

County Government Options in Maryland

by Mike Burns. Compiled from MACO website, Whig archives and related correspondence

Cecil County, along with seven other MD counties, is currently governed a board of commissioners who oversee all county agencies and functions. Commissioner-type government is the weakest form of county government in that there is very limited authority for self-governing, as most authority rests with the state legislature, which reserves lawmaking authority over those areas known as “express powers” (see footnote below¹).

Two other options are available and are considered “home rule” as they allow the county to be largely self-governing: “Charter” government, currently practiced by nine counties (A.A., Balt., Dorchester, Harford, Howard, Montgomery, P.G., Talbot & Wicomico) and Baltimore City, and “Code Home Rule,” practiced by six (Allegany, Caroline, Charles, Kent, Q.A.’s, & Worcester).

In Charter government there is an elected county council along with either an elected or appointed county executive. A board would have to be organized to draft a charter which would then be decided on by voters in a referendum.

Code Home Rule (CHR) is a more simplified type of self-government than Charter in that there is no elected council or approved charter. Commissioners still run the county only they have the “express powers” of the charter counties in addition to the powers they had previously. Code Home Rule is accomplished by 2/3 of the county commissioners (in our case, 4 of 5) adopting a resolution to have the voters decide in a referendum in the next general election.

Upon adoption of both Charter and Code Home Rule, the General Assembly may only enact laws that apply to a particular class of counties (e.g., all CHR counties) and not ones that apply to a particular county, with certain exceptions pertaining to tax authority.

Regarding impact fees in particular, charter counties, like commissioner counties, must be granted specific authority by the legislature to impose such a fee, while CHR counties receive such authorization as a “class,” meaning either all are given permission or none are. **Currently all CHR counties are granted authority to establish impact fees.**

To elect Charter government, upon approval of a charter referendum by voters, candidates for the new government (a county council and a county executive) would normally be selected in the following election, so there would be as much as two years between charter adoption and implementation. The transition to Code Home Rule is simpler in that it doesn’t involve putting together a complex charter and “selling” it to the electorate; and CHR government is effective 30 days after voter approval.

¹ Express powers include local legislation; county property and franchises; county institutions; contracts, bonds, and other debt issuances; purchasing; assessments, levy and tax collections; commercial district management authority; federally assisted watershed projects; commercial or industrial redevelopment projects; and amendment of the county charter.

However, some feel Charter is necessary because commissioner type government has become inadequate to properly govern a county our size. Others have suggested making the current part-time commissioners full-time (or changing from the present five part-time to three full-time) by paying them full-time salaries. (Current Cecil County commissioner salary is \$30,000 annually and hasn't been raised since 1990.) According to the MD Association of Counties (MACO), no other commissioner county currently employs full-time commissioners. Presently three of our five commissioners have full-time jobs outside their elected positions.

Merely placing a home-rule initiative on the ballot is far from assured success, however, as all attempts to revamp the current setup have been defeated by voters in the past: Charter in 1972, 1991 and 1996, and Code Home Rule in 1968 and 1992 (see below). In past years, the *Whig* has endorsed Charter but not CHR. Consequently, either would require an elaborate public marketing and education campaign.

For more details, refer to the Government Comparison Chart.

For more information visit the MACO website at

http://www.mdcounties.org/counties/forms_of_government.cfm

or the book Home Rule Options in Maryland (2001) by Victor Tervala, available in Cecil County public libraries.

Electoral History of Home Rule Vote in Cecil County

CODE HOME RULE

| <u>Date</u> | <u>For</u> | <u>Against</u> | <u>Voter Turnout</u> |
|-------------|------------|----------------|----------------------|
| 11/5/68 | 1570 | 7010 | 75% |
| 11/5/92 | 6709 | 10802 | 81% |

CHARTER

| <u>Date</u> | <u>For</u> | <u>Against</u> | <u>Voter Turnout</u> |
|-------------|------------|----------------|----------------------|
| 11/7/72 | 5467 | 7357 | 75% |
| 1/29/91* | 3193 | 3479 | 25% |
| 11/5/96 | 9292 | 13224 | 63% |

*Special Election

MD COUNTY GOVERNMENT COMPARISON CHART

(supplement to the Democratic-Herald, Spring 2007)

