

BALLOT QUESTIONS – GENERAL ELECTION NOVEMBER 8, 2016
(Citizen Education Fund Edition)

In November, Montgomery County voters will be asked to mark their ballots FOR or AGAINST one amendment to the Maryland Constitution and three amendments to the Montgomery County Charter. The proposed amendments are presented to voters as questions on their ballots.

Ballot questions may come from a group of citizens who collect the required number of signatures on an issue they wish to present to voters for a decision. A state legislature or county council can also propose a change that requires approval by the voters, such as an amendment to the Maryland Constitution or a change to the County Charter.

Citizen-initiated ballot questions require collecting a designated number of signatures of registered voters who support having a vote on the petition issue. In Montgomery County, 10,000 valid signatures are required, which must be verified by the County Board of Elections. To be enacted, state and county ballot questions require a simple majority of people voting on the ballot question.

Ballot questions are written in legal language because, if approved, they become part of a law, state constitution, or county charter. It is frequently difficult for voters to interpret the meaning of the ballot question and decide if they want to vote for or against the question.

This Fact Sheet provides information and background on the four proposed amendments that will be on the November 2016 ballot for all Montgomery County voters. The text for each amendment is boxed below, followed by an explanation of each issue. Voters will vote FOR or AGAINST each amendment.

STATE CONSTITUTIONAL AMENDMENT

Question 1

Constitutional Amendment (Ch. 511 of the 2016 Legislative Session)
Appointments and Special Elections for Attorney General and Comptroller

Changes the way the Governor fills a vacancy of the Attorney General or the Comptroller and requires a special election for vacancies that occur on or before a certain date. Under current law, the Governor fills a vacancy by appointing an individual to serve for the remainder of the term. Under the amended law, if the vacating Attorney General or Comptroller was a member of a political party, the Governor must fill the vacancy from a list of three names provided by the political party of the vacating official, and if no names are provided by the political party within a set time period, then the Governor must select a successor from the political party of the vacating official. If the vacating Attorney General or Comptroller was not a member of a political party, then the amended law requires the Governor to appoint any qualified individual. The Governor must make the appointment within a set time period following the vacancy. The amended law requires a special election to replace the successor if the vacancy occurs early enough in the term to allow for candidates to participate in the regular elections held in the second year of the vacating official's term.

(Amending Article V, Section 5 and Article VI, Section 1 of the Maryland Constitution)

For Against

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Origin of the Ballot Question: The 2016 session of the General Assembly passed legislation (HB260) proposing a constitutional amendment to change how vacancies in the offices of Attorney General and Comptroller will be filled. A bill that amends the Maryland Constitution requires a three-fifths vote in each chamber (Maryland Senate and House of Delegates) and approval by the voters at the next general election.

Current Law: Under the Maryland Constitution, when a vacancy occurs in the office of the Attorney General or Comptroller, the Governor appoints a person to serve for the rest of that term. Appointment of Comptroller also requires the approval of the Maryland Senate. The Governor is not required to choose someone of the same political affiliation as the person being replaced. There also is no provision for the voters to choose someone to fill a vacancy in either office through a special election, no matter how much time is left in the term of office.

Proposed Change: The Governor must appoint a replacement Attorney General or Comptroller within 30 days of the vacancy, with someone from a list of three persons submitted by the State Central Committee of the political party of the previous office holder. If the State Central Committee does not submit names within 30 days, the Governor must appoint any qualified individual who is registered with the political party of the previous officeholder within another 15 days. If the official being replaced was not a member of a political party, the Governor can appoint any qualified person for the office.

The appointed person serves for the rest of the original term if the vacancy occurs in the last two years of the term. However, if the vacancy occurs six weeks before a scheduled presidential primary (that is, there are more than two years remaining in the term) a special election must be held at the same time as the next statewide election. Candidates for the vacant office would be on the primary and general election ballots when the President is elected.

Arguments FOR the amendment:

- The person appointed by the Governor must be of the same political affiliation as the person being replaced. This reflects the preferences of the voters when they chose the Attorney General or Comptroller at the last election.
- If there are more than two years left in the term, the voters are able to choose who will fill the office at a special election held at the same time as the next presidential primary and general elections.
- By choosing the new official at the same time as the scheduled elections, there would be no additional costs for conducting a separate special election.
- It is likely that many more voters would participate if the vacancy is filled at a regularly scheduled election, than if the special elections were held at a separate time.

