

August 2007

THE FORMS OF GOVERNMENT TASK FORCE

Report to the Board of County Commissioners
for St. Mary's County, Maryland

Task Force Members

Patrick B. Murphy, Chairman

Anne Bell	John Parlett
Elmer Brown	Daniel Rebarchick
Dick Gass	Douglas R. Ritchie, Jr.
Dr. Francine Dove Hawkins	Patty Robrecht
John Madel	Judith Spalding, Vice-Chair
John Mattingly	Clare Whitbeck
Dr. Kathleen O'Brien	Pat Woodburn

Board of County Commissioners

Francis Jack Russell, President

Kenneth R. Dement

Thomas A. Mattingly, Sr.

Lawrence D. Jarboe

Daniel H. Raley

County Administrator

John Savich

Report to the Board of County Commissioners
for St. Mary’s County, Maryland, August 2007

TABLE OF CONTENTS

Executive Summary iv

Majority Report.....1

Appendix A – Minority Report in Favor of Code Home Rule A-1

Appendix B – Minority Report in Favor of No ChangeB-1

Appendix C – Actions Taken by the Task Force in
 Reaching Its RecommendationC-1
 Limitations and AssumptionsC-1
 Definition of Terms.....C-1

Appendix D – Forms of Government Available in Maryland D-1
 Descriptions of Maryland’s Three Forms of Government..... D-2
 Commissioner D-2
 Charter Home Rule D-2
 Code Home Rule..... D-4
 General Powers and Duties of Each Form of Government D-5
 Commissioner D-5
 Charter Home Rule D-7
 Code Home Rule D-7
 Prohibition on the General Assembly under Home Rule..... D-9

Appendix E – Procedures for Adopting Home RuleE-1
 Charter Home RuleE-1
 Code Home Rule.....E-2
 References.....E-3

Appendix F – Comparison of Home Rule versus
 Commissioner Forms of Government..... F-1

Appendix G – Financial Impact..... G-1

Report to the Board of County Commissioners
for St. Mary's County, Maryland, August 2007

LIST OF TABLES

Table D-1, Maryland Counties by Form of
Government and Dates of Adoption D-1

Table E-1, Adoption of charter Home Rule under
the Constitution of Maryland E-1

Table E-2, Adoption of Code Home Rule under Article
XI-F of the Maryland Constitution and Article 25
of the Annotated Code of Maryland E-2

Table F-1, Commissioner versus Home Rule Forms of Government F-1

Report to the Board of County Commissioners
for St. Mary's County, Maryland, August 2007

EXECUTIVE SUMMARY

The purpose of this report is to make a recommendation to the Board of County Commissioners for St. Mary's County, Maryland (BOCC) on whether the form of government of St. Mary's County should be changed from commissioner form to one of the other forms of government available to Maryland counties. Our report contrasts the differences between commissioner and charter and code home rule forms of government; identifies the general powers and authority of each form; and identifies the process for changing the form.

Twelve of the fifteen members of the Task Force voted to recommend the BOCC move away from the commissioner form of government to one of the two forms of home rule. Of those twelve members, nine voted to recommend a change to the charter form of government. Three voted for code home rule. Of the fifteen-member Task Force, only three members voted for no change.

This report is organized in two main parts. The first section contains the report of the Task Force majority recommending charter and a summary of the rationale for the recommendation. The second section consists of two minority reports: one in favor of a change to code home rule and the other in favor of no change. In addition, it contains several appendices of, among other things, information regarding the various forms of government, powers and duties, procedures for adopting home rule, and the financial impact of the various forms of government.

Report to the Board of County Commissioners
for St. Mary's County, Maryland, August 2007

MAJORITY REPORT

Preliminarily, we want to thank the County Commissioners for the opportunity to serve on this Task Force. It was an honor to explore issues as fundamentally American as the form of our local government. Likewise, we commend you on your wonderful county staff. They were gracious hosts. Angela Blondino provided excellent legal assistance and Gracie Brady provided top notch administrative and organizational support.

The Forms of Government Task Force (the "Task Force") respectfully recommends the St. Mary's County Commissioners (BOCC) take the necessary steps to move away from the current commissioner system ("Commissioner") and adopt one of the two forms of home rule government for St. Mary's County – charter or code home rule. For the purpose of our Task Force recommendation, "home rule" includes either: the charter form of government ("Charter") as defined in the Maryland Annotated Code Article 25A or the code home rule form of government ("Code Home Rule") as defined in the Maryland Annotated Code Article 25B.

Charter government is formed when there is approval of a countywide referendum of a written charter document. The charter sets forth the powers and authority the citizens permit the government to have. A charter-writing committee appointed by the BOCC formulates this charter.

Once approved, county government would be organized under a county council that has only the power granted to it by the charter. In addition, to the county council, there would be one of two forms of administrative arm to the charter. County voters would decide whether to separately elect a county executive who could function as a policy maker and administrator of the daily operations of government. Or, Charter would permit the county council to appoint a county manager to operate the day-to-day functions of government. Charter provides greater checks and balances, separation of powers, and community limitation on governmental power.

In contrast, Code Home Rule would retain the county commissioner functions and form – it would put little operational change in place. Code Home Rule, however, permits the county commissioners to pass local law on local matters without the need to go to the Maryland General Assembly. The change would be almost purely legislative in nature. Some risk exists, however, because there is little legal interpretation on what powers Code Home Rule counties actually receive.

After exhaustive review of all three forms of government, twelve of the fifteen-member Task Force voted to recommend changing the form of government for St. Mary's County from Commissioner to one of the two home rule systems. Of those twelve who voted for home rule, nine voted to recommend the BOCC move toward the Charter form of government. Specifically, it would require the BOCC to convene a

Report to the Board of County Commissioners
for St. Mary's County, Maryland, August 2007

charter writing committee at the earliest possible opportunity and put to referendum the question of whether St. Mary's County should adopt the Charter form of government. Three members of the Task Force, while joining the majority recommendation for change from Commissioner form of government, recommended changing the Commissioner form to Code Home Rule.¹

In coming to our recommendation, we recognize county government will face future challenges that will require higher specialization of skills and careful allocation of limited resources. As St. Mary's County continues to grow we will experience increased demand for services and protection of our general safety and welfare. We carefully considered, among other things, issues such as: fiscal challenges, revenue impacts, population growth, infrastructure adequacy, availability of a skilled work force, economic growth and development, and land use planning and application. It was apparent to us demand for the county to provide, cultivate, or encourage these services will be far greater tomorrow than it is today. Therefore, the majority of the Task Force is of the opinion that Charter is the best means to prepare for these challenges.

