

# **Maryland Local Government**

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# Foreword

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Local governments in Maryland have evolved significantly since the colonial era when they primarily functioned as administrative arms of the State. Through the subsequent granting of home rule powers, county and municipal governments have been able to enact laws that address the unique needs and challenges confronting their citizens. Whether it is considering public local laws or altering State aid formulas, the General Assembly deliberates numerous issues affecting local governments and their finances each legislative session. It is imperative that the General Assembly understand the existing political and financial structure of local governments so that the impact of such legislation can be thoroughly considered.

This is the sixth in a series of eight volumes of the 2006 Legislative Handbook Series prepared prior to the start of the General Assembly term by the staff of the Office of Policy Analysis, Department of Legislative Services. In previous handbook series, the subjects of local government structure and powers, and local government revenues and State and federal aid have been addressed in two separate volumes. With this handbook series, however, these subjects are being combined into one volume to provide a better understanding of the structures, powers, and finances of local governments in Maryland and the General Assembly's role in relation to local governments.

This volume is divided into twenty chapters. Chapter one provides a brief history and profile of each county, as well as selected demographic information for the counties and municipal corporations. Chapter two details the various forms of county government. Chapter three provides an overview of municipal corporations and their constitutional and statutory authority. Chapter four explains the structure and authority of special taxing districts and regional and bi-county agencies. To aid the reader in understanding the significance of local governments, Chapter five discusses the inter-relationship between the State and local governments. Chapter six provides an overview on county and municipal expenditures while Chapter seven provides an overview on county and municipal revenues. A discussion on local taxing authority and the various taxes and revenues imposed by county and municipal governments is provided in Chapter eight. Chapters nine through seventeen provide information on the various State aid programs that assist local governments, while Chapter eighteen provides an overview on federal aid. A discussion on local indebtedness is provided in Chapter nineteen and an overview on the State assumption of local functions is provided in Chapter twenty.

Laura Lodge, Melanie Santiago-Mosier, and Dana Tagalicod prepared the chapters relating to local government structure and powers. Ned Cheston, Mark Collins, Scott Kennedy, Jonathan Martin, Alison Mitchell, Amanda Mock, Jim Stoops, Joshua Watters, and Susan Werthan prepared the chapters pertaining to local government finances, with

Gail Renborg-Wood contributing to the development of data. Hiram Burch and Joshua Watters coordinated the development of this volume while Hiram Burch, Rachel Hise, Ted King, and John Rixey reviewed the analysis. A special thanks is provided to Mary La Valley, Mya Pierce, and Nicole Symonds who prepared and finalized the manuscript.

The Department of Legislative Services trusts that this information will be of use to those interested in learning more about the structure, powers, and finances of local governments in Maryland.

Karl S. Aro  
Executive Director  
Department of Legislative Services  
Maryland General Assembly

Annapolis, Maryland  
November 2006

# Contents

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<b>Foreword</b> .....	iii
<b>Exhibits</b> .....	xv
<b>Chapter 1. Overview of Local Government in Maryland</b> .....	1
History and Development of Maryland’s Counties and Baltimore City.....	1
County Profiles.....	5
Allegany County .....	5
Anne Arundel County .....	6
Baltimore City.....	6
Baltimore County.....	7
Calvert County .....	7
Caroline County .....	8
Carroll County .....	8
Cecil County .....	9
Charles County.....	9
Dorchester County .....	9
Frederick County .....	10
Garrett County .....	10
Harford County .....	11
Howard County.....	11
Kent County .....	12
Montgomery County.....	12
Prince George’s County.....	13
Queen Anne’s County.....	13
St. Mary’s County.....	14
Somerset County.....	14
Talbot County .....	15
Washington County .....	15
Wicomico County .....	16
Worcester County .....	16
County Demographics.....	16
Population Growth.....	17
Economic and Social Indicators .....	17
Employment Statistics .....	22
Household Income .....	22
Median Sale Price for Homes .....	22
Poverty Rates .....	22
Single-parent Households .....	23

High School Dropout Rate.....	23
Crime Statistics .....	23
Voter Registration.....	25
Municipal Profile.....	25
<b>Chapter 2. County Government.....</b>	<b>29</b>
Establishment and Alteration of Counties.....	29
Development of Home Rule Authority.....	30
County Functions and Services.....	32
Commission Counties .....	32
Colonial Origins .....	32
Constitutional/Statutory Authority .....	33
Structure and Election of County Officers .....	33
Consideration of Home Rule .....	35
Charter Counties.....	35
Adoption of Charter Home Rule.....	35
County Charter.....	37
Constitutional Authority.....	38
Statutory Powers.....	39
Structure and Election of County Officers.....	40
Baltimore City .....	41
Code Counties.....	42
Adoption of Code Home Rule .....	42
Constitutional/Statutory Authority.....	44
Structure and Election of County Officers .....	46
<b>Chapter 3. Municipal Corporations .....</b>	<b>47</b>
Historical Development.....	47
Constitutional Home Rule .....	52
Incorporation Process.....	53
Governmental Structure .....	53
Election of Local Officials .....	54
Powers of Municipal Corporations .....	55
Charter Amendments .....	56
Annexations .....	56
Urban Renewal Powers for Slum Clearance.....	57
Limitations on Municipal Authority .....	57
Codification of Municipal Charters.....	57
<b>Chapter 4. Special Taxing Districts and Regional Agencies .....</b>	<b>59</b>
Special Taxing Districts in Maryland.....	60

