IN THE COURT OF APPEALS OF MARYLAND

SEPTEMBER TERM, 2021

NO. 63

PRINCE GEORGE'S COUNTY,

Petitioner,

v.

ROBERT E. THURSTON, JR. *ET AL.*,

Respondents.

ON WRIT OF CERTIORARI FROM THE CIRCUIT COURT OF PRINCE GEORGE'S COUNTY, MARYLAND

RESPONDENTS' BRIEF

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INTRODUCTION

The trial judge correctly ruled that the County Council could not substitute the independent Redistricting Commission's plan with its own redistricting map by passing a resolution instead of enacting a bill. The court rejected the Council's attempt to circumvent the County Charter's requirement that a bill, subject to executive veto, be used to override the Commission's plan with its own map.

The Council has historically followed this Charter-mandated process, always using a bill in the past when substituting its own plan for the Commission's plan. It introduced a bill here as well, CB-115-2021. But the Council quickly abandoned the bill, choosing instead to introduce a resolution not subject to executive veto. The Council relied upon a one-sentence charter amendment adopted in 2012 to justify using a resolution instead of a bill. That amendment, CB-55-2012, amended Section 305 to add the words "[s]uch law *shall* be adopted by resolution of the County Council upon notice and public hearing." (emphasis supplied).

But CB-55-2012 limits the use of a resolution to the singular instance where the Council confirms for the record the fact that the Commission's plan has become law because the Council has enacted "no other law." "If the Council passes no other law changing [the Commission's plan]" by the last day of November, then the Commission plan "shall become law….as an act of the County Council[,]" by the adoption of a "resolution" subject to Sections 320 and 321, the publication and codification provisions of the Charter.

Prior to the 2012 amendment, the Charter was silent about what "act of the County Council" would confirm that the Commission's plan had "become law" and what exactly should be published and codified. CB-55-2012 filled this void, adding this single sentence: "Such law shall be adopted by resolution of the County Council upon notice and public hearing." By confirming the adoption of the Commission's plan by a resolution, CB-55-2012 also expressly exempts this purely ministerial act of the Council from the unnecessary process of an executive signature or veto.

The vehicle of a simple Council resolution is appropriate to merely acknowledge, confirm and codify that this default event had occurred, and that because the Council passed no "other law," the Commission's plan became law. It is consistent with the Charter's treatment of resolutions. It is also in sharp contrast to a decision by the Council to adopt an entirely different councilmanic redistricting map, which is, by definition, a legislative act requiring a bill, and subject to executive veto.

The Council wants to read more into this. The Council likened Section 305 to the Maryland Constitution's requirement that the General Assembly must adopt its own redistricting plan by resolution. Petition for Certiorari, Pet. App. at 138. But in contrast to Section 305 of the Charter, which expressly requires the Council to pass a "law" if it wishes to override the Commission's plan, the Maryland Constitution requires the General Assembly to act by joint resolution, with the attendant checks and balances. *See* Md. Const., Art. III, Sec. 5.[1]

[1] Art. III, Sec. 5 provides in pertinent part that " … [t]he General Assembly may by joint resolution adopt a plan setting forth the boundaries of the legislative districts for the election of

The problem here is not that the Council tossed aside the Commission's redistricting plan—this has happened before. The problem is *how* the Council did it, without passing a bill as required, as it historically has done.

QUESTION PRESENTED

Under CB-55-2012, could the Council validly pass its own redistricting map by resolution, or was a bill required by the County Charter?

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Since the inception of home rule government in 1970, the Prince George's County Charter has given primary responsibility for the redistricting process to an independent commission.[2] Although Section 305, the redistricting provision of the Charter, has been

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members of the Senate and the House of Delegates[.] In 1992, when the General Assembly failed to enact a joint resolution with its own plan after receiving the plan from the Governor's legislative redistricting commission, the commission's map became law. *See In re Legislative Redistricting Cases*, 331 Md. 574, 629 A.2d 646 (1993).

[2] Although the composition of the Council has changed over the years, there have been councilmanic districts in one form or another since the adoption of the Charter in 1970. The original Council elected on January 26, 1971 consisted of eleven members, six of whom ran at large but were elected from "residency" districts, and five of whom were at large, and consisted of the five individuals elected on November 3, 1970 to the Board of County Commissioners, which was simultaneously abolished by the adoption of the Charter on that same date. The six members from "residency" districts were required to reside in their districts but ran at large, because the Maryland Constitution had not yet authorized election by councilmanic districts in charter counties See 61 Op. Atty Gen. 264 (1976). In 1977, the General Assembly enacted House Bill 190 (Ch. 682), which proposed an amendment to Art. XIA, Sec. 3A of the Maryland Constitution permitting election by councilmanic districts in Prince George's. That amendment was ratified in the 1978 general election. In the 1980 general election, Prince George's County voters adopted Question K, a citizens' initiative amending the Charter to reduce the size of the Council from eleven to nine members, all to be elected from individual councilmanic districts. In the 2016 General Election, the voters adopted Question D, amending the Charter to add two at-large members to the existing nine members elected from councilmanic districts. This eleven-member body remains the current composition of the Council.

amended four times, its basic provisions remain the same. A commission is appointed with at least two members from any political party polling at least fifteen percent of the vote in the preceding regular County Council election. By September 1 of the year prior to redistricting becoming effective, the Commission shall "prepare, publish and make available a plan of council districts." Sec. 305. The plan shall provide for Council districts that are "compact, contiguous, and equal in population." *Id*.

After the plan is submitted to the County Council, the Council is required to hold a hearing on the plan in "no less than fifteen calendar days and no more than thirty calendar days." *Id*. If the Council passes "no other law" changing the Commission's plan by the "last day of November," then the Commission's plan automatically "become[s] law … as an act of the Council" subject to the Charter's requirements of publication and codification. Sec. 305. Up until the 2012 amendment was ratified by the voters in CB-55-2012, the exact "act of the Council" acknowledging this act was undefined and the resulting publication and codification requirements were undefined, too.

