

THE COMPOSITION OF THE MONTGOMERY COUNTY COUNCIL

FORMS OF LOCAL GOVERNMENT IN THE UNITED STATES

Forty-eight of the 50 states have operational county governments. Alaska and Louisiana call their county type government boroughs and parishes, respectively. Connecticut and Rhode Island are divided into geographic regions called counties, but they do not have functioning county governments, as defined by the Census Bureau.

Counties vary greatly in size and population. They range in area from 26 square miles (Arlington County, VA) to 87,860 square miles (North Slope Borough, AL). Similarly, the population of counties varies tremendously from Loving County, TX, with its 67 residents, to Los Angeles County, CA, which is home to 9,519,338 people. Counties with populations under 50,000 accounted for nearly three-fourths of all county governments in 2000. Only 102 counties, 3.3%, have populations of 500,000 or more. Our study looked at 64 of these most populous counties (all but one over 640,000) that seemed most comparable to our own population figure. Montgomery County is in the highest category, with over 900,000 residents.

Hawaii and Delaware each have the fewest counties (3); Texas has the most (254). In addition to the 3,065 county-type areas, there are 42 independent cities and 32 city-county governments (i.e., cities that have consolidated government functions with their surrounding counties). This number includes several counties/cities, including Philadelphia (1854), New York (1890s), Honolulu (1907), Jacksonville (1967) and Indianapolis (1969) that were surveyed in more depth by the committee. There are also several other large counties in our study that are considering consolidation, including Miami-Dade County, Cleveland-Cuyahoga County and Milwaukee-Milwaukee County.

There is also great variety in the type of governments in the counties. Of the 28% of counties responding to an International County and Municipal Association 2002 survey, 56% reported having a council-administrator or council-manager form of government, up from 38% of those reporting to a similar survey in 1988. Nearly one-third of the responding counties had a traditional commission form where the elected commissioners serve both legislative and executive roles, a reduction of 8% from the prior survey.

The remaining 12% of respondents have the council-elected executive form like Montgomery County, a reduction from 22% in the 1988 survey. It is the mandated form of government in Arkansas, Kentucky and Tennessee, and is least prevalent in Western states and urbanized or suburban areas. However, the elected executive model was reported by over 28% of the counties with populations over 500,000. Of the 64 larger counties looked at in detail by the study committee, 21 have this structural trait in common with Montgomery.

HISTORY OF THE STRUCTURE OF THE COUNCIL AND THE BALLOT INITIATIVES

Prior to 1948, Montgomery County, like other Maryland counties, was governed by commissioners, who were elected locally but exercised no legislative powers. The discussions leading up to the adoption of the county's first home rule charter in 1948 included debates on whether there should be district or at-large elections. This debate became moot because a provision of the Maryland Constitution prohibited election by district. Although council members were required to be elected by the entire county electorate, the charter did provide that five council members must come from designated residence districts with two members elected at-large.

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These district boundaries remained the same until 1966, when the state Court of Appeals ruled in *Montgomery County Council vs. Garrott* that council districts described in the county charter were invalid because of the population disparities that had developed among them. As early as 1960, population in the residence districts ranged from 11,941 to 184,234. After the court decision, the County Council passed a plan calling for seven councilmanic (election only by voters of the district) districts, but this was declared invalid because of the constitutional provision prohibiting election by district. As a result, candidates for the 1966 election were required to run at-large. At this same election voters approved a provision for seven residence districts. However, this plan was never implemented because the new County Charter adopted in 1968 provided for a return to the seven-member council, with all elected at-large and five of these coming from designated residence districts as did the 1948 charter, although the 1968 Charter Review Commission had recommended increasing the County Council to 11 members, with seven elected by district and four at-large. The proposal was dropped when the Commission learned a state constitutional amendment would be needed to implement its plan.