We think, as compared to Charter, the commissioner form of government is likely less able to meet the future needs of St. Mary's County's citizens in an efficient and proactive manner. It appears a Charter government can react more quickly and efficiently to future demands. For example, a county executive or manager could be empowered to make administrative and operational decisions on a daily basis, thus promoting a "vision" for the county. Likewise, a county council could be tasked with setting policy and passing necessary legislation. Each of these functions has a particular job to do. The separation of responsibility between them permits specialization among government professionals in a manner that encourages sophisticated and studied response to pressing issues. This also provides for separation of powers and checks and balances.

Additionally, from our perspective, we think Charter government best embodies the fundamentally democratic principles of:

- Limitation on government authority,
- Checks and balances,
- Separation of powers, and
- Broad representation and diversity.

Charter government is organized, empowered, and legitimized by the written charter document that is approved, via ballot, by the citizens of St. Mary's County in an election. The charter document is the roadmap for how the government will operate and what authority it will have. Under Charter, the county has only the power and authority

¹ While Code Home Rule form of government would still have commissioners, it is legally distinct from the Commissioner form of government.

Report to the Board of County Commissioners
for St. Mary's County, Maryland, August 2007

expressly granted to it by the citizens.² It is a solemn contract between the government and its citizenry.

In the charter document, the citizens decide, among other things:

- The organization of the government,
- The number of county council members and the composition of their election districts,
- Existence of elected executive or appointed county manager,
- Terms and term limits,
- Manner and degree of government spending,
- Debt limits,
- Imposition of authorized taxation,
- Framework of zoning and land use policy and regulation,
- Health, safety and welfare issues,
- Sanitary districts,
- Public works,
- Local laws, and
- All other fundamental legal, financial, and administrative frameworks.

In other words, the citizens of St. Mary's County decide what powers they wish to permit their government to possess and the manner in which they want their government to operate.

Finally, it does not appear Charter government costs more. In fact, there appears to be no correlation between any form of government and the costs associated with that particular form of government. See Appendix G. We can only conclude the cost of government is what citizens allow government to cost. We, therefore, think Charter is the best way to ensure costs of government are not disproportionate to the service provided, as the written charter adopted by the voters could address this issue

In contrast to Charter government, under the Commissioner form and Code Home Rule, local citizens have minimal say into how they wish to be governed. Instead, the state is empowered to make those local decisions for them. Commissioner and Code Home Rule counties' authority is limited exclusively by the state (absent referendum) – not locally. In those counties, local citizens have minimal authority to locally limit or

²It should be noted, even under Charter form of government, state law preempts various fields of law. For example, the state would remain the ultimate authority in the areas of: authorization of the liquor board and office of the sheriff, education, local municipalities, statutory established debt limits, and control of the court system. In most all other fields, local authority would be defined by the charter written by and for the people of St. Mary's County.

Report to the Board of County Commissioners
for St. Mary's County, Maryland, August 2007

empower county government, absent permission expressly granted by the Maryland General Assembly.

Furthermore, Code Home Rule would do nothing to effect administrative or operational change to county government; there would still be commissioners as there are now. Essentially, it appears the only difference under Code Home Rule is some local public laws could be enacted at the county level without having to go to the general assembly. The majority felt this local legislative authority was of minimal benefit to the county. The county has sought minimal local legislation over the past three years. For example the number of proposed local bills submitted to the general assembly was for 12 for 2005; 10 for 2006 and 11 for 2007. However, for each of those years slightly more than half could have been handled locally if home rule were adopted.

In addition, a Maryland assistant attorney general the advised the Task Force Code Home Rule was theoretically risky, as there was little law in the state interpreting the actual authority vested in Code Home Rule counties. This suggested to us that adopting such a form of government would be risky, as legal challenges could arise that could prove costly in both time and money.

Regardless of the path forward, the Task Force emphasizes its recommendation (i.e., that some form of home rule option be put before the voters) is meant to anticipate the best interests of St. Mary's County citizens – currently and in the future. The Task Force feels strongly now is the time to plan for the future. The Task Force well understands, even under the most optimistic schedule, change of this type, if accepted by the voters, is not likely to be in place earlier than the year 2012. Waiting until a crisis occurs that renders government dysfunctional before placing this issue before the voters to decide, would effectively mean the county waited too long to act.

The majority of the Task Force respectfully recommends and encourages the BOCC to allow the citizens of St. Mary's County the opportunity to decide this issue.

Patrick B. Murphy
Anne Bell
Dr. Francine Dove Hawkins
John Mattingly
Dr. Kathleen O'Brien
John Parlett
Daniel Rebarchick
Patty Robrecht
Judy Spalding

Appendix A

Minority Report in Favor of Code Home Rule

The Forms of Government Task Force, Report to the Board
of County Commissioners, August 2007

**APPENDIX A – MINORITY REPORT IN FAVOR OF
CODE HOME RULE FOR ST. MARY'S COUNTY**

We are part of the 40% of the Forms of Government Task Force that endorses Commissioner government for St. Mary's County, with the addition of Code Home Rule. During the course of this Task Force, we received verbal feedback from many citizens who are satisfied with the current Commissioner form, with several endorsing Code Home Rule as responding to our foreseeable needs and maintaining the quality of life for our citizens. In general, we and the majority of these citizens think our commissioners are easily reachable and represent the best interests of St. Mary's County. Adding Code Home Rule will further increase local government responsiveness to the citizens of St. Mary's County by providing local legislation ability throughout the designated legislative days of a calendar year, rather than just during the 90-day session at the beginning of a year in Annapolis. Code Home Rule could be placed in front of voters during the next gubernatorial general election, in 2010, when our local commissioners are elected.

Our Commissioner form of government has brought St. Mary's County through the significant growth period of the 1990s that were associated with the impacts of Defense Base Closure and Realignment Commission (BRAC) decisions. Our county is a model for the state on the handling of the enormous growth that resulted from BRAC decisions. Our commissioners, from the 1990s through today, have, in concert with our state and federal legislators, led the initiatives to grow the county's infrastructure for roads, safety, and recreation and increase its educational capabilities to meet the needs of its new and existing citizens.

Our current commissioners continue to be responsive to the general welfare and needs of St. Mary's County and its citizens. Knowing the Navy at Patuxent River represents over 80% of the county's economic engine, the Commissioners have reacted to protect the Navy's interests and needs, as they demonstrated by purchasing the Lexington Park "Flattops" area before the 2005 BRAC and, most recently, by signing the agreement with the Navy. Today, our Commissioner form of government is preparing to participate with the Navy in an updated Air Installations Compatible Use Zones (AICUZ) for Patuxent River and Webster Field to ensure any future BRAC decisions will continue to look favorably on the St. Mary's County area.

