

In The Court of Appeals of Maryland

No. 405

SEPTEMBER TERM, 2021

PRINCE GEORGE'S COUNTY,

Petitioner,

v.

ROBERT E. THURSTON, *et al.*,

Respondents.

PETITION FOR WRIT OF CERTIORARI

(On Appeal from the Circuit Court for Prince George's County, Maryland
Honorable William A. Snoddy, Presiding)

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Sunday, February 6, 2022

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INTRODUCTION

The General Assembly is *required* by its Constitution to adopt its decennial legislative districting by *resolution*—and it did so.^{1,2} The County Council of Prince George’s County is also *required* by its Constitution to adopt its Redistricting Plan by *resolution*—and it did so.³

But *sixty-nine days after* Council adopted its Plan, circuit court threw out the Plan because 4 Residents alleged that “[a] *resolution is not and cannot be a law*” because the Charter mandates that “[t]he Council shall enact *no law* except by *bill*.”

The law didn’t fare well on January 28. Despite a 2012 Charter amendment that made it *mandatory* for Council to adopt its Plan by *resolution*, circuit court confusingly held—because the court did not invalidate the amendment—that the Charter *prohibits* Council from enacting *any* law except by *bill*.

¹ In the Matter of 2022 Legislative Districting of the State, Order filed January 28, 2022.
<https://www.courts.state.md.us/sites/default/files/import/coappeals/highlightedcases/2022districting/01282022legislativedistrictingschedulingorder.pdf> (last visited February 2, 2022).

² Documents in support of this petition are numbered “D__.”

³ D1.

If circuit court is *right*—this Court should *toss* the General Assembly’s Plan (currently before this Court) because it *too* was adopted by resolution.⁴ Because the General Assembly and Council were *administering* or *implementing* “existing redistricting law” *already in force and effect*, neither legislative body was *required* to adopt decennial Plans by *bill* because they were *not* making *new* law or prescribing a *permanent rule or conduct* to continue in force *until repealed*.

The circuit court’s decision cannot withstand measured judicial scrutiny.

A. PROCEEDINGS BELOW

Circuit Court for Prince George’s County — On January 24, 2022, a Verified Complaint for Declaratory Judgment and Writ of Mandamus and for Temporary Restraining Order and Preliminary Injunctive Relief was filed against Prince George’s County by Robert E. Thurston, Stephanie E. Stulich, John D. Perkins, and Stanley Holmes. The docket

⁴ According to the State’s website certain issues are required by law or Constitution to be introduced by **resolutions**, which are substantive in nature and express the will, opinion, or public policy of the General Assembly and they also have the force and effect of law. The Council is also required by its Charter (or Constitution) to adopt its decennial Redistricting Plan by **resolution**. <https://msa.maryland.gov/msa/mdmanual/07leg/html/proc.html> (last visited February 2, 2022).

number is CAL22-01728. D5-50. Four days later, the Honorable William A. Snoddy held a full hearing on the face of the complaint alone. D51-114. A written Order of Court and Declaratory Judgment followed on Monday, January 31, 2022—adjudicating all claims in the action in their entirety, and the rights and liabilities of all parties to the action. D113-114. The County *immediately* noted an appeal.⁵ D115-122.

Court of Special Appeals — COSA docketed the appeal the same day as CSA-REG-1865-2021 – Prince George’s County v. Robert E. Thurston, et al. The case has not been decided by COSA, there is no judgment, no mandate, no briefing schedule, and no briefs filed in COSA. D123.

B. QUESTION PRESENTED

In 2012, the County Attorney certified the order and form of seven questions to the local board of elections in accordance with the provisions of Section 7-103 of the Election Law Article. D124-131. Relevant to this petition is Ballot Question A. D129. According to the Maryland Election Law website, Question A was presented to the voters as follows:

**Prince George’s County
Question A
Charter Required Referendum
(CB-55-2012) Proposed Charter Amendment**

⁵ The County requested an expedited transcript, which was completed on Wednesday, February 2.

To authorize legislative action on the decennial County Council redistricting plan by resolution upon notice and public hearing.⁶

Voters overwhelmingly ratified Question A on November 6, 2012. Subsequently, Section 305 of the Charter was *amended* as follows: Such law shall be adopted by resolution of the County Council upon notice and public hearing.⁷ D124-125, D132-133 (Emphasis added).

The question presented:⁸

Is a Resolution, having the force and effect of law, a valid measure to adopt a decennial County Council Redistricting Plan?

In 2012, voters said YES. But 9 years later, circuit court, at the eleventh hour, with the flick of a pen, re-wrote the County's Constitution and *silenced* the free expression of the will of the people when it threw out Council's 2021 decennial Redistricting Plan *because* it was adopted by *resolution*.

⁶https://elections.maryland.gov/elections/2012/ballot_question_language.html#pg (last visited February 2, 2021).

⁷ In the Charter, "shall" is mandatory. D138.

⁸ No reported opinion has addressed this question.

C. REVIEW IS DESIRABLE AND IN THE PUBLIC INTEREST

This case involves the County’s Charter (or Constitution) and local Election Law. A County’s Charter “is to its legislative body as the Constitution is to the General Assembly of Maryland.”⁹ The most fundamental principle defining credible elections is that they must reflect the free expression of the will of the people.

This Court settled long ago the *distinction* between a resolution and a bill—but circuit court chartered its’ *own distinction* and *ignored* the people of Prince George’s County who saw fit in 2012 to *require* County lawmakers to *adopt* decennial Redistricting Plans by *resolution*.

Circuit court changed a **Yes** vote in 2012 to a **No** vote in 2021.

Circuit court’s ruling has delivered nothing short of election chaos *22-days before* an election filing deadline to declare candidacy for the 2022 Councilmanic elections.¹⁰ Instead of denying the relief in the complaint, because of Residents *inexcusable* and *unreasonable* delay in

⁹ *Anne Arundel County v. Moushabek*, 269 Md. 419, 306 A. 2d 517 (1973).

¹⁰ *Barthelmes v. Morris*, 342 F. Supp. 153, 160 (D. Md. 1972) (stating that although “the election process is one fraught with uncertainty [i]t does not follow [] that a court should add a further element of wholly unanticipated uncertainty into the process at the eleventh hour”).

asserting their rights, circuit court “permanently” enjoined the County and/or the County Council from “acting upon,” “implementing” or otherwise “presenting” the Plan to “any entity” charged with “acting upon,” or “implementing” the Plan—*22-days before* an election filing deadline.

Under the Charter, Council *does not “implement”* the Plan *after* transmittal to BOE—that *administrative* function rests *solely* with the BOE—a party circuit court acknowledged Residents did *not* sue. D114. But it didn’t matter to circuit court that *sixty-nine days after* the Plan was transmitted to the BOE, the County’s interest in proceeding with the election *increases in importance* as resources are committed *and irrevocable decisions are made*.¹¹

Time is running out for almost 1 million people in Prince George’s County.¹² Resolution from this Court is desirable and in the public interest to restore the *status quo*.

¹¹ *Farnum v. Burns*, 548 F. Supp. 769, 774 (D.R.I. 1982) (noting that “equitable principles may require a court not to interfere with the conduct of rapidly upcoming elections where the election machinery is already in gear”).

¹² The County’s total adjusted population based on 2020 Census is 968,772.

D. STATUTORY PROVISIONS

1. Prince George's County Charter, §§ 301, 302, 303, 304, 305, 307, 317, 318, 319, 320, 321, 323, 411, 1014, 1017, 1101, 1102, 1105.
2. Md. Ann. Code, Local Govt. Article, §§ 9-205, 10-202, 10-204, 10-206, 10-306.
3. Md. Ann. Code, Election Law Article, §§ 5-303, 7-101, 7-102, 7-103, 7-104, 7-105.

E. STATEMENT OF FACTS

Existing Law Already In Force And Effect

Voters adopted the Charter on November 3, 1970. D140. Subsequently, the County was divided into nine Council districts in 1980 and boundaries of Council districts were then established pursuant to Section 305 of the Charter in 1982 and every tenth year thereafter. D132-133. That has been the law in force and effect *ever since*.

2012 Charter Amendment

When the voters ratified Ballot Question A, it must be assumed that the people of Prince George's County *meant what they said*—i.e.—if County lawmakers passes another *law* to change the Commission's Plan, it *shall* do so by *resolution*. D124-133.

Council Resolution (CR) 123-2021

Council introduced CR-123-2021 on October 19, 2021. After notice and public hearing, CR-123-2021 was adopted on November 16, 2021—

and the Plan was transmitted to the BOE for further administrative action. D1.

November 16 to January 24

Residents *inexcusable* and *unreasonable* delay in filing their complaint, which resulted in *prejudice* to the County—*22 days before* an election filing deadline.¹³

Complaint for Declaratory Judgment/Injunctive Relief

Inexplicably, 4 Residents waited *sixty-nine days after* Council adopted its Plan and less than 1 month before the election filing deadline for candidacy to file a 4-count complaint to invalidate Council’s Plan. D5-50. A full hearing was held on January 28, 2022—just 4 days after the complaint was filed. D51-112. Counts 1 & 2 essentially requested that the Commission’s Plan become *law* because Council failed to *adopt a law* because it *adopted a resolution* as opposed to a *bill*. D24-26. Count III

¹³ *Waddell v. Small Tube Products, Inc.*, 799 F.2d 69, 77 (3d Cir. 1989) (“[T]he conclusion that a delay is ‘inexcusable’ comprehends both the application of a legal standard and an exercise of the trial court’s sound discretion in assessing the equitable circumstances of a particular case”), *quoting Churma v. United States Steel Corp.*, 514 F.2d 589, 593 (3d Cir. 1975); *Freeman v. Martin Robowash, Inc.*, 61 Tenn. App. 677, 689, 457 S.W.2d 606, 611 (Tenn. App. 1970) (“The question whether in view of the established facts, relief is to be denied—that is, whether, it would be inequitable or unjust to the defendant to enforce the complainants’ right—is a question of law”).

was a requested to invalidate the 2012 Charter, which was denied. D26-28, D114. Count IV requested injunctive relief citing (among other things) voter confusion and uncertainty. Residents requested that the County be enjoined from “implementing” and “effectuating” CR-123-2021 *sixty-nine days after* it was adopted and transmitted to the BOE for further administrative action. Count IV also requested that the County be enjoined from “enforcing” the filing deadline for candidacy. Circuit court enjoined CR-123-2021—*22-days to the election filing deadline*—and inflicted harm to the County and more importantly to the electorate. D28-31, D114.

F. ARGUMENT

Statutory Interpretation and Construction

The circuit court made the following declarations against the County:

- DECLARED that County Charter § 317 prohibits the Council from enacting any law “except by bill.”
- DECLARED that pursuant to Charter § 305, the only manner by which the Council can change the redistricting plan submitted by the commission on redistricting (“Commission”) is by passing a law.
- DECLARED that under the County’s Charter, a resolution, while having the effect of law, is not a substitute for a law.
- DECLARED that the passage of CR-123-2021 is not effective to the extent its intent is to serve as a “law changing the [Commission’s plan].”

- DECLARED that since no other law has been passed changing the Commission’s plan submitted to the Council on September 1, 2021, the Commission’s plan became law on November 30, 2021. D113-114.

The County contends that circuit court erred on all fronts. This case turns on statutory construction and interpretation of the County’s Charter *as amended* by Ballot Question A—which has *not* been invalidated by *any* court.¹⁴ It is hornbook rule of statutory construction that in ascertaining the intention of the Legislature, all parts of a statute are to be read together to find the intention as to any one part and that all parts are to be reconciled and harmonized if possible. If there is no clear indication to the contrary and it is reasonably possible, a statute is to be read so that no word, clause, sentence or phrase shall be rendered surplusage, superfluous, meaningless or nugatory.¹⁵

The language in § 317 of the Charter that states that all laws must be enacted by bill *pre-dates* ratification of Question A, which specifically *amended* § 305 (Redistricting procedures), and *requires* Council to adopt

¹⁴ This Court has recognized that from the moment an amendment is ratified it became effective as law. *Smigiel v. Franchot*, 410 Md. 302, 978 A.2d 687 (2009) (quoting *Druggan v. Anderson*, 269 U.S. 36, 39, 46 S.Ct. 14, 70 L.Ed. 151 (1925)).

¹⁵ *Harford County v. Board of Supervisors*, 272 Md. 33, 321 A.2d 151 (1974).

redistricting *law* by *resolution*—as opposed to a bill contemplated in § 317 (Enactment of legislation). Section 305 (as amended by Question A) is aligned on all fours with the Express Powers Act which expressly authorizes a County Council to *pass* a *resolution* to execute and enforce *any* power conferred to it—including *creating and revising election districts and precincts*. D144-45.

Judge Snoddy’s sole reliance on the language in § 317 to declare that “§ 317 prohibits the Council from enacting any law “except by bill,” was erroneous because he completely ignored the legal significance of the 2012 Charter amendment—which he did not invalidate. If § 317 was meant to override § 305 as amended after Question A was ratified, it would not be construing the Charter so that no word, clause, sentence or phrase shall be rendered surplusage, superfluous, meaningless or nugatory. *Board of Supervisors*, 272 Md. 33, 321 A.2d 151 (1974)

In *Board of Supervisors, supra*, this Court granted a petition for writ of certiorari and advanced the case for oral argument after Harford County immediately appealed a circuit court decision to the Court of Special to address whether the circuit court was correct to grant the board of elections declaratory judgment to invalidate the council’s *resolution* approving a plan different from the commission’s plan. In

that case and the instant case, both Counties were up against the filing deadline for the coming councilmanic election.¹⁶

Board of Supervisors addressed a 70-day deadline provision in Harford County's charter. There the Council did not enact its plan until after the 70-day deadline and lost their right to do so. Relevant to the instant petition is how this Court squared the 70-day restrictive provision in that charter, which Judge Snoddy failed to do in the instant case with the 2012 amendment to § 305. Addressing the more restrictive 70-day provision over a general provision in Harford County's charter, this Court reasoned as follows:

The people of Harford County *saw fit, in their wisdom, to place in their charter this provision for the creation of councilmanic districts. It must be assumed that they meant what they said.* See *Prince George's Co. v. Beard*, 266 Md. 83, 91, 291 A. 2d 636 (1972). It certainly cannot be said that the Harford County Charter clearly spells out that the provisions of § 101 of that charter are in any way to override the provisions of § 205. If § 205 were not in the charter, then the council could, as Judge Close observed, "redistrict in any manner they wished, using any procedure they wished to establish, provided that both the procedure and the result were consistent with both Federal and State law and related sections of the Charter." *The only way the charter can be construed* so that "no word, clause, sentence or phrase shall be rendered surplusage, superfluous, meaningless or nugatory" is to conclude, as we do conclude, that the **citizens** of Harford County **intended** by the enactment of § 205 of their charter **to restrict** the

¹⁶ This Court referred to the Council's bill as a resolution.

County Council in enacting laws setting forth lines for councilmanic districts to the “seventy calendar days following presentation of the Commission’s plan.”

Board of Supervisors, 272 Md. 33, 40, 321 A.2d 151, 155 (Emphasis added).

The same is true for Prince George’s County. When the voters ratified Ballot Question A, it must be assumed that the people of Prince George’s County *meant what they said*—i.e.—if County lawmakers passes another *law* to change the Commission’s Plan, it *shall* do so by *resolution*. D124-133. Moreover, to the extent there was a conflict in the Charter, circuit court resolved it in *favor* of the County when the court *denied* Residents’ request to invalidate the 2012 amendment. D113-114.

In *Kendall v. Howard County*, this Court explained the difference between a *resolution* and *bill* as follows:

Resolution

A **resolution** “ordinarily denotes something less solemn or formal than, or *not rising to the dignity of, an ordinance*.” A **resolution passed** by a legislative body “**deals with matters of a special or temporary character . . .** [and] generally speaking, is simply an expression of opinion or mind concerning some particular item of business coming within the legislative body’s official cognizance, ordinarily **ministerial** in character and relating to the **administrative** business of the municipality.”

Bill

A **bill** or ordinance is distinctly a legislative act; it prescribes “*some permanent role of conduct or government, to continue in force until the ordinance is repealed.*”

431 Md. 590, 595-96, 66 A.3d 684, 687 (2013) (Emphasis added). A recognized test for determining whether a municipal ordinance is legislative and so subject to referendum, or whether it is executive or administrative and is not, is whether the ordinance *is one making a new law* -- an enactment of general application prescribing a new plan or policy -- or is one which merely looks *to or facilitates the administration, execution or implementation of a law already in force and effect. Scull v. Montgomery Citizens League*, 249 Md. 271, 239 A.2d 92 (1968).

The County argued that pursuant to the Express Powers Act, Council is authorized to use *resolutions* to execute and enforce any power granted to it—including *to execute a law*. D144. But Judge Snoddy said “...to execute a law, *there has to be a law.*” D100 (Emphasis added). Judge Snoddy mistakenly viewed CR-123-2021 as *bringing into existence* redistricting *law* for the *first* time—requiring passage by *bill*—and *missed* that CR-123-2021 was merely *implementing* and *administering already existing* redistricting law—which does *not* require passage by *bill*. Section 305 (Redistricting procedures) is best characterized as **ministerial** in character and relating to **administrative** business—

i.e.—*implementing* and *administering* decennial redistricting every ten years based on Census data.

PRAYER FOR RELIEF

This matter involves the 2021 County Council decennial Redistricting Plan approved in CR-123-2021, and overlapping election issues, including an upcoming election filing deadline on February 22, 2022, to declare candidacy for the upcoming 2022 Councilmanic election. The entire record below is attached to this petition—including the transcript.

This Court should grant this petition in similar fashion as it did in *Harford County v. Board of Supervisors*, 274 Md. 33, 321 A.2d 151 (1974), and advance the case for argument and disposition.

