

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 9

Resolution No. 93 -2020

Introduced by: Deb Jung

A RESOLUTION proposing to amend the Howard County Charter by amending Section 202 "The County Council" by altering certain dates for the Council to appoint a Councilmanic Redistricting Commission and for the Commission to prepare a plan of Councilmanic Districts and present the plan to the Council; altering a date, if by which, no ordinance re-establishing the boundaries of the Councilmanic Districts has been enacted, the plan submitted by the Commission becomes law; and submitting this amendment to the voters of Howard County for their adoption or rejection in accordance with Article X of the Howard County Charter and Article XI-A of the Maryland Constitution.

Introduced and read first time on June 1, 2020.

By order *Diane Schwartz Jones*
Diane Schwartz Jones, Administrator to the County

Council

Read for a second time and a public hearing held on June 15, 2020.

By order *Diane Schwartz Jones*
Diane Schwartz Jones, Administrator to the County

Council

This Resolution was read the third time and was Adopted , Adopted with amendments , Failed , Withdrawn by the County Council on July 29, 2020.

Certified by *Diane Schwartz Jones*
Diane Schwartz Jones, Administrator to the County

Council

NOTE: [[text in brackets]] indicates deletions from existing language; TEXT IN SMALL CAPITALS indicates additions to existing language.
Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 or County government; while employed by the County; or while employed by any
2 agency, board, commission, unit or other entity which receives funds through the
3 County budget. No member of the Council shall, during the whole term for which he
4 or she was elected, be eligible for appointment to any County office or position or be
5 eligible for employment by the County.

6 3. Forfeiture of Office. If a member of the Council ceases to be a qualified and
7 registered voter of the County, moves his or her residence from the councilmanic
8 district he or she was elected to represent, accepts any other office of profit or trust
9 of or under the state or county government, becomes employed by the County or any
10 other entity which receives funds through the County budget, or is convicted of any
11 crime involving moral turpitude, he or she shall immediately forfeit his or her office.

12 (c) *Term of office.* Members of the Council shall qualify for office on the first Monday
13 in December following their election, or as soon thereafter as practicable and shall
14 enter upon the duties of their office immediately upon their qualification. They shall
15 hold office for a term of four years commencing at the time of their qualification and
16 continuing until their successors shall qualify. A person who has been elected to the
17 County Council three times or who has been elected to the County Council twice and
18 has been appointed to fill a Council vacancy and served two or more years of that term
19 shall be ineligible to be a candidate for the County Council. In determining eligibility
20 of a candidate pursuant to this subsection, no term or part of any term served prior to
21 the election of November 6, 1990, shall be used in calculating the limitation on number
22 of terms a Council member may serve.

23 (d) *Compensation and allowances.* Each member of the Council shall receive as
24 compensation and allowances for the performance of public duties under this Charter
25 the sum of not less than Seventy-eight Hundred Dollars (\$7,800.00) per annum and
26 shall not accrue annual leave or be entitled to any payment in lieu thereof. The
27 compensation and allowances shall be in full compensation for all services required
28 by this Charter to be performed by the members of the Council, but shall not preclude
29 reasonable and necessary expenses as may be provided in the budget. The County
30 Council shall establish a Compensation Review Commission every four years to

1 review the Council's compensation and allowances in accordance with the provisions
2 of Article 25A Subsection 5(AA) of the Annotated Code of Maryland.

3 (e) *Vacancies.* Unless provision for filling a vacancy by special election has been
4 established by ordinance, a vacancy occurring in the office of the Council member
5 prior to the expiration of his or her term shall be filled by the Council within thirty
6 days after the vacancy occurs by the appointment of a person whose name is to be
7 submitted in writing to the Council by the State Central Committee of Howard County
8 representing the political party to which the previous member belonged at the time of
9 the member's most recent election. If a name is not submitted by the appropriate State
10 Central Committee within twenty-five days after the vacancy occurs or if the previous
11 incumbent was not a member of a political party at the time of the member's most
12 recent election, then the vacancy shall be filled by a majority vote of the remaining
13 members of the Council. The member so appointed shall reside in the same
14 Councilmanic District as his or her predecessor and shall possess and maintain the
15 same qualifications as an elected Council member. The member so appointed shall
16 serve the unexpired term of his or her predecessor.