When our county's yearly growth is expected to be less than 2.5%, we think the needs of St. Mary's County citizens can continue to be met, for the foreseeable future, by the Commissioner form of government.

We, personally, are supportive of keeping our Commissioner form of government, with the added responsibility of having County Commissioners initiate and pass local St. Mary's County legislation affecting incorporation and organization of county

government, thus having Code Home Rule. A less drastic change than Charter Home Rule, Code Home Rule will increase opportunities for St. Mary's County citizens to participate in local legislation decisions rather than having to attend multiple hearings in Annapolis. The absolute cost increase to our county for adopting Code Home Rule will be very minimal and nowhere near the potential cost increase that could result from Charter Home Rule. Under Code Home Rule, St. Mary's County government will continue to operate under the Maryland Constitution, which provides a number of checks and balances for county government operations under Code Home Rule. Additionally, adopting Code Home Rule for St. Mary's County would align our county with neighboring Charles County. Proceeding to Charter Home Rule within St. Mary's County, at this time, would result in three different forms of government for the Southern Maryland region for which the state of Maryland could pass legislation overriding the effects of either Code or Charter home rule within the respective county.

We, as a minority of the Forms of Government Task Force, strongly recommend the commissioners endorse the Code Home Rule form of government for St. Mary's County with a voter referendum on the 2010 election ballot, when our local commissioner elections take place.

Elmer Brown
John Madel
Richard "Dick" Gass

Appendix B

Minority Report in Favor of No Change

The Forms of Government Task Force, Report to the Board
of County Commissioners, August 2007

APPENDIX B – MINORITY REPORT IN FAVOR OF NO CHANGE

Three members of the Form of Government Task Force believe the current form of government, Commissioner government with commissioners elected at large, is the most suitable form of government for St. Mary's County for the foreseeable future. In the last twenty years, St. Mary's County has undergone rapid change and growth and the boards of county commissioners have adapted and changed government to meet the challenge of leading St. Mary's County into the 21st Century. We see no need for change.

At present, we have five commissioners, three delegates, and one senator who make law for St. Mary's County. That's a total of nine people who share the power to make our laws. Under Code Home Rule, the number of people involved would be reduced to the five commissioners. Under Charter government, the number of people could be five or six or, maybe, MAYBE, eight or ten, depending on how the charter is written. The more people involved, the more varied the input to the governmental process, and the closer government is to the people. Code Home Rule and Charter can both remove the closeness of the government to the people.

Then, there is the matter of checks and balances, a traditional feature of American democracy. Code Home Rule effectively removes the checks and balances supplied by our state senator and delegates. Charter could supply an elected county executive as a check and balance, but there is no guarantee the charter will require a county executive. In the opinion of this group, if there is no county executive in the charter there are no checks and balances.

Further, there is no process defined for reversing Code Home Rule. If we don't like Code Home Rule, we can't go back to the Commissioner government that has served us so well in the past. Charter government can be amended, but that is usually addressed in the charter. So an unknown process would be required to make that amendment happen.

There are other reasons for our recommendation. The courts have never defined the powers of Code Home Rule counties and their extent is unclear. St. Mary's County could be subject to lawsuits as the extent of its Code Home Rule powers is being defined. While the Form of Government Task Force has the option to recommend Charter, it cannot control how that charter might be written or what it might contain that would be either improve on or degrade our current form of government.

Recommending charter at this time is recommending an unknown form of government that could remove checks and balances, is written by an unknown group of people with unknown agendas, and operates at an unknown cost. There are far too many unknowns.

Code Home Rule concentrates power in the hands of the few, removes checks and balances, specifies untested powers, and cannot be reversed.

After considering these facts, we have concluded Commissioner government is the best choice for St. Mary's County, for the foreseeable future.

Douglas E. Ritchie, Jr.
Clare Whitbeck
Pat Woodburn

Appendix C

Actions Taken by the Task Force in Reaching Its Recommendation

The Forms of Government Task Force, Report to the Board
of County Commissioners, August 2007

**APPENDIX C – ACTIONS TAKEN BY THE TASK FORCE IN
REACHING ITS RECOMMENDATION**

The Task Force met sixteen times during the period from March 2007 to July 2007. The first meeting was organizational in nature, and served to establish the overall scope of the project, duties and responsibilities of the Task Force members, and a schedule for completion.

In addition to meetings, the Task Force performed research, using various forms including the public library system, reviewing publications and laws in Maryland. The research included browsing the worldwide web for information relevant to the project. Key words used in the research included: government, code home rule, home rule, charter home rule, Maryland Constitution, forms of government, county commissioners, governmental powers, and express powers. Caution was exercised during the research phase, since home rule laws in Maryland are significantly different from those in other states.

Throughout, the Task Force broadcast the proceedings of its meetings on cable television for public viewing. We invited community stakeholder to come and speak to us regarding their thoughts on the proper form of government for St. Mary's County. In addition, we invited subject matter experts to come speak to us on the issues. During our meetings we had the following stakeholders and/or subject matter experts speak to us:

- The Honorable Murray Levy, Delegate Charles County (a Code Home Rule county).
- The Honorable Wilson Parren, Commissioner President Calvert County (discussed the pursuit of Code Home Rule).
- The Honorable Janet Owens, former County Executive Anne Arundel County (Charter form).
- The Honorable Frank Raley, former state Delegate, and Mr. Todd Morgan, President Southern Maryland Navy Alliance (spoke in support of Charter, stating that the Alliance unanimously supported Charter).
- The Honorable Thomas Mattingly and The Honorable Daniel Raley (St. Mary's County Commissioners) responded to questions about the current form of government.
- The Honorable Linda Kelly, Commissioner Calvert County, (discussed pursuit of Code Home Rule).
- The Honorable Ford Dean (served on the 1972 St. Mary's County charter writing board) and The Honorable Barbara Thompson (who served on the 1988 St. Mary's charter writing board).

- Mr. William Varga, Esquire, Assistant Attorney General, (provided a thorough review of the three forms of government).
- Dr. Michael J. Martirano, Superintendent St. Mary’s County Public Schools.
- St. Mary’s County Board of Education
- The Minority Business Alliance

The Task Force compiled the data collected from its research and from discussions among its members to form this report and serve as the foundation for its presentation to the BOCC.

Limitations and Assumptions.

Although certain members of the Task Force have advanced knowledge of law and public policy, the contents of this report are only the summary of limited research by the Task Force members and must not be construed as an official legal document.

Definition of Terms.