Special Taxing Districts Created by the State ..... 60

Special Taxing Districts Created by County and Municipal  
Governments ..... 64

Regional Agencies..... 65

    Maryland-National Capital Park and Planning Commission..... 65

    Washington Suburban Sanitary Commission ..... 66

**Chapter 5. Interrelationship Between the Maryland General Assembly and  
Local Government** ..... 69

    Public General Laws and Public Local Laws ..... 69

    Local Bill Process in the General Assembly ..... 70

        Local Courtesy ..... 70

        Local Delegations and Select Committees ..... 71

    Commission Counties ..... 72

    Charter Home Rule Counties ..... 73

    Baltimore City ..... 74

    Code Home Rule Counties ..... 75

    Municipal Corporations..... 76

    Special Taxing Districts and Regional Agencies ..... 77

    Conflict of Laws/State Preemption ..... 78

        Constitutional/Statutory Provisions ..... 78

        Concurrent Powers Doctrine..... 79

        State Preemption ..... 79

        Conflict between County and Municipal Law ..... 81

**Chapter 6. Local Government Expenditures** ..... 83

    County Level ..... 85

        Composition of County Expenditures..... 89

    Municipal Level ..... 89

**Chapter 7. Local Government Revenues**..... 93

    County Level ..... 93

        Local Own-source Revenues ..... 96

        State Aid ..... 99

        Federal Grants ..... 99

    Municipal Level..... 99

        Property Taxes ..... 102

        Income Taxes ..... 102

        Service Charges ..... 102

        State Aid..... 102

        County Grants ..... 103

<b>Chapter 8. Own-source Revenues</b> .....	105
Local Taxing Authority.....	105
Own-source Revenue Trends .....	105
Property Tax .....	107
Tax Base .....	108
Assessment of Real and Personal Property .....	111
Tax Rate Setting Authority.....	112
Property Tax Differentials and Rebates.....	115
Property Tax Limitation Measures .....	116
Constant Yield Tax Rate Provision .....	117
Tax Exemptions .....	117
Property Tax Credits.....	119
Payment Dates .....	120
Revenue Collections .....	121
Legal Reference .....	121
Local Income Tax.....	121
Tax Base.....	121
Tax Rate Setting Authority .....	124
Administration of Tax.....	124
Legal Reference .....	124
Local Property Transfer Tax .....	127
Tax Base.....	127
Tax Rate Setting Authority .....	127
Tax Exemptions .....	127
Administration of Tax.....	130
Legal Reference .....	130
Recordation Tax .....	130
Tax Base.....	130
Tax Rate Setting Authority .....	130
Tax Exemptions .....	132
Administration of Tax.....	133
Legal Reference .....	133
Agricultural Land Transfer Tax .....	133
Legal Reference .....	134
Sales and Service Taxes .....	134
Tax Base.....	134
Tax Rate Setting Authority .....	134
Legal Reference .....	135
Admissions and Amusement Tax.....	139
Tax Base.....	139
Special Allowances.....	140

Tax Rate Setting Authority .....	140
Tax Exemptions .....	141
Administration of Tax.....	143
Legal Reference .....	143
Service Charges.....	143
911 Emergency Communication System Fee .....	144
Legal Reference .....	147
Impact Fees and Development Excise Taxes.....	147
Tax Base.....	147
Tax Rate Setting Authority .....	147
Administration of Tax.....	148
Legal Reference .....	148
Licenses and Permits.....	148
Alcoholic Beverage Licenses.....	151
Building Permits .....	152
Business Licenses .....	152
Marriage Licenses.....	153
Cable Television Licenses and Fees .....	153
Fines and Forfeitures.....	154
Administration .....	154
Legal Reference .....	154
Miscellaneous Revenues .....	156
Administration .....	156
<b>Chapter 9. State Aid Overview.....</b>	<b>159</b>
State Aid Trends in Recent Years.....	160
Reliance on State Aid.....	161
State Aid Patterns.....	163
Distribution Basis for State Aid.....	163
Capital Projects .....	167
<b>Chapter 10. Education State Aid .....</b>	<b>171</b>
Background on Maryland’s School Finance System .....	171
Impact of Bridge to Excellence in Public Schools Act.....	174
Increased Wealth Equalization .....	175
Enhanced Targeting of State Aid.....	176
General Education Programs.....	179
Foundation Program.....	179
Teachers’ Retirement .....	186
Guaranteed Tax Base .....	188
Geographic Cost of Education Index.....	191

Other General Education Programs .....	192
Targeted Funding for At-risk Students.....	194
Special Education Programs .....	195
Programs for Students At-risk of Failing to Meet State Standards .....	201
Limited English Proficiency Formula.....	208
Noninstructional Education Programs .....	211
Student Transportation.....	212
School Construction Program.....	215
Aging Schools Program .....	221
Food Service Programs .....	224
Maryland Infants and Toddlers Program.....	226
Adult Education .....	227
Quality Teacher Incentives .....	228
Other Noninstructional Programs .....	229
<b>Chapter 11. Library State Aid .....</b>	<b>231</b>
Library Aid Formula .....	232
Distribution .....	233
Special Provisions.....	234
History of Major Changes.....	234
Legal Reference .....	235
State Library Network.....	237
Distribution .....	237
History of Major Changes.....	238
Legal Reference .....	239
Library Retirement .....	239
Distribution .....	239
History of Major Changes.....	239
Legal Reference .....	240
County Library Capital Project Grants .....	240
<b>Chapter 12. Community College State Aid.....</b>	<b>243</b>
John A. Cade Funding Formula .....	245
Determining the Funding Level.....	245
Distribution .....	245
Special Provisions.....	246
History of Major Changes.....	246
Legal Reference .....	247
Community College Retirement.....	249
Distribution .....	249
History of Major Changes.....	249

Legal Reference .....	250
Community College Construction Grant Program.....	250
Legal Reference .....	251
Other Community College Grant Programs.....	254
Unrestricted Small College Grants .....	254
Tuition Programs .....	254
Innovative Partnerships for Technology Program.....	255
English for Speakers of Other Languages Grants.....	255
Students with Disabilities Grants.....	255
<b>Chapter 13. Public Safety State Aid .....</b>	<b>257</b>
Police Protection .....	257
Fire Protection .....	258
State Aid for Police Protection Fund (Police Aid Formula) .....	260
Distribution .....	260
Crime Laboratory Reduction .....	263
Trends .....	263
Legal Reference .....	263
Targeted Crime Grants .....	264
Distribution .....	264
Legal Reference .....	265
Vehicle Theft Prevention Program.....	266
Distribution .....	267
Legal Reference .....	267
Other Public Safety Grants.....	267
Senator Amoss Fire, Rescue, and Ambulance Fund .....	269
Distribution .....	269
Special Provisions.....	269
Trends .....	270
Legal Reference .....	270
Other Fire Grant Programs .....	270
Legal Reference .....	270
9-1-1 Emergency Telephone System .....	271
Distribution .....	271
Legal Reference .....	271
Local Jails and Detention Centers Grant Program.....	271
<b>Chapter 14. Transportation State Aid.....</b>	<b>275</b>
Highway User Revenues .....	277
Distribution .....	277
Special Provisions.....	278