17 (f) *Redistricting.*

18 1. Boundaries.

19 ~~The Council shall appoint, by resolution, not later than [[April 1]] JANUARY~~
20 ~~15 of the year after each decennial census date, a Councilmanic Redistricting~~
21 AFTER EACH DECENNIAL CENSUS, THE COUNCIL SHALL PROMPTLY ADOPT A
22 RESOLUTION APPOINTING A COUNCILMANIC REDISTRICTING Commission. The
23 Central Committee of each political party which polled at least twenty-five per
24 centum of the total vote cast for all the candidates for the Office of County
25 Executive in the last preceding general election shall nominate three persons to
26 serve on the Commission. The Council shall appoint all such nominees as
27 members of the Commission as well as one additional member of the
28 Commission. The Council shall appoint the Chairperson of the Commission
29 from among the Commission members. No person shall be eligible for
30 appointment to the Commission who holds elective office.

1 By ~~[[October]]~~ ~~SEPTEMBER 15~~ THE DATE THAT THE COUNCIL SETS BY
2 RESOLUTION ~~[[of the year in which]]~~ FOLLOWING THE APPOINTMENT OF the
3 Commission ~~[[is appointed]]~~, the Commission shall prepare a plan of
4 Councilmanic Districts and shall present that plan to the Council. Within thirty
5 days after receiving the plan of the Commission, the Council shall hold a public
6 hearing on the plan. If by ~~[[March 15]]~~ ~~DECEMBER 31~~ THE DATE THAT THE
7 COUNCIL SETS BY RESOLUTION ~~[[of the year]]~~ following ~~[[submission]]~~
8 PRESENTATION of the plan BY THE COMMISSION, no ordinance re-establishing the
9 boundaries of the Councilmanic Districts has been enacted, then the plan as
10 submitted by the Commission shall become law. Any Councilmanic District
11 established in accordance with this Article shall be compact, contiguous,
12 substantially equal in population, and have common interest as a result of
13 geography, history, or existing political boundaries. Any ordinance establishing
14 Councilmanic Districts shall be exempt from referendum.

15 The Board of Supervisors of Elections shall take any necessary steps to
16 implement any such revisions of the Councilmanic District Boundaries so
17 adopted.

18 (g) *Planning and zoning.*

19 1. Any amendment, restatement or revision to the Howard County General
20 Plan, the Howard County Zoning Regulations or Howard County Zoning Maps,
21 other than a reclassification map amendment established under the "change and
22 mistake" principle set out by the Maryland Court of Appeals, is declared to be a
23 legislative act and may be passed only by the Howard County Council by original
24 bill in accordance with the legislative procedure set forth in Section 209 of the
25 Howard County Charter. Such an act shall be subject to executive veto and may be
26 petitioned to referendum by the people of the county pursuant to Section 211 of the
27 Charter.

28
29 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County,
30 Maryland, that at the next general election to be held in Maryland, the proposed amendment to

1 the Howard County Charter shall be submitted to the voters of Howard County for their adoption
2 or rejection in accordance with the provisions of the Article X of the Howard County Charter and
3 Article XI-A of the Maryland Constitution, and if adopted by the majority of the voters, shall
4 stand adopted from and after the 30th day following the general election.

5
6 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County,
7 Maryland, that this Resolution, having been approved by two-thirds of the members of the
8 Howard County Council, stands adopted this 29th day of July, 2020 in accordance
9 with provisions of Article X of the Howard County Charter.

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 9

Resolution No. 93-2020

Introduced by: Deb Jung

A RESOLUTION proposing to amend the Howard County Charter by amending Section 202 "The County Council" by altering certain dates for the Council to appoint a Councilmanic Redistricting Commission and for the Commission to prepare a plan of Councilmanic Districts and present the plan to the Council; altering a date, if by which, no ordinance re-establishing the boundaries of the Councilmanic Districts has been enacted, the plan submitted by the Commission becomes law; and submitting this amendment to the voters of Howard County for their adoption or rejection in accordance with Article X of the Howard County Charter and Article XI-A of the Maryland Constitution.

