

AGENDA

CHARTER REVIEW COMMISSION

Wednesday, June 12, 2024, 8:00 a.m.

Council Office Building

4th Floor, Capital Crescent Conference Room

100 Maryland Ave., Rockville, MD 20850

Virtual: [Zoom](#) | Password: 412388 | Dial In: +13017158592

(All times are approximate)

8:00 a.m. – ADMINISTRATIVE MATTERS

- Acknowledgment of a Quorum
- Approval of Agenda
- Approval of minutes of April 24, 2024, meeting

8:05 a.m. – DISCUSSION OF PROPOSED CHARTER AMENDMENT ON TERM LIMITS FOR THE COUNTY EXECUTIVE (Charter section 202)

- Refer to the Chair's briefing memo dated June 5, 2024
- Commission position on supporting or opposing the petition to change the 3-term limit to a 2-term limit
- Discussion of a potential alternative amendment

9:10 a.m. – DISCUSSION OF COMMUNITY OUTREACH MEETINGS

- Proposed Locations: at least one meeting in each of the five regional service areas
- Participants: attempt to collaborate with the Citizens Advisory Board for that region
- Proposed Schedule: October and November
- Format: public listening session where participants can suggest topics for study or comment on any list of potential topics the Commission provides

9:20 a.m. – REPORT FROM STAFF

ADJOURN

REMINDER OF UPCOMING MEETINGS

- **Chair's Presentation to the Council on the Commission's 2024 Report:** Tues. June 18 (exact time still to be determined)
- **Next commission meeting:** Wed. July 10, 2024 at 8:00 a.m.
 - July 10th is our last scheduled meeting before the August recess.
 - Will resume our regular schedule with a meeting on Sept. 11, 2024 at 8:00 a.m.

June 5, 2024

To: Charter Review Commission

From: Jim Michaels, Chair

Subject: Discussion of Term Limits at the June 12th meeting

I plan to include on the agenda of our June 12th meeting, a discussion of the petition that is being publicly circulated in support of an amendment to Charter Section 202 titled “Election and Term of Office” for the County Executive. The proposed amendment would prohibit anyone from serving as County Executive for more than 2 consecutive terms, beginning in 2026. If enacted, that amendment would replace the existing 3-term limit.

I am proposing that, on June 12, the Commission vote on whether to support or oppose this proposed Charter amendment. That would enable me to inform the County Council and the general public of the Commission’s position and reasoning on June 18 when I’m also presenting the Commission’s 2024 Report. The precedent for the Commission weighing in on this matter is described below.

Background

In 2016, voters approved Charter amendments to prohibit the County Executive and Council members from serving more than 3 consecutive terms. Accordingly, our current County Executive, who was elected in 2018 and 2022, is permitted to serve a third term under the existing law, but he would be prevented from doing so if the amendment is enacted.

The petition drive was initiated by an organization known as “The Committee for Better Government” (“CBG”) which states that it was formed specifically “to limit the number of consecutive four-year terms that the Montgomery County Executive may hold.” The petition being circulated by CBG proposes a charter amendment that would prohibit the sitting executive and future executives from seeking a third consecutive term but would not affect the existing three-term limit for Council members.

If CBG’s petition is signed by at least 10,000 voters, CBG’s proposed charter amendment will appear on the November 2024 ballot for voters’ approval. The 10,000 signature requirement was established in 1915 when our population was considerably smaller, but with over 1 million residents there is a good chance the requirement can be met by the August 12th deadline.

The Charter Review Commission’s mandate under section 509 is to study the Charter and provide “recommendations concerning proposed Charter amendments.” While Commission members can make proposals of their own, the Commission solicits and receives proposals and input from county residents, government officials, businesses, civic organizations and other groups. While CBG did not choose to submit its petition to the Commission as a suggested

change, circulation of its petition has made CBG's proposal widely known and it has been the subject of media reports and public discourse.

CBG's decision to bypass the Commission does not prevent Commissioners from considering the issue raised by CBG's public campaign. The Commission can be expected to respond publicly to the input it receives from any source on charter-related issues if it has reason to do so. The Commission's mandate to study the charter and make recommendations is not restricted.