As the 1970s began, charter home rule counties found pressure building to gain authority from the state legislature to establish councilmanic districts wherein a County Council member would be elected only by the voters in the district. In 1972, a constitutional amendment passed authorizing this choice for Baltimore County. Four years later Howard County obtained similar authorization and in 1978, Prince George's County was added to the list. By the middle of this decade many voters in Montgomery County, spearheaded by the County Executive, also began to press for this authority. Bills were introduced in the legislature throughout the mid and late 70s, but not until 1982 did the authorizing amendment pass for Montgomery County. Voters approved in November 1982 a referendum on the proposal, which is required for a constitutional amendment. Montgomery County citizens now could amend their charter to provide for elections of County Council members by the voters of councilmanic districts, by voters of the entire county or by a combination of these methods of election.

In 1984 two different plans for amending the Montgomery County Charter to change the method of electing council members were on the ballot. Question D would have required five council members to be elected by district, with two members elected at large. Question E would have required the county to be divided into seven councilmanic districts. Both proposals failed despite heavy lobbying by proponents of each question. Finally, in 1986, a charter amendment (Question A) passed, establishing the current procedure for electing council members: enlarge the County Council to nine members with five members elected by councilmanic districts and four members elected at large. In addition, a state constitutional amendment passed that year allowing county councils anywhere in the state to establish councilmanic districts. The first election for council members under this system occurred in 1990.

During the 1990s and the current decade the issue has continued to smolder. Several Montgomery County charter review commissions have considered and rejected possible alternatives to the current system. These included: increase the number of single member districts to reduce district size and potentially increase each district's economic and ethnic homogeneity; increase the number of council members elected from each district as state delegates are elected; and change the way council members are elected by using cumulative voting or proportional representation.

The 2004 Charter Review Commission considered increasing the overall number of council members by adding district seats and/or changing the ratio of district and at-large seats. When the commission rejected a recommendation to change the current five/four system, a proposal was petitioned to the ballot to divide the county into nine council districts and elect all members by district. The electorate rejected the proposal.

The 2006 Charter Review Commission will be considering three proposals to change the current structure: expand the council to 11 members with eight from districts and three at-large; go to all-district representation as proposed by Question C in 2004; or maintain the current council size at nine members but require eight seats to be from districts with one at-large. Any commission recommendation will be issued as part of its report to the County Council in May 2006.

HISTORY OF CURRENT LEAGUE POSITION

The current LWVMC position on the County Council is found on page 8 of this Fact Sheet with the Consensus Questions. These positions are clearly tied to the development of the County Council that was previously discussed.

In the 1970s the issue was whether or not the County Council would be allowed to have members elected from districts. In that decade, LWVMC favored a constitutional amendment that would allow home rule counties to elect their council members at-large, by districts or a combination. The League was clear that its support was not limited to electing members by district.

It took until 1982 for Montgomery County to receive the right to elect council members by districts. The Montgomery County League sponsored a debate on the issue of the composition of the council. This debate was used in place of individual unit meetings to arrive at consensus by members present at the debate. The newsletter was also used to poll members who were not able to attend the debate. The current LWVMC position was achieved at that time and reflected the composition of the council at the time – all members elected at-large with some running from residential districts.

THE SIZE OF THE COUNCIL AND AUTOMATIC INCREASES

In 2004, the Maryland-National Capital Park and Planning Commission estimated the county's population to be 933,000, which means that each of the five council districts contains approximately 186,600 residents. The four at-large members represent the entire county population. In terms of the number of registered voters that must be reached for election, there are approximately 109,000 voters per district and 545,000 in the whole county. Maintaining the current council structure would mean that, as the county's population grows, each council member will represent a larger number of constituents.

Proponents of keeping the number of council members small argue that a small council encourages collegiality and better working relationships between the members. The Model City Charter of the National Civic League suggests a small council allows the body to "act in a deliberative way." Another concern with increasing the size of the council is an economic one. Each additional council position would cost the county taxpayers approximately \$350,000 for salaries and administrative expenses associated with the position. While adding this amount to a county operating budget of more than \$3.3 billion would have a minimal impact, the additional cost per council member would increase the council office budget (\$6.7 million) by approximately 5%. There are also questions as to how additional council members and the increased staff could be housed in the current council building without moving other county offices into different buildings.