Introduced and read first time on June 1, 2020.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator to the County

Council

Read for a second time and a public hearing held on June 15, 2020.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator to the County

Council

Tabled July 6, 2020 ARJD
removed from table July 29, 2020 ARJD

This Resolution was read the third time and was Adopted___, Adopted with amendments___, Failed___, Withdrawn ___ by the County Council on _____, 2020.

Certified by _____
Diane Schwartz Jones, Administrator to the County

Council

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7 registered voter of the County, moves his or her residence from the councilmanic
8 district he or she was elected to represent, accepts any other office of profit or trust
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28 by this Charter to be performed by the members of the Council, but shall not preclude
29 reasonable and necessary expenses as may be provided in the budget. The County
30 Council shall establish a Compensation Review Commission every four years to

1 review the Council's compensation and allowances in accordance with the provisions
2 of Article 25A Subsection 5(AA) of the Annotated Code of Maryland.

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9 the member's most recent election. If a name is not submitted by the appropriate State
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19 The Council shall appoint, by resolution, not later than [[April 1]] JANUARY
20 15 of the year after each decennial census date, a Councilmanic Redistricting
21 Commission. The Central Committee of each political party which polled at
22 least twenty-five per centum of the total vote cast for all the candidates for the
23 Office of County Executive in the last preceding general election shall nominate
24 three persons to serve on the Commission. The Council shall appoint all such
25 nominees as members of the Commission as well as one additional member of
26 the Commission. The Council shall appoint the Chairperson of the Commission
27 from among the Commission members. No person shall be eligible for
28 appointment to the Commission who holds elective office.

29 By [[October]] SEPTEMBER 15 [[of the year in which]] FOLLOWING THE
30 APPOINTMENT OF the Commission [[is appointed]], the Commission shall prepare

1 a plan of Councilmanic Districts and shall present that plan to the Council.
2 Within thirty days after receiving the plan of the Commission, the Council shall
3 hold a public hearing on the plan. If by [[March 15]] DECEMBER 31 [[of the
4 year]] following [[submission]] PRESENTATION of the plan BY THE COMMISSION,
5 no ordinance re-establishing the boundaries of the Councilmanic Districts has
6 been enacted, then the plan as submitted by the Commission shall become law.
7 Any Councilmanic District established in accordance with this article shall be
8 compact, contiguous, substantially equal in population, and have common
9 interest as a result of geography, history, or existing political boundaries. Any
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15 1. Any amendment, restatement or revision to the Howard County General
16 Plan, the Howard County Zoning Regulations or Howard County Zoning Maps,
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28 or rejection in accordance with the provisions of the Article X of the Howard County Charter and
29 Article XI-A of the Maryland Constitution, and if adopted by the majority of the voters, shall
30 stand adopted from and after the 30th day following the general election.

1

2 **AND BE IT FURTHER RESOLVED** by the County Council of Howard County,
3 Maryland, that this Resolution, having been approved by two-thirds of the members of the
4 Howard County Council, stands adopted this ___ day of _____, 2020 in accordance
5 with provisions of Article X of the Howard County Charter.

Amendment 1 to Council Resolution No. 93-2020

BY: Deb Jung

Legislative Day No. 10

Date: July 10, 2020

Amendment No. 1

(This Amendment specifies when a Redistricting Commission shall be appointed and provides that the Council shall set certain deadlines.)

1 On page 3:

- 2 • Strike lines 19 and 20 in their entirety and substitute: "AFTER EACH DECENNIAL CENSUS, THE
3 COUNCIL SHALL PROMPTLY ADOPT A RESOLUTION APPOINTING A COUNCILMANIC
4 REDISTRICTING".
- 5 • in line 29, strike "SEPTEMBER 15" and substitute "THE DATE THAT THE COUNCIL SETS BY
6 RESOLUTION".