Pursuant to Rule 8-303 (e), upon filing of this petition, the County would respectfully request that the Court stay the enforcement or execution of the judgment of the circuit court—and restore the *status quo*.

Pursuant to Rule 8-303 (f)(1) if the Court grants the petition, the County respectfully requests that the case advance for argument and disposition before the February 22 filing deadline.

Grant any other relief that is within the inherent power of the Court.

Respectfully submitted,

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rakumar@co.pg.md.us
Attorney for Petitioner

**CERTIFICATION OF WORD COUNT AND COMPLIANCE
WITH RULE 8-112**

1. This Petition contains 3,113 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This Petition complies with the font, spacing, and type size requirements stated in Rule 8-112.

Rajesh A. Kumar — 9806230294

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on Sunday, February 6, 2022, the foregoing **Petition for Writ of Certiorari** was filed and served electronically through the MDEC System and by first-class mail, postage prepaid, upon Matthew G. Sawyer, The Law Offices of Matthew G. Sawyer, LLC, 30 Courthouse Square, Suite 100, Rockville, Maryland 20850.

Rajesh A. Kumar — 9806230294

— —————

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Case Information

Court System: Circuit Court for Prince George's County - Civil System

Case Number: CAL22-01728

Case Description: Thurston vs Prince Georges County

Case Type: Lien/Judgment

Filing Date: 01/24/2022

Case Status: Case Closed Statistically

Plaintiff/Petitioner Information

Party Type: Plaintiff **Party No.:** 1

Name: Robert E Thurston

Address: 5114 Navahoe Street

City: College Park **State:** MD **Zip Code:** 20740

Party Type: Plaintiff **Party No.:** 2

Name: Stephanie Stulich

Address: 7400 Dartmouth Avenue

City: College Park **State:** MD **Zip Code:** 20740

Party Type: Plaintiff **Party No.:** 3

Name: John D Perkins

Address: 5303 Brewer Road

City: Beltsville **State:** MD **Zip Code:** 20705

Party Type: Plaintiff **Party No.:** 4

Name: Stanley Holmes

Address: 6225 Suitland Road

City: Suitland **State:** MD **Zip Code:** 20746

Defendant/Respondent Information

Party Type: Defendant **Party No.:** 5

Name: Prince Georges County

Address: Sv: Angela D Alsobrooks Co Exe

City: Largo **State:** MD **Zip Code:** 20774

Attorney Information

Name: Rajesh A Kumar

Attorney Type: Attorney

Address: 1301 McCormick Drive

City: Largo **State:** MD **Zip Code:** 20774

Name: Matthew G Sawyer

Attorney Type: Attorney

Address: 30 Courthouse Square

City: Rockville **State:** MD **Zip Code:** 20850

Court Scheduling Information

Event Type: **Hearing**

Event Date: **01/26/2023** Start Time: **13:30:00**

Result: **Hearing Continued/Prior to** Result Date: **01/25/2022**

Event Type: **Hearing**

Event Date: **01/28/2022** Start Time: **13:30:00**

Result: **Hearing Held** Result Date: **01/28/2022**

Event Type: **Try By Date**

Event Date: Start Time:

Result: Result Date:

Dockets

(Each Document listed. Documents are listed in Document No./Sequence No. order)

Date: **01/24/2022**

Document Name: **CaseType: Declaratory Judg/LA**

Date: **01/24/2022**

Document Name: **Complaint, Fd.**

Docket Text: **001 fd/db EMERGENCY-Verified Complaint for Declaratory Judgment and Writ of Mandamus and for a Tempororarty Restraining Order and Preliminary Injunctive Relief e 1/24/2022**

Date: **01/24/2022**

Document Name: **Plaintiff"s Information Sheet**

Docket Text: **002 fd/db e 1/24/2022**

Date: **01/24/2022**

Document Name: **Motion, filed**

Docket Text: **003 fd/db EMERGENCY Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction Tagged to Judge Snoddy e 1/24/2022**

Date: **01/24/2022**

Document Name: **Memorandum, filed**

Docket Text: **004 fd/db Plaintiffs' Memorandum in Support of Their Motion for Temporary Restraining Order and Preliminary Injunction Filed with Exhibit e 1/24/2022**

Date: **01/24/2022**

Document Name: **Summons Issued For Defendant**

Docket Text: **005 fd/db Summons issued at the counter for Defendant on 1/24/2022 e 1/24/2022**

Date: **01/25/2022**

Document Name: **Hearing Continued/Prior to**

Docket Text: ^809^ Other

Date: 01/27/2022

Document Name: Line Entering Appearance, Fd.

Docket Text: 006 Enter the appearance of Rajesh A. Kumar as counsel to the Prince George's County Council fd fc e 1/27/2022

Date: 01/28/2022

Document Name: Hearing Held

Date: 01/31/2022

Document Name: Order of Court, filed

Docket Text: 007 Order dated 1-31-2022, Judge Snoddy Ordered, that Prince George's County, Maryland, and/or the Prince George's County Council is permanently enjoined from acting upon, implementing, or otherwise presenting the redistricting plan in CR-123-2021 to any entity charged with acting upon implementing the County's redistricting plan; and it is further Ordered, that Prince George's County, Maryland, and/or the Prince Georges's County Council shall immediately withdraw the rdistricting plan in CR-123-2021 and submit the Commission's plan to all entities charged with acting upon or implementing the County's redistricting plan; and it is further Ordered, that the County and/or the Council shall immediately cease and desist any publication of the redistricting plan in CR-123-2021 or otherwise withdraw the plan in CR-123-2021 from public view to the extent practicable and within its control; and it is further Ordered, that any relief not granted herein is Denied; and it is further Ordered that this case is Closed Statistically. fd sg 770 cc: M. Sawyer

Date: 01/31/2022

Document Name: Civil Case Closure Form, Fd.

Docket Text: 008 fd sg 770

Date: 01/31/2022

Document Name: CaseDisp: Dismissed

Date: 02/01/2022

Document Name: Notice of Appeal, filed

Docket Text: 009 Notice of Appeal filed by: RaJesh A. Kumar Paid:\$61.00 Date: 12/1/22 Receipt: 66506 fd sw e 2/1/22

Date: 02/01/2022

Document Name: Copy of Clerks Letter

Docket Text: 010 Copy of Clerks Letter fd sw e 2/1/22

This is an electronic case record. Full case information cannot be made available either because of legal restrictions on access to case records found in Maryland Rules, or because of the practical difficulties inherent in reducing a case record into an electronic format.

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IN THE CIRCUIT COURT FOR
PRINCE GEORGE'S COUNTY, MARYLAND

ROBERT E. THURSTON,
Plaintiff

vs.

Civil Docket

PRINCE GEORGE'S COUNTY,
Defendant

No. CAL22-01728

OFFICIAL TRANSCRIPT OF PROCEEDINGS
(Hearing)

Upper Marlboro, Maryland
Friday, January 28, 2022

BEFORE:

THE HONORABLE WILLIAM A. SNODDY, ASSOCIATE JUDGE

APPEARANCES:

For the Plaintiff:

MATTHEW SAWYER, ESQUIRE

For the Defendant:

RAJESH KUMAR, ESQUIRE

Transcribed from digital video recording by:

Patty English, CET 843

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11			
12	WITNESSES:	DIRECT: CROSS: REDIRECT: RECROSS:	
13	For the Plaintiff:		
14	(None called.)		
15	For the Defendant:		
16	(None called.)		
17	EXHIBITS:	IDENTIFICATION:	EVIDENCE:
18	For the Plaintiff:		
19	(None entered.)		
20	For the Defendant:		
21	(None entered.)		
22			
23			

1 P R O C E E D I N G S

2 (On the record - 1:26:09 p.m.)

3 THE DEPUTY CLERK: Now calling number 8 on
4 the docket, CAL22-01728, Thurston v. Prince George's
5 County.

6 MR. SAWYER: Good afternoon, Your Honor.
7 Matthew Sawyer on behalf of the Plaintiffs, Robert
8 Thurston, Stephanie Stulich, Stanley Holmes and John
9 Perkins.

10 MR. KUMAR: Good afternoon, Your Honor. Raj
11 Kumar on behalf of Prince George's County.

12 THE COURT: All right. So, preliminarily, I
13 guess I'll ask since the County is here, I don't know
14 what you all, what the intention is. Did you all want
15 to have a hearing, essentially, on a preliminary
16 injunction since the County is here and represented as
17 opposed to a temporary restraining order? This at
18 least to me appears to be a legal issue, but I don't
19 know if you all have any disputes regarding the facts.

20 Are there facts that you all are willing to
21 agree to where we can do this whole thing today, or is
22 this going to require witnesses and testimony?

23 MR. SAWYER: Well, Your Honor, for the
24 Plaintiffs we came with witnesses and prepared for
25 testimony. That said, I would imagine that Counsel and

1 I could probably come up with, if there are any factual
2 disputes, we could probably stipulate to those, I would
3 imagine. I don't know that, obviously.

4 MR. KUMAR: Your Honor, the County's position
5 is that what the Court indicated this is a legal
6 question. I think the argument can be based on what is
7 in the complaint. Factually, nobody's disputing the
8 legislation that amended the charter. There's a legal
9 dispute as to what that means, but --

10 THE COURT: Okay. So that's what I want to
11 get at. So there's no issue regarding standing of the
12 Plaintiffs. There's no issues regarding the facts
13 about how the charter -- not the charter, but regarding
14 how the redistricting was done and the redistricting
15 law as -- and I'm, just put that in quotation marks --
16 that's on the books now. There's no dispute about how
17 all of that occurred based upon the complaint.

18 MR. KUMAR: You mean Section 305 of the
19 charter?

20 THE COURT: No, no. I'm saying in terms of
21 the factual basis for the complaint, there's no dispute
22 about the factual basis for the complaint. There's
23 just a dispute about the legal interpretation of
24 Section 305.

25 MR. KUMAR: I would agree with that because

1 the CR-123 outlines exactly what the council did in
2 adopting the plan and there is no dispute that we did
3 that.

4 THE COURT: Okay.

5 MR. KUMAR: And I don't, I haven't seen that
6 in the complaint because it based on public notice and
7 a hearing.

8 THE COURT: Okay. So we can do the whole
9 thing here and now. There won't be a need for some
10 later trial. And if someone wishes to appeal it, they
11 can take it from the final judgment that will be issued
12 today.

13 MR. KUMAR: I would agree with that because
14 this is a complaint of declaratory judgment and I'm
15 prepared to argue the central legal questions which I
16 believe overlap with the four -- there are four counts,
17 or five counts, and I believe two or three of them
18 overlap with the same remedy.

19 Obviously, my interpretation what's before
20 the Court is the charter amendment, the interpretation,
21 and then subsequently the February 22nd filing
22 deadline.

23 THE COURT: Okay.

24 MR. SAWYER: Your Honor, I just want to --
25 I'm not quite clear exactly on what the Court was

1 asking.

2 THE COURT: Well, so here's the deal. The
3 council, I don't know if they have witnesses for today.
4 If this is a preliminary injunction I would do it, but
5 it would only be something that would last until
6 there's a final hearing. Under the rule, if the
7 parties agree and if I say, we can advance everything
8 to today and if it's essentially a legal question then
9 there can just be legal argument. I don't need to hear
10 witnesses if there's no dispute about the facts. And
11 what I hear from Mr. Kumar, he's not disputing the
12 facts that you allege.

13 So the issue is, is the passage of the
14 redistricting plan in its current state valid based
15 upon what you contend and based upon what the County
16 contends? So the issue is, am I going to hear legal
17 argument or am I going to hear witnesses and then have
18 to come back later? And what I'm hearing is based upon
19 if it's just going to be a legal argument, I can
20 advance the whole thing today. There is no need for a
21 later trial. It will be a permanent injunction or it
22 won't be.

23 MR. SAWYER: Your Honor, I'd want to consult
24 with my clients on that. We were prepared for a
25 temporary restraining order hearing as well as possibly

1 a preliminary injunction.

2 THE COURT: Right.

3 MR. SAWYER: That said, it is a legal
4 argument. I do believe it is indeed a legal argument.
5 There may be some areas of the legal argument that
6 aren't before the Court right now that we were -- I was
7 preparing to file a motion for summary judgment and
8 then a motion to expedite that summary judgment.

9 So I would rather, at this point, have more
10 of an opportunity to fully elucidate --

11 THE COURT: Okay. So, well, I'm going to
12 tell you one of the problems you have. Even if I do
13 what you're asking now, if you file a motion for
14 summary judgment, he has time to respond. One of the
15 things you haven't done is you haven't brought in the
16 Board of Elections. Because you're asking for -- the
17 County doesn't control the filing deadline. You
18 wouldn't meet the filing deadline based upon what
19 you're trying to do. So I can't do anything about the
20 filing deadline under the case as it is now.

21 MR. SAWYER: Your Honor, I'm not quite clear
22 that the County doesn't have some control over the
23 filing --

24 THE COURT: It does not. The County Board of
25 Elections is a creature of the State of Maryland. The

1 deadline for election filings that's a State issue.
2 That's not a County issue, so the County can't change
3 that.

4 MR. KUMAR: And also, Your Honor, for what
5 it's worth, the Maryland Court of Appeals has opined
6 twice, three times, since 1966 and onward, most
7 recently in 2018 that neither the courts nor the Board
8 of Election has any discretion in the filing deadline.
9 It must be adhered to, and the relief that is being
10 sought is to enjoin the County from enforcing the
11 deadline so that as a matter of law they cannot prevail
12 in the merits on.

13 THE COURT: Well, that I can tell you, I
14 can't tell the County to do anything about the filing
15 deadline.

16 MR. SAWYER: Well, Your Honor, we would argue
17 that this was a problem that was created by the County,
18 so to the extent that there's an issue with the Board
19 of Elections that is -- that's their problem to --

20 THE COURT: No. You are the Plaintiff. You
21 have to bring in all of the -- because if no one
22 complained it would be what it is, but you are
23 responsible for bringing in whatever parties you need
24 to advance your case. I'm telling you that because
25 election cases get advanced for appeals purposes we can

1 resolve it today one way or the other, and you all can
2 go wherever you need to go to get a further
3 determination if someone doesn't agree with what I do
4 here today.

5 But Mr. Kumar's saying the County doesn't
6 dispute the facts you allege, and at bottom the issue
7 is whether it's appropriate to pass the redistricting
8 plan via a resolution or is a law required. Once
9 that's determined that resolves all of the other issues
10 as I see it.

11 MR. KUMAR: I would agree with that
12 assessment, because the sole question here and all of
13 the counts are based on is premised on CB-55 of 2012
14 and Question A under CB-56 that was placed to the
15 voters and subsequently ratified and an election was
16 certified after that. And the charter was amended
17 pursuant to that Question A that was ratified. That is
18 the law.

19 The case from the Court of Appeals from
20 Maryland says once the question is ratified, it is an
21 effect of law. The dispute here is the interpretation
22 as to whether what Mr. Sawyer is saying is that because
23 the charter says --

24 THE COURT: Well, we'll get into --

25 MR. KUMAR: Yeah. Fair enough.

1 THE COURT: Yeah. We won't get into the
2 argument right now. I'm just trying to, you know, and
3 we're losing a lot of time here, but I'm just trying to
4 get to can we resolve this today. I mean I think and
5 maybe it's just what I'll do, I'll just say we'll do it
6 this way.

7 Mr. Kumar says he doesn't dispute what you
8 allege in your complaint. It is a legal question. The
9 Court finds it's a legal question. So what I prefer to
10 do and what I think is best for all of you is that I
11 hear your legal arguments regarding why what the
12 council did violates the law, and I'll hear from the
13 council as to why what they did is appropriate under
14 the law.

15 So that's my determination and if you all
16 disagree with that you can take it up with higher
17 authority.

18 All right, so I'll hear from you, Mr. Sawyer.

19 MR. SAWYER: Okay, Your Honor. Thank you.
20 So as the Court is aware, this case is a result of the
21 redistricting process that was undertaken by the County
22 Council. The state law puts together the framework for
23 the redistricting process and it provides the express
24 powers under which counties can enact legislation and
25 form a charter.

1 It's essentially, and the Maryland case law
2 has dictated this as well, it's essentially a local
3 constitution. Accordingly, since 1970, Prince George's
4 County has been a charter county governed by an elected
5 executive and a nine-member County Council. As I
6 mentioned, these certain powers are expressly delegated
7 to the County via the Express Powers Act which is in
8 Title 10 of the Local Government Article.

9 Section 10-102 and 10-202 provide that the
10 County can enact local laws concerning the express
11 powers that were delegated to them by the State.
12 Subtitle 3, Section 10-306 provides, of the same Local
13 Government Article, provides that a county may create
14 and revise election districts and precincts.

15 Accordingly, the Prince George's County charter
16 adopted language in Section 305 that outlines the
17 process for redistricting in Prince George's County.
18 This process was undertaken recently in 2021, which is
19 what brings us here today. A politically independent
20 commission was appointed. That politically independent
21 commission deliberated at length over the plan, they
22 came up with a plan and submitted that plan to the
23 County Council.

24 Section 305 holds that so long as the Council
25 passes no other law changing the plan -- that's one

1 law, the law changing the plan -- that that plan, the
2 commission's plan was to become law -- that's the
3 second law -- as of the last day of November as an act
4 of the council. That's law number 2. There's no doubt
5 that these are two different laws. There's a law
6 changing the proposal and then there is a law enacting
7 the plan of the commission. Those are two separate
8 laws.

9 In this situation, the council had other
10 plans. They attempted to change the plan, the
11 commission's plan or law number 1, but they did so via
12 the resolution and that resolution was CR-123-2021. I
13 may refer to that as simply the resolution.