The independent commission process in Section 305 mirrors those in nine of the ten charter counties besides Prince George's County.[3] The framers of Section 305 appear

[3] *See* Resp. App. at 163-71. Anne Arundel County Charter, Art. II, § 207; Baltimore County Charter, Art. II, Sec. 207; Cecil County Charter, Art. II, Sec. 214; Dorchester County Charter, Art. II, Sec. 213; Frederick County Charter, Art. II, Sec. 214; Howard County Charter, Art. II, Sec. 202; Harford County Charter, Art. II, Sec. 204; Montgomery County, Art. I. Sec. 104; and Wicomico County Charter, Art. II, Sec. 201. Talbot County's five-person County Council is elected at large. *See* Talbot County Charter, Art. II, § 204. As Judge Smith noted in *Harford County v. Board of Supervisors*, these charter provisions are "reminiscent" of a similar plan proposed at the failed 1967 Maryland Constitutional Convention. 272 Md. 33, 321 A.2d 151, at n.1 (1974), citing Art. III, Sec. 3.05 of the proposed 1967 Maryland Constitution. These independent redistricting commissions were decades ahead of their time. Today, independent redistricting commissions "are at the forefront of an ever-escalating reform strategy of purging

to have specifically modeled this after the approach in Section 104 of the Montgomery County Charter.[4]

The charter counties with similar provisions use legislative vehicles to implement the commissions' plans. Some become law by a normal legislative vehicle, while others require enactment of a bill that is exempt from executive veto. *Cf*. Baltimore County Charter Sec. 207 ("The final redistricting plan adopted by the county council is not subject to the executive veto provided in Article III") *with* Montgomery County Charter Sec. 104 ("If within ninety days after presentation of the Commission's plan no other law

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politics from redistricting: injecting greater degrees of separation between line-drawers and partisan politics." Emily Zhang, *Bolstering Faith with Facts: Supporting Independent Redistricting Commissions with Redistricting Algorithms*, 109 CAL. L. REV. 987 (2021).

[4] *See* Charter Board Minutes, April 21, 1969, Resp. App. at 4. "The Board voted 4-0 to establish a reapportionment commission, similar to the Montgomery County proposal …." Section 104 of the Montgomery County Charter provides that

> The boundaries of Councilmanic districts shall be reestablished in 1972 and every tenth year thereafter. Whenever district boundaries are to be reestablished the Council shall appoint, not later than February 1 of the year prior to the year in which redistricting is to be effective, a commission on redistricting, composed of three members from each political party chosen from a list of five names submitted by the central committee of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the last preceding regular election. The Council shall appoint one additional member of the Commission. The Commission shall, at its first meeting, select one of its members to serve as chairman. No person who holds any elected office shall be eligible for appointment to the Commission.
>
> By November 15 of the year before the year in which redistricting is to take effect, the Commission shall present a plan of Council districts, together with a report explaining it, to the Council. Within thirty days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If within ninety days after presentation of the Commission's plan no other law reestablishing the boundaries of the Council districts has been enacted, then the plan, as submitted, shall become law.

reestablishing the boundaries of the Council districts has been enacted, then the plan, as submitted, shall become law").

Since the adoption of the Charter, the Prince George's County Council has substituted its own plan for the Commission's plan after two of the four censuses before 2020. In 1981, the Council passed CB-184-1981 by a vote of 7-3, with one abstention. Resp. App. 111-115. CB-184-1981 was a slightly different plan than the one submitted by the Commission. *Id*. Then-County Executive Lawrence J. Hogan, Sr. allowed the plan to become law without his signature[5] because he said he faced a "Hobson's choice," between the Council's plan and the Commission plan, neither of which he agreed with. Resp. App. 132.

There were redistricting commissions appointed by resolution in 1990 and 2000. CR-8-1991 and CB-5-2001. Resp. App. 152-157. The Council's Legislative Information System contains no subsequent action in those two years concerning redistricting, so presumably the Commission's plans in 1991 and 2001 automatically became law by inaction of the Council.[6] The 2001 version of the Code contained an "Editor's Note"

[5] Section 411 of the Charter provides that a bill will become law if the County Executive neither signs nor vetoes it within ten days following presentation from the Council.

[6] The Council obviously did not meet the requirement in Section 305 in those years to have the Commission plan "become law" and published and codified after notice under Sections 320 and 321 of the Charter because nothing appears to have been codified. This is undoubtedly what led to the passage of CR-55-2012, providing the vehicle of a simple resolution to codify the fact of the Commission plan becoming law by inaction of the Council by the last day of November. *See*, Editor's Note, Sec. 305, Resp. App. at 163. ("Members of the 2011 Prince George's County Redistricting Commission were appointed by CR-2-2011. CB-64-2011 adopted the 2011 County Council Redistricting Plan.").

from the Code publisher about the 2001 plan, but there was no "Council action" to make the plan "become law," and have the law published and codified. CB-55-2012 corrected this exact problem, by ensuring there would be a legislative record where the Commission's plan became law.

In 2011, the Council passed CB-64-2011, adopting a different plan than the one submitted by the Commission. Resp. App. 158-161. CB-64-2011 was signed into law by County Executive Rushern Baker, III on November 4, 2011. Resp. App. at 162.

On January 28, 2021 the Prince George's County Council appointed[7] the County Redistricting Commission pursuant to Section 305.[8] Throughout the spring and summer of 2021, the Commission held eleven public meetings and two public hearings. The Commission received several written submissions, inquiries, and alternate redistricting plans to consider.

With the benefit of extensive public input, the Commission submitted their plan to the Council on September 1, 2021, accompanied by a 52-page report.[9] The Council held a

[7] Section 305 is silent about the method of appointment, but the Council appointed the Commission using a resolution, as is consistent with the Charter's use of resolutions for administrative appointments. *See* CR-006-2021 (appointing members to the 2021 Commission).

[8] David C. Harrington, president of the County Chamber of Commerce, and Dr. Charlene Dukes, former president of the Prince George's Community College and former chair of the Maryland State Board of Education, were appointed to the Commission as members, and Rev. James J. Robinson was appointed as the Chair of the Commission. Dr. Nathaniel Persily, the James B. McClatchy Professor of Law, Stanford Law School, served as consultant to the 2021 Redistricting Commission.

[9] *See* Redistricting Commission-Plan and Report https://pgccouncil.us/DocumentCenter/View/6648/2021-Redistricting-Commission-Report

hearing on the Commission's plan on September 28, 2021. The Commission's plan created nine councilmanic districts consistent with the data from the 2020 Census, and complied with the laws governing the redistricting process as set forth in Section 2 of the federal Voting Rights Act, and the redistricting criteria set forth by the Supreme Court.