Arguments AGAINST the amendment:

- Requiring the Governor to appoint someone recommended by a political party central committee gives power to a small group of people elected only by members of that political party.
- Under current rules, the Governor may appoint a qualified person of any political affiliation.
- Holding a special election to choose someone to fill the last two years of a term when the Governor has already appointed a replacement results in frequent changes in leadership.

A vote FOR the constitutional amendment means the Maryland Constitution would:

- require the Governor to fill a vacancy for Attorney General or Comptroller with someone from the same political affiliation as the person being replaced; and

- require that a replacement be elected at the same time as the presidential election if more than two years are left in the term.

A vote **AGAINST** the constitutional amendment means the Maryland Constitution would not be amended. When a vacancy occurs, the Governor may appoint someone of any political affiliation to fill the rest of the term of Attorney General or Comptroller.

MONTGOMERY COUNTY CHARTER AMENDMENTS

<p>Question A</p> <p>Charter Amendment by Act of County Council County Executive Vacancy – Special Election</p> <p>Amend Section 205 of the County Charter to recognize that under State law the County Council may provide for a special election to fill a vacancy in the office of County Executive.</p> <p><input type="radio"/> For <input type="radio"/> Against</p>
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Origin of the Ballot Question: The Montgomery County Charter Review Commission recommended this amendment to the County Council, which approved it for the ballot. The Commission researches and evaluates charter issues raised by the Executive, Council members, other government officials and the public. They consider and recommend charter amendments to include on the general election ballot.

A special election is already allowed to fill a County Council vacancy. Possibly due to oversight, a similar authority to fill a County Executive vacancy does not exist. In January 2014, the County Council asked the State Senators and State Delegates from Montgomery County to propose an amendment to the Maryland Constitution to give charter counties this authority. That amendment to the Maryland Constitution was approved by the voters in November 2014. The next step is for Montgomery County to amend its County Charter to include this provision which requires placing this proposed amendment on the ballot for voters to decide in November 2016. If the ballot question is approved, the County Council will need to pass legislation outlining procedures to hold a special election.

Current Law: If a County Executive dies, resigns, is disqualified or removed, the County Council appoints a successor within forty-five days. The person appointed must be of the same political affiliation as the person being replaced. If the Council does not appoint a replacement within 45 days, it must, within 15 days, appoint a person nominated by the party County Central Committee, if the Executive was a member of a party.

Proposed Change: The amendment would allow the County Council to enact legislation to hold a special election to fill a County Executive vacancy. A similar procedure currently allows voters to choose a replacement to fill a County Council vacancy if the vacancy occurs a year before the end of the term of the person being replaced.

Arguments FOR the amendment:

- Instead of the current appointment process, the County Council will be authorized to pass a law to permit voters to elect a person to fill a County Executive vacancy if more than one year remains in the term.
- A similar procedure exists and has been used more than once to elect a person to fill a Montgomery County Council vacancy.

Arguments AGAINST the amendment:

- Allowing a special election to select a replacement when more than a year remains in the term is costly even if conducted by mail.
- It is likely that fewer people would vote in a special election.

A vote **FOR Question A** means the County Charter would be amended to permit a special election to be held to fill a County Executive vacancy under certain circumstances.

A vote **AGAINST Question A** means the County Charter would not be amended. The County Council would appoint a County Executive if there is a vacancy.

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 Against

Origin of the Ballot Question: This question was petitioned to the ballot when more than the required 10,000 registered Montgomery County voters signed the petition. Virtually identical amendments were considered and rejected by Montgomery County voters in 2000 and 2004.

Current Law: The County Charter provides that members of the County Council and the County Executive hold office for a four-year term. There is currently no limit on the number of terms a person may serve on the County Council or as County Executive.

Proposed Change: The County Charter would be amended to limit County Council members and the County Executive to three consecutive terms in office. It would also disqualify any current Council member or County Executive from serving another term if he or she has served three or more consecutive terms by December 3, 2018. A partial term would count the same as a full term. A partial term may occur if the current office holder has been appointed to serve the remaining term of a former Council member or County Executive. (See discussion about “partial service of a full term” in Question C below.) If the measure passes, four or five of the nine current Council members and the current County Executive would be unable to run for office again, as each will have already served three consecutive terms.

Background: The Maryland counties of Anne Arundel, Carroll, Frederick, Harford, Howard, Prince George’s and St. Mary’s have some form of term limits for county council and county executive. Interest in term limits peaked in the late 1990s but has subsided since then. Voters in Anne Arundel and Prince George’s County approved term limits of two four-year terms for both the County Council and County Executive in 1992. In Prince George’s County, attempts to increase the limit to three four-year terms has

been put to the voters three times since 1992 and was defeated each time, although the margin of defeat has narrowed. County Council members in Anne Arundel County are weighing a ballot measure this November to increase their term limits from two four-year terms to three four-year terms.