14 However, you can't enact a law by resolution.
15 Section 317 of the charter is abundantly clear. It
16 states that the council shall enact no law except by a
17 bill. Section 1017(h) of the County charter states
18 that the word "shall" shall be construed as mandatory.
19 There's no wiggle room. The council passed no law
20 changing the proposal. They passed a resolution
21 changing the proposal.

22 Now the County's undoubtedly going to raise
23 the issue of the 2012 amendment that which is CB-55-
24 2012. I may refer to that as CB-55 or just the
25 amendment. And that amended language states that such

1 law shall be adopted by resolution of the County
2 Council upon notice and public hearing.

3 Now I want to read that in context. Again,
4 it states, Section 305 states, "If the council passes
5 no other law" -- again, that's law number 1 changing
6 the proposal -- "changing the proposal, then the plan
7 as submitted shall become law" -- law number 2 --
8 "enacting as the last day of November as an act of the
9 council. Such law" -- it doesn't say laws, it says law
10 -- "shall be adopted by resolution of the County
11 Council upon notice and public hearing."

12 We believe that this amended language is
13 invalid. But first and foremost, you have to ask which
14 law is it referring to? There are undoubtedly two laws
15 that are referenced in Section 305 -- the law enacting
16 the proposal, which is a deliberated plan by a
17 politically independent body and it is eventually
18 passed by the Council, or the law changing the
19 proposal. That law was not deliberated by an
20 politically independent commission. It was only
21 considered by the Council. There's no check or no
22 balance

23 Even according to the County's own usage of
24 the amended language, which again we believe is invalid
25 on constitutional grounds, the law that is referenced

1 in such law shall be adopted by resolution of the
2 County Council is only referring to law number 2. Law
3 2 is the commission plan to be enacted by the council.
4 That was already vetted, already deliberated. That
5 could be potentially, according to the County's
6 reading, if CB-55 is not invalid could, in theory, be
7 adopted by resolution -- although again we would
8 strongly state that we believe it's invalid -- but law
9 1 cannot.

10 The law changing the proposal, the completely
11 unvetted, completely undeliberated law changing the
12 proposal can't be passed via resolution somehow. Law 1
13 is required to be deliberated and follow the normal
14 course of legislation in the charter. That didn't
15 happen. Instead, it was jammed through using the
16 resolution, again with no check, no balance, done
17 without executive approval and over massive public
18 outcry and opposition.

19 On November 16th, of the passage of the
20 resolution, over 150 people testified. Not one person
21 said this was a good idea. Not one person testified in
22 support of this resolution. Council didn't listen.
23 I'm not even sure they heard. If one were to have
24 watched the November 16th hearing, you would see a
25 variety of distracted people supposedly listening.

1 It didn't seem right to anyone watching that
2 hearing or the October hearings that what happened that
3 the council could take unilateral action like that.
4 And it didn't seem right, precisely because it wasn't.
5 Not only that, we believe again that the amended
6 language of Section 305, the CB-55 language that was
7 passed in 2012, we believe that that is invalid.

8 The use of a resolution is entirely invalid.
9 The County's powers to legislate the express powers are
10 not thereafter unlimited according to the Local
11 Government Article. Its powers are still restricted to
12 the extent that they are not preempted or in conflict
13 with public general law. That's from Section 10-
14 206(b).

15 The Express Powers Act enacts, authorizes the
16 County to enact legislation concerning redistricting.
17 It doesn't say that a county can do this or that the
18 council can do this on a whim. It's a law. Laws have
19 checks and balances. Section 305 authorizes a
20 resolution, albeit only for the passage of what I would
21 call law number 2, the commission's plan, not the
22 passage of a law changing the proposal.

23 I think if you go into Section 1017,
24 according to the County's reading of 2012, the entire
25 charter would basically have to be flipped on its head

1 or redefined. You go to the very definitions in 1017,
2 Section 1017, 1017(d), the word "law" shall be
3 construed as including all acts, public local laws,
4 ordinances, and other legislative acts of the council.

5 Now the County may like to latch onto
6 legislative acts, but the word "act" in further in
7 section (b), the word act, ordinance, public local law,
8 and legislative act when used in connection with any
9 action by the council shall be synonymous and shall
10 mean any bill enacted in the manner and form provided
11 in this charter.

12 Again, Charter Section 317 could not be
13 clearer. Every law of the County shall be styled, be
14 it enacted by the County Council of Prince George's
15 County, Maryland, the council shall enact no law except
16 by bill. The effects of using a resolution to jam
17 through legislation are vast. I'm not even sure what
18 the check on the County restructuring or, excuse me,
19 the council restructuring the charter entirely to be
20 via resolution. I don't know what would be the
21 restrictions on that.

22 There's no check on the power of the council,
23 simple up or down vote. Something as essential as
24 redistricting and dealing with elections not only does
25 it violate the charter, it goes against common sense.

1 It would give the County Council unfettered access to
2 change the districts however they wanted. There's
3 nothing to stop a majority of the council from
4 redistricting it in whatever way suits them politically
5 which is exactly what happened here. It's like the old
6 adage warning against letting foxes guard the henhouse.
7 It just doesn't make sense. It let's politicians
8 unilaterally determine who can and can't vote for them
9 and who can and can't run against them.

10 And if there's any doubt that any of this was
11 all political and politically motivated, the council
12 chair Calvin Hawkins was quoted in the Washington Post
13 as saying, "I'm not acting like I'm naive. I know this
14 is a political process. Everyone knew where everyone
15 lived." This was a purely political action that
16 usurped the authorized power from the County Executive.
17

18 As provided in Section 411 of the charter,
19 the County Executive is provided with the power that
20 states, "Upon the enactment of any bill by the council,
21 with the exception of such measures made expressly
22 exempt from the executive veto by this charter, it
23 shall be presented to the County Executive within ten
24 days for his approval or disapproval."

25 That didn't happen here. The County

1 Executive never gave her approval or a veto on this
2 resolution. Every bill except those that are expressly
3 exempt, every "potential law" is subject to the
4 approval of the executive. Again, that did not happen.
5 There was no executive approval or veto.

6 Section 305 also raises constitutional
7 concerns. Maryland case law holds again that a charter
8 is like a local constitution. It fixes -- I'm reading
9 from *Atkinson v. Anne Arundel County* -- fixes the
10 framework for the organization of the county
11 government. It established the agencies of local
12 government and provides for the allocation of power
13 among them. These are foundational issues. These are
14 constitutional issues. Bedrock issues of separation of
15 powers, due process and legislative process with checks
16 and balances.

17 Under separation of powers, Charter Section
18 102 provides for separation of powers between the
19 executive and the legislature. Charter section, excuse
20 me, Article 8 of Maryland's Constitution Declaration of
21 Right also provides for separation of powers in
22 government. This action usurps the power of the
23 executive to review and veto.

24 I'm going to read from Charter Section 102.
25 "The powers mentioned in the preceding section shall be

1 exercised only by the County Council, the County
2 Executive and other agents, officers and employees of
3 the County." These are the powers that are provided to
4 the County. And it says, "acting under their
5 respective authorities," so they are only allowed to
6 act within the authority of what has been provided by
7 the charter.

8 The charter does not provide the council the
9 ability to act as the executive and to pass laws.
10 Charter Section 402, "Executive Powers and Duties. All
11 executive power vested in Prince George's County by the
12 Constitution and the laws of Maryland and this charter
13 shall be vested in the County Executive." Not the
14 County Council, in the County Executive.
15 Maryland Constitution Article 8 that the legislative,
16 executive and judicial powers of government ought to be
17 forever separate and distinct from each other and that
18 no person exercising the functions of one said
19 department shall assume or discharge the duties of any
20 other. It's exactly what happened here. It's exactly
21 what the amended language of Section 305 provides for.

22 There's case law --

23 THE COURT: Let me -- so. Well, this is -- I
24 just want to -- is this an argument in the alternative?

25 MR. SAWYER: No, Your Honor.

1 THE COURT: All right, so you're not arguing
2 that in no way can -- it's not your position then that
3 it can be read that the resolution applies to the law,
4 whether it be the new law or the redistricting plan
5 that has not been changed by a new law. You're not
6 saying the resolution applies to that?

7 MR. SAWYER: I'm sorry. (Indiscernible
8 1:54:47), Your Honor.

9 THE COURT: So, for instance -- I'll make it
10 more clear. If the council had not amended the
11 redistricting plan and it became law automatically by -
12 - it became law by operation of law based upon the
13 charter, are you saying that then the council could not
14 have adopted that by resolution since it --

15 MR. SAWYER: According to the amended
16 language of Section 305 that is how the County is
17 reading that. And I would say that if -- again, Your
18 Honor --

19 THE COURT: I don't think the County is
20 reading it that way. They're actually not reading it
21 that way.

22 MR. SAWYER: I'm sorry. Then maybe I'm
23 misunderstanding, Your Honor.

24 THE COURT: I'm saying in the event that the
25 council did not amend the redistricting plan and it

1 became law by operation of law, could the council then
2 under 305 adopt the redistricting plan by resolution?

3 That's not your argument?

4 MR. SAWYER: That is if CB-55, if the amended
5 language is considered valid then that would be the
6 argument, yes. That's correct, Your Honor.

7 THE COURT: Right. Okay, so and what you're
8 arguing now, and that's why I'm asking, is this an
9 alternative argument?

10 MR. SAWYER: Well, there are two arguments,
11 Your Honor. Well, there are actually three arguments,
12 Your Honor. There's the last argument that the Court
13 just mentioned, but there's also the argument again
14 that these are two laws. There are two laws that are
15 referenced in Section 305 and the amended language
16 references one law. The amended language is talking
17 only about the law of the commission's plans becoming
18 law as an act of the council.

19 THE COURT: Okay, but that's where -- so, and
20 that's why I'm asking for clarification, because what
21 you're -- in one what you're saying now is CB-55 is
22 invalid. They can't do it by resolution. But --

23 MR. SAWYER: That's correct, Your Honor.

24 THE COURT: -- at the same time, you're
25 saying the resolution they can do it if it means X.

1 And that's why I was just asking if the argument you're
2 making now is alternative.

3 MR. SAWYER: I think -- I apologize, Your
4 Honor. I think I was misunderstanding the Court.
5 That's correct. So it's alternative in the sense that
6 if the amended language of 305 is considered valid,
7 it's only valid as to the law of the commission's plan.

8 THE COURT: Okay.

9 MR. SAWYER: Although -- yeah.

10 THE COURT: All right. I'm sorry. Go ahead.
11 You can continue.

12 MR. SAWYER: There's also case law for the
13 separation of powers, Your Honor. It says if an office
14 -- and this is from Murphy v. Yates. It says if an
15 office is created by the --

16 MS. STULLICH: We'll see.

17 MR. SAWYER: Excuse me?

18 THE COURT: That -- I don't know.

19 MR. SAWYER: Ms. Stullich, could you -- I
20 think you're unmuted, Ms. Stullich.

21 THE COURT: Yes.

22 Ms. Stullich, if you could mute yourself.
23 Thank you.

24 MR. SAWYER: It says if an office is created
25 by Constitution and specific powers are granted or

1 duties are imposed by the Constitution, although
2 additional powers may be granted by statute, the
3 position can neither be abolished by statute nor
4 reduced to impotence by the transfer of duties
5 characteristic of office to another office created by
6 the legislature.

7 And that's also again, it goes to the
8 separation of powers that is in Article 8 of Maryland's
9 Constitution.

10 In *Smiley v. Holm* it says, the United States
11 Supreme Court looking at similar issues, "if the local
12 legislation calls for laws to be approved by the
13 executive as the authority is conferred for the purpose
14 of making laws for the State, it follows in the absence
15 of an indication of a contrary intent -- and that's in
16 the Constitution itself -- that the exercise of the
17 authority must be in accordance with the method which
18 the State has prescribed for a legislative enactment.

19 "We find no suggestion in the federal
20 constitutional provision an attempt to endow the
21 legislature of a State with power to enact laws in any
22 other manner than that which the Constitution of the
23 State has provided that law shall be enacted." Here,
24 the council assumed the executive's power under Section
25 411, and the council exceeded its respective authority.

1 This is not the legislation process, the legislative
2 process that was detailed in the charter. This is
3 legislation by fiat.

4 There are also due process concerns here.
5 Under Article 24 of Maryland's Constitution, the
6 County's action deprive the voting public, as the Court
7 will hear, without legislative due process under the
8 charter. It was wrong. The public's made their voices
9 heard. This isn't a resolution concerning trash pickup
10 days or something benign. This is talking about
11 matters that are foundational to the democracy. This
12 is about elections and the ability for elected
13 officials to manipulate the lines of their district
14 without any check and without any balance.

15 I don't think under any reading under any
16 bicameral or government system there is this type of
17 unfettered right to draw boundary lines. And it's not
18 what the charter has intended and it goes against the
19 totality of the charter. It goes against the totality
20 of the Constitution of Maryland. It goes against the
21 totality of the Constitution of the United States and
22 everybody's common-sense understanding of how elections
23 are supposed to take place.

24 This leads us to why we're here today. We
25 filed a four-count complaint. Count 1 for a

1 declaratory judgment declaring the commission's plan to
2 be law; Count 2, a writ of mandamus mandating
3 commission plan B law; and Count 3, declaratory
4 judgment declaring that CB-55, the 2012 amendment, is
5 invalid; and Count 4 for injunctive relief for a TRO
6 and preliminary injunction, which is again why we're
7 here today, this afternoon.

8 THE COURT: All right.

9 MR. SAWYER: For both -- Your Honor, I'm
10 still not quite clear whether the Court is wanting to
11 put on evidence as far as the irreparable hardship and
12 so on, the criteria under the temporary restraining
13 order or --

14 THE COURT: So we're not, so this is not a
15 temporary restraining order because and that's --

16 MR. SAWYER: That's fine, Your Honor.

17 THE COURT: -- in a situation where the other
18 side isn't present.

19 MR. SAWYER: Understood, Your Honor. So I
20 mean as far as the legal argument is concerned that
21 would be the legal argument.

22 THE COURT: All right, thank you.

23 All right, Mr. Kumar.

24 MR. KUMAR: Thank you. Good afternoon and
25 may it please the Court and Counsel.

1 This complaint amounts to it is nine years,
2 two months and 22 days late as of today's date, and let
3 me explain what I mean by that. In 2012, there was CB-
4 55 of 2012 that was the mechanism to place Question A
5 on the ballot. The phraseology of the question was in
6 CB-56, which I submitted to the Court in my list of
7 exhibits.

8 In that bill, when it made it to the ballot
9 it was certified. In order for it to make it to the --

10 THE COURT: Hang on. Let's do this also, I
11 guess.

12 Did you, Mr. Sawyer, did you get County's
13 exhibits?

14 MR. SAWYER: Yes, Your Honor. I did.

15 THE COURT: Do you have any objection to the
16 Court receiving any of those exhibits?

17 MR. SAWYER: As far as them being --

18 THE COURT: For me to consider them.

19 MR. SAWYER: Your Honor, yes. That would
20 have --

21 THE COURT: Because he's referencing
22 something, CB-56.

23 MR. SAWYER: Yes. As far as the statutory,
24 the statutes, Your Honor, I would have no objection to
25 that. I believe there were some political campaign

1 notices or something like that. I intend to object to
2 those.

3 THE COURT: Those, I guess, the political
4 campaign stuff, is that necessary for your argument,
5 Mr. Kumar?

6 MR. KUMAR: No. I was just going to -- if we
7 were doing the TRO, I was going to use that to rebut
8 the affidavit of Mr. Thurston. But I'm not -- I don't
9 need that anymore.

10 THE COURT: Okay. So for the statutory
11 preservations, those exhibits will be admitted. What
12 numbers are those?

13 MR. KUMAR: Your Honor, on the exhibit list
14 they're not listed by number but by page number. I
15 consolidated all the exhibits and they have a table of
16 contents.

17 THE COURT: Okay.

18 MR. KUMAR: And they're titled by statutory
19 numbers. So I would agree for purposes of this hearing
20 I will not use the exhibit that starts on page 32 and
21 the exhibit that starts on page 34 because those are
22 the two things regarding the affidavit from Mr.
23 Thurston. I don't need those for purposes of where we
24 are today.

25 THE COURT: Right. With those being out of

1 consideration, do you have any objection? Because what
2 I'm going to do is, I'm going to -- that packet, I'm
3 just going to make that one exhibit and I won't --

4 MR. KUMAR: Okay.

5 THE COURT: -- consider pages 32 and 34.

6 MR. KUMAR: No problem.

7 THE COURT: Mr. Sawyer, are you agreeing with
8 that?

9 MR. SAWYER: Your Honor, they're marked up.
10 I would prefer to have an opportunity to mark them up
11 as well, if the Court's going to receive them as
12 exhibits.

13 THE COURT: Okay. Well, if CB- -- it's a
14 statutory provision?

15 MR. KUMAR: It is.

16 THE COURT: I can look it up. I don't need
17 it. All right, I don't need the exhibit.

18 MR. KUMAR: Everything -- yeah.

19 THE COURT: We'll just go -- if they're
20 statutory provisions I will look at them.

21 MR. KUMAR: Yes.

22 THE COURT: All right, thanks.

23 MR. KUMAR: And since that pause, Your Honor,
24 I agree with the Court. I have no objections to what
25 is being requested in the complaint as far as counts.