Trends .....	280
History of Major Changes.....	280
Legal Reference .....	281
Elderly/Disabled Transportation .....	281
Distribution .....	282
Legal Reference .....	282
Paratransit Grants .....	282
Distribution .....	282
Legal Reference .....	283
Mass Transit .....	283
Washington Metropolitan Area Transit Authority.....	283
Small Urban Area Operating Assistance .....	283
Rural Area Operating Assistance.....	283
Ridesharing .....	284
Small Urban and Rural Technical Studies.....	284
Job Access and Reverse Commute .....	284
State Grants in Lieu of Federal Aid .....	284
Legal Reference .....	285
<b>Chapter 15. Environment and Recreation State Aid .....</b>	<b>287</b>
Program Open Space.....	289
Distribution .....	289
Funding History .....	290
Special Provisions.....	292
History of Major Changes.....	292
Legal Reference .....	294
Chesapeake Bay Critical Area Grant .....	294
Environment/Recreation Capital Programs.....	294
Community Parks and Playgrounds Program.....	295
Chesapeake Bay Water Quality Funds .....	296
Water Quality Revolving Loan Fund.....	297
Waterway Improvement Fund .....	298
Water Supply Financial Assistance Program.....	298
Maryland Drinking Water Revolving Loan Fund.....	298
Shore Erosion Control Program.....	299
Community Energy Loan Program.....	299
Maryland Agricultural Land Preservation Program .....	299
Rural Legacy Program .....	300
Hazardous Substance Cleanup Program .....	300
Comprehensive Flood Management Grant Program .....	300

<b>Chapter 16. Health State Aid</b> .....	301
Targeted Funding Program.....	301
Distribution .....	301
Trends .....	302
History of Major Changes.....	302
Legal Reference .....	303
Mental Health Services .....	303
Addiction Treatment Services.....	303
Community and Family Health.....	303
Health Capital Programs .....	303
Adult Day Care Facilities Grant Program.....	305
Community Mental Health, Addictions, and Developmental Disabilities Facilities.....	305
<b>Chapter 17. Miscellaneous State Aid Programs</b> .....	307
Disparity Grants .....	308
Distribution .....	308
History of Major Changes.....	310
Legal Reference .....	310
Electric Utility Generating Equipment Property Tax Grants.....	310
Legal Reference .....	310
Local Voting System Grants .....	311
Legal Reference .....	311
Baltimore City Share of Security Interest-filing Fee .....	312
Legal Reference .....	312
Retirement Costs for Certain Officials and County Employees .....	312
Legal Reference .....	313
Horse Racing Impact Aid.....	314
Legal Reference .....	315
Payments in Lieu of Taxes .....	315
Legal Reference .....	316
Senior Citizen Activities Center Operating Fund .....	316
Legal Reference .....	316
<b>Chapter 18. Federal Aid</b> .....	317
Major Funding Categories.....	318
Primary and Secondary Education.....	318
Community Colleges .....	321
Health and Human Services.....	322
Housing and Community Development .....	323
Public Safety .....	324

Transportation .....	325
<b>Chapter 19. Local Indebtedness</b> .....	<b>327</b>
Types of Debt .....	327
Procedures .....	328
Limitations.....	330
Comparative Measures .....	331
<b>Chapter 20. State Assumption of Local Functions</b> .....	<b>335</b>
Baltimore City Functions .....	336
Baltimore City Detention Center and Central Booking and Intake Facility.....	337
Baltimore City Community College .....	337
Local Circuit Court Functions.....	338
History of State Assumption of Other Local Functions.....	339
Health and Social Service Programs.....	339
Public Safety, Courts, and Judiciary .....	342
Mass Transportation.....	344
Property Assessment and Property Tax Credit .....	345
<b>Index</b> .....	<b>347</b>

# Exhibits

---

<b>Exhibit 1.1</b>	Number of Local Governments in the United States by Type.....	2
<b>Exhibit 1.2</b>	State of Maryland Map.....	4
<b>Exhibit 1.3</b>	Maryland Demographic Information .....	18
<b>Exhibit 1.4a</b>	Demographics – Population Growth by County .....	19
<b>Exhibit 1.4b</b>	Demographics – Population Growth by County .....	20
<b>Exhibit 1.5</b>	Demographics – Selected Maryland Economic Indicators .....	21
<b>Exhibit 1.6</b>	Demographics – Social Indicators .....	24
<b>Exhibit 1.7</b>	Voter Registration – 2005 .....	26
<b>Exhibit 1.8</b>	10 Largest Municipal Corporations in Maryland.....	27
<b>Exhibit 1.9</b>	Municipal Corporations by Size.....	27
<b>Exhibit 1.10</b>	Estimated Population of Municipal Residents within Each County .....	28
<b>Exhibit 2.1</b>	Forms of County Governments in Maryland .....	29
<b>Exhibit 2.2</b>	County Governments – Form and Structure .....	34
<b>Exhibit 2.3</b>	Adoption of Charter Home Rule Under the Maryland Constitution.....	36
<b>Exhibit 2.4</b>	Adoption of Code Home Rule under Article XI-F of the Maryland Constitution and Article 25B of the Code.....	43
<b>Exhibit 3.1</b>	Establishment of Maryland Municipal Corporations.....	47
<b>Exhibit 3.2</b>	Incorporated Cities and Towns .....	49
<b>Exhibit 4.1</b>	Special Districts Based on Census Classifications – 2002 .....	59
<b>Exhibit 4.2</b>	Municipal Corporations Originally Established as Special Taxing Districts .....	61
<b>Exhibit 6.1</b>	Local Government Expenditures.....	83
<b>Exhibit 6.2</b>	Local Government Expenditures by County.....	84
<b>Exhibit 6.3</b>	County Level Expenditures.....	85
<b>Exhibit 6.4</b>	County Expenditures by Category .....	86
<b>Exhibit 6.5</b>	Per Capita County Expenditures by Category .....	87
<b>Exhibit 6.6</b>	County Per Capita Rankings by Expenditure Categories .....	88
<b>Exhibit 6.7</b>	County Expenditure Trends .....	90
<b>Exhibit 6.8</b>	Municipal Expenditures .....	90
<b>Exhibit 6.9</b>	Municipal Expenditures by Category .....	91
<b>Exhibit 6.10</b>	Municipal Expenditure Trends.....	92
<b>Exhibit 7.1</b>	Local Government Revenues .....	93
<b>Exhibit 7.2</b>	Local Government Revenues by County .....	94
<b>Exhibit 7.3</b>	Sources of Revenue – Counties and Baltimore City .....	95
<b>Exhibit 7.4</b>	Sources of Revenue – Counties and Baltimore City .....	95
<b>Exhibit 7.5</b>	County Revenues by Source .....	96
<b>Exhibit 7.6</b>	Sources of Revenue – Municipal Corporations .....	100
<b>Exhibit 7.7</b>	Sources of Revenue – Municipal Corporations .....	100