7 On page 4:

- 8 • In line 3, strike "DECEMBER 31" and substitute "THE DATE THAT THE COUNCIL SETS BY
9 RESOLUTION".

10

ADOPTED July 29, 2020
FAILED _____
SIGNATURE Deane St. Jones

Amendment 1 to Council Resolution No. 93-2020

BY: Deb Jung

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7 On page 4:

- 8 • In line 3, strike "DECEMBER 31" and substitute "THE DATE THAT THE COUNCIL SETS BY
9 RESOLUTION".

10

**Office of the County Auditor
Auditor's Analysis**

Council Resolution No. 93-2020

Introduced: June 1, 2020

Auditor: Lisa Geerman

Fiscal Impact:

There will be minimal fiscal impact of this legislation.

According to the Baltimore Sun's Ad Options website, the cost¹ to publish the amendment announcement in the Howard County Times will be approximately \$340.

Purpose:

The resolution proposes a change to Section 202 of the County Charter to alter the date the Council must appoint a Councilmanic Redistricting Commission, the date the Commission must prepare and present the plan to the Council, and the date the plan becomes law. Changes are noted in the table below.

Event	Original Date	Amended Date
Appoint Redistrict Commission	April 1	Not later than January 15
Presentation of Plan	October 15	September 15
Plan Becomes Law	March 15	December 31 after presentation of Plan

Other Comments:

The Charter Review Commission recommended moving the above deadlines forward to allow the Howard County Board of Elections adequate time to accomplish its work to prepare for the primary election in June 2022. Because the primary elections were moved from September to June in 2014, the 2021 redistricting will be the first redistricting cycle affected by this change.

Charter amendments must be approved by a two-thirds Council vote and are then submitted to the voters of Howard County for their adoption or rejection.

Any amendment to the Charter must be published in at least one newspaper of general circulation within the County for five successive weeks prior to the election.

The next general election in Maryland is scheduled for Tuesday, November 3, 2020.

¹ Source: <https://placeanad.baltimoresun.com/ad-options/?pub=howard-county-times&type=productpublication>
\$68 per publication x 5 weeks = \$340

**Office of the County Auditor
Auditor's Analysis**

Amendment 1
Council Resolution No. 93-2020
Amendment Proposed by: Deb Jung
Introduced: June 1, 2020
Auditor: Lisa German

Fiscal Impact:

There will be no fiscal impact as a result of this amendment.

Purpose:

This amendment changes when the Council shall appoint a Councilmanic Redistricting Commission from a specific date to promptly after each decennial census.

This amendment also changes the date that the Commission shall prepare a plan of Councilmanic Districts and present that plan to the Council, and the date that the plan as submitted by the Commission shall become law. The amendment changes all previous dates to the date that the Council sets by resolution.

Other Comments:

None.

Sayers, Margery

From: joel hurewitz <joelhurewitz@gmail.com>
Sent: Sunday, July 26, 2020 8:09 PM
To: CouncilMail
Cc: Kuc, Gary
Subject: CR93-2020 Outdated State Code Reference in 202(d)

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council Members,

I have written to you previously about updating the State Code references in the Charter.

I call your attention to the Charter Review Commission Report which as part of the other amendments to the Board of Appeals provision in 501(b) would have also corrected the outdated State Code reference.

expenses as may be provided in the budget.

(b) Powers and functions. The Board of Appeals may exercise the functions and powers relating to the hearing and deciding, either originally or on appeal or review, of such matters as are or may be set forth in **THE LOCAL GOVERNMENT Article-25A, Section 5(u) 10-305** of the Annotated Code of Maryland, **INCLUDING**

13

With any amendments to Section 202, I hope that the reference in 202(d) will also be corrected.

(d) *Compensation and allowances.* Each member of the Council shall receive as compensation and allowances for the performance of public duties under this Charter the sum of not less than Seventy-eight Hundred Dollars (\$7,800.00) per annum and shall not accrue annual leave or be entitled to any payment in lieu thereof. The compensation and allowances shall be in full compensation for all services required by this Charter to be performed by the members of the Council, but shall not preclude reasonable and necessary expenses as may be provided in the budget. The County Council shall establish a Compensation Review Commission every four years to review the Council's compensation and allowances in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland.