On October 19, 2021, the Council introduced its own redistricting map as Council Bill CB-115-2021, and thus sidelined the Commission's plan. That same day, the Council introduced the same map in the form of a resolution, CR-123-2021. The Chair of the Council then announced that the bill was no longer necessary because of the introduction of the resolution. "CB-115-2021 is not necessary, and will be removed from the agenda, based on our earlier action regarding this very bill,"[10] and the Council took no further action on CB-115-2021.

The Council held a contentious public hearing on the resolution, CR-123-2021, on November 16, 2021.[11] Over 150 residents testified in opposition to the Council's map. No one testified in favor of the Council's proposed map.[12]

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[10] *See* Statement of Council Chair Calvin S. Hawkins, Jr., October 19, 2021, at 2:53:50. https://princegeorgescountymd.granicus.com/MediaPlayer.php?view_id=2&clip_id=2063&meta_id=314960.

[11] *See* Public Hearing on CR-123-2021, November 16, 2021, at 6:29:13. https://princegeorgescountymd.granicus.com/MediaPlayer.php?view_id=2&clip_id=2143&meta_id=326706.

[12] *See* Plaintiff's Memorandum in Support of Motion for Temporary Restraining Order and Preliminary Injunction, Pet. App. at 48 (citing Rachel Chason, *Accusations of gerrymandering have deepened divisions in this Democratic suburb near D.C.*," THE WASHINGTON POST, November 10, 2021).

The Council adopted its purported redistricting plan, CR-123-2021, by a vote of 6-3 on November 16, 2021. The citizen opponents, including Respondents here, were unable to petition the County Executive to veto the Council's action because there was no bill to veto. The Council used a resolution to take purely legislative action.

Respondents filed a complaint for declaratory judgment and writ of mandamus challenging the Council's use of a resolution and not a bill to enact their own map. Respondents are all citizens and registered voters of the County who were aggrieved by various aspects of the Council's map, including the division of Vansville, an historically African-American community, into two councilmanic districts,[13] and the division of Old Town College Park into two councilmanic districts.[14]

The Circuit Court held a hearing on January 28, 2022. The court found that the "operative facts were not in dispute" and that "the issue to be decided is strictly a question of law …." *See* Order of Court and Declaratory Judgement, Pet. App. at 124. The court held that the Council's resolution, CR-123-2021, "is not effective to the extent its intent is to serve as a "law … changing the Commission's plan." *Id*. It held that because "no other law" had been passed changing the Commission's plan, that the Commission's plan "became law" on the last day of November. *Id*.

Defendant Prince George's County noted an appeal on February 1, 2022, and the case was docketed in the Court of Special Appeals as *Prince George's County v.*

[13] Plaintiff's Complaint at ¶4. *See* Pet. App. at 28.

[14] *Id*. at ¶2. *See id*.

Thurston, et al., Sept. Term 2021, No. 1865. On February 7, 2022, Prince George's County filed a petition for certiorari. This court granted the petition on February 11, 2022, ordered expedited briefing, and set oral argument for March 4, 2022.

ARGUMENT

I. To override and change the Commission's redistricting plan, the Council had to pass a law.

The County Charter was adopted by the voters of Prince George's County on November 3, 1970. This Court has repeatedly recognized that a county charter is equivalent to a constitution. *See*, *e.g.*, *Save Our Streets v. Mitchell*, 357 Md. 237, 248 (2000); *Ritchmount Partnership v. Board*, 283 Md. 48, 388 A.2d 523 (1978). Like the federal constitution and the fifty state constitutions, the County Charter "provide[s] a broad organizational framework establishing the form and structure of government in pursuance of which the political subdivision is to be governed and local laws enacted." *Cheeks v. Cedlair Corp.*, 287 Md. 595, 607 (1980).

The Council cannot enact laws by any other means, except those provided in the Charter. Article XI-A, Section 2 of the State Constitution provides that the express powers granted to a charter county "shall not be enlarged or extended … but … by the General Assembly." *See also* Express Powers Act, Md. Code Ann. LOCAL GOVERNMENT (LG) §§ 10-101, *et seq*.

The County Charter provides that the Commission's redistricting plan becomes law if the Council enacts "no other law" changing the Commission's plan. A simple

resolution substituting the Council's own map for that in the Commission's plan is not a "law changing the [Commission's plan]."

Section 305 of the Charter plainly provides that unless the Council passes another law changing the Commission's plan, then the Commission's plan "shall become law, as of the last day of November.

> If the Council *passes no other law* changing the proposal, ***then the plan, as submitted, shall become law, as of the last day of November, as an act of the Council, subject to Sections 320 and 321***[15] of this Charter.

Sec. 305 (emphasis supplied).

In other words, *by operation of the law*, the Commission plan became law "on the last day of November" absent the Council's enactment of another law changing the Commission's plan. In no uncertain terms, the Charter declares that "if no ***other law***" changing the proposal were enacted, then the Commission's plan "as submitted" becomes law. [Emphasis supplied.]

Significantly, Section 305 of the Charter provided that the Commission's plan shall "become law … as an act of the Council" subject to only two other provisions of the Charter, Sections 320 and 321, which govern publication and codification *after* the plan became law. But prior to 2012, the Charter was silent as to what "act of the Council" should occur confirming the Commission plan had "become law" or how that action

[15] These sections require publication and codification after enactment, but none of the procedural requirements associated with legislation, such as publication or the executive veto.

would satisfy Section 305's requirement that it be published and codified under Sections 320 and 321.

The current full text of section 305 provides as follows:

> The boundaries of Council districts shall be reestablished in 1982[16] and every tenth year thereafter. Whenever district boundaries are to be reestablished the Council shall appoint, not later than February 1 of the year prior to the year in which redistricting is to be effective, a commission on redistricting, composed of two members from each political party chosen from a list of five names submitted by the Central Committee of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the immediately preceding regular election. The Council shall appoint one additional member of the Commission who shall serve as chairman. No person shall be eligible for appointment to the Commission if he holds any elected office. By September 1 of the year prior to the year in which redistricting is to be effective, the Commission shall prepare, publish, and make available a plan of Council districts and shall present that plan, together with a report explaining it, to the Council. The plan shall provide for Council districts that are compact, contiguous, and equal in population. No less than fifteen calendar days and no more than thirty calendar days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. ***If the Council passes no other law changing the proposal, then the plan, as submitted, shall become law, as of the last day of November, as an act of the Council, subject to Sections 320 and 321 of this Charter. Such law shall be adopted by resolution of the County Council upon notice and public hearing.***

Charter, Sec. 305 (as amended) (***emphasis supplied***).[17] The dispute here centers on the final sentence, adopted in 2012, which concerns how the "plan, as submitted shall become law … as an act of the Council …. adopted by resolution[.]"