- Charter County – A county that has adopted the Charter form of government under Article XI-A of the Maryland Constitution.
- Code County – A county that is not a Charter county under Article XI-A of the Maryland Constitution and has adopted the optional powers of Home rule provided in Article XI-F.
- General Public Law – A law affecting two or more counties.
- Initiative – An electoral process by which a percentage of voters can propose legislation and compel a vote on it by the legislature by the full electorate.
- Public Local Law – A law applicable to the incorporation, organization, or government of a county and contained in the county’s code of public local laws.

Appendix D

Forms of Government Available in Maryland

The Forms of Government Task Force, Report to the Board
of County Commissioners, August 2007

The information provided herein is derived and cited from various sources
also referenced in Appendix E

**APPENDIX D – FORMS OF GOVERNMENT
AVAILABLE IN MARYLAND**

There are three forms of county government in Maryland – the County Commissioner form, Charter Home Rule, and Code Home Rule. Both Charter and Code Home Rule offer broader powers to the local government body to exercise local self-government than does the traditional Commissioner form.

Currently, eight counties in Maryland still have the Commissioner form; nine have adopted Charters; and six have opted for Code Home Rule, as shown in Table D-1, below. Just three decades ago only eleven counties (47%) had adopted some form of home rule. With the current count at fifteen counties (63%), the trend is clearly to move from commissioner to some form of home rule.

Table D-1 – Maryland Counties by Form of Government and Dates of Adoption:

<i>Commissioner</i>	<i>Code Home Rule</i>	<i>Charter</i>
Calvert	Allegany (1978)	Anne Arundel (1964)
Carroll	Caroline (1984)	Baltimore (1956)
Cecil	Charles (2002)	Dorchester (2004)
Frederick	Kent (1970)	Harford (1972)
Garrett	Queen Anne’s (1990)	Howard (1968)
Somerset	Worcester (1976)	Montgomery (1948)
St. Mary’s		Prince George’s (1970)
Washington		Talbot (1973)
		Wicomico (1964)

Source: Maryland Association of Counties, October 5, 2005

Regardless of the form of county government, certain functions and services are found in every county, although research has revealed the level of these services and the manner in which they are provided varies greatly. These county functions may be classified as either services of statewide concern, whereby the county serves as an administrative arm of the state in the provision of services, or strictly local services that are required or expected in each county. Examples of the latter include general government (i.e., executive/legislative, finance, legal services, personnel, and procurement), land use matters and regulation of development (i.e., planning and zoning and building permits), public safety (i.e., fire, police, emergency medical services, corrections, and inspections), public works, health and social services, primary/secondary education, community colleges, libraries, and recreation. These local services are

predominantly funded at the local level and should be managed and controlled at the local level.

Descriptions of Maryland's Three Forms of Government.

Commissioner:

In the early days, while still subject to royal rule, county courts were established to act both judicially and administratively. The courts were composed of commissioners, selected by the governor from among the most prominent men in the county. They were also called justices. In addition to their judicial functions, the justices were the administrators of the fiscal affairs of the county. They set the public levy, the county levy, and the amount of the poll tax, and performed a number of other duties which have survived in the County Commissioners form of government. Following this model, levy courts were established in 1794. These courts were composed of justices of the peace. Their duties were to meet and determine the necessary expenses of their county and impose an assessment or rate of tax on property to defray county expenses. Eventually, these officials became known as "commissioners" and in the Constitution of 1851, the name "county commissioner" was constitutionally recognized in Maryland. However, until the Constitution of 1867, county commissioners were simply administrative officers in charge of county finances with the responsibility of taking care of public roads. After the Constitution of 1867, the General Assembly could broaden these powers.

The County Commissioner form of government is designated a corporation under state law. As a result, commissioners act not as individuals, but as a board in a corporate capacity – the powers delegated to county commissioners must be exercised by them as a board and not as individuals. In fact, it is generally recognized that nothing short of action by commissioners at a legal meeting and as a board can bind the county, and meetings of the county commissioners are governed by the Open Meetings Law.

It is clear that the board of county commissioners functions as the county government and exercises legislative, quasi-legislative, executive, and quasi-judicial authority, sometimes in combination. These boards operate subject to existing state law and the authority of the General Assembly to enact new public general and public local laws that might affect their authority and power.

Charter Home Rule:

The General Assembly, throughout history, has held control over local governments in Maryland. As stated earlier, the responsibilities bestowed to counties were primarily to oversee roads and other similar type public works projects – while the state legislature, particularly the local delegation to the General Assembly, governed in most areas relating to local affairs. In the early 1900s, local legislation for the twenty-

three counties and more than one-hundred municipalities consumed the majority of the state legislature's time in Annapolis. By 1904, more than half of all bills before the General Assembly (56%) were local in nature. This meant legislators were less able to debate and resolve the issues of statewide importance during the legislative session. The General Assembly found most local issues were used to trade votes among the legislators to resolve the statewide issues. The situation became so troubling the Maryland Bar Association published a report titled "*The Evils of Special and Local Legislation*," urging reform of the legislative system.

Coincidentally with the Maryland Bar Association's initiative was a "grass-roots" effort across the country aimed at returning government to the people. Through these two efforts, external pressures were sufficient enough to bring about a change. In 1914, the General Assembly drafted an amendment to the Maryland Constitution and the voters subsequently ratified it. The amendment was designated as Article XI-A, which outlined charter home rule for counties. The initial Article XI-A language was vague and incomplete. The Article did not provide a grant beyond the authority to establish the number, compensation, and duties of a county council. To address the deficiencies and better clarify the General Assembly's intention, Article 25A, Chartered Counties of Maryland, was created in 1918 to define and delegate certain powers to the county council.

The charter of a county is best described as a constitution of sorts. Charters cover executive and legislative functions as well as the structure and organization of county government. County ethics, personnel, fiscal and purchasing matters are often addressed. Article XI-A of the Maryland Constitution allows the voters of each county to adopt a charter under which a locally elected council is authorized to legislate on local matters expressly authorized by the General Assembly. There may be an elected executive or an appointed county manager as prescribed in the charter.

Significant to this form of home rule are the text and issues addressed in the county charter. The charter document can be very expansive or written in such a manner that Charter is basically no different than the Commissioner form of government. Since the voters must ratify the charter document through a referendum vote, the language in the document becomes very controversial throughout the adoption process. Historically, and our research has proven, failure to adopt a Charter form of government rests with two main issues: something specific in the charter document being too offensive or the charter being viewed as "big government."