When a proposed charter amendment is being circulated for public support, members of the Commission certainly have the ability and the right to consider it and express a view on the proposed amendment. In my view, the commission has a duty to do so. This allows both the voters and public officials to take the Commission's views into account when deciding whether or not to support the proposed change. The Council's upcoming public hearing on June 18, 2024 is a logical forum for making the Commission's view known to the public.

Montgomery County's History with Term Limits

The original Montgomery County Charter of 1948 vested both executive and legislative powers in the County Council, and the council appointed a County Manager to serve at the Council's discretion. A new County Charter adopted in 1968 provided for an elected County Executive who would first be elected in 1970 and who would hold the same administrative and executive responsibilities and powers as a city mayor, including veto power over some Council actions.

Since 1970, there have been 7 county executives. Only 2 of the previous executives served three terms: 2 executives served two terms, and 2 served just one term. The current executive is in his second term. (A list of the executives and their terms of office is attached.)

Term limits have been the subject of a proposed charter amendment by petition three times: in 2000, 2004 and 2016:

- In 2000, a proposed Charter amendment by petition that sought to limit the Executive and members of the County Council to two consecutive terms in office was defeated. The Charter Review Commission issued a Statement urging voters to vote against it (copy attached).
- In 2004, a proposed Charter Amendment by petition to limit the Executive and members of the Council to three consecutive terms in office was also defeated. The Charter Review Commission's 2004 Report recommended that "county voters cast their votes against this proposal."
- In 2016, a proposed Charter Amendment by petition to limit the Executive and Council members to three consecutive terms was approved by voters.

As amended in 2016, Montgomery County's charter only limits the number of consecutive terms that the elected official can serve. Consequently, an official who serves three consecutive terms can leave office, wait for four years, and then seek a fourth term, fifth term and even a sixth term.

In comparison, some other jurisdictions adopt "lifetime" term limits. In those jurisdictions, if a 3-term limit exists, after the official serves three consecutive terms they are ineligible to hold the same office again even if they wait for 4 years. Thus, another way of "tightening" our existing term limit rule -- without converting the existing 3-term limit to a 2-term limit -- would be to revise the Charter to limit officials to serving a total of three terms instead of three consecutive terms.

Other Maryland Counties

CBG's webpage makes a claim about its proposal that simply is not true. On that page, CBG states: "The two four-year term limit is consistent throughout most of the counties in Maryland" (emphasis added).

However, according to a chart published by the Maryland Association of Counties, of the 24 counties in Maryland, there are 15 counties with no term limits, and 3 counties (including Montgomery) that allow three consecutive 4-year terms. That makes CBG's proposal for a two-term limit inconsistent with 18 of 24 counties.

A chart published by the Maryland Association of Counties showd which of Maryland's 24 counties uses term limits: <https://www.mdcounties.org/DocumentCenter/View/5449/2023-NEOO---Co-Government-Structure?bidId=>

MACO's chart erroneously states that the Montgomery County Executive and Council members are limited to two consecutive terms even though Charter sections 105 and 202 specify a limit of three consecutive terms. The accuracy of the remainder of MACO's chart has not been independently verified, but it's consistent with some other sources, and shows the following:

According to the MACO's website, of the 24 counties in Maryland:

15 counties are listed as having no term limits.

3 counties have a limit of 3 consecutive 4-year terms (when Montgomery County is included).

- This includes Anne Arundel County and Montgomery County which elect a County Executives.¹
- St. Mary's County applies the limit to its Board of Commissioners and Board President.

6 counties are listed as having a limit of 2 consecutive 4-year terms.

- 5 counties apply a limit of 2-consecutive terms to their County Executive (Baltimore County, Frederick County, Harford County, Howard County, and Prince George's County).
- Carroll County has no executive but applies the limit of 2 consecutive terms to its Board of County Commissioners and the President of its Board.

The Commission's Opposition in 2000 to the Term Limit Ballot Question

In October, 2000, the Charter Review Commission issued a press release announcing its opposition to the proposed charter amendment on the 2000 ballot that would have limited the County Executive and County Council members to two terms, stating: "The Commission finds the amendment is both unnecessary and unwise."