[16] The original charter specified the boundaries of the five councilmanic districts, which at the time were residency districts. Sec. 305, 1970 Charter, Resp. App. 12-13. Sec. 305 of the original charted called for decennial redistricting beginning in 1982. *Id.*

[17] Section 305 was amended three times before the 2012 amendment. In 1974, it was amended as part of an effort to "untangle certain procedural snarls." Counsel has not been able to identify the actual text of the 1974 amendment, but contemporary accounts refer to 'Question A' as a non-specific, non-substantive omnibus effort to fix procedural issues in the County Charter.

II. The 2012 amendment to Section 305 did not change the requirement that the Council enact "a law" to adopt a different map than the one proposed in the Commission's plan. It simply described how the Commission plan "shall become law … as an act of the Council."

In 2012, the Council adopted, and the voters ratified an amendment adding a single sentence to Section 305 providing the legislative vehicle for the adoption of the Commission's plan to "become law" subject to notice and codification. CB-55-2012, Pet. App. at 248-49. The plain language of Section 305 now provides that upon inaction of the Council by the last day of November, the Commission's "plan, as submitted, *shall become law … as an act of the council, subject to Section 320 and 321 of this Charter*," and that "*such law shall be adopted by resolution*[.]" (emphasis supplied).

> If the Council passes no other law changing the proposal, then ***the plan, as submitted, shall become law***, as of the last day of November, as an act of the Council, subject to Sections 320 and 321 of this Charter. ***Such law*** shall be adopted by resolution of the County Council upon notice and public hearing**.**

Sec. 305 (emphasis supplied, new law underscored).

Prior to 2012, Section 305 simply stated that "the plan, as submitted, shall become law as an act of the Council, subject to Sections 320 and Sections 321 of the Charter" upon inaction of the Council. Section 320 and 321 are the publication and codification

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See, e.g., *The Referendum Issues in Maryland*, THE WASHINGTON POST (Oct. 29, 1974); *Marylander's to Vote on 13 Proposed Constitution Changes*, THE WASHINGTON POST (Nov. 3, 1974). Resp. App. at 174-175. Then in 2002, Section 305 was amended to add language to clarify that the Commission's plan would become law if no other law changing the proposal were adopted by the Council as of the last day of November. The 2002 amendment also amended Section 305 to require the commission be appointed by February 1 and that the commission's plan be submitted to the Council by September 1. *See*, CB-69-2002 (ratified Nov. 5, 2002). Pet. App. at 194.

provisions of the Charter.[18] But the Charter never specified what "act of the Council" should occur to cause the Commission plan to "become" law as Section 305 provided.[19]

CB-55-2012 filled this void. It mandated the Council to use a simple resolution to acknowledge this legislative fact,[20] subject to notice, publication, and codification. This is so—unlike in 1991 and 2001—there would be a public record of the "act of the Council" acknowledging that the Commission plan became law.

But the Council seeks more from Section 305. It argues that "such law" refers back to the "other law" language of "if the Council passes no ***other*** law." Not only does this reading run afoul of the plain language of the Charter and long-standing rules of statutory construction involving legislative use of the word "such," but it contorts basic grammar.

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[18] *See* Charter § 320 ("The Council shall cause all laws and all amendments to this Charter to be published promptly following their enactment as provided by law. Such laws and Charter amendments shall also be made available to the public at reasonable prices to be fixed by the Council."). *See also* Charter § 321 ("At intervals not greater than every four years, the Council shall compile and codify all laws of the County in effect at such times. Each such codification shall be submitted to the Council, and, if adopted by law, shall be known as the "Prince George's County Code." Such code shall be published with an index and such appropriate notes, citations, annotations, and appendices as the Council may determine. At least annually the Council shall prepare and publish a Supplement to the County Code of laws.") Resp. App. at 49-50.

[19] The word "become" is significant here, because the Commission plan legally *becomes* law by Council inaction; it is not enacted by the Council like any "other" law would be. Merriam-Webster defines "become" as 1) to come into existence; or 2) to undergo change or development. *Become*, www.merriam-webster.com. Accessed February 21, 2022.

[20] A legislative fact is simply legislative recognition of the law as a fact. *See*, *e.g.*, *State v. Goldsberry*, 419 Md. 100 (2011); *National Agricultural Chemicals Assn. v. Rominger*, 500 F. Supp. 465 (E.D. Cal. 1980).

There are two laws referenced in Section 305. The first is the default event, where the Commission's plan as submitted becomes "law," and the second is distinguished as an "other law" that the Council must pass to change the Commission's plan. The amended language from CB-55-2012 of "[s]uch law" only refers to the Commission's plan becoming law.

Like most courts, this Court has consistently held that "'[s]uch' is a relative adjective referring back to and identifying something previously spoken of. 'Such' naturally, by grammatical usage, refers to the last preceding antecedent."[21] *Board of Supervisors of Elections v. Weiss*, 217 Md. 133, 138, 141 A.2d 734, 737 (1958). Here, the preceding antecedent is the "plan, as submitted, shall become law." The "last preceding antecedent rule" has been a uniform rule of construction for more than a century.[22]

The trial court applied this exact rule of statutory construction to the use of "such" in the 2012 amendment:

> How the court reads the sentence preceding the new language is this: There's a clause that says if the council passes no other law changing the proposal and the Court finds that to change the law the council has to

[21] The relative pronoun here ("such") comes "as a rule" after its antecedent here ("the plan, as submitted, shall become law"). *See* The Elements of Style, The *Elements of Style*. Strunk, W., Jr. and White, E.B., p. 15. Under no rules of statutory construction or basic grammar could the antecedent to the pronoun "such" here be the language "if the Council passes no other law changing the proposal."

[22] *See*, *e.g.*, *United States v. Bowen*, 100 U.S. 508 (1879) (finding that the qualifying word such . . . restricted the referent to the class of individuals described in the sentence which immediately preceded it) (cleaned up); *United States v. Ahlers*, 305 F.3d 54, 59-61 (1st Cir. 2002) (finding that the use of the word such plainly referred back to the entire antecedent phrase and thus retained a reference point that is specific and carefully circumscribed). The rule of the last antecedent holds that "a limiting clause or phrase . . . should ordinarily be read as modifying only the noun or phrase that it immediately follows." *Barnhart v. Thomas*, 540 U.S. 20, 26 (2003).