The theory behind the principal of Home Rule is that the closer those who make and execute the laws are to the citizens they represent, the better those citizens represented are served. It is said that since the opportunity for popular participation and maximum public awareness of government is greatest at the local level, the likelihood of

governmental arbitrariness and imposition is diminished by strengthening local political control over local concerns.

The Home Rule Amendment was intended to secure to the citizens of Maryland “the fullest measure of local self-government” in respect to their local affairs. Nevertheless, that intent was not fully carried out. While certain law-making authority was clearly transferred from the General Assembly to those counties adopting a charter, that authority is restricted and subject to revocation. In short, the Constitution gives the citizens of a county the authority to determine how their local government will be constituted and gives the General Assembly the authority to define the scope of power a charter government can exercise, but reserves to the General Assembly the power to limit that authority or even to take it away.

Code Home Rule:

From 1918 through 1964, only two counties had adopted Charter Home Rule. Troubled by the growing number of local legislative issues once again, the General Assembly appointed a committee to evaluate the home rule process and offer recommendations to correct the problem. They determined that, overall, the Charter Home Rule initiative was unsuccessful. They cited several factors in the failure of the state to convince local jurisdictions to adopt home rule: the charter making procedures outlined and required by the Maryland Constitution were believed to be too cumbersome; the political windstorms that arose whenever the content of a charter came under public scrutiny overshadowed the intended improvements to government processes; and a general reluctance to change the traditional form of government. In response, the committee urged the adoption of a new form of home rule that would provide home rule powers without the framework of a charter system.

Article XI-F of the Maryland Constitution, the Code Home Rule Amendment, was adopted in 1966 as an alternate form of county home rule that combined the devices used in both Charter and Municipal Home Rule. Similar to Municipal Home Rule, a broad grant of home rule powers was conveyed by the Maryland Constitution. Also like Charter Home Rule, a list of express powers was provided under statute. A significant difference between Code and Charter or Municipal Home Rule is the absence of a charter document.

This form of government is considered a compromise between those elements of a county who yearned for self-government and those who believed in the so-called checks and balances imposed by having a state legislative delegation represent the county in Annapolis on matters of statewide and local interest.

Under Code Home Rule, the county commissioners retain their elected legislative and executive functions. The legislative process is better defined and considered to be more open for the benefit of the citizens.

General Powers and Duties of Each Form of Government.***Commissioner:***

While a board of county commissioners exercises both executive and legislative functions defined by state law, and may enact ordinances, its legislative power is limited to those areas authorized by the General Assembly, enabling legislation, or public local laws. Article VII of the Maryland Constitution provides for the office of county commissioner, leaving to the Legislature the power to define the scope of the powers and duties of commissioners and to set their compensation. Article 25 of the Annotated Code of Maryland addresses the powers and duties of county commissioner governments throughout Maryland. The Code of Public Local Laws pertains to each county individually and specifically. As a practical matter, Commissioner counties have been granted extensive statutory authority to handle local matters under public general and local laws. However, significant variations in authority exist among individual counties and, in interpreting that authority, courts will strictly construe the scope of the authority granted.

The General Assembly implemented this power by enacting Article 25 of the Annotated Code of Maryland and a Code of Public Local Laws for each county. These laws generally describe the powers, duties, and limitations on the authority of the various boards of county commissioners. Article 25 addresses the powers and duties of county commissioner governments throughout the state. The Code of Public Local Laws is divided into different articles, each directly applicable to a specific county. If there is a conflict between a public local law, as enacted by the General Assembly and any of the general laws of the State of Maryland, then the public local law usually prevails.

Some laws require a board of county commissioners to act, while others merely give the board power, which it may exercise in its discretion. In some contexts, the courts have determined the board's power to act means it must act or be liable for failing to do so. Maryland follows a principal of law known as "Dillon's Rule," which describes the scope and limitations on the powers of local government and a board of county commissioners. Dillon's Rule holds that a board of county commissioners has only those powers that are granted to it by law or that arise by necessary implication from that law. Thus, unless there is an express grant of power to the county commissioners or a statute that implies a grant of power to the county commissioners, the power does not exist. For example, the commissioners are given the power to create officers and departments. Implied powers are those powers necessary to enable the commissioners to perform the duties imposed upon them.

Article 25, § 3, sets out what are described as the express powers of the county commissioners. The powers provided for in § 3 are by no means exclusive, but contained in one place, form a significant number of county commissioners' express powers. This is important, as under the Commissioner form, unless there is an express grant of power or a statute that implies a grant of power, county commissioners have no right to act. Express power is specifically defined and given. Implied powers are those necessarily implied for proper exercise of those powers expressly conferred. Article 25 powers, while not exclusive, form a significant number of powers granted to county government. Commissioner counties have been afforded a significant amount of local authority and discretion in addressing local affairs, something referred to as "statutory home rule." However, these powers are more limited than those available to counties adopting either charter or code home rule. The powers of local government, in a commissioner form, derive entirely from the state.

It once was held that county commissioners could not delegate statutory duties imposed on them, but could delegate only those duties that are purely clerical, ministerial, and executive and do not involve the exercise of discretion. With the development of government on the state and federal levels into organizations that have delegated broad authority to officers and employees, there is some reason to question whether the county commissioners would still be prohibited from delegating powers to officers and employees of the county. Even with more relaxed rules for delegation of powers, it may still be said that no elected official may delegate his or her legislative responsibility to anyone, but may, with appropriate standards in place, delegate the power to adopt regulations to administrative officials.

The county commissioners may act by ordinance, resolution, motion, or order, depending upon the nature and purpose of the act or whether the statute that delegates the power to act requires a specific form of action. At the same time, the fact a particular action is labeled an ordinance or resolution has no bearing on the actual nature of the action. In other words, calling a document an ordinance does not necessarily make it so. Generally, an ordinance constitutes a law that is passed by a board of commissioners based on the authority given it to enact legislation, as delegated by the General Assembly.

In addition to Article 25 and the code of public local laws applicable to a commissioner county, there are many other sources of power in the Annotated Code. The General Assembly has conferred a great deal of local authority upon the respective boards of county commissioners. They have "charge of and control over the property owned by the county, and over county roads and bridges." With some exceptions and subject to state law, they have authority to appoint and remove county officers and employees, to fix the compensation of such officers and employees, to grant franchises, to collect county taxes, to receive, audit, and pay claims against the county, to prevent and remove nuisances, to provide for a county police force, to enact county ordinances, to

establish and maintain parks and recreation areas, to provide for refuse collection, to create, change, or abolish county offices and departments, to adopt and enforce building, plumbing, and electrical codes, to operate flood prevention projects, and to undertake industrial redevelopment projects. Pursuant to enabling authority enacted from time to time by the General Assembly, they may borrow money and issue bonds secured by the full faith and credit of the county. All of this is in addition to their authority under Article 66B of the Maryland Code to enact, administer, and enforce zoning and land use laws.