<b>Exhibit 7.8</b>	Municipal Revenues by Source.....	101
<b>Exhibit 8.1</b>	Own-source Revenues – Counties and Baltimore City.....	106
<b>Exhibit 8.2</b>	Own-source Revenues – Municipal Corporations .....	106
<b>Exhibit 8.3</b>	Share of Own-source Revenues .....	107
<b>Exhibit 8.4</b>	County Fiscal 2006 Estimated Assessable Base .....	109
<b>Exhibit 8.5</b>	Fiscal 2006 Real Property Tax Base by County and Type of Use.....	110
<b>Exhibit 8.6</b>	Real Property Tax Rates in Maryland Counties.....	113
<b>Exhibit 8.7</b>	Special County Property Tax Rates .....	114
<b>Exhibit 8.8</b>	Counties with Assessment Caps Below 10% in Fiscal 2007 .....	120
<b>Exhibit 8.9</b>	Growth in County Assessable Base – Real and Personal Property .....	122
<b>Exhibit 8.10</b>	Property Tax Revenues – Fiscal 2004.....	123
<b>Exhibit 8.11</b>	Local Income Tax Rates.....	125
<b>Exhibit 8.12</b>	Income Tax Revenues – Fiscal 2004 .....	126
<b>Exhibit 8.13</b>	Local Property Transfer Taxes.....	128
<b>Exhibit 8.14</b>	Recordation Taxes.....	131
<b>Exhibit 8.15</b>	Hotel and Motel Taxes .....	136
<b>Exhibit 8.16</b>	Local Sales and Service Tax Rates .....	137
<b>Exhibit 8.17</b>	Local Sales and Service Tax Rates .....	139
<b>Exhibit 8.18</b>	Admissions and Amusement Taxes .....	142
<b>Exhibit 8.19</b>	Service Charges Revenues – Fiscal 2004 .....	145
<b>Exhibit 8.20</b>	911 Emergency Communications System Fees .....	146
<b>Exhibit 8.21</b>	Maryland Counties with Impact Fees and Development Excise Taxes	149
<b>Exhibit 8.22</b>	License and Permit Revenues – Fiscal 2004.....	150
<b>Exhibit 8.23</b>	Fine and Forfeiture Revenues – Fiscal 2004.....	155
<b>Exhibit 8.24</b>	Miscellaneous Revenues – Fiscal 2004 .....	157
<b>Exhibit 9.1</b>	Components of State Aid to Local Governments .....	159
<b>Exhibit 9.2</b>	Annual Growth in State Aid to Local Governments.....	160
<b>Exhibit 9.3</b>	Summary of State Aid to Local Governments .....	161
<b>Exhibit 9.4</b>	State Aid to Local Governments .....	162
<b>Exhibit 9.5</b>	State Aid to Local Governments by Governmental Entity .....	163
<b>Exhibit 9.6</b>	State Assistance to Local Governments.....	164
<b>Exhibit 9.7</b>	Total State Assistance to Local Governments .....	165
<b>Exhibit 9.8</b>	State Aid by Basis for Distribution .....	168
<b>Exhibit 9.9</b>	State Capital Project Grants to Local Governments .....	169
<b>Exhibit 10.1</b>	Per Pupil Adequacy Targets and Budgeted Revenues .....	173
<b>Exhibit 10.2</b>	State Education Aid and Ongoing General Fund Revenues .....	174
<b>Exhibit 10.3</b>	Wealth Equalization of State Education Aid .....	176
<b>Exhibit 10.4</b>	State Education Aid by Category .....	177
<b>Exhibit 10.5</b>	State Education Aid by Category – Fiscal 2007 .....	178
<b>Exhibit 10.6</b>	State General Education Aid Programs – Fiscal 2007 .....	180
<b>Exhibit 10.7</b>	Calculating Foundation Program Variables .....	183