Those seeking to enlarge the council generally first tie their argument to also increasing the number of district representatives. If there were more districts in the county, then each council member representing a district would serve fewer residents and accordingly need to respond to and seek the votes of fewer numbers. Constituent services would not be spread as thin. Council members would have to serve on fewer committees and might develop more expertise in the areas covered by their committees.

The size of councils in the United States is not always tied to the size of the population. Los Angeles County in California has five council members and millions of residents. Of the 64 counties studied, 24 had councils larger than Montgomery County – 51 members in New York City, six additional counties ranging from 23 to 29, sixteen councils from 11 to 19. Seventeen of these counties have populations greater than Montgomery; however, the seven counties with smaller populations than ours have six of the eight largest councils. Five other counties also have nine members. The remaining counties have smaller councils, varying from three to seven members. The five-member format, used in the 12 California and four Texas counties in our study, is one of the templates specified in their state law.

One recent trend in changes to municipal government, described in the Municipal Yearbook, is increasing the size of councils. Over the last six years, 60 governments proposed increases in the size of their councils, and half of these proposals were accepted by the voters. This trend is slowing as the change to a larger size occurs.

The council could be increased in an automatic fashion, if that were desired. When there is an automatic increase based on population increases, the need for debate and ballot questions to increase the size of the council is removed. It is interesting to note that the population of Montgomery County was 523,000 in 1970, when there were seven council members. Now it is more than 933,000, with nine members. To have the same ratio as existed in 1970, there would need to be 13 council members today.

AT-LARGE MEMBERS VERSUS DISTRICTS MEMBERS VERSUS A COMBINATION

All Members Elected At-Large

The current League position supports a County Council in which some members must live in and run from designated districts and all members are elected by the entire county electorate. (This model is the same as that of the current school board method.) The position reflects the early debates in the 1960s and 70s on how the County Council would be structured. It provides geographic diversity in addition to the characteristics of a council all elected at-large.

Those who support a council in which all members are elected at-large argue that at-large members are more likely to represent the interests of the county as a whole. They are not likely to act in support of narrow, parochial interests that are desired by a small part of the county. They also argue that members who serve at-large are elected by a broad base of voters and are thus responsive to all constituents. Members from districts may respond only to small groups of constituents who work hard to get them elected in the manner of ward politics of the past.

Those who oppose electing only at-large members argue that the high cost of mounting a countywide election campaign makes it more difficult to run. The cost may also make at-large members more attentive to the interests of those who finance their campaigns rather than the interests of the citizenry as a whole. It may also be that because of the large number of voters in Montgomery County, at-large members are not as concerned about any individual since one vote is an extremely small percentage of the votes in an at-large race. Nationally, concerns are raised that women and minorities may have difficulty in mounting a successful at-large campaign, but this may not always be true locally.

At-large district representatives serve an enormous number of people, covering wide geographic areas. Within our studied sample, only five of the 64 counties have all at-large seats. These counties range in population from 750,000 to 1.4 million, and their geographic areas are from 400 to 540 square miles. For comparison, Montgomery County has 940,000 residents and 495 square miles.

All Members Elected from Districts

Through the years, the discussions of the composition of the Montgomery County Council have always included the issue of whether or not the council should have members elected only from districts. Within our study sample, 43 of the 64 counties have only district seats: one at 51, four with 23 to 29, six with 17 to 19, seven with 11 to 15, eleven with six to nine members and 14 with five members. Again, 12 of these five-member councils are charter communities in California, with the format prescribed by state law.

One of the reasons frequently given in support of having members only from districts is that voters understand single district representation, where a single vote is cast for one candidate. One can also argue that single-district members tend to have a strong desire to advocate for those living in their districts because of the greater opportunity for personal contact. They may thus be more responsive to constituents' needs. In some communities, the ethnic and/or racial diversity of the council members increase when districts are smaller and more numerous. In Montgomery County, however, because of disbursed housing patterns of minorities around the county, it would require extremely small districts (and thus many more council seats) before districts with a majority of a minority could be created. Additionally, more districts would create more geographic diversity on the council since no members could live in the same neighborhoods.