> submit a bill to enact it, then "the plan, as submitted becomes law." And that's the sentence. That's the active sentence there, the plan shall become law." The court reads such law as relating back to the plan that becomes law in November. That's how the court reads it. And the resolution is of an administrative character, that it's a resolution adopting the plan that by operation of law becomes law.

Hearing Transcript, Pet. App. at 121.

The trial court's construction is consistent with the plain language of Section 305, which describes any law changing the Commission's plan as an "other law." It distinguishes "other law" from where the Commission's plan "becomes law" by "act of the Council" in the absence of "other law." There is a clear distinction between "other law" (some different map) and "such law" (the Commission's plan) "becoming law." By definition, any "other" law, is a different law. The resolution refers to the intact, unchanged Commission plan "becoming law."

The Council argues that Respondents' reading cannot be correct, because if so, the 2012 amendment to Section 305 would be superfluous. But it is the Council's proffered construction that results in superfluity. The Council needed no new Charter authority or legislative vehicle to be able to adopt its own redistricting plan. Indeed, it had successfully done so at least twice before by passing bills, but never by passing a resolution. *See* CB-184-1981; CB-064-2011 at Resp. App. at 111; 158.

In contrast, the long-standing Charter requirement for an "act of the County Council" subject to notice, publication, and codification to confirm that the Commission's plan became law needed further definition as to exactly what the "act of the Council" was. Prior to CB-55-2012, there was no definition as to what that "act of the

Council" was, besides its own inaction. It was also unclear whether this "act of the Council" would fall within the purview of the executive veto in Section 411, which would make little sense for a purely ministerial act of acknowledgment.

If the Council wanted the authority to adopt its own map free from executive veto, it could have explicitly said so, just as Anne Arundel County and Baltimore County did.[23] But neither the framers, nor the voters of Prince George's County or seven other counties, have done so.[24]

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[23] *See* Anne Arundel County Charter § 207 ("After receiving the report of the Charter Revision Commission as provided in Section 1203 of Article XII of this Charter, the County Council is hereby empowered by ordinance enacted by the affirmative vote of not less than five members, to revise, amend or reconstitute councilmanic districts then in effect but not to change the number thereof. Any such ordinance *shall not be subject to executive veto and shall become law on the date of its enactment by the Council.* Any such ordinance shall not be an emergency ordinance and shall be subject to the referendum provisions of Article III of this Charter.") (emphasis supplied). Resp. App. at 164. *See also* Baltimore County Charter § 207 ("*The final redistricting plan adopted by the county council is not subject to the executive veto provided in Article III.")* (emphasis supplied). Resp. App. at 165.

[24] *See* Cecil County Charter § 214 ("If within 90 days after submission of the plan no other legislation reestablishing the boundaries of the residency districts has been enacted, the plan as submitted shall become law.") Resp. App. at 166; Dorchester County Charter § 213 ("If within 90 days after presentation of the Commission's plan no other law reestablishing the boundaries of the council districts has been enacted, then the plan, as submitted, shall become law.") Resp. App. at 167; Frederick County Charter § 214 ("If within ninety days after submission of the plan no other legislation reestablishing the boundaries of the Council Districts has been enacted, the plan as submitted shall become law.") Resp. App. at 168; Montgomery County Charter § 104 ("If within ninety days after presentation of the Commission's plan no other law reestablishing the boundaries of the Council districts has been enacted, then the plan, as submitted, shall become law."); Resp. App. at 169; Wicomico County Charter § 201 ("Seventy (70) days following presentation of the commission's plan, the plan as finally adopted by the County Council shall become law.") Resp. App. at 170; Howard County Charter § 202 ("If by the date that the Council sets by Resolution following presentation of the plan by the Commission, no ordinance re-establishing the boundaries of the Councilmanic Districts has been enacted, then the plan as submitted by the Commission shall become law.") Resp. App. at 171-172; Harford County Charter § 205 ("If within seventy calendar days following presentation of the Commission's plan no other law establishing or re-establishing the boundaries of the Council districts has been enacted, then the plan, as submitted, shall become law.") Resp. App. at 173.

To the extent there is any ambiguity in Section 305 as a result of the 2012 amendment, the rule of the last preceding antecedent and the illogic of the Council's construction resolve any conceivable ambiguity in favor of a simple reading of the statute as written.

III. Nothing in the legislative history of CB-55-2012 supports the Petitioner's construction of Section 305.

The Court's February 11, 2022 order requested the legislative history of Sections 305 and 317. While the legislative history of Section 305 prior to 2012 is well documented, the legislative history of the one-sentence amendment in CB 55-2012 is scant. Unlike nearly all Council legislation, the bill file contains no staff memoranda, no detailed analysis and no correspondence concerning the origins of CB-55-2012.

CB-55-2012 was introduced on June 19, 2012 by Councilmembers Ingrid Turner and Andrea Harrison. On the same day it was introduced, the Committee on the Whole voted 7-0 to adopt CB-55-2012. The minutes succinctly describe the meeting:

> **CB-55-2012 (CHARTER AMENDMENT) - AN ACT CONCERNING AMENDMENT OF SECTION 305, CHARTER OF PRINCE GEORGE'S COUNTY** for the purpose of proposing an amendment to Section 305 of the Charter of Prince George's County to authorize legislative action on the decennial County Council redistricting plan by resolution upon notice and public hearing. ***FAVORABLE RECOMMENDATION***
>
> *Karen Zavakos, Legislative Officer, provided an overview of the Legislation. Council Member Olson moved favorable recommendation; seconded by Council Member Davis. The motion carried 7-0 (Absent: Council Members Campos and Turner).*

Pet. App. at 247-251.

A public hearing on CB-55-2012 was scheduled before the full Council five weeks later, on July 24, 2012. No one spoke at the public hearing. No staff briefed the Council. No Council member spoke. The County Council minutes state only the following:

> **CB-55-2012 (CHARTER AMENDMENT) - AN ACT CONCERNING AMENDMENT OF SECTION 305, CHARTER OF PRINCE GEORGE'S COUNTY** for the purpose of proposing an amendment to Section 305 of the Charter of Prince George's County to authorize legislative action on the decennial County Council redistricting plan by resolution upon notice and public hearing. ***PUBLIC HEARING HELD; ENACTED***
>
> (Introduced by Council Members Harrison and Turner on 6/10/2012; favorably reported out of C.O.W. on 6/19/2012)
>
> **(6 VOTES REQUIRED TO ENACT)**
>
> *Pursuant to proper notice, the public hearing convened on Council Bill 55. No persons wishing to speak, the public hearing was declared held. Council Member Turner moved enactment of Council Bill 55; seconded by Council Member Davis. The motion carried 8-0 (Absent: Council Member Toles).*

Pet. App. at 247.