Charter Home Rule:

Through at least the early part of the 20th century, before counties were delegated many of the powers now found in Article 25, § 3, counties were considered to be mere administrative instrumentalities of state government, public corporations, subject at all times to the plenary control of the Legislature and possessing only those limited powers that had been delegated by the General Assembly. The express powers for Charter counties are contained in Article 25A, § 4 and 5, of the Annotated Code of Maryland. A county charter cannot expand the powers granted under the Express Powers Act. Charters may be amended by the voters and amendments may be proposed by either the council or voters.

Article 25A grants twenty-eight express powers to a Charter county. Among the most significant is the power to repeal or amend local laws previously enacted by the General Assembly. Another very significant power is a “general welfare” clause, which allows the county council to enact any law not in conflict with the laws of the state “as may be deemed expedient in maintaining the peace, good government, health, and welfare of the county.” This authority is also called the “police power” and provides general enabling authority for many Charter government enactments.

It is significant to note a charter may not grant citizens of a county the power of initiative. Initiative is inconsistent with the Maryland Constitution. Nor may the voters legislate through the charter amendment process. A charter may, however, authorize citizens of a county to petition a legislative enactment to referendum, similar to the constitutional right of citizens of the state to petition certain legislation passed by the General Assembly to referendum. The charter specifies the types of laws that may be petitioned to referendum.

Code Home Rule:

Code Home Rule enables counties to exercise broad local legislative authority. Home rule means self-government over local affairs: local control over purely local subjects.

Home rule powers for Code counties are similar, but not identical, to those available under the Charter form. The acquisition of these powers is not conditioned on the creation and approval of a charter, and no governing document similar to a charter exists (Tervalo, 2001, p. 9). Unlike a Charter county, Code counties' legislative authority is derived from two sources: (1) from the General Assembly, primarily under Article 25B of the Annotated Code of Maryland; and (2) from Article XI-F of the Maryland Constitution. In addition to other powers a Code county may otherwise possess under public general or public local law, a Code county is granted most of the powers Charter counties have under Article 25A, § 5, known as Express Powers Act. Article 25B, § 13 of the Annotated Code of Maryland applies provisions of the Express Powers Act to Code counties other than Article 25A, § 5(A), (P) and (S) of the Annotated Code of Maryland. Article 25A, § 5(A) deals with passage of legislation and § 5(P) deals with general obligation debt. Both of these powers are granted Code counties under alternative provisions of law (Department of Legislative Services, 1998, pp. 34-35). Article 25A, § 5(S) deals with amendments to a county charter, which a Code county does not have.

While the commissioners in a Code county have the authority to enact laws, confusion exists as to whether they have the authority to exercise the police power under the authority of Article 25B. Because this form of government is relatively recent, there are few court decisions or treatises that discuss the extent of authority of a board of county commissioners acting under this form of home rule. Specifically, the Constitution in Article XI-F, § 6 authorizes a Code county "to enact, amend, or repeal a public local law of that county" without limitation, however, language in Article 25B limits that power

Thus arises the question of whether Code Home Rule counties are authorized to exercise the "police power." If the Constitution intends to delegate the police power to a Code county, the limitation in Article 25B is either unconstitutional or was not intended to restrict the authority of the county commissioners, but intended only to remove the inapplicable delegation of authority to amend the "charter." This conflict has not yet been resolved in any reported case. Whether a Code county possesses the "police power" is an important question to resolve, as it is the police power that gives a Charter county its greatest theoretical independence from domination by the General Assembly. A grant of constitutional power to control matters of incorporation, organization, and government may encompass whatever subject matter might be contained in a general welfare clause (Tervalo, 2001, p. 38).

Like a Charter county, a Code Home Rule county may exercise its legislative power on no more than 45 days during a calendar year. Unlike a Charter county, where

this limitation is set out in the Constitution, in a Code county, the legislature may not modify this restriction. The method of enacting legislation in a Code county is laid out specifically in Article 15B, § 10, which describes the form of each bill and the procedure for passing regular and emergency legislation. As with its other powers, the General Assembly retains the right to modify this procedure.

Prohibition on the General Assembly under Home Rule.

Under either home rule option in Maryland, the General Assembly is prohibited from enacting laws on matters of a purely local nature. This limitation exists to preserve local autonomy over home rule issues, even when state officials believe the public interest is best served by state legislation on a matter, rather than local legislation. Nonetheless, this limitation on the state legislature is not unassailable. It can be mitigated or even circumvented entirely by the General Assembly, in some cases (Tervalo, 2001, p. 41).

For Charter counties, the General Assembly is prohibited from enacting any law on any home rule subject if the law would affect a single home rule county. But notice that this limitation on the General Assembly applies only to home rule subjects covered by the enumerated powers of Article 25A. The state is free to pass any law it wants on any other subject that affects a single county. Notice, too, that the restriction relates to laws passed for a single Charter county. The General Assembly can enact laws on any subject – even home rule subjects (enumerated powers) – if the law applies to two or more counties (Tervalo, 2001, p. 42). Additionally, all enumerated powers delegated to a Charter county are granted by the General Assembly through the annotated code of Maryland. If the state wished to do so, it could simply modify the language contained in Article 25A to revise, eliminate, or add various powers.

For Code counties, restraints placed on state action are similar to those of Charter counties, but the restraints are not identical. Unlike Charter counties where the state can only enact a home rule subject if the law applies to two or more Charter counties, a similar law would not be permitted for Code counties unless it applied alike to all Code counties contained in one or more classes of Code counties. This is a significant diversion from the Charter form of government. The General Assembly may enact a law that applies to a given class, when its actual intention is to legislate for a given county.

Appendix E

Procedures for Adopting Home Rule

The Forms of Government Task Force, Report to the Board
of County Commissioners, August 2007

APPENDIX E – PROCEDURES FOR ADOPTING HOME RULE

Charter Home Rule.

The Maryland Constitution provides two procedures for adopting Charter government. Either can be used, although the original set of procedures has not been used since the early 1970s. This is because the original procedure is a comparatively involved, lengthy process in which several referenda are required, and the county commissioners cannot, under their own authority, simply appoint a charter board (Tervalo, 2001, p. 73). As shown below in Table E-1, the alternate procedures eliminate these concerns and streamline the original process.