The Commission's public statement noted that incumbents "have not been unchallenged," further stating that "voters can determine if an incumbent has done a good job and that they are ready and able to replace those whose performance they disapprove with challengers who offer better qualifications or more appealing programs." The Commission found it "unwise" to deny voters the opportunity to retain an experienced and popular incumbent who is willing to seek another term."

Opposition to Term Limits in the 2004 Report of the Charter Review Commission

The Charter Review Commission's 2004 Report made recommendations on two proposed charter amendments that were put on the ballot by petition, including the proposal for term limits.² In 2004, the Commission opposed term limits for Council members and the Executive and recommended that county voters cast their votes against the proposal. Relevant excerpts from the Commission's 2004 Report are attached to this memorandum, and the full 2004 report is available here:

<https://www.montgomerycountymd.gov/crc/Resources/Files/crc2004.pdf>.

¹ In 2022, Anne Arundel County expanded its two-term limit to a three-term limit.

² In its 2004 Report, the Charter Review Commission also opposed a charter amendment that had been proposed by petition to eliminate the council's ability to override the "soft" property tax cap established in Charter section 305.

In 2004, only two Commissioners favored term limits. The 2004 Report stated that those who favored term limits asserted that they would improve the quality of public servants by replacing "career" politicians (who were claimed to be primarily motivated by their own reelection), with "citizen-legislators" (who are believed to be motivated solely by public interest). According to the 2004 Report, proponents of term limits also asserted that increasing turnover in representation would lead to more integrity and accountability in the political process.

The 2004 Commission's Report noted that voters already had the power to replace their elected representatives when they are dissatisfied with their performance, by voting them out of office. In contrast, term limits eliminate voters' ability to evaluate each candidate, and instead, impose an arbitrary amount of time that an official may serve. The Commission noted that term limits may actually reduce the effectiveness of incumbents in their last term of office because they may have little incentive to improve performance and may be viewed as "lame ducks".

The 2004 Report also contained opponents' argument that term limits reduce the choices voters have on Election Day:

"Along with implementing a substantial amount of turnover in representation, term limits may result in reduced institutional knowledge, expertise in particular issue areas, and political acumen. Inexperienced representatives may actually impede the political process because they must learn how to navigate the political system and the bureaucracy. Term limits on legislators may also dramatically increase the influence of lobbyists and legislative staffers who are not accountable to the voters."

See Attachments

Background Information on Term Limits

Compiled for the 2024 Charter Review Commission (June, 2024)

1. Copy of the Petition currently being circulated by the “Committee for Better Government”

Their complete petition can be viewed at: <https://thecommitteeforbettermocogovernment.com/>
The following is an excerpt from their website:

“Who We Are

The “Committee for Better Government” was formed to limit the number of consecutive four-year terms that the Montgomery County Executive may hold. Currently, the County Executive can have three consecutive terms before he/she is term limited. The purpose of this ballot petition is to secure enough signatures to get the question on the ballot for the 2024 election.”

“Objective

We want to ensure no Montgomery County Executive serves more terms than the US President or the Maryland Governor. If it's good enough for Reagan, Obama, and Hogan, isn't it good enough for our County? The two four-year term limit is consistent throughout most of the counties in Maryland.”

STATE OF MARYLAND-CHARTER AMENDMENT PETITION

To: President of the County Council of Montgomery County

We, the undersigned voters of Montgomery County, hereby petition to have this amendment of the County Charter submitted to a vote of the registered voters of the County, for approval or rejection at the next general election.

It is the intent of this proposed amendment to bar the County Executive from serving more than two full or partial consecutive terms of office, although no officeholder who has served two consecutive terms will be barred from running for re-election to more than two non-consecutive terms. This proposed amendment is intended to apply to both current and future officeholders. The full text of this proposal is printed on the back of this form.