The voters ratified the amendment by voting favorably on Question A at the November 6, 2012 General Election Question A, as proposed to the voters read: "To authorize legislative action on the decennial County Council redistricting plan by resolution upon notice and public hearing." Pet. App. at 253. This clearly refers to the Commission's plan. Section 305 uses the term "plan" five times, each referring only to the Commission's plan. Indeed, the word "plan" is never used in Section 305 to refer to any redistricting initiative of the Council. The only legislative action specified in Section 305 is that of the Commission's plan becoming law as an act of the Council. The voters

never authorized the Council to use a simple resolution to implement any Council-devised map.

This sparse legislative history is not surprising for an amendment merely creating an administrative vehicle to acknowledge Council inaction and codify the Commission's plan. On the other hand, a charter amendment taking redistricting out of normal legislative process, placing it solely in the Council's purview, and exempting it from executive veto would obviously demand much more.

Like the charters in Baltimore County and Anne Arundel County, if the Council intended to exempt its changes to the Commission's plan from executive veto, then it would have actually said so.[25] But such inquiry is unnecessary, as the language of Section 305 is perfectly clear[26] that it requires a law to be passed to change the Commission's plan. The language used is "the primary source of legislative intent[;]… If the meaning of the amendment is plain and unambiguous, we need look no further." *Mayor & City Council of Ocean City v. Bunting*, 168 Md. App. 134, 141, 895 A.2d 1068, 1072 (2006). There is no exception carved out for that law to be passed by a resolution, like there is for the inherently different law simply adopting the Commission's plan.

At the January 28 Circuit Court hearing, the Council specifically stated that the language in the 2012 amendment was unambiguous,[27] but the Council now seems to

[25] *See supra*, n. 23-24.

[26] And Section 305 is admittedly unambiguous. The Council's attorney responded "No, no, no" when asked whether Section 305 was ambiguous. *See* Hearing Transcript, Pet. App. 104.

[27] *Id*.

suggests that there is some purported ambiguity to be resolved by stretching the language of Section 305. They claim an unwritten, but apparently implied, authority to enact its own redistricting map, free from executive veto or other legislative procedures. If that was the intention behind CB 55-2012, the Council never said so in the actual text of the Charter amendment, and their argument here is a post-hoc rationalization.

IV. Laws are enacted by passing bills. A bill was required here.

The Council can only enact a law by passing a bill. Section 317 of the Charter expressly provides that "[t]he Council shall enact ***no law*** except by bill." (Emphasis supplied). Section 305 requires the Council enact "a law" to adopt its own map.

Additionally, the framers of the Charter expressly exempted redistricting plans from being petitioned to referenda. *See*, Sec. 319 "Any law which becomes law pursuant to this Charter may be petitioned to referendum; except a law … (3) establishing Councilmanic districts …." Because the right to referenda in Section 319 applies only to "bills," this reinforces the framers' intent that a redistricting law requires a bill.

The framers of the Charter intended that the extensive, formal legislative procedures in Article III apply to all types of legislative acts:

> In considering enactment of legislation, it is the intent of the Charter Board to have the legislative procedure apply to all types of legislative acts, whether they are termed ordinances or public local law. The Board unanimously adopted the Form of Laws in the Loveless Commission.

See Prince George's Charter Board Minutes, March 29, 1969. Resp. App. at 2.[28] This approach is consistent with charters throughout the State, and state constitutions generally. *See*, *e.g.* Md. Const. Art. III, Sec. 29 ("[A]ll Laws shall be passed by original bill."); *Smiley v. Holm*, 285 U.S. 355, 367-68 (1932) ("As the authority is conferred for the purpose of making laws for the state … the exercise of the authority must be in accordance with the method which the state has prescribed for legislative enactments."). In contrast, the Charter contains no legislative procedures or safeguards concerning resolutions.[29]

The Charter provides important procedural safeguards and the checks and balance associated with the passage of a bill.[30] When a bill is introduced, the Council

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[28] The Loveless Committee was a charter study commission which preceded the election of the Charter Board in 1968. It was chaired by Ernest A. Loveless, former chief judge of the Seventh Judicial Circuit. The Commission drafted a model charter, which confirms the Charter Board's adoption of most of its provisions concerning legislation, which now appear in Section 317. See Loveless Report, Resp. App. 60-61, Section 206.

[29] A resolution, has no procedural safeguards because resolutions are, by design, not intended to significantly affect substantive rights. Charter Section 1017(c) provides "[t]he word 'resolution' shall mean a measure adopted by the Council having the force and effect of law but of a temporary or administrative character." The Charter is replete with examples of "temporary or administrative" actions, not subject to executive veto, where it requires a resolution: temporary administrative appointments (Sec. 505), annual salary classifications (Sec. 903), annual tax levy (Sec. 811), bond pledges (Sec. 323), and exemptions of agencies from an annual audit (Sec. 313).

[30] In its February 11, 2022 Order, the Court requested the legislative history of Sections 305 and 317 of the Charter. Section 317 sets forth how the Council can enact legislation. Section 317 has been amended five times since the original adoption of the Charter. CB-92-1974 fixed minor procedural problems that arose in the first four years of the Charter government. CB-70-2002 appeared to be a revision of various sections of the Charter. Section 317 was amended to allow for introduction of a bill by a simple majority, instead of two-thirds vote of the Council, allowed the clerk instead of the chair to schedule hearings, and provide that in addition to posting Council legislation on the official bulletin board, it may also be posted "by any other such methods as the Council shall dictate." CB-59-2006 amended Section 317 to permit the Council

must provide a copy of the bill and notify the public of the time and place a hearing will be held on the bill. *See* Sec. 317.[31] If a hearing is held, and an amendment thereafter changes the substance of the bill, there must be a new hearing. *Id*.[32] Notably, there is no procedure for amending the Commission plan in Section 305 or subjecting it to additional public hearings. Changes can only be implemented by passing some "other law" changing the Commission plan. Sec. 305.