<b>Exhibit 10.8</b>	Foundation Program Calculation – Fiscal 2007.....	184
<b>Exhibit 10.9</b>	Guaranteed Tax Base Program Calculation – Fiscal 2007 .....	190
<b>Exhibit 10.10</b>	Maryland-specific Geographic Cost of Education Index.....	191
<b>Exhibit 10.11</b>	GCEI Formula Calculation – Fiscal 2007.....	193
<b>Exhibit 10.12</b>	State Targeted Aid Programs – Fiscal 2007.....	196
<b>Exhibit 10.13</b>	Special Education Formula Calculation – Fiscal 2007 .....	199
<b>Exhibit 10.14</b>	Compensatory Education Formula Calculation – Fiscal 2007 .....	203
<b>Exhibit 10.15</b>	Distribution of Miscellaneous Targeted Aid Programs .....	206
<b>Exhibit 10.16</b>	Limited English Proficiency Formula Calculation – Fiscal 2007.....	210
<b>Exhibit 10.17</b>	Noninstructional State Operating Aid Programs – Fiscal 2007 .....	211
<b>Exhibit 10.18</b>	Student Transportation Formula Calculation – Fiscal 2007 .....	214
<b>Exhibit 10.19</b>	Public School Construction.....	216
<b>Exhibit 10.20</b>	State Share of Eligible Costs for School Construction .....	218
<b>Exhibit 10.21</b>	Aging Schools Program .....	223
<b>Exhibit 11.1</b>	Library Aid Programs – Funding Trend.....	231
<b>Exhibit 11.2</b>	Library Aid Programs .....	232
<b>Exhibit 11.3</b>	Library Formula Aid – Fiscal 2007.....	236
<b>Exhibit 11.4</b>	State Library Network.....	238
<b>Exhibit 11.5</b>	Librarian Retirement Funding – Fiscal 2007 .....	241
<b>Exhibit 12.1</b>	Community College Aid Programs – Funding Trend.....	243
<b>Exhibit 12.2</b>	Community College Aid Programs – Fiscal 2007 .....	244
<b>Exhibit 12.3</b>	John A. Cade Formula for Community Colleges.....	248
<b>Exhibit 12.4</b>	Community College Teachers’ Retirement.....	252
<b>Exhibit 12.5</b>	Authorized Capital Funding for Community Colleges .....	253
<b>Exhibit 12.6</b>	Funding for Other Community College Grant Programs.....	256
<b>Exhibit 13.1</b>	Public Safety Aid Programs – Funding Trend .....	257
<b>Exhibit 13.2</b>	State Aid for Local Public Safety Programs .....	259
<b>Exhibit 13.3</b>	State Aid for Police Protection (Police Aid Formula) – Fiscal 2007....	261
<b>Exhibit 13.4</b>	Targeted Crime Grant Funding .....	266
<b>Exhibit 13.5</b>	Vehicle Theft Prevention Program.....	268
<b>Exhibit 13.6</b>	Local Correctional Facilities .....	273
<b>Exhibit 14.1</b>	Transportation Aid Programs – Funding Trend.....	275
<b>Exhibit 14.2</b>	State Aid for Local Transportation Programs .....	276
<b>Exhibit 14.3</b>	Highway User Grant Distribution .....	279
<b>Exhibit 14.4</b>	Estimated Federal Aid Secondary and Urban Systems Funds.....	285
<b>Exhibit 15.1</b>	Environment and Recreation Aid Programs – Funding Trend .....	287
<b>Exhibit 15.2</b>	State Aid for Local Environment and Recreation Programs.....	288
<b>Exhibit 15.3</b>	Program Open Space Allocation.....	291
<b>Exhibit 15.4</b>	State Aid for Environment/Recreation Capital Programs.....	295
<b>Exhibit 16.1</b>	Local Health Grants – Targeted Funding Program.....	304
<b>Exhibit 17.1</b>	Miscellaneous State Aid Programs – Funding Trend .....	307

<b>Exhibit 17.2</b>	Fiscal 2007 Disparity Grant Calculation.....	309
<b>Exhibit 17.3</b>	Electric Utility Generating Equipment Property Tax Grants.....	311
<b>Exhibit 17.4</b>	Computations of Retirement Costs in Fiscal 2007.....	313
<b>Exhibit 17.5</b>	State Paid Retirement Costs for Locally Paid Officials and Employees	314
<b>Exhibit 17.6</b>	Horse Racing Impact Aid.....	315
<b>Exhibit 17.7</b>	Payments in Lieu of Taxes.....	316
<b>Exhibit 18.1</b>	Federal Aid to Maryland Local Governments .....	317
<b>Exhibit 18.2</b>	Federal Aid to County Governments .....	319
<b>Exhibit 18.3</b>	Federal Aid – Fiscal 2004 .....	320
<b>Exhibit 19.1</b>	Maryland Local Government Debt Outstanding.....	327
<b>Exhibit 19.2</b>	Credit Rating as of November 1, 2005.....	329
<b>Exhibit 19.3</b>	Total County Debt Outstanding .....	332
<b>Exhibit 19.4</b>	Total Municipal Debt Outstanding.....	333
<b>Exhibit 19.5</b>	County Debt Measures .....	334
<b>Exhibit 20.1</b>	Local Government Functions Assumed by State.....	335
<b>Exhibit 20.2</b>	Baltimore City Functions Assumed by the State .....	336
<b>Exhibit 20.3</b>	Local Circuit Court Functions Assumed by the State.....	340
<b>Exhibit 20.4</b>	Local Circuit Court Functions Assumed by the State.....	341

# **Chapter 1. Overview of Local Government in Maryland**

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When Lord Calvert and his group of English settlers landed on St. Clement's Island in 1634, they brought with them the familiar forms of English government, which included governance on the local level in counties and villages. The settlers immediately set about establishing civil boundaries as they had known them in England with the establishment of St. Mary's City. Just three years later, in 1637, the settlers established St. Mary's County. Since that time, local government has evolved, changing as the times and needs of local communities have changed. Likewise, the law governing local government has developed to address such change. The differences among local governments and the relationship among different levels of government may be best understood in this historical context.

There is no mention of local government in the U.S. Constitution, and local governments are generally considered creatures of the state. Yet often it is with their local government that citizens most closely identify. In terms of types and number of local governments, Maryland's structure is relatively simple. The U.S. Census Bureau identifies 265 local governments in Maryland, including 23 counties, Baltimore City, 156 municipal corporations, and 85 special taxing districts. There are 87,525 local governments throughout the United States. Maryland ranks forty-sixth among the states in terms of the number of local governments. Exhibit 1.1 summarizes the number of local governments in each state. A map of Maryland showing each county and county seat is depicted in Exhibit 1.2.

This chapter provides a brief history and profile of each county, as well as selected demographic information. A more detailed explanation of the structure and powers of each type of local government is provided in later chapters.

## **History and Development of Maryland's Counties and Baltimore City**

Like other states south of the Mason-Dixon line, Maryland has depended on county government as the primary provider of local government services. States to the north have traditionally relied more on townships; counties, where they existed, played a secondary role.