PROPOSED CHARTER AMENDMENT FOR TERM LIMITS

This is a petition pursuant to article XI-A, § 5, of the Maryland Constitution and Montgomery County Charter § 507 to submit to the voters of Montgomery County in the next general election a proposal to amend the Charter of Montgomery County to require term limits for the County Executive by amending § 202 of the Charter as follows:

Section 202 of the Charter, Election and Term of Office, shall be amended to state:

The County Executive shall be elected by the qualified voters of the entire County at the same time as the Council and shall serve for a term of office commencing at noon on the first Monday of December next following the election and ending at noon on the first Monday of December in the fourth year thereafter, or until a successor shall have qualified. *In no case shall a County Executive be permitted to serve more than ~~three~~ **two** consecutive terms. Any County Executive who will have served ~~three~~ **two** or more consecutive terms at noon on the first Monday of December ~~2018~~ **2026** shall be prohibited from commencing to serve a successive term of office at that time. For purposes of this Section, service of a term includes complete service of a full term and partial service of a full term. Partial service of a full term means service by a County Executive of more than two years of a term.*

2. Election Results for Previous Ballot Questions (in 2016, 2004 and 2000).

2016 General Election Ballot Question

Montgomery County

Question B

Charter Amendment by Petition

Term Limits - County Council and County Executive

Amend Sections 105 and 202 of the County Charter to: --limit the County Executive and members of the County Council to **3** consecutive terms in office; --provide that a County Executive and any member of the County Council who will have served **3** or more consecutive terms on December 3, 2018, cannot serve another successive term in the same office; and --provide that service of a term includes complete service of a full term and partial service of a full term.

For:	299,713	69.8%
Against:	129,761	30.2%

2004 General Election Ballot Question

Montgomery County

Question B

Charter Amendment by Petition

Term Limits - County Council and County Executive

Amend Sections 105 and 202 of the County Charter to:

- limit the County Executive and members of the County Council to **3** consecutive terms in office, and
- provide that a County Executive and any member of the County Council who will have served **3** or more consecutive terms on December 4, 2006, cannot serve another successive term in the same office.

For:	179,295	48.18%
Against:	192,823	51.82%

2000 General Election Ballot Question

Montgomery County

Question C

Charter Amendment by Petition

Term Limits -- County Council and County Executive

Amend Sections 105 and 202 of the County Charter to limit the County Executive and members of the County Council to **two** consecutive terms in office, and provide that a County Executive and any member of the County Council who on December 2, 2002 will have served **two** or more consecutive terms cannot serve another successive term in the same office.

For:	157,362	46.2%
Against:	183,017	53.8%

3. History of the Executive Position in Montgomery County

Terms of the Executives: <https://www.montgomerycountymd.gov/exec/previous/index.html>

- James Gleason, 1970-1978 (2 terms)
- Charles Gilchrist, 1978-1986 (2 terms)
- Sidney Kramer, 1986-1990 (1 term)
- Neal Potter, 1990-1994 (1 term)
- Douglas Duncan, 1994 – 2006 (3 terms)
- Isiah Leggett, 2006 – 2018 (3 terms)
- Marc Erich, 2018 – present

Administrative History:

https://montgomeryhistory.org/wp-content/uploads/2018/09/mca_RG01_fa_county_executive.pdf

Under the provisions of the Montgomery County Charter of 1948, both the executive and legislative powers resided in the County Council, which appointed a County Manager to serve at the Council's discretion. However, the County Council-County Manager system was seen to be inadequate for the rapidly growing population of the County who were demanding more services and accountability from the local government.

A new charter provided for a County Executive who would be elected in 1970 and who would hold the same administrative and executive responsibilities and powers as a city mayor, including veto power over some Council actions. He would be responsible for administering all Montgomery County Government departments, while day-to-day operations would be supervised by a Chief Administrative Officer (CAO) appointed by the County Executive. The office provides budget development and analysis, fiscal and inventory control, personnel and payroll management, training and supervision, contract administration, and procurement.

4. Discussion Contained in Prior Reports of the Charter Review Commission

A. Charter Review Commission's October 2000 Press Release

FOR RELEASE ON RECEIPT
October 11, 2000

FOR INFORMATION: Justina Ferber
240-777-7938

CHARTER REVIEW COMMISSION OPPOSES TERM LIMITS AMENDMENT

The Montgomery County Charter Review Commission today added its voice to those opposing voter approval of an amendment to the County Charter that would limit the County Executive and members of the County Council to two terms.