Table E-1 – Adoption of Charter Home Rule under the Constitution of Maryland

<i>Process</i>	<i>Article XI-A, § 1</i>	<i>Article XI-A, § 1A</i>
Initiation of Process: Proposal of Charter Board	Petition by 20% or 10,000 voters, whichever is less, requires governing body to nominate charter board. Charter board consists of five members.	At any time, the county commissioners may appoint charter board members consisting of uneven number of members, ranging from five to nine; OR petition by 20% or 10,000 voters, whichever is less. Appointments must be made within 30 days of receipt of petition.
Nomination of Charter Board	Nominations by governing body to be received not less than 40 days before election, and by voter petition, not less than 20 days before election.	When the governing body appoints a charter board, additional nominations may be made by a petition signed by 3% or 2,000 voters, whichever is less, and delivered within 60 days after the board is appointed.
Election of Charter Board and its Membership	Next general or congressional election. If no more than five nominations are received, the nominees constitute the charter board. Sole question is whether to create a charter. If more than five nominations, the voters must determine whether to create a charter board and the membership of the board.	No sooner than 30 days and no later than 90 days after receipt of petition. Election unnecessary if no additional nominations received. (Voters do not have an opportunity to decide whether a charter board should be created.)
Result of Election	If majority favor creating a charter board, the top five vote getters constitute the charter board. If only five nominees, no vote on the board members. If majority is against creation of charter board, election of board members is void, and the process ends.	Top vote getters equal to the number of board members initially appointed constitutes a charter board.

<i>Process</i>	<i>Article XI-A, § 1</i>	<i>Article XI-A, § 1A</i>
Drafting of Charter Document	Within 18 months of election, charter board must prepare and submit proposed charter to the board of county commissioners.	Within 18 months of election, charter board must prepare and submit proposed charter to the board of county commissioners.
Publication of Proposed Charter	Within 30 days of receipt, proposed charter must be published in at least two newspapers of general circulation in the jurisdiction.	Within 30 days of receipt, proposed charter must be published at least twice in one or more newspapers of general circulation in the jurisdiction.
Election on Proposed Charter	Next general or congressional election.	Special or regular election held no sooner than 30 days or more than 90 days after publication.
Result of Election	If majority favor adoption of charter effective on the 30 th day from the date of election. If majority reject adoption of charter, process ends.	If majority favor adoption of charter, charter effective on the 30 th day after date of election or later date specified in the charter. If majority reject adoption of charter, process ends.

Source: Department of Legislative Services, Maryland Local Government: Structure and Power. pp. 29-30

Code Home Rule.

The procedures for adopting Code Home Rule were intended to be simple, and they are. The procedures are codified in Article XI-F, § 2 of the Maryland Constitution and are summarized in Table E-2 below.

Table E-2 – Adoption of Code Home Rule under Article XI-F of the Maryland Constitution and Article 25 of the Annotated Code of Maryland

<i>Process</i>	<i>Action</i>
Initiation of Process; Authority	Article XI-F, § 2 of the Maryland Constitution, along with Article 25B, § 3 of the Annotated Code of Maryland, gives the board of county commissioners authority to propose Code Home Rule by resolution of a two-thirds majority of the board.
Notice of Proposed Resolution	Under Article 25B, § 4 of the Annotated Code of Maryland, the board must publish notice containing the dates, times, and places of public hearings concerning at least three times, and not more than 30 days before the first hearing, in at least one newspaper of general circulation in the county.
Public Hearings on Proposed Resolution	The board shall hold at least two public hearings on the question of Code Home Rule.
Adoption of Resolution	Within 60 days from the last hearing, the board must adopt or reject the proposed resolution. Adoption requires two-thirds majority of the board.
Election	Following adoption by the board, the resolution must be submitted to the voters at the next general election, provided Charter Home Rule is not on the ballot. Ballot allows voters to choose, “for adoption of Code Home Rule status” or “against adoption of Code Home Rule status.”

<i>Process</i>	<i>Action</i>
Consideration of Charter Home Rule: Effect on Process	If a proposed charter under Article XI-A of the Maryland Constitution is to be on the ballot, only the proposed charter will be submitted to the voters. If the charter is adopted, the Code resolution has no effect. If the proposed charter is rejected, the proposed resolution shall be submitted to the voters at the next general election.
Result of Election	Within ten days after receiving certification of election results, the board shall proclaim the results. If a majority favors adoption of the proposed resolution, the county becomes a Code Home Rule county on the 30 th day after the proclamation. If a majority rejects adoption of proposed resolution, the process ends.

References.

Garner, B.A. (Ed). (2004). Black’s Law Dictionary, 8th Ed. St. Paul, MN: West, a Thomas Business

Board of County Commissioners. (August 9, 2005). *Regular session meeting minutes for August 9, 2005*. Retrieved September 20, 2005, from <http://www.washco-md.net/commissioners/minutes/2005/050809.shtm>

Board of County Commissioners. (September 28, 2005). *Regular Session Meeting Minutes for September 28, 2005*. Retrieved October x, 2005, from <http://www.washco-md.net/commissioners/minutes/2005/050928.shtm>

Charles County, MD. (2005). Retrieved September 20, 2005 from <http://www.charlescounty.org/commissioners/codehomerule/default.htm>

Department of Legislative Services (1998). *Maryland Local Government Structure and Powers*, Annapolis, MD: Department of Legislative Services

Elections Board. (October 20, 2005). Election records [Data file]. Washington County, MD: Board of Elections Supervisors

Maryland Manual (1997). *Constitution of Maryland*. Retrieved September 22, 2005 from <http://www.mdarchives.state.md.us/msa/mdmanual/43const/pdf/const.pdf>

Maryland Archives (2005). *Maryland at a Glance*. Retrieved September 22, 2005 from <http://www.mdarchives.state.md.us/msa/mdmanual/01glance/html/govern.html>

Maryland Association of Counties. (2005). Forms of Government. Retrieved October 5, 2005 from http://www.mdcounties.org/counties/forms_of_government.cfm

Michie’s (2005). Michie’s Annotated Code of Maryland – 1957, 2005 Replacement volume, Volume 1. Charlottesville, VA: Lexis-Nexis Group

Project Charter (November 16, 2005). *Project Charter: The Task Force on Code Home Rule*. Hagerstown, MD: Board of County Commissioners for Washington County, MD

Reilly, T. (September 17, 2003). Commissioners Veto Home Rule Proposal. Hagerstown, MD: Herald-Mail

Tervalva, V. K. (2001). *Home Rule Options in Maryland*, 2nd Ed., College Park, MD: Institute for Governmental Services, University of Maryland

Appendix F

Comparison of Home Rule versus Commissioner Forms of Government

The Forms of Government Task Force, Report to the Board
of County Commissioners, August 2007