| ISSUE | COMMISSIONER | CODE HOME RULE | CHARTER |
|--|--|--|---|
| Current Status of MD Counties | Cecil , Calvert, Carroll, Frederick, Garrett, St. Mary's, Somerset, Washington | Allegany, Caroline, Charles, Kent, Queen Anne's, Worcester | Anne Arundel, Baltimore, Dorchester, Harford, Howard, Montgomery, Prince George's, Talbot, Wicomico |
| Structure of Government | Specified in State law. General Assembly may determine through legislation. | Commissioners determine structure through local enactments. County Commissioner title retained. | Determined by the charter. Elected Council may retain both executive and legislative power by appointing executive or have independently elected executive. |
| Local Law | Authority limited. General Assembly has full power to legislate for county. Commissioners may enact ordinances where authorized by express powers enabling legislation or specific local laws. | Commissioners can enact, amend, or repeal local laws on a wide array of matters. Most powers granted Charter counties also granted to Code counties. General Assembly may still enact public local laws covering all Code counties but not for one single Code county. | Broad legislative power vested in County Council. General Assembly may enact laws for a single charter county in a subject outside of their express powers. |
| Bonding Authority | General Assembly must specifically authorize. No statutory limitation. | Commissioners authorize. No statutory maximum, but General Assembly may establish a limit. Subject to local limit if petitioned by 10% of voters. | Charter must authorize issuance of general obligation debt and decides whether or not to submit to public referendum. |
| Tax caps | General Assembly may establish. | General Assembly may establish. | General Assembly may establish |
| Referenda | Local laws subject to referendum if petitioned to Sec. of State by 10% of voters. General Assembly may enact local laws contingent on approval by referendum. | All legislation subject to referendum if petitions filed with Board of Election Supervisors by 10% of voters. | All legislation subject to referendum upon petition of county voters or as per county charter. |
| Enact new taxes, licenses, or franchise fees | General Assembly authorization required. | General Assembly authorization required. County can enact only if authorized at time granted Code Home Rule status. | General Assembly authorization required. |
| Tax credits | General Assembly authorization required. | General Assembly authorization required. | General Assembly authorization required. |
| Impact Fees | General Assembly authorization required. | Commissioners may establish. | General Assembly authorization required. |

MD COUNTY GOVERNMENT COMPARISON CHART

(cont.)

| ISSUE | COMMISSIONER | CODE HOME RULE | CHARTER |
|--|---|---|--|
| Excise Taxes | General Assembly authorization required. | Commissioners may enact school construction excise tax or agricultural excise tax for purchase of TDRs, subject to established limits, if not already levying a development impact fee. | General Assembly authorization required. |
| Formality of legislative process & procedures | Informal. No provisions covering legislative days, emergency bills, publication of proposed bills. | Formal. Annotated Code specifies precise format, maximum # of legislative sessions, public notification requirements; provisions for emergency bills, effective dates, publications of proposed bills, etc. | As per county charter. |
| Number of Commissioners / Council Members, method of election, alternative form of board composition | General Assembly determines. | Commissioners may determine through enactment of public local laws. | As per county charter. |
| Compensation | General Assembly sets compensation. Informal salary board may be established to make recommendations to General Assembly. | Commissioners may enact recommendation of a salary board established by ordinance. | As per county charter. |
| Ability to establish separate police and corrections departments | Requires General Assembly approval. | Corrections Dept. or warden may be done through enactment by Commissioners of a public local law. Police Dept. requires General Assembly approval. | As per county charter. |

Source: http://www.mdcounties.org/counties/forms_of_government.cfm

Maryland Association of Counties
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(410) 269-0043 or (301) 261-1140

| MD COUNTIES: 8 COMMISSIONER, 6 CODE HOME RULE, 9 CHARTER | | | | |
|--|---------------|---------------------|---------------------------|---------------|
| | | | Population | |
| | <u>COUNTY</u> | <u>GOVT. TYPE</u> | <u># of Commissioners</u> | |
| | | | <u>as of July '06</u> | |
| 1 | KENT | CODE HOME RULE | 3 | 19,983 |
| 2 | SOMERSET | Commissioner | 5 | 25,774 |
| 3 | GARRETT | Commissioner | 3 | 29,859 |
| 4 | DORCHESTER | <i>Charter</i> | - | 31,631 |
| 5 | CAROLINE | CODE HOME RULE | 3 | 32,617 |
| 6 | TALBOT | <i>Charter</i> | - | 36,062 |
| 7 | Q.A. | CODE HOME RULE | 5 | 42,241 |
| 8 | WORCESTER | CODE HOME RULE | 7 | 48,866 |
| 9 | ALLEGANY | CODE HOME RULE | 3 | 72,831 |
| 10 | CALVERT | Commissioner | 5 | 88,804 |
| 11 | WICOMICO | <i>Charter</i> | - | 91,987 |
| 12 | ST. MARY'S | Commissioner | 5 | 98,854 |
| 13 | CECIL | Commissioner | 5 | 99,506 |
| 14 | CHARLES | CODE HOME RULE | 5 | 140,406 |
| 15 | WASHINGTON | Commissioner | 5 | 143,748 |
| 16 | CARROLL | Commissioner | 3 | 170,260 |
| 17 | FREDERICK | Commissioner | 5 | 222,938 |
| 18 | HARFORD | <i>Charter</i> | - | 241,402 |
| 19 | HOWARD | <i>Charter</i> | - | 272,452 |
| 20 | ANNE ARUNDEL | <i>Charter</i> | - | 509,300 |
| 21 | BALTIMORE | <i>Charter</i> | - | 787,384 |
| 22 | P.G. | <i>Charter</i> | - | 841,315 |
| 23 | MONTGOMERY | <i>Charter</i> | - | 932,131 |