1 Phraseology and accusatory stuff I don't want to
2 dispute, necessarily, that for this hearing, but I just
3 want to make sure that we understand each other that I
4 understand the complaint's that been filed and --

5 THE COURT: I'm only considering the facts.

6 MR. KUMAR: Correct. Correct.

7 THE COURT: So in terms of for the complaint,
8 I'm only considering the facts. Everything that's in
9 the counts, that has to be proven to the extent that --
10 but -- and then really only considering -- I'm not
11 considering the argumentative facts, only considering
12 the facts about days, times --

13 MR. KUMAR: Thank you.

14 THE COURT: -- action taken.

15 MR. KUMAR: And thank you for that
16 clarification and I agree.

17 THE COURT: All right.

18 MR. KUMAR: So with regard -- this whole
19 case, in my opinion, based on the case law, follows and
20 starts and ends with the CB-55. One, we know that it
21 got ratified so I'm not going to waste the Court's time
22 on that. What I want to focus on is the provision in
23 the law that talks about when you have to challenge a
24 question on the ballot. And that is on page, it starts
25 on page 40 of my exhibit list that talks about the

1 Election Article, election law, what is qualified to go
2 on a ballot, how it's done, and then you have to
3 challenge it.

4 THE COURT: Okay, so let me say this and this
5 might help you. I believe I can decide this issue
6 without addressing the constitutional question that's
7 been raised.

8 MR. KUMAR: Right.

9 THE COURT: So -- and under the law, where an
10 issue can be decided without addressing a
11 constitutional issue, the Court should just address
12 that issue. So I think I can decide this case without
13 addressing the constitutional issue. So I think we're
14 left with the language as it is, and I can decide this
15 case based upon the language in the charter as it is
16 presently without addressing the constitutional issues
17 that have been raised --

18 MR. KUMAR: Judge.

19 THE COURT: -- or what happened with CB-55.

20 MR. KUMAR: Oh, Judge, I'm not disagreeing
21 with that. What I'm saying is that --

22 THE COURT: No, I'm just saying you don't
23 have to get into the issue of whether CB-55 is valid or
24 not.

25 MR. KUMAR: Okay, fair enough. I just want

1 to for the record only, I just want to make sure that
2 under the Election Article a ballot question must be
3 challenged within a certain time after it goes on the
4 ballot. That was not done here. (Indiscernible
5 2:07:44) question.

6 Now I agree with the Court, the language has
7 now made it into the charter and the question then
8 becomes what does it mean? When you look at the
9 charter amendment language, I'll read the purpose
10 clause. It says, "For the purpose of proposing an
11 amendment to 305 of the charter to authorize
12 legislative action." Legislative action is addressed
13 in Section 1017 of the charter, and that is page 20 of
14 my exhibit list.

15 MR. SAWYER: Your Honor, I'm going to object.
16 This is -- the statute itself is unambiguous.
17 (Indiscernible 2:08:24).

18 THE COURT: Right. I'm going to only rule
19 based upon what's on the paper.

20 MR. KUMAR: No, no. I'm just responding to
21 his argument that we can't do it by resolution. That's
22 all I'm doing.

23 THE COURT: Okay.

24 MR. KUMAR: So in Section 1017, the amendment
25 language was to authorize legislative action which is

1 what made it into the charter. So then -

2 MR. SAWYER: That's misquoting the amended
3 language.

4 THE COURT: The language that's in the
5 charter is in the charter, but let him make his
6 argument. I'll give you an opportunity to rebut
7 anything he says.

8 MR. SAWYER: I understand, Your Honor. But
9 as far as misquoting the actual language that's in the
10 charter, it should be (indiscernible 2:09:08).

11 THE COURT: Well, so here's the thing, Mr.
12 Sawyer. I can read. So he can --

13 MR. SAWYER: Thank you, Your Honor.
14 (Indiscernible 2:09:15).

15 THE COURT: Let him. He let you go through
16 without interrupting, let him -- it's just -- it's an
17 argument so he gets to make it.

18 MR. SAWYER: Understood, Your Honor.

19 THE COURT: And then you can say your side.

20 MR. KUMAR: So under 1017 of Definitions and
21 Rules of Construction, it says that "the words act,
22 ordinance, public local law and legislative act shall
23 be synonymous and shall mean any bill enacted." So my
24 argument is that when the language made it into the
25 charter that such law shall be adopted by resolution,

1 what that means is that the County Council -- because
2 that amendment went in to do exactly what is a dispute
3 here.

4 Mr. Sawyer argues as the Court rightfully
5 pointed out, which is a very interesting paragraph in
6 his papers -- it's on page 7 of his memorandum, the
7 full second paragraph -- he says the word "resolution"
8 only applies to the law adopting the commission's plan,
9 which goes to what the Court observed just now, which
10 is he is agreeing that a law can be done by a
11 resolution. Then he is saying, no, for purposes of my
12 complaint, it can't be a resolution. And the reason
13 for that is they don't want the -- they don't like the
14 plan that the County passed. They want the
15 commission's plan.

16 So for their purposes, a resolution is a law
17 so long as it's the commission's plan. But it is not a
18 law if it's the council's plan. So my argument with
19 regard to the legal question is that the charter, and
20 it says so in Section 1014 which is on page 20 of the
21 exhibit of statutory parts that the charter, shall be
22 liberally construed to that end; therefore, when you
23 look at the charter, you look at all the provisions.
24 Clearly, Section 317 predated the charter amendment
25 language that caused that last sentence in 305 to

1 appear there. The legislatures knew it was there and
2 they added the last sentence so that the council may
3 pass a legislative redistricting act by resolution.

4 Mr. Sawyer argues there's two laws. The
5 Court correctly points it out that if the council did
6 nothing as of the last day of November by operation of
7 law, without any resolution or anything being done, the
8 commission's plans becomes the law. The last language
9 in 305 was specifically added.

10 THE COURT: Can I ask you one question?

11 MR. KUMAR: Council -- yes.

12 THE COURT: Prior to the passage of CB-55-
13 2012, when in the years since 1982, every ten years
14 after there was a redistricting plan, if the
15 redistricting plan adopted by a commission became law
16 did the council still go through the bill process to
17 adopt it?

18 MR. KUMAR: No. There are -- if you look at
19 the section under -- there are one or two, I think one
20 or two times where the council did not change the plan.

21 THE COURT: No, no. I'm talking about a
22 situation where they didn't change the plan.

23 MR. KUMAR: That's what I'm saying.

24 THE COURT: Did they then pass a bill
25 afterwards adopting the plan?

1 MR. KUMAR: No. No.

2 THE COURT: They just left it as it was?

3 MR. KUMAR: That's right. Because the
4 charter was always interpreted that if you don't act on
5 the commission's plan that is the plan that becomes the
6 law.

7 THE COURT: Okay.

8 MR. KUMAR: And this is why that legislative
9 history in CB-55 became important for our argument
10 because, remember, in 2012 is when it occurred which is
11 after we did the 2011 redistricting plan. And that is
12 significant to the outcome of this case because there
13 was no need to do this legislative amendment and having
14 that last sentence there if it was not the intent for
15 the council to adopt it by resolution, and that is
16 exactly what got ratified. So we take the view that
17 CR-123 did not violate the charter as an act of the
18 council approving a plan.

19 And the other reason I want to mention with
20 regard to 305, Mr. Sawyer makes a big deal over we
21 rushed this through and we didn't have deliberate
22 process. If you look at CR-123, which is in the
23 exhibits, the first document, we followed every single
24 procedure that is required for a bill. It was public
25 notice. There was a public hearing. There were work

1 sessions.

2 And as Mr. Sawyer pointed out, the public
3 came out in force against the council doing a different
4 plan, and do you know why they did that? Because they
5 were given the opportunity to view the plan. They saw
6 the plan. They engaged. They were fully informed
7 about what the council was doing. So this is kind of
8 weird that they're taking the position that we hid the
9 ball, we did something underhanded and we did not have
10 public input and process.

11 When the Court looks at CR-123, it is fully
12 documented with the actions of the council including
13 the participation of the public. And by the way, this
14 is one of the times where we've done a redistricting
15 and it has been -- if there's something that came out
16 of this pandemic everything was online. It's all
17 stored online. There was no in-person hearing where it
18 wasn't recorded or some meeting that wasn't recorded.
19 Everything is documented fully.

20 So on the first question, we take the view
21 that the Court should interpret the language in 305
22 consistent with CB-55 and rule that the resolution is a
23 valid law passed by the council pursuant to notice and
24 public hearing, which was done. There's no dispute
25 about that.

1 The second part is if you look at the last
2 paragraph of CR-123, Your Honor, it states, and which
3 goes to this complaint with the remedy they're asking
4 for, it says that -- this is Section 3 of the resolve
5 clause -- that the Clerk of the Council is hereby
6 directed to transmit a certified copy of the plan to
7 the Board of Elections on the day of adoption. That
8 occurred.

9 We, meaning the council, doesn't have this
10 plan anymore for implementation. Implementation is
11 done through the Board of Elections and that is
12 Election Article Section 2201. And it says there's a
13 County Board of Elections in each county, which we
14 know; each local board and its staff is subject to the
15 direction and authority of the State Board and is
16 accountable to the State Board for all actions
17 regarding the implementation of the requirements of
18 this Article.

19 The Board of Election implements the plan,
20 meaning that they --

21 THE COURT: Well, I mean that just means that
22 if someone goes to run for office, the Board has to
23 follow what the plan says with respect to what district
24 that person would be in. Not that they are responsible
25 for --

1 I don't know who you are, sir. We have
2 Marian. But don't make any gestures. All right.

3 That doesn't mean that they created it.

4 MR. KUMAR: No, no, no.

5 THE COURT: The issue here is the creation of
6 the plan and whether that followed the County charter.

7 MR. KUMAR: No. I'm not disputing that.
8 What I'm saying is that the relief that is being sought
9 is to enjoin the County from implementing the plan.
10 I'm not disputing that we created the plan.

11 THE COURT: Well, isn't the relief sought
12 that the original, the commission's plan be the plan
13 that is effective?

14 MR. KUMAR: What they're asking is to
15 invalidate CR-123 because it was not done by a bill.
16 The act of the council, they're saying, needed to be
17 done by a bill.

18 THE COURT: Right.

19 MR. KUMAR: That's the -- and if the Court,
20 they're saying that if the Court agrees that it had to
21 be done by a bill then you -- invalidates your 123, and
22 they're saying that you go back to the commission's
23 plan. So --

24 THE COURT: Because the time has passed for
25 the council to do something different.

1 MR. KUMAR: That's what they're saying. But
2 what I'm saying is that the council took an act.

3 THE COURT: I guess what you're saying is I
4 couldn't give them any relief because it -- but if I
5 find that CR-123 is invalid and that the commission's
6 plan is the plan, then that is the one that would have
7 to go to the Board of Elections.

8 MR. KUMAR: Right. But what I'm saying, Your
9 Honor, is that the commission's plan did not become law
10 on the last day of November because the council took an
11 act. The act that they took is to approve a different
12 plan.

13 THE COURT: Right.

14 MR. KUMAR: The challenge here is that the
15 plan, they're saying that the plan that was adopted or
16 approved had to be done by a bill and, obviously, we
17 are saying it can be done by a resolution.

18 THE COURT: No, and I understand that. I
19 guess what I'm saying is there is a relief, I guess,
20 that they're asking for and they can correct me if I'm
21 wrong, but that is that I invalidate Council Resolution
22 123. And by invalidating it, the commission's plan
23 becomes law.

24 MR. KUMAR: Right.

25 THE COURT: The commission plan is law and

1 that is what the Board of Elections would have to
2 follow.

3 MR. KUMAR: Right. But what I'm saying is
4 that the relief that they're asking, which is a writ of
5 mandamus because, remember, they're asking for a writ
6 of mandamus and there are two types of mandamus. One
7 is an administrative mandamus under the Rule 700. It
8 is unclear. They obviously did not cite the rule so we
9 have to agree that they're not seeking a mandamus under
10 the 700 rules. And even if they were, it would not be
11 applicable because it only applies to quasi-judicial
12 matters under the 700 rules and the case law is clear
13 on that. It's undisputed that that section doesn't
14 apply to legislative actions.

15 Then you have common law writ of mandamus.
16 Common law writ of mandamus which he doesn't articulate
17 in his papers but he's saying writ of mandamus would
18 mandate the commission's plan. We're saying that this
19 Court couldn't do that either because there's
20 discretion. When there's legislative discretion, a
21 writ of mandamus to direct a legislative body to
22 approve a plan or to mandate them to say this is the
23 law is not permissible here. That's the distinction
24 we're making with regard to their mandamus action.

25 What he's saying is when you -- so he wants -

1 - he's saying under the declaratory judgment act
2 declare the rights of the parties, I guess, to say I
3 declare CR-123 invalid; therefore, we revert back to
4 the commission's plan. That's the way I understand it.
5 I'm saying the Court can't go back and make the
6 commission's plan become effective on the last day of
7 November because there was an intervening act which is
8 the council's discretionary prerogative to create a
9 different plan.

10 THE COURT: Did they -- well, right. Okay.
11 Okay, all right. I mean I hear your argument. Go
12 ahead.

13 MR. KUMAR: Okay, yeah. But I do recognize
14 what the Court is saying.

15 THE COURT: But he's saying, I guess, let me
16 just say this.

17 MR. KUMAR: Yeah.

18 THE COURT: The Plaintiffs are saying that
19 that action by the council was invalid.

20 MR. KUMAR: No, I understand.

21 THE COURT: Okay.

22 MR. KUMAR: Yes. Yes. They're making a
23 procedural argument that the resolution was not a law.

24 THE COURT: Yes.

25 MR. KUMAR: (Indiscernible 2:23:10) charter.

1 And we all -- I presented my argument on 305 why it is,
2 why that law can be adopted by resolution. So there we
3 are on that part of it there.

4 With regard to the filing deadline, I think
5 the Court's, Your Honor's already agreed that you have,
6 you can't do anything about that. You can't enjoin the
7 County from the February deadline. That's the State
8 Board. And -- Court's indulgence one second.

9 I'm just looking at my notes to make sure I
10 didn't miss what I wanted to say on this, the
11 resolution part.

12 And, yes. So I want to go back and preserve
13 the record on this point that is central to our case.
14 We do not believe that this Court has the jurisdiction
15 to determine whether Section 305 was violated the way
16 the Plaintiffs have advanced their complaint because
17 the bill that authorized that last sentence in the
18 charter had to be challenged at the ballot box under
19 the Election Article and once the question was
20 ratified, the law that's in the charter is valid.

21 On what I'm saying is that is not -- they're
22 not challenging that the charter -- they cannot because
23 they missed the time. They cannot challenge the
24 amended charter because the amended charter, the time
25 to do that -- the ballot question to amend the charter

1 has passed.

2 THE COURT: I agree.

3 MR. KUMAR: Right. So what I'm saying is
4 that what the Court is looking at is the way 305 is
5 written based on the legislative history of how it got
6 written that way and it authorizes the council to adopt
7 a resolution to approve a redistricting plan; so
8 therefore, it cannot, CR-123 cannot be invalid absent
9 some other procedural irregularity such as we didn't
10 give notice or we didn't have a hearing or those kinds
11 of things.

12 THE COURT: So let me ask you because you're
13 referencing legislative history, are you saying the
14 language is ambiguous?

15 MR. KUMAR: No, no, no. I'm saying when you
16 -- the case is Lamone, Lamone versus -- the case is
17 from Maryland. It's called Lamone v. L-e-w-I-n. It's
18 460 Md. 450 and that is a Court of Appeals opinion and
19 they say on these type -- this was a ballot kind of
20 question as well. Interpreting the stuff, they say you
21 look at, you look at the legislative history to
22 understand why it was done even if the language there
23 is clear.

24 So all I'm saying is that because the
25 allegation was made against CB-55, it is critical for

1 the Court to look at CB-55. He has made that argument.
2 He's saying to invalidate CB-55.

3 MR. SAWYER: Your Honor, we're not -- I just
4 want to make sure that my objection is very clear. I'm
5 not arguing it as a ballot question, which is what the
6 case that Mr. Kumar references is referring to. I'm
7 arguing that it's invalid.

8 THE COURT: Right. Right, but he's already
9 stated that the time for arguing the validity of that
10 CB-55 was a lot -- has passed.

11 MR. SAWYER: That's correct, Your Honor, and
12 I'm not arguing that.

13 THE COURT: Okay. And I agree with that
14 argument.

15 MR. SAWYER: I'm not arguing that. Under
16 Counsel's argument, no provision in the charter would
17 ever be able to be judicially questioned at all.

18 MR. KUMAR: No.

19 MR. SAWYER: So if that's the case, we're
20 questioning the validity of the language of CB-55.
21 That's what we're questioning. We're not questioning
22 the ballot question.

23 MR. KUMAR: But that is the ballot question.

24 THE COURT: Well, CB-55 went to the ballot.

25 MR. SAWYER: That's correct, Your Honor. I'm

1 questioning the language. That language.

2 If we -- I'm calling it CB-55. If we want to
3 isolate it as the amending language or however we want
4 to characterize it or name it, it's the name that --

5 THE COURT: Okay. You're challenging the
6 language in the charter.

7 MR. SAWYER: That's correct, Your Honor.

8 THE COURT: Okay.

9 MR. KUMAR: Which is Question A.

10 THE COURT: Alternatively.

11 MR. KUMAR: Yeah, but which is Question A.
12 And I'm saying to the Court and Counsel that when you
13 look at the provision that is in the Election Article
14 that authorizes how you challenge a ballot question,
15 what this Court would be doing it would be usurping the
16 ratification of the -- because, remember, the language,
17 the last sentence in 305 is precisely Question A, the
18 ballot question. He's saying with no uncertain terms,
19 I am challenging that language.

20 MR. SAWYER: Your Honor, I'm not challenging
21 it as a ballot question though. Counsel keeps trying
22 to characterize it as a challenge to a ballot question.
23 I am not characterizing it as a ballot question. I'm
24 challenging that language and that language alone.

25 THE COURT: I understand.

1 MR. KUMAR: But the language cannot be
2 challenged now. It was a ballot question that there's
3 a procedure in the election.