**APPENDIX F – COMPARISON OF HOME RULE VERSUS COMMISSIONER
FORMS OF GOVERNMENT**

Table F-1 – Commissioner versus Home Rule Forms of Government

<i>Issue</i>	<i>Commissioner Article 25</i>	<i>Charter Home Rule Article 25A</i>	<i>Code Home Rule Article 25B</i>
Appointment of Officers of the County	Commissioners are declared to be a corporation and may appoint officers, such as: a road supervisor, collector of taxes, trustee for the poor, clerk of the board, and other officers not provided for in state law.		
Structure of Government	Specified in state law. General Assembly may determine through legislation.	Determined by the charter. Six of eight counties have an elected executive and county council. Remaining two counties have elected council, which retains both the legislative and executive powers.	Commissioners determine structure through local enactments. County commissioner title retained.
Public Local Laws	Commissioner authority limited. General Assembly has full power to legislate for county. Commissioners may enact ordinances where authorized by express powers enabling legislation, or specific public local laws.	Broad legislative power vested in the county council – General Assembly may enact laws for a single Charter county on a subject not contained in their express powers outlined in Article 25A.	Commissioners can enact, amend, or repeal local laws on a wide array of matters. Most powers granted Charter counties also granted to Code counties. General Assembly may still enact public local laws covering an entire class of Code counties, but not for one single Code county.
Bonding Authority	General Assembly must specifically authorize. No statutory limitation.	Charter must authorize issuance of general obligation debt and controls whether or not debt needs to go to public referendum. Debt may not exceed 15% of assessable base.	Commissioner authorizes. No statutory maximum, but General Assembly may establish a limit. Subject to local referendum if petitioned by 10% of the voters.
Tax Caps	General Assembly may establish.	General Assembly must establish, except in Baltimore and Montgomery Counties.	Commissioners may not enact. General Assembly may, however, enact a tax cap for a Code county.

<i>Issue</i>	<i>Commissioner Article 25</i>	<i>Charter Home Rule Article 25A</i>	<i>Code Home Rule Article 25B</i>
Referenda	Public local laws subject to referendum if petitioned to secretary of state by 10% of registered voters. General Assembly may enact public local laws contingent on approval at referendum.	Article 25A, § 8 – all legislation subject to referendum upon petition of county voters or as per the charter.	All legislation subject to referendum if petition is filed with Board of Election Supervisors by 10% of registered voters.
Enact New Taxes, License or Franchise Fees	General Assembly authorization required.	General Assembly authorizes except for Baltimore and Montgomery Counties.	General Assembly authorization required. Cannot create new taxes, license or franchise fees not authorized at time county gets Code Home Rule status.
Tax Credits	General Assembly authorization required.	General Assembly authorization required, except Baltimore and Montgomery County	General Assembly authorization required.
Impact Fees	General Assembly authorization required.	General Assembly authorization required, except Baltimore and Montgomery County	Commissioners may establish.
Planning and Zoning Authority	Subject to state law, Article 66B.	Permits enactment of local legislation relating to planning and zoning with specific restrictions, when not addressed in the charter subject to state law, Article 66B.	Subject to state law, Article 66B.
Declare/Levy Civil Infractions/Fines for Enforcement of Laws	General Assembly must specifically authorize.	General Assembly must specifically authorize.	Commissioners may enact subject to limitations.
Excise Tax	General Assembly must authorize.	General Assembly must authorize, except Baltimore and Montgomery Counties.	Commissioners may enact a school construction excise tax (up to \$750 per lot) if not already levying a development impact fee. May also enact an agricultural excise tax (up to \$750 per lot) for purchase of TDRs if county is not levying a development impact fee.

Report to the Board of County Commissioners
for St. Mary’s County, Maryland, August 2007

Comparison of Home Rule versus
Commissioner Forms of Government

<i>Issue</i>	<i>Commissioner Article 25</i>	<i>Charter Home Rule Article 25A</i>	<i>Code Home Rule Article 25B</i>
Formality of Legislative Process/Procedures	Informal – Much less specific in law than home rule. No provisions covering legislative days, emergency bills, publication of proposed bills.	As defined in the charter document approved by the voters.	Formal – Annotated Code specifies precise format, maximum number of legislative sessions, public notification requirements, provisions for emergency bills, effective dates, publications of proposed bills, etc.
Number of Commissioners, Method of Election, Alternative Form of Board Composition	General Assembly determines.	As defined in the charter document approved by the voters.	Commissioners may determine through enactment of public local law.
Compensation of the County Commissioners	General Assembly sets. Informal salary board may be established to make recommendations to the General Assembly.	As defined in the charter document approved by the voters.	Commissioners may enact recommendation of a salary commission established by ordinance.
Compensation of the County Officers and Employees	Subject to restriction or provision imposed by the general public, compensation to county officers and employees may be determined by the county commissioners. Enumerated power controlled by the General Assembly.	As defined in the charter document approved by the voters.	Commissioners may establish salaries of officers, excepting the sheriff and state attorney who are considered agents of the state.
Process to Change Form of Government	Defined by the General Assembly and the Maryland Constitution.	As defined in the charter document approved by the voters.	Requires hearing on changing form and vote at a general election. Upon adoption, no change in structure required. No formal document drafted or voted on.
Ability to Establish Separate Police and Corrections Departments	May appoint a county police force, prescribe the duties, and fix their compensation. Enumerated power controlled by the General Assembly.	As defined in the charter document approved by the voters.	Corrections department or warden may be established through enactment by commissioners of a public local law. Police department still requires General Assembly approval.

Appendix G

Financial Impact

The Forms of Government Task Force, Report to the Board
of County Commissioners, August 2007

APPENDIX G – FINANCIAL IMPACT

Form of Government County	BUDGET				
	Commission / Council	County Exec/Admin	Population	Per Capita	Mean Variance
<u>Commissioner</u>					
St. Mary's	1,092,429	Included in 1,092,429	99,000	11.03	0.95
Cecil	403,702	198,472	85,951	6.99	-3.09
Calvert	\$356,399	\$262,649	87100	7.11	-2.97
<u>Code Home Rule</u>					
Charles	\$368,400	\$1,089,100	140,000	10.41	0.33
<u>Charter</u>					
Ann Arundel	\$1,893,300	\$4,027,600	509300	11.63	1.55
Montgomery	\$8,177,940	\$4,594,220	933000	13.69	3.61
Wicomico	\$407,708	\$481,234	91957	9.67	-0.41

Mean: 10.08 All forms
Standard Deviation: 5.83 All forms