The reduced cost in running for office is another strong argument for electing all council members from districts. It is much less expensive to reach voters in a district as opposed to the entire county. There is a substantial difference in the money spent in contacting the approximately 545,000 registered voters in an at-large race as opposed to the 109,000 in the current system of five districts or the 60,000 per district if the format changes to nine districts. Another reason in support of districts (and more districts) is that personal contact and door-to-door campaigning is more achievable, further reducing the cost of campaigning. Beginning politicians may have more success in reaching voters in smaller districts with decreased running costs. It is interesting to note that at-large council members currently represent more people than a member of Congress does.

Those who oppose having only single-district members on the council argue that district members may be interested only in local neighborhood issues and subordinate countywide issues to local concerns. They also suggest that district members may have fewer incentives to develop coalitions if they run from small, homogeneous districts where they represent the prevailing views and can be easily reelected. They may depend more on extreme activists in their districts for support; therefore, councils may become more polarized and less interested in compromise. There is also a concern that each voter may choose only one candidate to vote for when there are only district members on a council. If the voter is able to vote for candidates in multiple seats, each voter can create a slate of candidates that can represent different ethnicities, gender and political positions.

A Combination of District and At-Large Members

The current structure of the County Council is a combination of district and at-large members, with five representing districts and four elected at-large. Seventeen of the 64 counties studied have mixed systems of representation, but the ratio varies greatly. Our closest neighbor, Fairfax County, has one at-large member and nine district members on the council. These governments are shown in the chart that follows.

Number of Counties	Total Members	At-Large Members	District Members
2	29	4	25
1	19	5	14
2	17	7	10
1 (Fairfax)	10	1	9
2	9	3	6
2	7	3	4
1	7	2	5
1	5	1	4

Proponents of mixed systems promote them precisely because they retain some council members who bring a county-wide perspective to matter before the council but allow other councilors to represent narrower neighborhood perspectives. Most of the arguments used in favor of the previous types are used here. Those who oppose the combination method point to the same arguments as were presented in each case previously described.

STAGGERED TERMS

At the current time, all council members are elected at the same time as the legislature and the governor in the non-presidential election year. The question has been raised as to whether or not council members should serve staggered terms like the Board of Education members do.

When one looks at municipalities (not counties), it appears that 17% elected their councils concurrently and 83% have staggered elections. Those that use the concurrent election system are generally the larger cities, which have bigger councils and a mayor-council form of government. Those with the staggered terms are most often municipalities with populations under 10,000 and in the West. Often the form of government is the council-manager form. Although staggered terms are not mentioned in the recent literature on counties, the websites of eight of the 64 studied counties do mention that they have staggered terms, including Honolulu, which recently initiated this change.

A staggered term system is recommended “to avoid dramatic changes in council composition at each election,” by the model city charter of the National Civic League and the model county charter in a 2003 compilation. Other arguments state that staggered terms ensure continuity and experience on the council at all times and may help women and minorities to win election because they can gain recognition in a smaller candidate field. Additionally, staggered terms can provide greater detachment from the electoral process by the council as a whole, with only half of the council being elected at the same time. Also, split elections allow the voters to make their opinions known more often, allowing for possible course corrections.

One of the concerns about starting a system with staggered terms is which elected officials win election only for the shorter term, such as two years rather than four. Numerous methods have been used to solve this dilemma. Honolulu used the total number of votes cast for mayor, which was odd, and then assigned the odd-numbered district representatives the initial four-year terms. In other cases, the shorter-length district terms are designated in the enabling legislation or determined by the candidates receiving the smallest number of votes.

LOCAL COMMISSION DRAWING THE DISTRICTS

In Montgomery County, the Board of Education districts, the County Council districts, and the State Legislative districts are not the same. Since there are five districts for both the Board of Education and the County Council, some have suggested that these districts should be the same. A proposal for increasing the number of county council districts to eight has caused some to propose that the districts could be the same as the legislative districts. Although there are now eight legislative districts in the county, it is impossible to know whether the number of state districts will remain the same.