**Exhibit 1.1**  
**Number of Local Governments in the United States by Type**

<b>Rank</b>	<b>State</b>	<b>Total</b>	<b>County</b>	<b>Municipal</b>	<b>Town or Township</b>	<b>Special Purpose</b>
1	Illinois	6,903	102	1,291	1,431	4,079
2	Pennsylvania	5,031	66	1,018	1,546	2,401
3	Texas	4,784	254	1,196	0	3,334
4	California	4,409	57	475	0	3,877
5	Kansas	3,887	104	627	1,299	1,857
6	Ohio	3,636	88	942	1,308	1,298
7	Minnesota	3,482	87	854	1,793	748
8	Missouri	3,422	114	946	312	2,050
9	New York	3,420	57	616	929	1,818
10	Indiana	3,085	91	567	1,008	1,419
11	Wisconsin	3,048	72	585	1,265	1,126
12	Michigan	2,804	83	533	1,242	946
13	Nebraska	2,791	93	531	446	1,721
14	North Dakota	2,735	53	360	1,332	990
15	Iowa	1,975	99	948	0	928
16	Colorado	1,928	62	270	0	1,596
17	South Dakota	1,866	66	308	940	552
18	Oklahoma	1,798	77	590	0	1,131
19	Washington	1,787	39	279	0	1,469
20	Arkansas	1,588	75	499	0	1,014
21	Georgia	1,448	156	531	0	761
22	Kentucky	1,439	119	424	0	896
23	Oregon	1,439	36	240	0	1,163
24	New Jersey	1,412	21	324	242	825
25	Florida	1,191	66	404	0	721
26	Alabama	1,171	67	451	0	653
27	Idaho	1,158	44	200	0	914
28	Montana	1,127	54	129	0	944
29	Mississippi	1,000	82	296	0	622
30	North Carolina	960	100	541	0	319

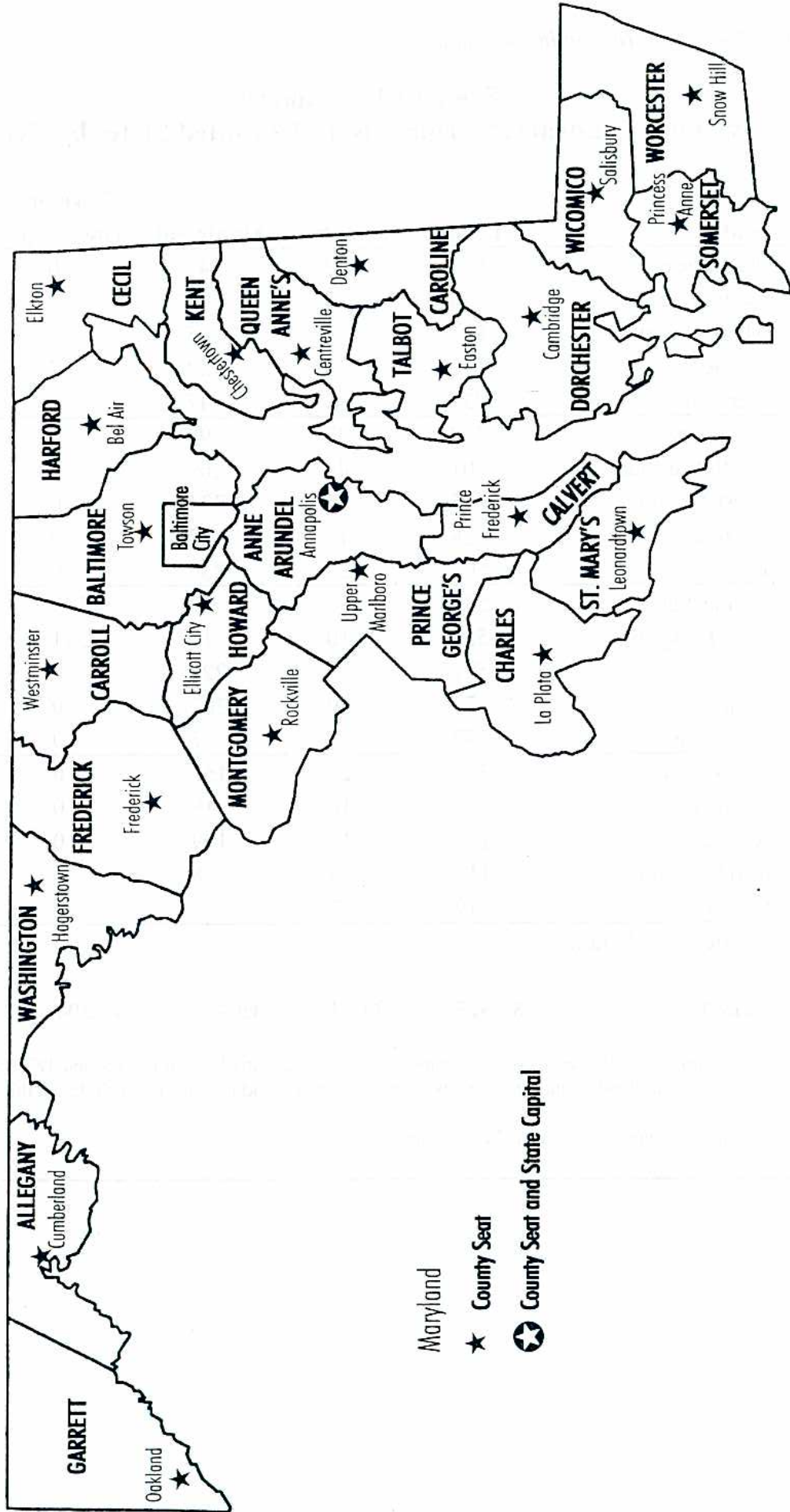
**Exhibit 1.1 (continued)**  
**Number of Local Governments in the United States by Type**

<b>Rank</b>	<b>State</b>	<b>Total</b>	<b>County</b>	<b>Municipal</b>	<b>Town or Township</b>	<b>Special Purpose</b>
31	Tennessee	930	92	349	0	489
32	New Mexico	858	33	101	0	724
33	Massachusetts	841	5	45	306	485
34	Maine	826	16	22	467	321
35	Vermont	733	14	47	237	435
36	Wyoming	722	23	98	0	601
37	South Carolina	701	46	269	0	386
38	West Virginia	686	55	234	0	397
39	Arizona	638	15	87	0	536
40	Utah	605	29	236	0	340
41	Connecticut	580	0	30	149	401
42	New Hampshire	559	10	13	221	315
43	Virginia	521	95	229	0	197
44	Louisiana	473	60	302	0	111
45	Delaware	339	3	57	0	279
46	<b>Maryland</b>	<b>265</b>	<b>23</b>	<b>157</b>	<b>0</b>	<b>85</b>
47	Nevada	210	16	19	0	175
48	Alaska	175	12	149	0	14
49	Rhode Island	118	0	8	31	79
50	Hawaii	19	3	1	0	15
51	District of Columbia	2	0	1	0	1
	<b>United States</b>	<b>87,525</b>	<b>3,034</b>	<b>19,429</b>	<b>16,504</b>	<b>48,558</b>

Note: Beginning with the 2002 Census of Governments, the U.S. Census Bureau reclassified 187 special drainage association districts in Maryland as subordinate government agencies, and are thus not included in this exhibit.