"The Commission finds the amendment is both unnecessary and unwise," said Chairman Kenneth Clark and Vice Chairman Royce Hanson. "It is unnecessary because there is ample evidence that Montgomery voters can determine if an incumbent has done a good job and that they are ready and able to replace those whose performance they disapprove with challengers who offer better qualifications or more appealing programs. No county executive has served more than two terms since the current Charter went into effect in 1970. Two served only a single term before being defeated or declining to seek a second term. While some Council members have served several terms, others have been defeated in either primary or general elections. Those who have been reelected have not been unchallenged. There is simply no evidence that the ability to seek reelection more than once has discouraged challengers, nor ensured the electoral success of incumbents."

"The proposal is unwise for several reasons. It denies voters the opportunity to retain an experienced and popular incumbent who is willing to seek another term. Rather than encourage strong alternative candidacies, term limits can discourage timely challenges to incumbents and instead lead to waiting until their terms expire. Term limits can also lead to situations, such as Prince Georges County now faces, where the calendar can result an almost total turnover in Council membership, depriving it of experienced members that voters may prefer to retain if they had the choice. Montgomery County Councils have historically been composed of experienced members of long service whose

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institutional memories and familiarity with County programs and budgets have provided stability, balanced by a number of newly elected members in each Council who have brought new energy and ideas to government. Finally, we note that the current system has, since the first charter was adopted a half-century ago, produced a number of outstanding multi-term Council members, such as Stella Werner, Elizabeth Scull, Neal Potter, and Betty Anne Krahnke, who stand as models of public service. We should not deny ourselves the opportunity of such servants in the future.”

The Charter Review Commission is a nonpartisan body appointed by the Council and Executive to study proposed charter amendments and recommend changes needed to keep the county’s organic law current with the times. It serves for a four-year period and has recommended two Charter amendments for approval in the 2000 election cycle. One amendment proposes to clarify the definition of emergency appropriations and increase the number of votes required for approval of supplemental appropriations prepared in the first six months of the fiscal year. The other amendment proposes to align provisions of the Charter concerning the merit system with current employment practices.

The Commission is currently studying the impact of changes in the economic structure, demography, and information technology on the structure of county government to determine if these changes require any amendments to the Charter.

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B. 2004 Report of the Charter Review Commission

<https://www.montgomerycountymd.gov/crc/Resources/Files/crc2004.pdf>

(at pages 4-5)

PETITION-GENERATED REFERENDA

In addition to the issues raised by Commission members and the public, several Councilmembers asked the Commission to review and make recommendations on two proposed Charter amendments that will appear on the ballot in the November 2004 General Election as a result of petition drives. One of the proposed Charter amendments would prohibit Councilmembers or the Executive from serving more than three consecutive four-year terms of office by amending Charter Sections 105 and 202. The Commission opposes term limits for Councilmembers and the Executive and recommends that County voters cast their votes against

this proposal. (Refer to the information beginning on page 19.) A minority opinion on term limits for the Executive is contained on page A-27. * * * *

(at pages 19- 21)

Referendum on Term Limits

Background

Presidential term limits have been in existence since 1951 when the 22nd Amendment to the U.S. Constitution, which limits the president to serving two four-year terms, was ratified. Gubernatorial term limits date back to the mid-18 century and are currently in effect in 36 states including Maryland, with most limiting service to two consecutive four-year terms (see page A-43).

Proposals to limit the terms of legislators emerged as a "hot button" issue in the 1990s when initiatives were passed by voters in several states. In addition to local governments with term limits, the National Conference of State Legislatures reports that 16 states currently have legislative term limits (see page A-45). In 2002, 322 state legislators or 21 percent of the representatives in states with term limits were barred from seeking reelection. For example, the Michigan Senate lost 71 percent of its incumbent membership because term limits made these officials ineligible to run for another term (see page A-47).

Term limits may be divided into two categories: consecutive and lifetime limits. Consecutive term limits prevent an official from running for another consecutive term of office after a particular number of years. If the limit is reached in a particular position, the official may either run for another position or leave public office. After a set period of time, the clock restarts, and a former legislator may run again for the office originally held. Lifetime limits prohibit a legislator from ever running again for a particular office once a specific limit is reached.