4 THE COURT: All right. I'm going to tell
5 you, I am only going to interpret what the charter
6 means and what the actions that occurred here, what if
7 any effect that had.

8 MR. SAWYER: Thank you, Your Honor.

9 MR. KUMAR: Fair enough. I just want to be
10 very clear that I don't think that once the question
11 was ratified and it made it into the charter that is --
12 what they're arguing now is to say that that language
13 is -- and he doesn't make it any -- in no uncertain
14 terms he's arguing that it's invalid when it was
15 ratified by the voters. That's my argument. So if
16 it's ratified by the voters to amend the charter to
17 allow the council to adopt a plan by resolution,
18 they're backdooring a ballot question argument to this
19 Court saying, no, you can't do it by a resolution when
20 it was ratified.

21 So that's a central argument for us because
22 if that's the case, if a ballot question, an
23 unchallenged ballot question then can be subsequently
24 challenged after ratification and certification of an
25 election, then it renders meaningless the Election

1 Article that provides a specific process exclusive
2 remedy to challenge a ballot question.

3 So for those reasons, Your Honor, our
4 position is that the proper interpretation of the
5 charter section, the last sentence in 305, is
6 consistent with other provisions in the charter
7 including the definition of a resolution that has the
8 effect of law, which Mr. Sawyer talks about there's 1
9 law and 2 law, it all is consistent. The charter must
10 be liberally construed when the Court is looking at
11 what it means.

12 So for those reasons, Your Honor, I would
13 argue that based on how the Court has fashioned where
14 the case is today, deny the requested relief by the
15 Plaintiffs and rule that CR-123 was a valid legislative
16 act in approving the redistricting plan.

17 THE COURT: All right. Okay, I'm sorry. Go
18 ahead.

19 MR. KUMAR: And deny their relief about with
20 regard to the deadline. I think that's an open and
21 shut argument there.

22 THE COURT: All right. All right. If you
23 all can hang on.

24 Darnea, go into the 2:30.

25 All right, I have a matter I need to deal

1 with real quickly and I'll return. Hold on.

2 THE DEPUTY CLERK: Okay.

3 (Break in proceedings at 2:31:50 p.m. to 2:59:36
4 p.m.)

5 THE COURT: All right. Sorry about that.

6 MR. KUMAR: That's okay.

7 THE COURT: That took longer than I
8 anticipated.

9 MR. KUMAR: Judge, when it's appropriate, I
10 just have one comment.

11 THE COURT: Okay, hang on.

12 MR. KUMAR: If I may.

13 THE COURT: Okay, hang on.

14 (Pause.)

15 THE COURT: Okay, sorry. All right.

16 MR. KUMAR: That's okay.

17 THE COURT: Hang on a second. Mr. Sawyer's
18 back, all right. Yes.

19 MR. SAWYER: Thank you, Your Honor.

20 MR. KUMAR: Yeah. Just before Mr. Sawyer
21 does his reply or response, I just wanted to point the
22 Court to page 26 of my exhibits, which is the section
23 of the Express Powers Act, 10-206. And it says,
24 "Additional Legislative Powers. A county may pass any
25 ordinance, resolution or bylaw not inconsistent with

1 State law if it may aid in executing and enforcing any
2 power in this title, which is the Express Power Act, or
3 may aid in maintaining the peace, good government,
4 health and welfare of the county." There's a section
5 (b) with limitations in the express powers but that's
6 with State law.

7 So I would submit that that section along
8 with the charter provisions and the Express Power Act
9 authority that the County has that that is consistent
10 with the word "resolution" to adopt a redistricting
11 plan by the County Council.

12 THE COURT: Okay. Now I have a question.
13 You said that --

14 MR. KUMAR: Yes.

15 THE COURT: Where was that that you said a
16 resolution?

17 MR. KUMAR: It's in the Express Powers Act
18 Section 10-206. It says, "Additional Legislative
19 Powers," and it --

20 MR. SAWYER: Exhibit 26, Your Honor.

21 THE COURT: I'm sorry.

22 MR. SAWYER: Exhibit 26 of his exhibit
23 package.

24 THE COURT: Okay.

25 MR. KUMAR: It's page, yeah, Exhibit 26.

1 And that provision is Mr. Sawyer and I both
2 agree that the Express Powers Act is what gives us the
3 authority as a charter sort of our powers. The reason
4 I wanted the Court to be aware of that section is
5 because as I was indicating in my opening arguments
6 that the word "resolution" is used throughout the
7 charter and used throughout the -- not for in every
8 provision, obviously, but in the Express Powers Act to
9 authorize the council to execute its legislative
10 powers.

11 THE COURT: I guess that -- but does, is
12 there anything in there that says it's a substitute for
13 the term bill or law?

14 MR. KUMAR: Well, the word "resolution" as
15 the word resolution is used here in this additional
16 powers to execute a law. That's what it's saying.

17 MR. SAWYER: Your Honor, I would --

18 MR. KUMAR: (Indiscernible 3:04:05).

19 THE COURT: Hang on, hang on. Right. But to
20 execute a law, there has to be a law.

21 MR. KUMAR: Huh?

22 THE COURT: To execute a law, there has to be
23 a law.

24 MR. KUMAR: Right. And our charter defines a
25 resolution having the effect of law. Case law has

1 recognized --

2 THE COURT: Having the effect of law.

3 MR. KUMAR: Right.

4 THE COURT: Right. Then, well, that's -- it
5 has the effect of law, meaning -- but is it a law? And
6 I guess that's the argument that they have.

7 MR. SAWYER: That's correct, Your Honor.

8 MR. KUMAR: Right, right. I mean there's --

9 MR. SAWYER: And I would direct the Court if
10 in looking at that 10-206 there are, excuse me, there
11 are different wording.

12 THE COURT: I've read it.

13 MR. SAWYER: Is Counsel trying to say that a
14 bylaw is the same as a law, or is Counsel trying to say
15 that virtually anything that the council decides, any
16 ordinance, resolution or bylaw (indiscernible 3:04:59).

17 THE COURT: Well, he's actually finished his
18 argument. He wanted to point that last thing out. Is
19 there anything you want to say in rebuttal?

20 MR. SAWYER: Yes, Your Honor. I apologize
21 for overstepping.

22 THE COURT: Oh, no, no, no. That's no
23 problem. I understand.

24 MR. SAWYER: In 10-206, these are three
25 different terms -- ordinance, resolution and bylaw --

1 not inconsistent with State law, which I would argue
2 also State law says that they must enact legislation
3 concerning redistricting.

4 But I want to go back to something that
5 Counsel mentioned because there's a conflation of terms
6 and I think the Court is perceptive to this conflation
7 of terms in that a resolution cannot be a law. Those
8 are two very distinct things that one has its process
9 and what it is used for. A resolution has what it is
10 used for, temporary, and the effect of a law.

11 And the Court pointed out that that's not the
12 same as a law. Whereas, a law is simply a law. And
13 Charter Section 317 could not be clearer when it says
14 all laws shall be enacted by bill. The council
15 attempted to do this initially when it was changing its
16 plan. The council attempted via CB-115-2021. And then
17 instead, and for whatever reason, which remains unknown
18 at this time, decided to use a resolution.

19 But another point that Counsel made or raised
20 is this ballot question, whether it's a ballot question
21 or can be questioned. This is a charter provision. We
22 are questioning this as a charter provision, not as a
23 ballot question. We are saying that this language of
24 the charter is simply invalid. So the ballot question,
25 to me, otherwise, we would never be able to ever

1 question any charter provision under Counsel's
2 argument. Essentially, they are all ballot questions
3 in some ways.

4 So if by nothing else because them not being
5 subject to referendum one could make that case.

6 THE COURT: It's invalid if I determine that
7 it means it's a law.

8 MR. SAWYER: That's correct, Your Honor.

9 THE COURT: Right.

10 MR. SAWYER: And I would also say that this
11 provision, although it is ten years old, has never been
12 tested. This has never been tested. So this portion,
13 whether it -- and I would proffer for the Court that
14 previously things had been done by a bill and any
15 change had been done by a bill with subject to the
16 County Executive's veto. So to Counsel's point, this
17 has never been tested. This may be ten years old but
18 it's never been tested, so this is the first time this
19 is being tested.

20 THE COURT: Well, right. This is the first
21 election after the change.

22 MR. SAWYER: That's correct, Your Honor.

23 Thank you. Sometimes I get out of myself with my
24 articulation, but thank you, Your Honor.

25 If the Court allows somehow a law to be a

1 resolution, where does that end? Does that end as we
2 would argue that if indeed the Court does allow, does
3 provide that for some reason the amended language in
4 305 is valid somehow, it unambiguously only applies to
5 the law passing the commission's plan and report.

6 Again, there are two laws in Section 305 and
7 the language of the -- the amended language simply
8 says, "such law." It does not say such laws. It does
9 not say such legislative actions. It says such law,
10 and that is modifying, simply, the commission's plan
11 and report as an act, it does say, as an act of the
12 council.

13 So the fact that this is to be that
14 potentially, again if the Court determined that that
15 amended language again that somehow a resolution could
16 be a law, it only applies and modifies the law of the
17 commission's plan and report becoming law. It does not
18 modify or does not affect the plan changing the
19 commission's proposal. Again, that plan was
20 deliberated. That plan was, you know, a process, a
21 politically independent process which is, this is where
22 the common sense of this. I mean you look at the
23 totality of the charter and we are to read and the case
24 law specifically states that you are to read these
25 things in totality. You read this with all of the

1 provisions.

2 If in Counsel's reading of 305 it renders
3 three out of the -- or three or four of the definitions
4 under 1017 completely pointless because, completely
5 meaningless. One, it's a definition of a resolution.
6 And these are all -- these are not just, you know, some
7 people sitting around hoping and sort of, "oh, yeah, it
8 might need this or that." These are thought-out
9 specific terms again just like "such law" is a thought-
10 out and specific term.

11 We don't need to look at the legislative
12 intent. We don't need to look at the legislative
13 history. We have unambiguous terms that say such law,
14 which is in reference to the Commission's plan and
15 report. Any other holding, any other holding outside
16 of declaring the language that was in CB-55 other than
17 declaring that invalid, any other reading of this
18 renders so much of the charter inapposite and impotent,
19 basically.

20 I want to make clear the argument so --
21 because it seems that there was some confusion maybe a
22 little bit about the argument and I'm certain that --

23 THE COURT: I'm not confused.

24 MR. SAWYER: Okay. I was going to say I'm
25 certain it's my fault, Your Honor, if that's the case.

1 THE COURT: I'm not confused, you know, no.
2 I'm not confused. I see this as, I guess, more -- I
3 see this more simply than you in terms of addressing it
4 in an alternative fashion. That's just how I see it.

5 MR. SAWYER: Okay. Thank you, Your Honor.
6 Thank you. Thank you. And I appreciate that.

7 So I would just, again there is no path for a
8 resolution to become a law. And again, if it does, if
9 the Court sees that there is a path for a resolution to
10 be a law that resolution or that law that it becomes is
11 only talking about the commission's plan and report
12 becoming "law."

13 THE COURT: Okay. Thank you.

14 MR. SAWYER: Thank you, Your Honor.

15 THE COURT: All right. So this matter is
16 before the Court on the Plaintiff's complaint for
17 preliminary injunction, permanent injunction,
18 declaratory relief, declaratory and injunctive relief
19 and for a writ of mandamus. The Plaintiffs are Robert
20 Thurston, Stephanie Stulich, John Perkins and Stanley
21 Holmes. There are no disputes of fact for the purposes
22 of this proceeding and the Court's ruling. There's no
23 issue of standing regarding the Plaintiffs. The Court
24 adopts and incorporates by reference the facts as
25 alleged in the complaint regarding the council's

1 actions. And the statutes charter, they're self-
2 evident as legal documents.

3 So the issue as this Court sees it is whether
4 the Council Resolution CR-123-2021 is effective. That
5 is, did it lawfully amend the redistricting plan
6 adopted by the County's commission on redistricting
7 that was presented to the council on September 21st,
8 2021 in accordance with County Charter Article 3
9 Section 305.

10 So we know that every ten years a charter
11 commission is established for the purposes of
12 redistricting in the county. It's no different and
13 this has been since 1982, and it's been every ten years
14 since that time, the group that's supposed to present
15 to the council by September the 1st any plan that they
16 come up with, which was done in this case.

17 Now after the plan was presented to the
18 council, what happened is the council amended the plan.
19 They changed the plan and presented their own plan and
20 then that plan was adopted by Council Resolution 123-
21 2021. And the Plaintiffs' complaint is, one, that they
22 can't do it by resolution if, in fact, Charter Section
23 305 is to be read that the council's new law is being
24 done by a resolution here, which seems to be -- and you
25 can correct me if I'm wrong, Mr. Kumar -- is the

1 County's position that the new law has been adopted by
2 resolution and that's CR-123-2021, correct?

3 MR. KUMAR: Yes, the council's redistricting
4 plan was adopted through CR-123.

5 THE COURT: The resolution.

6 MR. KUMAR: Yes.

7 THE COURT: All right. So -- and I think
8 that's the issue. So the issue as this Court sees it
9 is how is this statute to be read. And I'm going to
10 read certain portions of Charter Section 305, but
11 before I do that I do think I need to address, you
12 know, certain statutory provisions.

13 The charter defines the word "bill" to mean
14 any measure introduced in the council for legislative
15 action, and it defines as any bill enacted in a manner
16 and form provided in this charter. And there's Charter
17 Section 317 which says all laws shall be enacted by a
18 bill. And then there's a council resolution which has
19 a meaning as a measure adopted by the council having
20 the force and effect of a law but of a temporary or
21 administrative character. And I think that of
22 administrative character is important to determining
23 what Section 305 means.

24 Now I don't know what was intended and I
25 don't think the legislative history does in terms of

1 that this was going to be an act for legislative
2 action. What it meant in term -- I don't think it
3 changes for me, my interpretation of the statute. So
4 Section 305 of the charter regarding redistricting,
5 everything in the beginning of this charter provision
6 has been followed as agreed by the parties.

7 Now we get to September 1st of the year prior
8 in which the redistricting is to be effective, "the
9 commission shall prepare, publish and make available a
10 plan of council districts and shall present that plan
11 together with a report explaining it to the council."
12 That was done here. "The plan shall provide for
13 council districts that are compact, contiguous and
14 equal in population." And the Plaintiffs allege that
15 that, the plan submitted by the commission met that
16 form. "No less than 15 calendar days and no more than
17 30 calendar days after receiving the commission plan
18 that council shall hold a public hearing on the plan."
19 That was done.

20 Now this is the important part. If the
21 council passes no other law -- that's a clause; the
22 sentence then goes on to say, "No other law changing
23 the proposal," meaning the commission's proposed plan,
24 "then the plan presented by the commission," as adopted
25 -- "as submitted," sorry, "as submitted, shall become

1 law as of the last day of November as an act of the
2 council subject to Sections 320 and 321 of the
3 charter," which don't really have any relevance for our
4 purposes. "Such law shall be adopted by resolution of
5 the county council upon notice and public hearing."

6 And we had a notice and public hearing for the
7 resolution, but the council believed that it could
8 change the plan through this process and by resolution.

9 How the Court reads the sentence preceding
10 the new language is this: There's a clause that says
11 if the council passes no other law changing the
12 proposal and the Court finds that to change the law
13 that council has to submit a bill and enact it, then
14 "the plan, as submitted, shall become law." And that's
15 the sentence. That's the active sentence there, "the
16 plan shall become law." The Court reads such law as
17 relating back to the plan that becomes law in November.
18 That's how the Court reads that. And the resolution is
19 of an administrative character, that it's a resolution
20 adopting the plan that by operation of law becomes law.

21 And based on the Court's interpretation, the
22 council's action, the Court finds, is invalid and the
23 Court declares that the council's action to the extent
24 that it attempted to change the Commission's plan via
25 resolution is invalid. And the Court declares that the

1 commission's plan, which was submitted and which was
2 not changed by a law, by any other law, became
3 effective on the last day of November as an act of the
4 council. Therefore, it is the districts as they are
5 proposed in the commission's plan that are effective as
6 opposed to the plan submitted by the council.

7 So that is the Court's decision. The council
8 must submit to the Board of Elections the commission's
9 plan as the redistricting plan for Prince George's
10 County that establish the districts for the election
11 that is to occur between now and 2032.

12 All right?

13 MR. SAWYER: Thank you, Your Honor.

14 THE COURT: Thank you all very much. The
15 Court will issue an order to that effect.

16 MR. SAWYER: Thank you, Your Honor.

17 MR. KUMAR: Thank you.

18 MR. SAWYER: May we be excused, Your Honor?

19 THE COURT: Thank you. Yes, you may.

20 MR. SAWYER: Thank you.

21 (At 3:21:06 p.m., proceedings concluded.)

22

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2

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CERTIFICATE OF TRANSCRIBER

4 I hereby certify that the proceedings in the
5 matter of Robert E. Thurston v. Prince George's County,
6 case number CAL22-01728, heard in the Circuit Court for
7 Prince George's County, Maryland, on January 28, 2022,
8 were recorded by means of video recording.

9 I further certify that to the best of my knowledge
10 and belief, page numbers 3 through 61 constitute a
11 complete and accurate transcript of the proceedings as
12 transcribed by me.

13 I further certify that I am neither a relative to
14 nor an employee of any attorney or party herein, and
15 that I have no interest in the outcome of this case.