Source: U.S. Census Bureau, 2002 Census of Governments

Exhibit 1.2  
State of Maryland Map



Unlike Maryland's municipal corporations, which were established exclusively to meet parochial needs, counties have traditionally served two roles simultaneously – a provider of local services and an administrative arm of the State. In the first role, the form and extent of county government throughout the State developed based on local needs and on economic, geographic, and population differences. When these differences are considered collectively, they contribute to Maryland's reputation as "America in miniature." In the second role, counties have served as a mechanism to provide services of statewide concern throughout each region of the State.

Today, Maryland's counties operate under one of three forms of government: traditional commission government, charter home rule, and code home rule. This chapter provides a brief history and profile of each county and reviews selected demographic information. A general overview of county government structure is then provided, which discusses the three forms of county government and how they relate to the authority of a county. Because Baltimore City operates as both a county and municipality but is treated as a county for most purposes under State law, Baltimore City's governmental structure is reviewed in conjunction with charter counties.

## **County Profiles**

Maryland is a diverse State encompassing the mountainous regions of Western Maryland, waterfront communities along the Chesapeake Bay and Eastern Shore, historic towns, rolling hills and horse farms in the north/central region, and the urban center along the Baltimore/Washington corridor.

### **Allegany County**

Allegany County, located in Western Maryland, was created out of Washington County in 1789. The name "Allegany" comes from "oolikhanna," a Native American term meaning "beautiful stream." The county represents one aspect of Maryland's varying landscapes, billing itself as the "Mountain Side of Maryland." It has seven municipal corporations, including Cumberland, the county's largest municipal corporation and county seat.

Increasingly, Allegany County is becoming a destination for tourists and businesses. Popular tourism attractions include outdoor sports such as fishing, boating, and golf, where visitors enjoy breathtaking mountain views. Historically, the county was home to the western terminus of the C & O Canal. The county's traditional role as a manufacturing and transportation center plays an important part in the county's tourism industry today. The C & O Canal National Historic Park, Canal Place, and the Rocky Gap Lodge and Golf Resort, featuring a Jack Nicklaus signature golf course, are also

popular attractions. In addition, the Western Maryland Scenic Railroad offers rides between historic Cumberland and Frostburg.

Since 1974, Allegany County has operated as a code home rule county, governed by three county commissioners. Allegany County's official web site is found at <http://www.gov.allconet.org>.

## **Anne Arundel County**

Anne Arundel County, created by Chapter 8 of 1650 (April Session), was named for Lady Anne Arundell, the wife of Cecilius Calvert, Second Lord Baltimore and founder of the Maryland colony. The county has two municipal corporations, Annapolis and Highland Beach. Annapolis serves as the county seat as well as the State capital.

Anne Arundel County is known for its historic landmarks, waterfront communities, crabbing, and sailing. Annapolis, "America's Sailing Capital" and home to the United States Naval Academy, is a major tourist destination. Located in the Washington/Baltimore corridor, the county is home to the Baltimore/Washington International Thurgood Marshall Airport, the county's commercial and industrial center. The county's economy is also grounded in Internet-based services, high technology telecommunications, and distribution and technical support services.

Since 1964, Anne Arundel County has been a charter county, governed by an elected executive and a seven-member council. Anne Arundel County's official web site is found at <http://www.aacounty.org>.

## **Baltimore City**

Baltimore City was named for Cecilius Calvert's Barony in Ireland. The city was first incorporated by Chapter 68 of 1796 and was originally a part of Baltimore County. It became an independent unit separate from the county in 1851, and today is known by the nickname "Charm City."

The port city of Baltimore is a dynamic urban center fueled by a diverse economy, internationally renowned universities and medical centers, and an extraordinary collection of historic and cultural resources. Development at Baltimore City's Inner Harbor and new sports arenas have transformed the city into a popular travel destination. Premier attractions include Oriole Park at Camden Yards, M&T Bank Stadium, the National Aquarium, the Maryland Science Center, the Great Blacks in Wax Museum, and the Reginald F. Lewis Museum of Maryland African American History & Culture. Though historically an industrial city, Baltimore City's economy now features such

things as health care and life sciences, international finance and banking, hospitality and entertainment, and maritime commerce.

Baltimore City is governed by a mayor and a 15-member council. Its official web site is found at <http://www.ci.baltimore.md.us>.

## **Baltimore County**

Known as “Maryland’s horse country,” Baltimore County was established in 1659. Following the separation of Baltimore City from the county, in 1854 the county seat became Towson. The county has no municipal corporations located entirely within Baltimore County; however, a part of the Town of Hampstead, located primarily in Carroll County, extends into the county’s boundaries.

Baltimore County represents a blend of historic neighborhoods, suburban communities, and rural landscapes. With over 175 miles of shoreline and over 60 marinas, the county is a popular destination for boaters and fishermen. The county is also well known for its horse industry, with 149 thoroughbred horse farms and the annual Maryland Hunt Cup, the oldest and most difficult hunt race in the country. The county has a highly diversified economy that ranges from industrial facilities located in Dundalk/Sparrows Point to numerous high technology centers located near the University of Maryland Baltimore County. It is home to many Fortune 500 headquarters.

Since 1956, Baltimore County has been a charter county, governed by an elected executive and a seven-member council. Its official web site is found at <http://www.baltimorecountymd.gov>.