Sincerely,

Joel Hurewitz

On Fri, Jul 3, 2020 at 11:01 AM joel hurewitz <joelhurewitz@gmail.com> wrote:

Dear Council Members,

I am very disappointed that I do not see an amendment to make the technical correction to the State Code citation in Charter Section 202(d). Finding the old Code provisions is extremely difficult if not impossible for the general public.

If it is not amended now, at some future time, an amendment will be needed just to make the technical correction.

Joel Hurewitz

----- Forwarded message -----

From: **joel hurewitz** <joelhurewitz@gmail.com>

Date: Wed, Jun 24, 2020 at 10:58 AM

Subject: Charter Amendments - State Law Citations and Terms of Boards

To: Councilmail <councilmail@howardcountymd.gov>

Dear Council,

In reducing the terms of board members in CR99-2020, it seems that some consideration should also be given to the number of consecutive years in Line 10, and whether something less than eight years is appropriate, or whether three consecutive terms of nine years would be desired for most appointees.

Furthermore, consideration should also be given to amending the similar provisions in Sections 501 and 703 for the Board of Appeals and Personnel Board respectively.

As I testified, there are outdated State Code references in Sections 202(d) and 501(b). If Section 501 were to be amended regarding the terms of the Board of Appeals, then there would also be an opportunity to correct the citation in Section 501(b)

As always, I would be happy to discuss these further.

Sincerely,

Joel Hurewitz

Sayers, Margery

From: joel hurewitz <joelhurewitz@gmail.com>
Sent: Monday, July 6, 2020 1:35 PM
To: CouncilMail
Cc: Kuc, Gary; Jones, Diane
Subject: Amendment 1 to CR93-2020 Is Counterproductive and Extremely Flawed

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council,

Amendment 1 to CR93-2020 is extremely flawed, counterproductive, potentially dangerous, and may create a scenario which is not legally sufficient.

The deadlines in the Charter for the redistricting process serve in part to force the Council to act or cause consequences to occur if they fail to act. It removes some of the politics involved in voting on the maps by specifying a date on which they become law without Council action.

The stated alleged purpose of the Amendment is that it "specifies when a Redistricting Commission shall be appointed and provides that the Council shall set certain deadlines." It actually un-specifies when a Redistricting Commission is appointed; the phrase "after each decennial census" is vague and subject to interpretation. Especially, with the COVID-19 delayed 2020 Census, this might become problematic.

It has been pointed out that the deadlines in the Charter run into the deadlines for the 2022 election. As Diane Jones told the Council, if the Charter amendments are not passed, then the Council will act in advance of the specified dates in the Charter. So if Amendment 1 is designed to give the Council flexibility, it is not needed; the Council is free to act well in advance of the specified deadlines.

The amendment removes the March 15 or December 31 deadline where the maps become law without a Council ordinance. Instead, it substitutes "the date that the Council sets by resolution". This means that the Council could by politics or whim pass multiple resolutions to extend or shorten the deadline as the majority see fit. It is questionable why such a scenario would be legally sufficient for the maps to become law without Council action after the so-called deadline in the Charter has been manipulated by the Council.

I also note that Amendment 1 is in conflict with CR95-2020. Disappointingly, there seems to have no attempt to pre-file amendments which would merge CR93, CR94, and CR95 together or deal with the potential for the passage of all three Charter amendments with conflicting provisions.

Furthermore, during the work session Guy Mickley pointed out how the primary was moved from September to June. Yet, no mention was made that this was not an issue after the 2010 Census, because 2012 was not a Councilmanic election year. There was no immediate deadline prior to the Councilmanic election in 2014. Similarly, 2032 will not be a Councilmanic election year. However, with the Board of Education elections piggybacking on the Councilmanic districts, the districts will need to be determined for the School Board in 2032. Thus, any changes to the redistricting process must take into account the potential for political interference and manipulation of the non-partisan Board of Education election process.

Sincerely,