16 In witness whereof, I have affixed my signature on
17 this 2nd day of February 2022.

18

19

20

Patty English, Transcriber

21

22

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MA&YL~ND

~OBERT. E. THURSTON, JR., et al.
:Plaintiffs

CAL22~017i8i::i.c.~

PRINCE GEORGE'S COUNTY; MD
;Defendant

ORDER OF COURT AND DECLARATORY JUDGMENT

.....! <J'h,e abC?,ve~captianedcame be fare the court far hearing an January 28, 2022, an

Plaintiffs' mati an far temporary restraining .order and preliminaryinj,unctian.to eni9iP ~ringej",.

p~arge' s,~al!-nty, Maryland ("Caunty"), fram applying a redistricting map. Because the

.operative facts are not in dispute and the issue ta be decicied is, strictly a questlal),af1'!VY'th~..

y9w1 ildya,nced;mcj cansalidated the hearing with a trial an the merits. The court adapts and

incarpar~le,s.J)JSteference the undisputed facts in the Plaintiff(s' verified C9I1)pJ~irt)9-~~~I"~)5:,t~,t;H,

th.at,th,yy.describe the process by which the cammission an redistrict,ing's IJlan_w~~,suJ:?IT~iut9t

~he.county Cc:n)ncil(':Cauncil") and the Council' s actians in respanse leading up ta and

including the passage afCR-123-2021.

Accordingly, far the reasans stated an the recard, it is this3lst day .ofJanuary, 2022, by
the Circuit Caurt far Prince Gearge's Caunty, Maryland,

DECLARED that Caunty Charter § 317 prahibits the Council fram enacting any law
"except by bill"; and it is further

DECLARED that pursuant ta Charter § 305, the .only manner by which the Council can
change the redistricting plan submitted by the cammission an redistricting ("Cammission") is by
passing a law; and it is further

DECLARED that under the County's Charter, a resolution, while having the effect of law, is not to substitute for a law; and it is further

DECLARED that the passage of CR-123-2021 is not effective to the extent its intent is to serve as a "law changing the [Commission's plan]"; and it is further ..

DECLARED that since no other law has been passed changing the Commission's plan, the Council on September 1, 2021, the Commission's plan effective November 30, 2021; and it is

ORDERED that Prince George's County, Maryland, and/or the Prince George's County Council is permanently enjoined from acting upon, implementing, or otherwise presenting the redistricting plan in CR-123-2021 to any entity charged with acting upon or implementing the County's redistricting plan; and it is further

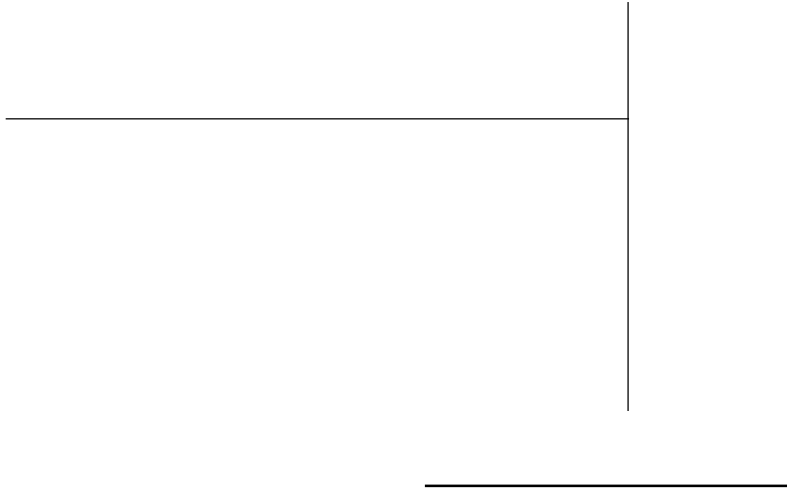
ORDERED that Prince George's County, Maryland, and/or the Prince George's County Council shall immediately withdraw the redistricting plan in CR-123-2021 and submit the Commission's plan to all entities charged with acting upon or implementing the County's redistricting plan; and it is further

ORDERED that the County and/or the Council shall immediately cease and desist any publication of the redistricting plan in CR-123-2021 or otherwise withdraw the plan in CR-123-2021 from public view to the extent practicable and within its control; and it is further

ORDERED that any relief not granted herein is DENIED; and it is further

ORDERED that this case is CLOSED STATISTICALLY

William A. ...
William A. ...
Judge, Circuit Court for Prince George's County, Maryland



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Court of Special Appeals
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard
Annapolis, Maryland 21401-1699

(410)260-1450 WASHINGTON AREA 1-888-200-7444

GREGORY HILTON,
CLERK

PRINCE GEORGE'S COUNTY v. Robert E. Thurston, et al
Case Number: CSA-REG-1865-2021
Circuit Court Number: CAL2201728
Date: 2/3/2022

Dear Counsel and Parties:

The above-captioned case has been appealed to the Court of Special Appeals and has been assigned case number CSA-REG-1865-2021 in this Court. This is an MDEC case and counsel are reminded that they are required to e-file all papers, including the Civil Appeal Information Report (Rule 8-205), with this Court. Md. Rule 20-102(b). *E-filing is not mandatory if you do not have a lawyer.*

The Appellant must file a Civil Appeal Information Report within ten (10) days of the filing of the notice of appeal. You will receive a briefing notice after the record has been transmitted by

Gregory Hilton, Clerk

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2012 Legislative Session

Bill No. CB-55-2012

Chapter No. 23

Proposed and Presented by Council Member Harrison

Introduced by Council Members Harrison and Turner

Co-Sponsors _____

Date of Introduction June 19, 2012

CHARTER AMENDMENT

1 AN ACT concerning

2 Amendment of Section 305, Charter of Prince George's County

3 For the purpose of proposing an amendment to Section 305 of the Charter of Prince George's

4 County to authorize legislative action on the decennial County Council redistricting plan by

5 resolution upon notice and public hearing.

6 BY proposing an amendment to:

7 Section 305,

8 Charter of Prince George's County, Maryland.

9 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
10 Maryland, that the following amendment to Section 305, Charter of Prince George's County,
11 Maryland, is hereby proposed:

12 Sec. 305. Redistricting Procedure.

13 The boundaries of Council districts shall be reestablished in 1982 and every tenth year
14 thereafter. Whenever district boundaries are to be reestablished the Council shall appoint, not
15 later than February 1 of the year prior to the year in which redistricting is to be effective, a
16 commission on redistricting, composed of two members from each political party chosen from a
17 list of five names submitted by the Central Committee of each political party which polled at
18 least fifteen percent of the total vote cast for all candidates for the Council in the immediately
19 preceding regular election. The Council shall appoint one additional member of the Commission
20 who shall serve as chairman. No person shall be eligible for appointment to the Commission if
21 he holds any elected office. By September 1 of the year prior to the year in which redistricting is

1 to be effective, the Commission shall prepare, publish, and make available a plan of Council
 2 districts and shall present that plan, together with a report explaining it, to the Council. The plan
 3 shall provide for Council districts that are compact, contiguous, and equal in population. No less
 4 than fifteen calendar days and no more than thirty calendar days after receiving the plan of the
 5 Commission, the Council shall hold a public hearing on the plan. If the Council passes no other
 6 law changing the proposal, then the plan, as submitted, shall become law, as of the last day of
 7 November, as an act of the Council, subject to Sections 320 and 321 of this Charter. Such law
 8 shall be adopted by resolution of the County Council upon notice and public hearing.

9 SECTION 2. BE IT FURTHER ENACTED that a copy of this Act be transmitted to the
 10 County Executive for publication and that a copy also be transmitted to the Board of Supervisors
 11 of Elections for submission of the proposed amendment to the voters of this County at the 2012
 12 General Election pursuant to Section 1105 of the Charter.

13 SECTION 3. BE IT FURTHER ENACTED that the question of adoption of this proposed
 14 Charter Amendment shall be submitted to the voters of the County at the General Election
 15 occurring on November 6, 2012, and shall be placed on the ballot in the following form:

16 PROPOSED CHARTER AMENDMENT

17 To authorize legislative action on the decennial County Council redistricting plan by resolution
 18 upon notice and public hearing.

Adopted this 24th day of July, 2012, by an affirmative vote of two-thirds of the members of the full County Council.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Andrea C. Harrison
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

* * * * *

CB-55-2012 WAS APPROVED AT REFERENDUM ON 11/6/2012:

EFFECTIVE DATE: 12/7/2012

Prince George's County Council

Agenda Item Summary

Meeting Date: 7/24/2012
Reference No.: CB-055-2012
Draft No.: 1
Proposer(s): Harrison
Sponsor(s): Harrison, Turner
Item Title: An Act proposing an amendment to Section 305 of the Charter of Prince George's County to authorize legislative action on the decennial County Council redistricting plan by resolution upon notice and public hearing.

Drafter: Legislative Officers,
Resource Personnel: Legislative Officers

LEGISLATIVE HISTORY:

Date Presented:		Executive Action:	
Committee Referral:	6/19/2012 - C.O.W.	Effective Date:	12/7/2012
Committee Action:	6/19/2012 - FAV		
Date Introduced:	6/19/2012		
Public Hearing:	7/24/2012 - 10:00 AM		
Council Action (1)	7/24/2012 - ENACTED		
Council Votes:	WC:A, DLD:A, MRF:A, AH:A, ML:A, EO:A, OP:A, IT:A, KT:-		
Pass/Fail:	P		
Remarks:	Approved at referendum on 11/6/2012		

AFFECTED CODE SECTIONS:

CHARTER-0305

COMMITTEE REPORTS:

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

This proposed Charter Amendment authorizes the adoption of a County Council redistricting plan by resolution upon notice and public hearing.

CODE INDEX TOPICS:

INCLUSION FILES:

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2010 Legislative Session

Resolution No. CR-56-2012
Proposed by Chair Harrison
Introduced by Council Members Harrison, Davis, Franklin, Patterson and Turner
Co-Sponsors _____
Date of Introduction July 24, 2012

RESOLUTION

1 A RESOLUTION concerning
2 The Listing of Local Questions on the 2012 Ballot
3 For the purpose of designating the order and form in which local questions shall be placed on the
4 2012 ballot and matters related thereto.

5 WHEREAS, Section 7-103 (c)(3) of the Election Law Article of the Annotated Code of
6 Maryland provides that the County Attorney shall prepare and certify the order and form in
7 which local questions shall be placed on the ballot; and

8 ~~:(5(\$66HFWLRQRIWKH&DUWHURI3ULQFHFRUJHVRQWODUODQGSURYLGHV~~
9 that proposed amendments to the Charter may be proposed by legislative act approved by not
10 less than a two-thirds majority of the full County Council, or by petition filed with the County
11 Executive and signed by 10,000 registered voters of the County; and

12 WHEREAS, it is the desire of the County Council to prescribe the form and order in which
13 local questions shall be placed on the ballot; and

14 WHEREAS, Section 5 of the Schedule of Legislation provides that the County Attorney
15 shall be the legal advisor and legislative draftsman of the County Council unless the Council
16 shall specifically direct otherwise; and

17 WHEREAS, in each legislative act enacted by the Council that is subject to referendum of
18 the voters, the language to be considered by the voters is specifically enacted as part of the
19 proposed Charter amendment or referendum question; and

20 WHEREAS, the County Council has determined that the order of referendum questions on
21 the 2012 ~~EDOORWLVDVLJQLILFDQWHOHPHQWRIWKH&DUWHURI3ULQFHFRUJHVRQWODUODQGSURYLGHV~~ submission
22 to the voters by referendum and that the County Attorney should be informed and directed

1 FRQFHUQLQJWKHRRQFLOVGHWHUPLQDWLRQLQJLHOOHQKHURHLElection Law
2 Article; and

3 :(\$66HFWLRQFRIWKH&DUWHURI3ULQFHFRUJHVRWODUODQGSURYLGHV
4 that a resolution of the County Council has the force and effect of law of a temporary or
5 administrative character.

6 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
7 County, Maryland, that the County Attorney is directed to certify the order and form of the
8 questions to the local board of elections in accordance with the provisions of Section 7-103 (b) of
9 the Election Law Article of the Annotated Code of Maryland as follows:

10 **QUESTION A**

11 (CB-55-2012)

12 **PROPOSED CHARTER AMENDMENT**

13 **To authorize legislative action on the decennial County Council**
14 **redistricting plan by resolution upon notice and public hearing.**

15 **QUESTION B**

16 (CB-57-2012)

17 **PROPOSED CHARTER AMENDMENT**

18 **To amend the procedure for approval of multiyear contracts by**
19 **resolution of the County Council upon notice and public hearing.**

20 **QUESTION C**

21 (CB-46-2012)

22 **LIBRARY FACILITIES BONDS**

23 An Act enabling the County to borrow money and issue bonds in an amount not exceeding
24 \$45,150,000 to finance the design, construction, reconstruction, extension, acquisition,
25 improvement, enlargement, alteration, renovation, relocation, rehabilitation or repair of Library
26 Facilities, as defined therein.

27 **QUESTION D**

28 (CB-47-2012)

29 **COUNTY BUILDINGS BONDS**

30 An Act enabling the County to borrow money and issue bonds in an amount not exceeding
31 \$75,823,000 to finance the design, construction, reconstruction, extension, acquisition,

1 improvement, enlargement, alteration, renovation, relocation, rehabilitation or repair of County
2 Buildings, as defined therein.

3 **QUESTION E**
4 (CB-48-2012)

5 **PUBLIC SAFETY FACILITIES BONDS**

6 An Act enabling the County to borrow money and issue bonds in an amount not exceeding
7 \$156,354,000 to finance the design, construction, reconstruction, extension, acquisition,
8 improvement, enlargement, alteration, renovation, relocation, rehabilitation or repair of Public
9 Safety Facilities (including Fire Department Facilities), as defined therein.

10 **QUESTION F**
11 (CB-49-2012)

12 **PUBLIC WORKS AND TRANSPORTATION FACILITIES**

13 An Act enabling the County to borrow money and issue bonds in an amount not exceeding
14 \$193,383,000 to finance the design, construction, reconstruction, extension, acquisition,
15 improvement, enlargement, alteration, renovation, relocation, rehabilitation or repair of Public
16 Works and Transportation Facilities (including roads and bridges, parking lots, and maintenance
17 facilities), as defined therein.

18 **QUESTION G**
19 (CB-50-2012)

20 **COMMUNITY COLLEGE FACILITIES BONDS**

21 An Act enabling the County to borrow money and issue bonds in an amount not exceeding
22 \$156,047,000 to finance the design, construction, reconstruction, extension, acquisition,
23 improvement, enlargement, alteration, renovation, relocation, rehabilitation or repair of
24 Community College Facilities, as defined therein.

25
26 BE IT FURTHER RESOLVED that if any petition for Charter Amendment or for
27 referendum is hereafter filed that meets all requirements of law, the County Attorney is hereby
28 directed to prepare and certify said question to the local board of elections in accordance with the
29 provisions of Section 7-103 (b) of the Election Law Article of the Annotated Code of Maryland.

30 BE IT FURTHER RESOLVED that a copy of this Resolution shall be forwarded to the
31 ~~RDUGRI6SHUYLV RUVRI(OHFWLRQVIRU3ULQFHHRUJHYRQWEWKHOHUNRIWKH&FLO~~

Adopted this 24th day of July, 2012.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Andrea C. Harrison
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

Section 301. Composition.

The Legislative Branch of the County government shall consist of the County Council, hereinafter referred to as the Council, and the officers and employees thereof. The Council shall be composed of nine district members and two at-large members.

(Petition ratified Nov. 4, 1980; Amended, CB-40-2016, ratified Nov. 8, 2016)

Section 302. Legislative Power.

All legislative powers which may be exercised by Prince George's County under the Constitution and laws of Maryland, including all law making powers heretofore exercised by the General Assembly of Maryland but transferred to the people of the County by virtue of the adoption of this Charter, shall be vested in the Council.

Section 303. Election.

The Council shall be elected at the same time as State officers and in the manner provided by law. Each district member of the Council, at the time of their election, shall reside in a different one of the nine Council districts of the County, and shall be nominated and elected by the qualified voters of the Council district in which they reside. Two members of the Council shall be nominated and elected by the qualified voters of the entire County.

(Petition ratified Nov. 4, 1980; Amended, CB-40-2016, ratified Nov. 8, 2016)

Section 304. Council Districts.

- (a) Prince George's County is hereby divided into nine Council districts.
- (b) The boundaries of the Council districts shall be established pursuant to the provisions of Section 305 of this Charter prior to the filing dates for the 1982 General Election to become effective on noon of the first Monday in December, 1982.

(Petition ratified Nov. 4, 1980)

Editor's note(s)—The composition of the nine Council Districts is set out following Section 8-121 of the County Code.

Section 305. Redistricting Procedure.

The boundaries of Council districts shall be reestablished in 1982 and every tenth year thereafter. Whenever district boundaries are to be reestablished the Council shall appoint, not later than February 1 of the year prior to the year in which redistricting is to be effective, a commission on redistricting, composed of two members from each political party chosen from a list of five names submitted by the Central Committee of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the immediately preceding regular election. The Council shall appoint one additional member of the Commission who shall serve as chairman. No person shall be eligible for appointment to the Commission if he holds any elected office. By September 1 of the year prior to the year in which redistricting is to be effective, the Commission shall prepare, publish, and make available a plan of Council districts and shall present that plan, together with a report explaining it, to the Council. The plan shall provide for Council districts that are compact, contiguous, and equal in population. No less than fifteen calendar days and no more than thirty calendar days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If the Council passes no other law changing the

proposal, then the plan, as submitted, shall become law, as of the last day of November, as an act of the Council, subject to Sections 320 and 321 of this Charter. Such law shall be adopted by resolution of the County Council upon notice and public hearing.

(Amended, CB-92-1974, ratified Nov. 5, 1974; Petition ratified Nov. 4, 1980; Amended, CB-69-2002, ratified Nov. 5, 2002; Amended, CB-55-2012, ratified Nov. 6, 2012)

Editor's note(s)—Members of the Prince George's County Redistricting Commission were appointed by CR-5-2001. The Commission's plan was allowed to become law without amendment by the Council.