Charter Sections 105 and 202 provide that Council members and the Executive serve four-year terms but do not limit the number of terms that may be served. The proposed Charter amendment is a consecutive term limit proposal and, if passed by the voters, would apply to both current and future officeholders. In 2000, a measure that would have established two consecutive four-year term limits for both Councilmembers and the Executive was defeated by County voters.

Discussion

Throughout much of the initial term of this Commission, the petition drive was underway for this Charter amendment. As a result, the Commission received little public comment about term limits at its December 2003 public forum. Subsequent comments opposing this amendment were offered by the Montgomery County Chamber of Commerce, which noted that "County voters already enjoy the ability to limit the terms of Councilmembers and the Executive through the electoral process".

Those in favor of term limits believe that these limits will improve the qualities of public servants by replacing "career" politicians (who are believed to be primarily motivated by their own reelection), with "citizen-legislators" (who are believed to be motivated solely by public interest). Proponents of term limits also claim that increasing turnover in representation will lead to more integrity and accountability in the political process.

Opponents of term limits note that such limits reduce the choices voters have on Election Day. Along with implementing a substantial amount of turnover in representation, term limits may result in reduced institutional knowledge, expertise in particular issue areas, and political acumen. Inexperienced representatives may actually impede the political process because they must learn how to navigate the political system and the bureaucracy. Term limits on legislators may also dramatically increase the influence of lobbyists and legislative staffers who are not accountable to the voters.

If voters are dissatisfied with the performance of their elected representatives, they have the power to replace them. Term limits eliminate voters' ability to evaluate each candidate, and instead, impose an arbitrary amount of time that an official may serve. In addition, these limits may actually reduce the effectiveness of incumbents in their last term of office because they may have little incentive to improve performance and may be viewed as "lame ducks".

Recommendation

A majority of the Commission determined that term limits are not necessary because voters already have the power to remove a representative from office through the election process. The Commission voted (8-2) against term limits for Councilmembers and the Executive, and recommends that County voters disapprove the term limit proposal. A minority opinion on term limits for the Executive is contained on page A-27. Commissioner McKeehan was absent at the time of the vote but concurs with the minority opinion on this issue.

(2004 Report at page 27)

MINORITY OPINION ON TERM LIMITS

Commissioners McKeehan, Skelton, and Skolnick respectfully dissent from the majority opinion that opposes a petition regarding term limits of three consecutive terms for either Councilmembers or the Executive. While we agree with the majority opinion opposing term limits for Councilmembers, we believe that term limits are appropriate for the Executive.

Term limits are usually applicable to the head of the Executive branch of government. Both the President of the United States and the Governor of Maryland are limited to two consecutive

terms. In total, 36 states have gubernatorial term limits generally comprised of two four-year terms.

We believe that a similar limitation for the Executive would be appropriate. Accordingly, Commissioners McKeehan, Skelton, and Skolnick recommend that voters be given an alternative to the proposed term limit petition. Charter Section 202 should be amended as follows (New language is underlined.):

Section 202 Election and Term of Office

The County Executive shall be elected by the qualified voters of the entire County at the same time as the Council and shall serve for a term of office commencing at noon on the first Monday of December next following the election, and ending at noon on the first Monday of December in the fourth year thereafter, or until a successor shall have qualified. On and after noon of the first Monday of December 2006, a County Executive is not permitted to serve more than two consecutive terms.

(Note: Voter approval of this proposal would preclude the current County Executive from seeking reelection for a fourth term.)

B. 2016 Report of the Charter Review Commission

<https://www.montgomerycountymd.gov/crc/Resources/Files/ReportCRC2016.pdf>

(2016 Report at page 2)

Issues for Future Consideration

In addition to studying the issue of filling a vacancy in the position of County Executive and making the above recommendation, members of the Commission have suggested other issue areas for future study. The Commission anticipates considering some or all of these issues over the next two years. A nonexclusive list of these potential areas of study, in order of their location in the Charter, not necessarily in order of priority, is below:

- the composition of Council districts, redistricting procedure, and compensation of Councilmembers, as provided in Charter Sections 103, 104, and 107, respectively;
- the prospect of term limits for Councilmembers and the County Executive. The Commission is aware of a petition drive proposing an amendment that would limit these officials to three terms.