

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 777 (The Speaker)(By Request - Department of Legislative Services)

Environmental Matters

Education, Health, and Environmental Affairs

Local Government - Applicability of Laws to Counties and Baltimore City

This bill provides that powers granted by State law under Article 25 are applicable to charter counties and code counties and clarifies how other provisions of Article 25 apply to charter counties, code counties, commission counties and Baltimore City.

Fiscal Summary

State Effect: None.

Local Effect: The bill does not materially affect local government revenues or expenditures.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Article 25A Chartered Counties of Maryland

The bill provides that authority granted to charter counties through the Express Powers Act in Article 25A is in addition to powers granted in Article 25.

Article 25B – Home Rule for Code Counties

The bill provides that authority granted to code home rule counties through Article 25B includes powers granted to counties in Article 25.

Article 25 – Section 1

For use in Article 25 the governing body of each form of local government is defined as follows:

- Baltimore City – the Mayor and City Council;
- a Charter County – as provided by the county charter, the county council, or the county executive and the county council;
- a Code County – as provided by local law, the county commissioners;
- a Commission County – the county commissioners;
- a municipality – the body designated by the municipal charter.

Article 25 – Section 4

Current law requires certain procedures to be followed for acts, ordinances, and resolutions adopted under § 3 of Article 25 relating to enumerated powers. The bill clarifies that the procedures only apply to commission counties.

Article 25 – Section 16

Current law provides for the procedure for appointing a new county commissioner should the position become vacant. The bill makes the requirement that the Governor appoint a new commissioner applicable to commission counties and code home rule counties; unless, a code home rule county has enacted a public local law providing other procedures for appointing a new commissioner.

Article 25 – Section 17

Current law grants authority for a county to sue and be sued but does not specify to which counties the authority applies. Article 25A grants this authority to charter counties. The bill clarifies that the authority in Article 25 applies to code home rule counties and commission counties.

Article 25 – Section 18

Current law specifies that the number of county commissioners must be fixed by the code of local laws for each county. The bill limits this section to apply only to code counties and commission counties.

Article 25 – Section 20

Under current law county commissioners may levy taxes for specific purposes. The bill limits this to apply only to commission counties. Code counties and charter counties are already granted this authority under the Express Powers Act.

Article 25 – Section 29

The bill specifies that the requirement that county commissioners awarding contracts demand a performance bond only applies to commission counties. Code counties and charter counties are already authorized to award contracts and require a performance bond through the Express Powers Act.

Article 25 – Sections 34 and 135

Current law provides for the ability of residents of a county to petition commissioners for building and repairing bridges and the opening, altering, or closing of roads. The bill specifies that this authority applies to all counties, but not Baltimore City.

Article 25 – Section 122A

The bill clarifies that all counties, including Baltimore City, have authority to adopt rules and regulations for the licensing and control of junkyards; public or private dumps; automobile junkyards; automotive dismantler and recycler facilities; scrap metal processing facilities; or outdoor places where old motor vehicles are stored in quantity or dismantled; and, lots on which refuse, trash or junk is deposited. All counties are currently granted this authority, but it is not specifically granted in Baltimore City's charter.

Article 25 – Section 153

The bill requires all counties and Baltimore City to erect and maintain a street sign at each intersection of a county road with State roads and State-aid roads. All counties are currently required to maintain road signs, but it is not specifically required in Baltimore City's charter.

Background: The legal staff of the Office of Policy Analysis of the Department of Legislative Services performs code revision in an effort to conform existing law to modern statutory style while avoiding substantive changes. The changes to current law, as provided in the bill, were determined to be too substantive to be considered part of normal code revision. Legislative Services advises that the changes provided in the bill are intended to honor the original intent and the concept of home rule for charter and

code counties while clarifying some provisions in Article 25 that need additional clarification.

Currently, nine counties exercise charter home rule and six counties operate under code home rule. The other eight counties operate under the commission form of local government. **Exhibit 1** shows the form of government for each Maryland county and the year in which local home rule was granted.

Exhibit 1
Forms of County Governments in Maryland

<u>Charter Home Rule</u>		<u>Code Home Rule</u>		<u>Commission</u>
Anne Arundel	1964	Allegany	1974	Calvert
Baltimore	1956	Caroline	1984	Carroll
Dorchester	2002	Charles	2002	Cecil
Harford	1972	Kent	1970	Frederick
Howard	1968	Queen Anne's	1990	Garrett
Montgomery	1948	Worcester	1976	St. Mary's
Prince George's	1970			Somerset
Talbot	1973			Washington
Wicomico	1964			

Source: Department of Legislative Services

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Caroline, Howard, and Montgomery counties; Maryland Association of Counties; Department of Legislative Services

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