Members of the 2011 Prince George's County Redistricting Commission were appointed by CR-2-2011. CB-64-2011 adopted the 2011 County Council Redistricting Plan.

Section 307. Qualifications and Restrictions.

An at-large Council Member shall have been a qualified voter of Prince George's County for at least one year immediately preceding his or her primary election. Council Members representing one of the nine Council districts shall have been a qualified voter of their respective Council district for at least one year immediately preceding his or her primary election. During his term of office, he shall not hold any other office of profit in state, county, or municipal government. A Council member shall not, during the whole term for which he was elected, be eligible for appointment to any County office or position carrying compensation which has been created during his term of office.

(Amended, CB-69-2002, ratified Nov. 5, 2002; Amended, CB-35-2018, ratified Nov. 6, 2018)

Section 317. Enactment of Legislation.

Every law of the County shall be styled: "Be it enacted by the County Council of Prince George's County, Maryland." The Council shall enact no law except by bill. The subject of every law shall be described in its title. Every law enacted by the Council, except the budget law and supplementary appropriation laws, shall embrace but one subject. No law or section of law shall be revived or amended by reference to its title only. A bill may be introduced by any member of the Council on any legislative session-day of the Council. On the introduction of any bill, a copy thereof and notice of the time and place of the public hearing on the bill shall be posted by the Clerk of the Council within ten days on an official bulletin board to be set up by the Council in a public place and by any other such methods as the Council shall dictate. Additional copies of the bill shall be made available to the public and to the press. Every copy of each bill shall bear the name of the member of the Council introducing it and the date it was introduced. Within ten days following the introduction of a bill the Clerk of the Council shall schedule and give public notice of a public hearing on the bill, which hearing shall not be less than fourteen days after its introduction. The Council may reject any bill on its introduction without a hearing by a majority vote of the members of the full Council. Such public notice shall be published in the County newspapers of record and in media for public notice as defined in Section 1008 of this Charter. The public hearing may, but need not be, held on a legislative session-day and may be adjourned from time to time. After the public hearing, a bill may be finally enacted on a legislative session-day with or without amendment, except, that if a bill is amended before enactment and the amendment constitutes a change of substance, the bill shall not be enacted until it is reprinted or reproduced as amended and a public hearing shall be set thereon and proceedings had, as in the case of a newly introduced bill. Any bill not enacted by the last day of November of each year shall be considered to have failed. To meet a public emergency affecting the public health, safety, or welfare, the County may enact emergency bills. Every emergency bill shall be plainly designated as such and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the claimed emergency in clear and specific terms. The term "emergency bill" shall not include any measure creating or abolishing any office; changing the compensation, term, or duty of any officer; granting any franchise or special privilege; or creating any vested right or interest. No bill

shall be enacted except by the affirmative vote of a majority of the full Council. No emergency bill shall be enacted except by an affirmative vote of two-thirds of the members of the full Council. In the event of an emergency declared by the Governor pursuant to provisions of State law, which emergency affects any part or all of Prince George's County, the Council may provide, by law, for modification of voting, quorum, and publication requirements consistent with State law, for matters relating to and necessary to respond to the emergency.

(Amended, CB-92-1974, ratified Nov. 5, 1974; Amended, CB-70-2002, ratified Nov. 5, 2002; Amended, CB-59-2006, ratified Nov. 7, 2006; Amended, CB-50-2008, ratified Nov. 4, 2008; Amended, CB-52-2014, ratified Nov. 4, 2014)

Section 318. Effective Date of Laws.

Any law, except an emergency law, shall take effect forty-five calendar days after it becomes law, unless by a provision of the law it is to take effect at a later date, or unless it is petitioned to referendum as provided in Section 319 of this Charter.

Section 319. Referendum.

Any law which becomes law pursuant to this Charter may be petitioned to referendum, except a law: (1) imposing a tax; (2) appropriating funds for current expenses of the County government; (3) establishing Councilmanic districts; (4) amending a zoning map; or (5) granting a special exception to zoning regulations. Upon the adoption of the Capital Budget any new project not previously contained in the Capital Budget and any additions constituting an enlargement of a project shall be subject to referendum. Once a project has been approved by referendum, that portion of a subsequent Bond Enabling Act or Bond Issue Authorization Ordinance relating to the project shall not be subject to referendum, and if a bond enabling bill including the project and identifying it is approved by referendum that portion of any subsequent bond issue authorization ordinance relating to the project shall not be subject to referendum. A law shall be submitted to a referendum of the voters upon petition of ten thousand (10,000) qualified voters of the County. Such petition shall be filed with the Board of Supervisors of Elections of Prince George's County within forty-five calendar days from the date the bill becomes law. If more than one-third but less than the full number of signatures required to complete any referendum petition against such law be filed within forty-five calendar days from the date the bill becomes law, the effective date of the law, and the time for filing the remainder of signatures to complete the petition shall be extended for an additional forty-five calendar days. If such a petition is filed, the law to be referred shall not take effect until thirty calendar days after its approval by a majority of the qualified voters of the County voting thereon at the next ensuing regular election held for members of the House of Representatives of the United States. An emergency law shall remain in force from the date it becomes law notwithstanding the filing of such petition, but shall stand repealed thirty calendar days after having been rejected by a majority of the qualified voters of the County voting thereon. A petition may consist of several papers, but each paper shall contain the text or a fair summary of the law being petitioned upon; and there shall be attached to each such paper an affidavit of the person procuring the signatures thereon that, to the said person's own personal knowledge, each signature thereon is genuine and bona fide, and that, to the best of his knowledge, information, and belief, the signers are qualified voters of Prince George's County, as set opposite their names. A minor variation in the signature of a petitioner between his signature on a petition and that on the voter registration records shall not invalidate the signature. The invalidation of one signature on a referendum petition shall not serve to invalidate any other signature on the petition. Each petitioner shall include his address and the date of his signature opposite his name. The Board of Supervisors of Elections shall verify the qualification of said petitioners.

(Amended, CB-92-1974, ratified Nov. 5, 1974)

Section 320. Publication of Laws.

The Council shall cause all laws and all amendments to this Charter to be published promptly following their enactment as provided by law. Such laws and Charter amendments shall also be made available to the public at reasonable prices to be fixed by the Council.

Section 321. Compilation of Laws.

At intervals not greater than every four years, the Council shall compile and codify all laws of the County in effect at such times. Each such codification shall be submitted to the Council, and, if adopted by law, shall be known as the "Prince George's County Code." Such code shall be published with an index and such appropriate notes, citations, annotations, and appendices as the Council may determine. At least annually the Council shall prepare and publish a Supplement to the County Code of laws.

(Amended, CB-67-1978, ratified Nov. 7, 1978)

Section 322. Confirmation of Administrative Appointments.

Administrative appointments by the County Executive to the position of Chief Administrative Officer, head of an agency in the executive branch of the County government, or member of a board or commission and any executive director thereof shall be subject to confirmation by the Council. The Council shall hold public hearings on all such appointments not less than thirty days after their submission to the Council by the County Executive. If the Council fails to act to confirm or reject such appointments within forty-five days of their submission to the Council by the County Executive, the appointment shall stand approved. In the case of appointments by the County Executive to the position of Chief Administrative Officer or head of an agency in the executive branch of the County government, a vote of two-thirds of the members of the full Council shall be required to reject such appointment. In the case of appointments by the County Executive to membership on a board or commission, or appointments of any executive director thereof, a vote of a majority of the full Council shall be required to reject such appointment.

(Amended, CB-92-1974, ratified Nov. 5, 1974; Amended, CB-96-1976, ratified Nov. 2, 1976; Amended, CB-71-2006, ratified Nov. 7, 2006)

Section 323. Powers and Duties of the Council.

The Council shall refer to a referendum of the voters of the County, at the ensuing regular congressional primary or general election, any act enabling the County to borrow money to finance capital projects, and any act or resolution pledging the full faith and credit of the County or any other guarantee by the County for any bonds to be issued by or for the benefit of any state or bicounty agency or district except for school construction bonds or obligations. Each such enabling act shall describe, sufficiently for purposes of identification, the specific capital project or projects to be financed by the borrowing authorized by said act, and shall authorize borrowing only for either a single capital project or for a number of capital projects of the same generic class. Unless the act or resolution so referred is approved by a majority of the voters at the referendum, the Council shall have no power to enact an authorizing ordinance pursuant to Section 823 of the Charter to carry into effect the terms of the act or resolution so referred and shall have no power to pledge the full faith and credit of the County or any other guarantee of the County for bonds to be issued by or for the benefit of any state or bicounty agency of district. Any ordinance authorizing the issuance of bonds pursuant to Section 823 of the Charter shall be referred to referendum of the voters as provided in this subsection and shall not be effective unless approved by a majority of the voters, if such authorization is for the purpose of providing for borrowing to finance a capital project

authorized by any law enacted prior to the effective date of this amendment which law has not been approved at referendum.

(Petitions ratified Nov. 7, 1972, and Nov. 7, 1978; Amended, CB-36-1978, ratified Nov. 7, 1978; Amended, CB-68-2002, ratified Nov. 5, 2002)

Section 411. Executive Veto.

Upon the enactment of any bill by the Council, with the exception of such measures made expressly exempt from the executive veto by this Charter, it shall be presented to the County Executive within ten days for his approval or disapproval. Within ten days after such presentation, he shall return any such bill to the Council with his approval endorsed thereon or with a statement, in writing, of his reasons for not approving the same. Upon approval by the County Executive, any such bill shall become law. Upon veto by the County Executive, his veto message shall be entered in the Journal of the Council, and, not later than at its next legislative session-day, the Council may reconsider the bill. If, upon reconsideration, two-thirds of the members of the full Council vote in the affirmative, the bill shall become law. Whenever the County Executive shall fail to return any such bill within ten days after the date of its presentation to him, the Clerk of the Council shall forthwith record the fact of such failure in the Journal, and such bill shall thereupon become law. In the case of budget and appropriation bills, the County Executive may disapprove or reduce individual items in such bills, except where precluded by State law. Each item or items not disapproved or reduced in a budget and appropriation bill shall become law, and each item or items disapproved or reduced in a budget and appropriation bill shall be subject to the same procedure as any other bill vetoed by the County Executive.

(Amended, CB-92-1974, ratified Nov. 5, 1974; Amended, CB-59-2006, ratified Nov. 7, 2006)

Section 1014. Construction of Powers.

The failure to mention a particular power to enumerate similar powers in this Charter shall not be construed to exclude such powers or to restrict the authority that the County would have if the particular power were mentioned or the similar powers enumerated. The Charter shall be liberally construed to the end that, within the limits imposed by the Charter and by the Constitution and laws of the State, the County shall have all powers necessary for the conduct of its affairs.

Section 1017. Definitions and Rules of Construction.

As used in this Charter or the schedule of legislation attached hereto:

- (a) The word "bill" shall mean any measure introduced in the Council for legislative action.
- (b) The words "act," "ordinance," "public local law," and "legislative act," when used in connection with any action by the Council, shall be synonymous and shall mean any bill enacted in the manner and form provided in this Charter.
- (c) The word "resolution" shall mean a measure adopted by the Council having the force and effect of law but of a temporary or administrative character.
- (d) The word "law" shall be construed as including all acts, public local laws, ordinances, and other legislative acts of the Council, all ordinances and resolutions of the County Commissioners not hereby or hereafter amended or repealed, and all public general laws and public local laws of the General Assembly in effect from time to time after the adoption of this Charter, whenever such construction would be reasonable.
- (e) The words "enact," "enacted," or "enactment," when used in connection with the legislative acts of the Council, shall mean the action by the Council in approving any item of legislative business prior to its submission to the County Executive for his approval or veto.
- (f) The word "State" shall mean the State of Maryland.
- (g) The words "State law" shall mean all laws or portions of law enacted by the General Assembly of Maryland which may not be repealed by the Council after the effective date of this Charter.
- (h) The word "shall" shall be construed as mandatory and the word "may" shall be construed as permissive.
- (i) The word "person" shall include the words "individual," "corporation," "partnership," and "association" unless such a construction would be unreasonable.
- (j) The word "officer" shall include the word "councilman."
- (k) The words "County Executive" shall be construed as meaning the chief executive officer of the County and the elected Executive Officer mentioned in Section 3, Article XI-A of the Constitution of Maryland.
- (l) Whenever in this Charter the masculine gender is used, such words shall be construed to include the feminine gender.
- (m) The word "agency" when used to designate a subordinate element of government shall be construed as including all offices, departments, institutions, boards, commissions, and corporations of the County government and, when so specified, all other offices, departments, institutions, boards, commissions, and corporations which receive or disburse County funds.
- (n) The words "administrative officers" as used in Section 313 of this Charter shall mean the head of any agency which receives or disburses County funds.

(o) When computing a period of time in days, the day of the event shall not be included in the computation, but the last day shall be included in the determination. Unless the words "calendar days" are used, Saturdays, Sundays, and holidays observed by the County shall not be included.

(p) The words "qualified voter," wherever they appear in this Charter, shall mean "registered voter."

(Amended, CB-92-1974, ratified Nov. 5, 1974; Amended, CB-40-1976, ratified Nov. 2, 1976; Amended, CB-109-1978, ratified Nov. 7, 1978; Amended, CB-71-2002, ratified Nov. 5, 2002)

Section 1101. Effective Date of Charter.

This Charter shall become effective on the thirtieth day following its adoption, except as otherwise specifically provided in the Transitional Provisions (Article XII) of this Charter.

Editor's note(s)—The Charter was adopted by County voters on Nov. 3, 1970.

Section 1102. Existing Laws.

The Public Local Laws of Prince George's County and all rules, regulations, resolutions, and ordinances of the County Commissioners in force at the time of the effective date of this Charter are hereby repealed to the extent that they are inconsistent with the provisions of this Charter, but no further; and to the extent that they are not hereby repealed because of such inconsistency, all such public local laws, rules, regulations, resolutions, and ordinances shall continue in full force and effect until repealed and amended.

Section 1105. Charter Amendment.

Amendments to this Charter may be proposed by an act of the Council approved by not less than two-thirds of the members of the full Council, and such action shall be exempt from executive veto. Amendments may also be proposed by petition filed with the County Executive and signed by 10,000 registered voters of the County. When so proposed, whether by act of the Council or by petition, the question shall be submitted to the voters of the County at the next general election occurring after the passage of said act or the filing of said petition; and if at said election the majority of votes cast on the question shall be in favor of the proposed amendment, such amendment shall stand adopted from and after the thirtieth day following said election. Any amendments to this Charter, proposed in the manner aforesaid, shall be published by the County Executive in the County newspapers of record and in media for public notice as defined in Section 1008 of this Charter for five successive weeks prior to the election at which the question shall be considered by the voters of the County.

(Amended, CB-52-2014, ratified Nov. 4, 2014)

Editor's note(s)—CR-1-2001 established a Charter Review Commission to review the provisions of the Charter and recommend appropriate amendments to the County Executive and County Council.

Md. Ann. Code Art. LG, § 9-205

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

Michie's™ Annotated Code of Maryland > Local Government (Divs. I—V) > Division III. Counties. (Titles 9—15) > Title 9. General and Administrative Provisions. (Subts. 1—5) > Subtitle 2. Charter Counties. (§§ 9-201—9-207)

§ 9-205. Power of referendum.

(a) Reservation. —

- (1) The voters of a charter county may reserve in the charter the power of referendum by which they may submit a local law enacted by the county council, by petition, to the voters for approval or rejection.
- (2) The charter shall specify:
 - (i) what types of local laws may be petitioned to referendum; and
 - (ii) whether a part of a local law may be petitioned to referendum.

(b) Implementation. —

- (1) Subject to paragraph (2) of this subsection, in implementing procedures that relate to the power of referendum, the charter or the local laws shall provide adequate details as to time, notice, and form.
- (2) The initial notice of a referendum vote shall be given at least 30 days before the election.

History

An. Code 1957, art. 25A, § 8; [2013, ch. 119, § 2](#).

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Md. Ann. Code Art. L.G. § 10-202

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

Michie's™ Annotated Code of Maryland > Local Government (Divs. I—V) > Division III. Counties. (Titles 9—15) > Title 10. Express Powers Act. (Subts. 1—3) > Subtitle 2. Express Powers of Charter Counties. (§§ 10-201—10-206)

§ 10-202. Local laws.

(a) Enactment. — A county may enact local laws and may repeal or amend any local law enacted by the General Assembly on any matter covered by the express powers in this title.

(b) Enforcement of ordinances, resolutions, bylaws, and regulations. — A county may provide for the enforcement of an ordinance, a resolution, a bylaw, or a regulation adopted under this title:

(1) by civil fines not exceeding \$1,000; or

(2) by criminal fines and penalties not exceeding \$1,000 and imprisonment not exceeding 6 months.

(c) Enforcement of fair housing laws. — A county may provide for the enforcement of local fair housing laws by fines or penalties that do not exceed the fines or penalties provided in the federal Fair Housing Act Amendments of 1988 for enforcement of similar federal fair housing laws.

(d) Enforcement of discrimination laws. — A county may provide for the enforcement of local employment discrimination laws or public accommodations discrimination laws by civil fines not exceeding \$5,000 for any offense.

History

An. Code 1957, art. 25A, § 5(A); [2013, ch. 119, § 2](#).

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Md. Ann. Code Art. LG, § 10-204

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§ 10-204. Ordinances to facilitate charter amendments.

A county may pass any ordinance that facilitates the amendment of the county charter by referendum of the voters of the county in accordance with Article XI-A, § 5 of the Maryland Constitution.

History

An. Code 1957, art. 25A, § 5(S); [2013, ch. 119, § 2](#).

