401. Merit System.

* * *

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] seven Councilmembers for enactment. Any law which repeals the designation of a position as a non-merit position requires the affirmative vote of [five] six Councilmembers for enactment.

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

Question C

Charter amendment by Council

County Council – Increase to 11 Councilmembers

Amend the County Charter to:

- expand the County Council to consist of 11, rather than the current 9, Councilmembers;
- increase from 5 to 7 the number of Council districts; and
- elect 7 Councilmembers by district and 4 Councilmembers at large.

FOR

AGAINST

2. Language included within [brackets] is proposed to be deleted from the Charter. Language that is underlined is proposed to be added to the Charter.

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

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED LOCAL LAWS – UPDATES TO REQUIRED NUMBERS OF BILL 29-22: COUNCILMEMBER VOTES

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 29-22 will have a minimal, positive impact on racial equity and social justice (RESJ) in the County as it assists in implementing Bill 41-21, Elections – Council Districts – Boundaries, which supports increased political representation and power for Black, Indigenous, and Other People of Color (BIPOC) residents.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF EXPEDITED BILL 29-22

In December 2021, the County Council voted to enact Bill 41-21, Elections – Council Districts – Boundaries, which revised Council district boundaries to create seven new districts in place of the five former districts. The addition of two new districts expanded the County Council from 9 Councilmembers (5 district Councilmembers and 4 at-large Councilmembers) to 11 Councilmembers (7 district Councilmembers and 4 at-large Councilmembers).³

The purpose of Expedited Bill 29-22 is to update vote thresholds in the County Code to reflect the greater number of Councilmembers.⁴ Certain decisions requiring six or seven affirmative votes for approval will now require seven or eight votes, respectively. Expedited Bill 29-22 was introduced to the Council on November 1, 2022.

In December 2021, OLO published a RESJ impact statement (RESJIS) for Expedited Bill 41-21, Elections – Council Districts – Boundaries.⁵ Please refer to this RESJIS for background on voting rights, political representation, and racial equity, and for an analysis on the RESJ impact of redistricting.

RESJ Impact Statement

Expedited Bill 29-22

ANTICIPATED RESJ IMPACTS

Expedited Bill 29-22 revises the County Code to align vote thresholds with the new number of Councilmembers, following the enactment of Expedited Bill 41-21. Expedited Bill 41-21 created two new Council districts where specific BIPOC groups account for the greatest share of residents: Council District 6 where Latinx residents are the largest ethnic group, and Council District 5 where Black residents are the largest racial group. The addition of two new Council districts with these demographic features increases the political representation and power of BIPOC residents in the County and thus enhances RESJ.

Since Expedited Bill 29-22 helps to implement Expedited Bill 41-21, OLO anticipates Expedited Bill 29-22 will have a positive impact on RESJ in the County. Given that the changes are technical, OLO anticipates the RESJ impact will be minimal.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.⁶ OLO finds Expedited Bill 29-22 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ “Montgomery County Council Enacts Legislation to Revise Council District Boundaries as Recommended by the Montgomery County Commission on Redistricting with Limited Changes Based on Community Input,” Press Releases, Montgomery County Council Legislative Branch, December 7, 2021.

https://www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?Item_ID=39641&Dept=1

⁴ Expedited Bill 29-22, Local Laws – Updates to Required Numbers of Councilmember Votes, Introduced November 1, 2022.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20221101/20221101_9A.pdf

⁵ Racial Equity and Social Justice Impact Statement for Expedited Bill 41-21, Office of Legislative Oversight, Montgomery County, Maryland, December 7, 2021. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill41-21RESJ.pdf>

⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

Economic Impact Statement

Office of Legislative Oversight

Expedited Bill 29-22

Local Laws – Updates to Required Numbers of Councilmember Votes

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 29-22 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

BACKGROUND

Expedited Bill 29-22 would "update provisions of County law to reflect the required numbers of votes due to the expansion of the County Council from 9 to 11 members."¹

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Expedited Bill 29-22 on County-based private organizations and residents in terms of the Council's priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.² Because the County Charter requires the County Code to be updated to reflect the greater number of Councilmembers, OLO anticipates that the Bill would have insignificant impacts on private organizations, residents, and overall economic conditions in the County in terms of the indicators prioritized by the Council.

VARIABLES

Not applicable

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪
ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

¹ [Expedited Bill 29-22](#).

² Montgomery County Code, [Sec. 2-81B](#).

Economic Impact Statement

Office of Legislative Oversight

DISCUSSION ITEMS

Not applicable

WORKS CITED

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Expedited Bill 29-22, Local Laws – Updates to Required Numbers of Councilmember Votes](#).
Introduced on November 1, 2022.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.