Two members of the Montgomery County Charter Commission have prepared reports on the issue of term limits. The reports may be accessed on the Charter Review Commission website at:

<http://www.montgomerycountymd.gov/crc/>.

Term Limit Paper 1 - "Report About the Proposal for Term Limits in Montgomery County" by Paul M. Bessel (Chairperson of the Montgomery County Charter Review Commission writing as a private citizen) and Barbara Braswell (August 15, 2016) is at:

<http://www.montgomerycountymd.gov/crc/Resources/Files/termlimits20160810.pdf>

Term Limit Paper 2 - "For Montgomery County, Term Limits are in the best interest of the voting public" by Larry Lauer, member of the Montgomery County Charter Review Commission, is at

<http://www.montgomerycountymd.gov/crc/Resources/Files/termlimitsPro.pdf>

Arguments FOR the amendment:

- New candidates may find it easier to be elected when they do not have to compete with long-serving office holders.
- Turnover in the office may bring new ideas for governing and may change relationships with unions, campaign donors, and political and special interest organizations.
- Requiring turnover in an office may result in more diversity among elected officials, especially when the demographics in an area are changing.
- Seven Maryland counties have some form of term limits for council members and the executive. Attempts in these counties to increase the number of terms that may be served have failed on several attempts.

Arguments AGAINST the amendment:

- Term limits reduce voters' choices by eliminating their ability to vote for elected officials the voters continue to support but who have reached the end of three terms.
- It takes time for new office holders to learn the job and become effective.
- With new office holders, unelected staff and lobbyists may play a greater role in governing.
- The institutional memory of the office may be greatly reduced if experienced office holders cannot continue in office.
- With a limited tenure, short term goals may take precedence over longer term visions.
- The amendment could prevent a Council member or County Executive from being able to run for a full third term, when he or she served only a small part of an unexpired term.

A vote FOR Question B means the County Charter would be amended to limit County Council members and the County Executive to three consecutive terms. Completion of a partial term in office would count the same as a full term in determining three successive terms.

A vote AGAINST Question B means the County Charter would not be amended and keeps the current Charter language without term limits.

Question C

Charter Amendment by Act of County Council
Term of Office – County Council and County Executive – Partial Service of a Full Term

Amend Sections 105 and 202 of the County Charter to provide that partial service of a full term for either a Councilmember or the County Executive means service of more than two years of a term.

For Against

Origin of the Ballot Question: This County Charter amendment was requested by the County Council to clarify the meaning of “partial service of a full term” as used in Ballot Question B. The County Council determined the third sentence in Ballot Question B that reads “for purposes of this Section, service of a term includes complete service of a full term and partial service of a full term” was not clear. That sentence was not included in the amendment that was petitioned in 2000 and 2004.

Current Law: The County Charter does not define “partial service of a full term” of a Councilmember or County Executive.

Proposed Change: The County Charter would be amended to define “partial service of a full term” to mean service of more than two years of a term. The amendment is based on the term limit model for the President in Section 1 of the 22nd Amendment to the U.S. Constitution. This section reads “no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.”

Arguments FOR the amendment:

- Defining the meaning of “partial service of a full term” removes uncertainty and eliminates the need for clarification by the courts.
- The definition may make it more likely that capable candidates would accept an appointment to finish an unexpired term of a Councilmember or County Executive, especially if he or she later wishes to run for the position.
- If Ballot Question B is enacted, a Councilmember who is appointed to serve only a very small part of an unexpired term could not serve a full third term unless this definition of “partial service of a full term” is also passed.

Arguments AGAINST the amendment:

- The phrase, “partial service of a full term,” is left open for interpretation if Question B on term limits is enacted.
- No limits are placed on what counts as “partial service of a full term” in Ballot Question B on term limits.

A vote **FOR** Question C means the County Charter would be amended to add language to define “partial service of a full term” of a Councilmember or County Executive as more than two years of a term.

A vote **AGAINST** Question C means the County Charter would not be amended to define what is meant by a “partial service of a full term” for a Councilmember or County Executive.

This Fact Sheet was prepared by Making Democracy Work Committee members: Elaine Apter, Mary Lanigan (Chair), Karen Lechter, Karen Logsdon, Barbara Sanders (Lead), Ralph Watkins, and Marge Wexler.