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Md. Ann. Code Art. L.G. § 10-206

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

Michie's™ Annotated Code of Maryland > Local Government (Divs. I—V) > Division III. Counties. (Titles 9—15) > Title 10. Express Powers Act. (Subts. 1—3) > Subtitle 2. Express Powers of Charter Counties. (§§ 10-201—10-206)

§ 10-206. Additional legislative powers.

(a) In general. — A county council may pass any ordinance, resolution, or bylaw not inconsistent with State law that:

- (1) may aid in executing and enforcing any power in this title; or
- (2) may aid in maintaining the peace, good government, health, and welfare of the county.

(b) Limits on exercise of powers. — A county may exercise the powers provided under this title only to the extent that the powers are not preempted by or in conflict with public general law.

(c) Limit on powers to regulate alcoholic beverages. — A county may not pass any law under this title regarding the licensing, regulating, prohibiting, or submitting to referendum the manufacture or sale of alcoholic beverages.

History

An. Code 1957, art. 25A, § 5(S); [2013, ch. 119, § 2](#).

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Md. Ann. Code Art. LG, § 10-306

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§ 10-306. Election districts and precincts.

A county may create and revise election districts and precincts.

History

An. Code 1957, art. 25A, § 5(H); [2013, ch. 119, § 2](#).

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Md. Election Law Code Ann. § 5-303

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

Michie's™ Annotated Code of Maryland > Election Law (Titles 1—16) > Title 5. Candidates. (Subts. 1—13) > Subtitle 3. Certificate of Candidacy. (§§ 5-301—5-305)

§ 5-303. When filed.

(a) Except as provided in subsections (b), (c), and (d) of this section:

(1) in the year in which the Governor is elected, a certificate of candidacy shall be filed not later than 9 p.m. on the last Tuesday in February in the year in which the primary election will be held; and

(2) for any other regularly scheduled election, a certificate of candidacy shall be filed not later than 9 p.m. on the 95th day before the day on which the primary election will be held.

(b) Except as provided in subsection (d) of this section, a certificate of candidacy for an office to be filled by a special election under this article shall be received and filed in the office of the appropriate board not later than 5 p.m. on the first Monday that is 3 weeks or 21 days after the issuance of the proclamation by the Governor for the special primary election.

(c) Except as provided in subsection (d) of this section, the certificate of candidacy for the election of a write-in candidate shall be filed by the earlier of:

(1) 7 days after a total expenditure of at least \$51 is made to promote the candidacy by a campaign finance entity of the candidate; or

(2) 5 p.m. on the 7th day preceding the start of early voting for which the certificate is filed.

(d) The certificate of candidacy for a special election of a write-in candidate shall be filed by the earlier of:

(1) 7 days after a total expenditure of at least \$51 is made to promote the candidacy by any authorized candidate campaign committee of the candidate; or

(2) 5 p.m. on the 7th day preceding the start of voting at a precinct polling place or, if the election is being conducted by mail, the voting center established under § 9-503 of this articles for which the certificate is filed.

History

An. Code 1957, art. 33, § 5-303; [2002, ch. 291, §§ 2, 4](#); [2007, ch. 219](#); [2008, ch. 118](#); [2011, ch. 169](#); [2013, ch. 419, § 3](#); [2014, ch. 261, § 2](#); [2015, ch. 332](#); [2019, ch. 770](#); [2020, ch. 10, § 1](#); [ch. 552, § 1](#).

Annotations

Notes

Effect of amendments. —

Chapter 118, Acts 2008, enacted April 17, 2008, and effective from date of enactment, added “or if there .~~∞~~special general election” and made a related change at the end of (b).

Chapter 169, Acts 2011, effective October 1, 2011, added the (a)(1) designation and added (a)(2); in (a)(1) added “in the year in which the Governor is elected” and substituted “Wednesday following the second Tuesday in April in the year in” for “Monday that is 10 weeks or 70 days before the day on”; and made related changes.

Section 3, ch. 419, Acts 2013, effective October 1, 2013, substituted “last Tuesday in February” for “Wednesday following the second Tuesday in April” in (a)(1).

Section 2, ch. 261, Acts 2014, contingent on referendum in the November 2014 general election, reenacted the section without change.

Chapter 332, Acts 2015, effective October 1, 2015, substituted “7th day preceding the start of early voting” for “Wednesday preceding the day of the election” in (c)(2).

Chapter 770, Acts 2019, effective June 1, 2019, enacted pursuant to art. II, § 17(c) of the Maryland Constitution without the Governor’s signature, substituted “95th day” for “Wednesday that is 83 days” in (a)(2).

Acts 2020, ch. 10, § 1, effective February 3, 2020, substituted “subsections (b), (c), and (d) of this section” for “subsections (b) and (c) of this section” in the introductory language of (a); in (b), added the exception language at the beginning, inserted “first” preceding “Monday”, and substituted “21 days after the issuance of the proclamation by the Governor for the special primary election” for “21 days prior to the date for the special primary election specified by the Governor in the proclamation for the special primary election”; added the exception language at the beginning of (c); and added (d).

Acts 2020, ch. 552, effective January 1, 2021, reenacted (c) without change.

Editor’s note. —

Pursuant to § 3, [ch. 118, Acts 2008](#), the amendments are deemed to have abrogated on December 31, 2008.

[Section 5, ch. 261, Acts 2014](#), provides that “Section 2 of this Act shall take effect on the taking effect of Section 1 of this Act. If Section 1 of this Act does not take effect, Section 2 of this Act shall be abrogated and of no further force and effect.” The amendment was ratified by the voters in the November 4, 2014 referendum. The Governor certified the referendum results on December 29, 2014.

Filing deadlines constitutional. —

Fixing of deadline for filing of certificates of candidacy is not unreasonable or an unconstitutional restriction, in view of the necessity for making timely preparations for elections. [Andrews v. Secretary of State, 235 Md. 106, 200 A.2d 650, 1964 Md. LEXIS 721 \(1964\)](#).

Provisions not discretionary. —

Where the election statutes fix a date for filing petitions or certificates of candidacy, such documents must be filed before the expiration of the time fixed, and the election officials may not exercise any discretion in the matter. [*Andrews v. Secretary of State*, 235 Md. 106, 200 A.2d 650, 1964 Md. LEXIS 721 \(1964\)](#).

The provisions of a former version of this section, setting a time within which a certificate of candidacy is to be filed, are mandatory and leave no discretion in either the election officials or the courts. [*McGinnis v. Board of Supvrs. of Elections*, 244 Md. 65, 222 A.2d 391, 1966 Md. LEXIS 410 \(1966\)](#).

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Md. Election Law Code Ann. § 7-101

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

Michie's™ Annotated Code of Maryland > Election Law (Titles 1—16) > Title 7. Questions. (§§ 7-101 — 7-105)

§ 7-101. Applicability.

This title applies to the following types of ballot questions:

- (1) a question relating to:
 - (i) the creation or adoption of a new Constitution or the calling of a constitutional convention; or
 - (ii) an amendment pursuant to Article XIV of the Maryland Constitution;
- (2) referral of an enactment of the General Assembly pursuant to Article XVI of the Maryland Constitution;
- (3) a question pursuant to Article XI-A of the Maryland Constitution relating to:
 - (i) the creation of a charter home rule county government;
 - (ii) the approval of a county charter; or
 - (iii) the amendment of a county charter;
- (4) a question relating to the creation of a code home rule county government pursuant to Article XI-F of the Maryland Constitution;
- (5) a question relating to the alteration of county boundaries or the creation of a new county pursuant to Article XIII of the Maryland Constitution;
- (6) a question referred to the voters pursuant to an enactment of the General Assembly;
- (7) a question on an enactment of a charter county pursuant to § 9-205 of the Local Government Article or a code county pursuant to §§ 9-310 through 9-313 of the Local Government Article;
- (8) a question relating to the incorporation of a new municipality pursuant to § 4-204 of the Local Government Article;
- (9) a question on the issuance of a bond pursuant to [§ 9-934 of the Environment Article](#); and
- (10) any other question that will be voted on in an election conducted pursuant to this article.

History

An. Code 1957, art. 33, § 7-101; [2002, ch. 291, §§ 2, 4](#); [2013, ch. 136](#).

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End of Document

Md. Election Law Code Ann. § 7-102

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

Michie's™ Annotated Code of Maryland > Election Law (Titles 1—16) > Title 7. Questions. (§§ 7-101 — 7-105)

§ 7-102. Qualification of questions.

(a) Constitutional conventions and amendments. —

- (1) A question relating to the holding of a constitutional convention qualifies for the ballot automatically every 20 years pursuant to Article XIV, § 2 of the Maryland Constitution.
- (2) A question relating to the adoption of a new or altered Constitution qualifies upon its adoption by a duly constituted convention pursuant to Article XIV, § 2 of the Maryland Constitution.
- (3) An amendment to the Constitution qualifies upon its passage by the General Assembly pursuant to Article XIV, § 1 of the Maryland Constitution.

(b) Act of the General Assembly. — A question on an act of the General Assembly pursuant to Article XVI of the Maryland Constitution qualifies upon the certification under Title 6 of this article, that the petition has satisfied all the requirements established by Article XVI.

(c) County charter; code home rule. —

- (1) A question relating to the creation of a home rule county government qualifies upon either:
 - (i) a determination by the appropriate local authority that the applicable petition has satisfied all the requirements established by law relating to the creation of a charter board; or
 - (ii) the adoption by the governing body of a county of an enactment proposing that the county become a code county.
- (2) A question relating to the approval of a county charter qualifies upon the adoption of a proposed charter by a charter board pursuant to the requirements prescribed by Article XI-A of the Maryland Constitution.
- (3) A question relating to the amendment of a county charter shall qualify either upon:
 - (i) the passage by the governing body of the county of a resolution proposing the amendment; or
 - (ii) a determination by the governing body of the county that a petition submitted has satisfied all the requirements established by law relating to petitions initiating charter amendments.

(d) Creation of a new county or alteration of county boundaries. — A question relating to the creation of a new county or the alteration of county boundaries qualifies upon the enactment of the implementing public general law.

(e) Questions referred by the General Assembly. — A question referred to the voters as provided in an enactment of the General Assembly qualifies upon the enactment of the law calling for the question.

(f) County enactments. —

(1) A question on an enactment by a charter county qualifies pursuant to local law and § 9-205 of the Local Government Article.

(2) A question on an enactment by a code county qualifies pursuant to local law and §§ 9-310 through 9-313 of the Local Government Article.

(g) Incorporation of a new municipal corporation. — A question relating to the incorporation of a new municipal corporation qualifies upon the determination by the county governing body that the applicable petition has satisfied all the requirements established by law for that petition.

(h) Bond. — A referendum on a question of issuance of a bond pursuant to [§ 9-934 of the Environment Article](#) qualifies upon submission of the question to the appropriate local board.

History

An. Code 1957, art. 33, § 7-102; [2002, ch. 291, §§ 2, 4](#); [2013, ch. 119, § 14](#); [ch. 136](#).

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Md. Election Law Code Ann. § 7-103

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

Michie's™ Annotated Code of Maryland > Election Law (Titles 1—16) > Title 7. Questions. (§§ 7-101 — 7-105)

§ 7-103. Text of questions.

(a) Definitions. —

- (1) In this section the following words have the meanings indicated.
- (2) “County attorney” means:
 - (i) the attorney or law department established by a county charter or local law to represent the county generally, including its legislative and executive officers; or
 - (ii) if the county charter or local laws provide for different attorneys to represent the legislative and executive branches of county government, the attorney designated to represent the county legislative body.
- (3) “Municipal attorney” means:
 - (i) the attorney or law department established by a municipal charter or local law to represent the municipal corporation generally, including its legislative and executive officers; or
 - (ii) if the municipal charter or local laws provide for different attorneys to represent the legislative and executive branches of municipal government, the attorney designated to represent the municipal legislative body.

(b) General guidelines. — Each question shall appear on the ballot containing the following information:

- (1) a question number or letter as determined under subsection (d) of this section;
- (2) a brief designation of the type or source of the question;
- (3) a brief descriptive title in boldface type;
- (4) a condensed statement of the purpose of the question; and
- (5) the voting choices that the voter has.

(c) Duty to prepare question. —

- (1) The Secretary of State shall prepare and certify to the State Board, not later than the 95th day before the general election, the information required under subsection (b) of this section, for all statewide ballot questions and all questions relating to an enactment of the General Assembly which is petitioned to referendum.

(2) The State Board shall prepare and certify to the appropriate local board, not later than the 105th day before the general election, the information required under subsection (b) of this section for all questions that have been referred to the voters of one county or part of one county pursuant to an enactment of the General Assembly.

(3)

(i) The county attorney of the appropriate county shall prepare and certify to the State Board, not later than the 95th day before the general election, the information required under subsection (b) of this section for each question to be voted on in a single county or part of a county, except a question covered by paragraph (1) or paragraph (2) of this subsection.

(ii) If the information required under subsection (b) of this section has not been timely certified under subparagraph (i) of this paragraph, the clerk of the circuit court for the jurisdiction shall prepare and certify that information to the State Board not later than the first Friday in August.

(4)

(i) The municipal attorney of the appropriate municipal corporation shall prepare and certify to the State Board, not later than the 95th day before the general election, the information required under subsection (b) of this section for each question to be voted on in the municipal corporation, except a question covered by paragraphs (1) through (3) of this subsection.

(ii) If the information required under subsection (b) of this section has not been timely certified under subparagraph (i) of this paragraph, the clerk of the circuit court for the county in which the municipal corporation is located shall prepare and certify that information to the State Board not later than the first Friday in August.

(5) The information required under subsection (b) of this section for a question that is being placed on the ballot by petition may be prepared before the petition is certified under § 6-208 of this article.

(d) Numbering or lettering. —

(1) Each statewide question and each question relating to an enactment of the General Assembly which is petitioned to referendum shall be assigned a numerical identifier in the following order:

(i) by years of sessions of the General Assembly at which enacted; and

(ii) for each such session, by chapter numbers of the Session Laws of that session.

(2) A question that has been referred to the voters of one county or part of one county pursuant to an enactment of the General Assembly shall be assigned an alphabetical identifier in an order established by the State Board.

(3) Questions certified under subsection (c)(3)(i) or (ii) or (c)(4)(i) or (ii) of this section shall be assigned an alphabetical or alphanumeric identifier in an order established by the certifying authority in consultation with the State Board to prevent duplication or confusion, consistent with and following the questions certified by the State Board.

History

Md. Election Law Code Ann. § 7-103

An. Code 1957, art. 33, § 7-103; [2002, ch. 291, §§ 2, 4](#); [2006, ch. 120](#); [2014, ch. 501](#); [2019, ch. 770](#).

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Md. Election Law Code Ann. § 7-104

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

Michie's™ Annotated Code of Maryland > Election Law (Titles 1—16) > Title 7. Questions. (§§ 7-101 — 7-105)

§ 7-104. Petitions relating to questions.

(a) Charter board. — A petition for the election of a charter board may not be filed unless all of the signatures attached to the petition have been written by the signers within 6 months of the date when the petition is presented to the board.

(b) Filing. — A petition relating to a question arising under Article XI-A of the Maryland Constitution shall be filed with the appropriate governmental body or officer not later than the 99th day before the general election at which the question is to be voted on.

(c) Proceeding to test validity of petition. —

(1) The responsible officers of a petition sponsor's ballot issue committee shall be a party to any proceeding to test the validity of the petition.

(2) The proceeding shall be filed in the county where the petition sponsor resides or maintains its principal place of business.

History

An. Code 1957, art. 33, § 7-104; [2002, ch. 291, §§ 2, 4](#); [2016, chs. 725, 726](#); [2019, ch. 770](#).

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Md. Election Law Code Ann. § 7-105

Statutes current through all legislation of the 2021 Regular Session of the General Assembly

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§ 7-105. Publication of questions.

(a) Notice of submitted questions. — A local board shall provide notice of each question to be submitted statewide and each question to be submitted to the voters of the county, by:

- (1) specimen ballot mailed at least 1 week before any early voting period before the general election; or
- (2) publication or dissemination by mass communication during the 3 weeks immediately preceding the general election at which a question will appear on the ballot.

(b) Questions submitted under Article XIV or XVI, Maryland Constitution. —

(1) For any question submitted under Article XIV or Article XVI of the Maryland Constitution, the notice required by subsection (a) of this section shall contain the information specified in § 7-103(b) of this title and a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practicable, summarizing the question.

(2) The statement required under paragraph (1) of this subsection shall be:

- (i) prepared by the Department of Legislative Services;
- (ii) approved by the Attorney General; and
- (iii) submitted to the State Board by the first Monday in August.

(3) The statement required under paragraph (1) of this subsection is sufficient if it is:

- (i) contained in an enactment by the General Assembly, and the enactment clearly specifies that the statement is to be used on the ballot; or
- (ii) consistent with some other process mandated by the Maryland Constitution.

(c) Regulations governing notice of questions. — The State Board shall adopt regulations governing notice of questions to appear on the ballot, including the use and content of specimen ballots and the publication or dissemination of notice by mass communication.

(d) Posting text; furnishing copies. —

(1) The complete text of a question shall be posted or available for public inspection in the office of the State Board and each applicable local board for 65 days prior to the general election.

- (2) Copies of the complete text of all statewide questions shall be furnished by the State Board to the local boards in quantities as determined by the State Board, including quantities sufficient to provide one copy of each for posting in each polling place and in each local board office.
- (3) An individual may receive without charge a copy of the complete text of all constitutional amendments and questions from a local board, either in person, by mail, or electronically.

History

An. Code 1957, art. 33, § 7-105; [2002, ch. 291, §§ 2, 4](#); [2013, ch. 567](#); [2021, ch. 117, § 1](#).

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