At the current time, the County Council appoints a commission after each ten-year census to determine how the district lines for the county council districts should be drawn. The council then votes on the plan. The Board of Education districts are devised by the board office and given to the Montgomery County delegation to be offered as local legislation before the General Assembly.

The Maryland Constitution requires the governor to prepare a legislative districting plan following the decennial census. Although not required by law, since 1981 the governor has appointed an advisory committee to draft his plan for legislative and congressional districts. The committee sets the legal and policy guidelines it will use in creating the plans. It receives input from legislators, community organizations and the general public through a series of public hearings throughout the State. The plan is presented to the General Assembly. The presiding officers must have the plan introduced as a joint resolution on the first day of the regular session in the second year following the decennial census. If the General Assembly has not adopted another redistricting plan by the 45th day of the session, the governor's plan as presented becomes law.

One consequence of using the same districts for members of the state legislature and the County Council would be that the governor's commission would draw the council districts. This commission is not required to have any members from Montgomery County. Because different levels of government are responsible for drawing the districts for the state legislature, the County Council, and the Board of Education, allowing any group to draw more than one of the patterns would shift the balance of power among the groups.

PART-TIME VERSUS FULL-TIME EMPLOYMENT

The current County Charter is silent on the issue of whether membership on the council is a full- or part-time position. There is also no requirement concerning compensation for council members. In contrast, the County Executive's position is expressly made full-time, and outside employment is barred.

Those who support council members serving part-time often use the concept of the citizen legislator to support that model. They argue that part-time members would not consider council work as a profession. These part-time members might not seek to be elected term after term, and thus become professional politicians with a vested interest in getting elected. Others suggest that part-time members do not need to put their profession on hold while they serve their term. There is also a question as to whether or not the salary of around \$75,000 that council members receive is sufficient pay for either part-time or full-time work. Some also consider that working outside the government keeps council members in touch with the "real world."

On the side of council members working full-time, many argue that the hours that council members work add up to more than full-time employment and they should be compensated at a greater level. They should be able to devote their entire time to council work. There is also the argument that individuals who are the breadwinners in their families would be more willing to run for office if the result is full-time employment.

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RELEVANT LWVMC POSITIONS

The Montgomery County Council currently has nine members, five elected from districts and four elected at-large.

The current LWVMC position on the County supports

1. All Council members elected at large with some candidates running from residence districts (Revised 1968, reworded and affirmed 1983, reworked in 1987).
2. Equitable redistricting of resident districts for Council members so that each district will be compact, contiguous, and of approximately equal population (1965).
3. The numbers of members of the Council limited so that it will continue to be a small council (1965, revised 1982).

CONSENSUS QUESTIONS

1. How many council members should the county have? (Only one option may be selected.)
 - a. Remain the same
 - b. Decrease the number of members
 - c. Increase the number of members
2. Should the number of council members increase as the population grows as reflected by the decennial census?
3. Should the Council have a combination of district members and at-large members, all district members or all at-large members? (Only one option may be selected; a1 or a2 or b1, etc.)
 - a. Combination choices
 1. Keep the current structure of five elected from districts and four elected at-large.
 2. Have a combination of members elected from districts and members elected at-large with the majority of members representing districts. The number of council members or the division between district and at-large members or both would be different than the current council.
 3. Have a combination of members elected from districts and members elected at-large with the majority of members elected at-large.
 - b. All district choices
 1. Have all members elected by residents of the councilmanic districts.
 - c. All at-large choices
 1. Have all members elected at-large.
 2. Have all members elected at-large, some of whom must reside in a district (the Board of Education model). This represents the current LWVMC position.
4. Should the terms of council members be staggered?
5. Should a local commission continue to draw councilmanic districts, if there are council districts? If not a local commission, how should they be drawn?
6. Should a seat on the County Council be considered a full-time or part-time occupation?

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