Once a bill is enacted by the Council it must be presented to the County Executive for signature or veto. Sec. 411. The bill becomes law if the County Executive signs the bill, or fails to return the bill to the Council within ten days of presentment. *Id*. If the County Executive vetoes the bill, a two-thirds vote of the full Council can override the veto, and the bill becomes law. *Id.* (Significantly, the six votes in favor of CR-123-2021

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to modify quorum, voting and publication requirements in the event an emergency declared by the governor. CB-50-2008 amended Section 317 to require the Clerk to place notice of the public hearing within ten days of introduction instead of five days. CB-52-2014 amended Section 317 to change the number of designated newspapers of record from three to one or more. Pet. App. at 170-269.

[31] "On the introduction of any bill, a copy thereof and notice of the time and place of the public hearing on the bill shall be posted … in a public place and by any other such methods as the Council shall dictate. Additional copies of the bill shall be made available to the public and to the press …. Within ten days following the introduction of a bill the Clerk of the Council shall schedule and give public notice of a public hearing on the bill, which hearing shall not be less than fourteen days after its introduction."

[32] "After the public hearing, a bill may be finally enacted … except, that if a bill is amended before enactment and the amendment constitutes a change of substance, the bill shall not be enacted until it is reprinted or reproduced as amended and a public hearing shall be set … as in the case of a newly introduced bill."

would not be sufficient to override a veto of a bill, which requires an affirmative vote of 8 of the 11 Council members.)

Presentment to the County Executive is an indispensable part of the legislative process. *See* Sec. 102 ("The powers mentioned in the preceding section shall be exercised only by the County Council, the County Executive, … acting under their respective authorities"); Sec. 402 ("All executive power vested in Prince George's County by the Constitution and laws of Maryland and this Charter shall be vested in the County Executive"). *See also Schisler v. State*, 394 Md. 519, 575-76, 907 A.2d 175, 208 (2006) ("When ... any of the three branches of government takes unto itself powers denied to it or those strictly within the sovereignty of another branch, the courts of this State must step in and declare such encroachments to be constitutionally prohibited.").

The Council cites Section 1017(a), which defines a bill as "any measure introduced in the Council for legislative action. Sec. 1017(a). It goes on to provide that "[t]he words 'act,' 'ordinance,' 'public local law,' and 'legislative act,' when used in connection with any action by the Council, shall be synonymous and shall mean any bill enacted in the manner and form provided in this Charter." Sec. 1017(b).[33] But this

[33] The Council cites the Express Powers Act for the proposition that a resolution was appropriate here. Pet. Br. at pp. 13-14. But all the Express Powers Act does is confirm that councils in charter counties may pass laws or resolutions consistent with their powers. LG §10-206. The Council's argument misses the point here. The voters of Prince George's County have decided in their charter to require "a law," which is in this case is "a bill." Similarly, LG §10-306 simply authorizes charter counties to create and revise election districts and precincts. This section has no bearing on the redrawing of Councilmanic districts, which are also an express power, and which are governed by Sections 305, 317 and other provisions of the Prince George's County Charter.

section actually supports Respondents' position here, as the only reference to resolutions refers to actions of the former Board of County Commissioners:

> The word "law" shall be construed as including all acts, public local laws, ordinances, and other legislative acts of the Council, all ordinances and *resolutions of the County Commissioners not hereby or hereafter amended or repealed*, and all public general laws and public local laws of the General Assembly in effect from time to time after the adoption of this Charter, whenever such construction would be reasonable.

Sec. 1017(d) (emphasis supplied).

The provision simply provided that the resolutions adopted by the former County Commissioners before the Charter government replaced them in 1970 had the force and effect of law. Section 1017(d), part of the Charter's definitional section, expressly refers to these "resolutions of the County Commissioners." It does not, in contrast, refer at all to the "resolutions" of the County Council.

The distinction between bills and resolutions is well established both in Maryland and throughout the country.[34] In 2000, in *Anchor Inn Seafood*, this Court held that a county council cannot legislate by resolution to avoid executive veto, a critical

[34] *See*, *e.g. Cape Girardeau v. Foudeu*, 30 Mo. App. 551 (1888) ("A resolution is merely a suggestion or a direction … not submitted to the executive for his approval. A resolution is ordinarily passed without the forms and delays which are generally required by constitutions and municipal charters as prerequisites to the enactment of valid laws or ordinances."); *Laidlaw Transit, Inc. v. Alabama Educ. Ass'n*, 769 So. 2d 782 (Ala. 2000) ("A resolution … is not a law …. The Legislature has no power to make or change law by resolution"); *See also Mullan v. State*, 114 Cal. 578 (1896) ("A mere resolution, therefore, is not a competent method of expressing the legislative will, where that expression is to have the force of law, and bind others than the members of the house or houses adopting it. The fact that it may have been intended to subserve such purpose can make no difference.") *State ex rel. Robinson v. Fluent*, 30 Wn.2d 194 (1948) ("There is a fundamental difference between a bill … and a resolution. The first may eventually become a law.").

component of the legislative process. *Montgomery County v. Anchor Inn Seafood Restaurant,* 374 Md. 327, 336, 822 A.2d 429, 434 (2000).

The Petitioner argues that the Council can act alone to adopt a new redistricting map, and rely on LG § 10-206(a)(1) in support, which provides that "[a] county council may pass any ordinance, resolution, or bylaw not inconsistent with State law that … may aid in executing and enforcing any power in this title[.]" But *Anchor Inn Seafood* and the cases cited in *Anchor Inn Seafood*,[35] all but foreclose this argument. The grant of authority in LG § 10-101 *et. seq* is conferred on the county executive *and* the council together. *See* 374 Md. at 335-36. The fact that LG § 10-206(a)(1) speaks of the county council alone does not undercut the fact that legislative authority was granted to the council and the county executive together. *Id*.

Redistricting, the Supreme Court has said, is a purely "legislative function to be performed in accordance with the … prescriptions for lawmaking, which may include … the [executive] veto." *Arizona State Legislature v. Arizona Independent Redistricting Comm'n*, (*AIRC)* 576 U.S. 787 (2015). The importance of the veto process as part of the separation of powers cannot be overstated. Indeed, the Framers of the U.S. Constitution worried that a legislature may, like the Council did here, evade executive veto "by the simple expedient of calling a proposed law a 'resolution' or 'vote' rather than a 'bill.'" *INS v. Chadha*, 462 U.S. 919, 947-48 (1983) (quoting 2 M. Farrand, The Records of the Federal Convention of 1787, pp. 301-302 (1911)). As a result, Art. I, § 7, cl. 3 ("Every

[35] *County Council of Harford County v. Maryland Reclamation Associates,* 328 Md. 229, 614 A.2d. 78 (1992); *Barranca v. Prince George's County,* 264 Md. 562, 287 A.2d 286 (1972).

Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary … shall be presented to the President [.]") was added to the Constitution. 2 Farrand 304-05.

V. The Council's purported enactment of its own redistricting map was not merely administrative or "ministerial in character."

The Council makes the remarkable assertion that the adoption of its own redistricting map was simply a "ministerial" or "administrative act." It claims its redistricting resolution was

> ministerial in character and relating to the administrative business—i.e.—the Council's legal obligation to implement and administer decennial redistricting based on US Census data as required by Section 305 of the Charter.

Pet. Br. at 18.

In support of this argument, the Council claims this action falls within the category of actions that are "ordinarily ministerial in character, and relating to the administrative business of the municipality." *Id*. (quoting *Kendall v. Howard County*, 431 Md. 590, 66 A.3d 684 (2013).

This claim is extraordinary. Redistricting impacts the most fundamental rights of citizenship, including the right to vote, and the right to fair representation. *See*, *e.g.*, *In re Legislative Districting*, 370 Md. 312, 219 (2002) (recognizing that fair apportionment "lies at the very heart of representative democracy); *AIRC*, 576 U.S. at 808 ("Redistricting involves lawmaking in its essential features and most important aspect."); *Rucho v. Common Cause*, 139 S.Ct. 2484, 2509 (2019) (Kagan, J., dissenting) ("[G]errymanders … deprive[ ] citizens of the most fundamental of their constitutional

rights: the rights to participate equally in the political process, to join with others to advance political beliefs, and to choose their political representatives.").

In this case, the Council impacted fundamental rights of the Respondents by dividing an historically African-American community, dividing the Old Town of College Park, and other infringing on other rights related to the political process described by some 150 opponents at the public hearing.[36] It also impacts the fundamental right of citizens to petition their elected County Executive for a veto, and to oppose an override by their elected Council members.

There is nothing "merely" ministerial or administrative about the Council's action. In contrast, the appointment of the Commission and the "act of the Council" confirming that the Commission's plan had by inaction "become law" are indisputably ministerial and administrative and the proper subject of a resolution.

The Council knows that redistricting is no ministerial or administrative task because they have twice used bills to adopt its own plan and have never before used the vehicle of a resolution. *See* CB-184-1981; CB-64-2011. To the extent there is any ambiguity in CB-55-2012, it should be construed against the Council, drafters of this Charter amendment *See*, *e.g.*, *King v. Bankerd*, 303 Md. 98, 106, 492 A.2d 608, 612 (1985) ("[A]mbiguities in an instrument are resolved against the party who made it or

[36] The video of the public testimony—which lasted from 5:28 p.m. until 11:09 p.m.—is available at https://princegeorgescountymd.granicus.com/MediaPlayer.php?view_id=2&clip_id=2143&meta_id=326706.

caused it to be made, because that party had the better opportunity to understand and explain [its] meaning.").

This is especially true here. The Petitioner's construction of Section 305 impacts the fundamental rights of citizens to have fair representation, as well as an opportunity to petition the elected county executive for a veto of the Council's map. Courts liberally construe fundamental rights, and closely scrutinize any actions that impair the exercise of those rights. *See*, *e.g.*, *McKee v. Louisville*, 616 P.2d 969, 972 (Colo. 2000) ("This court has always liberally construed this fundamental right, and, concomitantly, we have viewed with the closest scrutiny and governmental action that has the effect of curtailing its free exercise."); *Cline v. Meis*, 905 P.2d 1072, 1077 (Ka. 1995) ("[S]tatutes which limit a fundamental right [should] be construed narrowly against such limitation[.]"). This Court has also recognized that where more than one construction of a Charter provision is possible, the Court "must adopt the construction that avoids conflict with the Maryland Constitution." *Maryland State Administrative Bd. of Election Laws v. Talbot Cnty*., 316 Md. 332, 346-47, 558 A.2d 724, 731 (1988). Here, it is the Council's construction of Section 305 that results in conflict.

The executive veto exists, in part, as a check on legislative excess. *See*, *e.g*. *Pocket Veto Case*, 279 U.S. 655, 677-78 (1929) (the veto power empowers the executive to "guard[ ] against ill-considered an unwise legislation[.]"); *INS v. Chadha*, 462 U.S. 919, 947-48 (1983) ("The President's role in the lawmaking process also reflects the Framers' careful effort to check whatever propensity a particular Congress might have to enact oppressive, improvident, or ill-considered measures.").

The presentation requirement in Section 317 provides the public an opportunity to petition the executive for a veto, and allows executive to review the legislation and the public reaction to it, and use the veto accordingly.[37]

Here, the Council here tossed aside not only the Commission's plan, but the County Executive's veto. It can certainly do the former, but must do so by passing a law that is presented to the County Executive.

CONCLUSION

Here, the Council needed a bill, not a resolution, to adopt its own redistricting plan. The trial court correctly interpreted the Charter and should be affirmed for the foregoing reasons.

Respectfully submitted,

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[37] *See*, *e.g.*, *Mandel v. O'Hara*, 320 Md. 103, 127 (1990) ("The mayor's veto, like the veto of the President or a state governor, is undeniably a part of the legislative process. It differs only in that it takes place on the local level. When the mayor exercises his veto power, it constitutes the policy-making decision of an individual elected official. It is as much an exercise of legislative decision-making as is the vote of a member of Congress, a state legislator, or a city councilman."); *Office of the Governor v. Washington Post Co.*, 360. Md. 520, 571 (2000) (explaining that the veto power exists to "guard against encroachment of the Legislative Department upon the co-ordinate Executive and Judicial Department.").

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CERTIFICATION OF WORD COUNT
AND COMPLIANCE WITH RULE 8-112

1. This brief contains 9,463 words, excluding the parts of the brief exempted from the word count by Rule 8-503.

2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Timothy F. Maloney

CERTIFICATE OF SERVICE

I hereby certify that on February 25, 2022, a copy of the foregoing Respondents' Brief was filed and served via the Court's MDEC System.

/s/ Timothy F. Maloney