## **Calvert County**

Calvert County, the smallest county in Maryland, is located in Southern Maryland. Originally created in 1654, the county was known as Patuxent County until 1658. Its current name is derived from the family name of Lord Baltimore, the Proprietary of the Maryland colony. Though not a municipal corporation, Prince Frederick serves as the county seat. The two municipal corporations in the county are North Beach and Chesapeake Beach.

Traditionally, agriculture and seafood have been mainstays of Calvert County’s economy. Today, it is the fastest growing county in the State, best known for its attractive location on the Chesapeake Bay and the Patuxent River. The county provides residents and visitors with excellent recreational opportunities such as boating, sailing, fishing, crabbing, and swimming. The community of North Beach boasts an expansive

boardwalk along the bay. The county is home to the Calvert Marine Museum and Drum Point Lighthouse in Solomons. In addition, the State's only nuclear power plant is located in the county.

The county has a commission government and is governed by five county commissioners. Calvert County's official web site is found at <http://www.co.cal.md.us>.

## **Caroline County**

Caroline County, created from Dorchester and Queen Anne's counties in 1773, was named for Lady Caroline Eden, the daughter of Charles Calvert, Fifth Lord Baltimore, and wife of Robert Eden, Maryland's last colonial governor. Known as the "Green Garden County" for its commercial vegetable production, Caroline County is the only land-locked county on the Eastern Shore. Denton, the largest of the county's 10 municipal corporations, serves as the county seat.

Much of Caroline County is rural and agricultural; farming is a major economic activity, ranking it first in the State in the production of vegetables. Poultry farming is also a major generator of economic activity. Boasting over 5,000 acres of parkland and wildlife preserves, it contains miles of trails available for hiking and cycling. Wildlife enthusiasts enjoy hunting, fishing, and boating opportunities.

Since 1984, Caroline County has operated as a code home rule county, governed by three county commissioners. Caroline County's official web site is found at <http://www.carolinemd.org>.

## **Carroll County**

Established in 1837 from the western part of Baltimore County and the eastern part of Frederick County, Carroll County was named for Charles Carroll of Carrollton, a Revolutionary War statesman and a Maryland signer of the Declaration of Independence. Westminster, the largest of eight municipal corporations in the county, serves as the county seat.

Carroll County is particularly noted for its antique shops, gift boutiques, historical sites, bookstores, and art galleries. Each year people come for its farmers' markets, festivals, and the Baltimore Raven's training camp. Agriculture, especially the dairy industry, remains an important part of the local economy, although the role of the commercial and industrial sectors has increased significantly in the county.

The county has a commission government and is governed by three county commissioners. Carroll County's official web site is found at <http://www.carr.org>.

## **Cecil County**

Cecil County, named for Cecilius Calvert, Second Lord Baltimore and founder of the Maryland colony, is located in the northeast corner of the State. It was created out of Baltimore and Kent counties in 1674. Elkton, one of eight municipal corporations, is the county's largest municipal corporation and serves as the county seat.

Cecil County's landscape varies from open farmland and forest covered uplands to miles of beautiful shoreline and marshes that line the upper Chesapeake Bay. Five major rivers and the Chesapeake Bay provide year round recreational and hunting opportunities for residents and visitors of Cecil County. Popular local pastimes include hunting, fishing, boating, and decoy carving. Agriculture is an important part of the local economy, with farmland accounting for 70 percent of the county's land use.

The county has a commission government and is governed by five county commissioners. Its official web site is found at <http://www.ccgov.org>.

## **Charles County**

Charles County, in Southern Maryland, was established in 1658 and was named for Charles Calvert, Third Lord Baltimore. La Plata, the largest of three municipal corporations, serves as the county seat.

With three State parks, four natural wildlife areas, and 150 miles of shoreline, Charles County is attractive for residents and tourists who enjoy outdoor activities. In addition, Charles County houses a dense population of Bald Eagles. Along with tourism, agriculture traditionally has been the mainstay of the economy. However, in recent years, the county has experienced significant business and residential growth.

Since 2002, the county has operated as a code home rule form of government. Today, it is governed by five county commissioners. Charles County's official web site is found at <http://www.charlescounty.org>.

## **Dorchester County**

Although the legal origin of Dorchester County is unknown, it has existed since 1668. The county was named for the Earl of Dorset, a family friend of the Calverts. The county is known as the "Heart of Chesapeake Country" because of its mid-Eastern Shore

location and heart-shaped geographic configuration. Cambridge, the largest of nine municipal corporations, serves as the county seat.

Dorchester County is home to many wildlife refuge areas including Taylors Island, LeCompte, and Blackwater National Wildlife Refuge. Agriculture and seafood traditionally have been the economic mainstays of the county. However, manufacturing is a growing industry, accounting for 28 percent of total employment.

Since 2002, the county has operated under a charter home rule form of government. It is governed by five county council members who appoint a county manager. Dorchester County's official web site is found at <http://www.docogonet.com>.

### **Frederick County**

Located in the Capital Region, Frederick County was created out of Baltimore and Prince George's counties in 1748. The county was probably named for Frederick Calvert, the sixth and last Lord Baltimore. Home to the "antiques capital of Maryland," Frederick County is located in both the Appalachian Mountain and Piedmont Plateau regions. The City of Frederick, the largest of 12 municipal corporations, serves as the county seat.

Traditionally, agriculture has been the mainstay of the local economy; the county has more farms than any other county in the State. However, the county's proximity to the nation's capital and the Interstate 270 technology corridor has resulted in significant business and residential growth in recent years, making it now one of the fastest growing counties in the State. The county remains Maryland's largest dairy producer, but growing industries include biotechnology, information technology, and manufacturing. Frederick County is also the home to Catoctin National Park, site of the Camp David presidential retreat.

The county has a commission government and is governed by five county commissioners. Frederick County's official web site is found at <http://www.co.frederick.md.us>.

### **Garrett County**

Garrett County, Maryland's newest county, was created out of Allegany County in 1872. The county was named for John Work Garrett, one-time president of the Baltimore and Ohio Railroad. Located in Western Maryland, Garrett County's topography is mountainous. Oakland, one of eight municipal corporations, serves as the county seat.

Parks, lakes, and publicly owned forest land are found throughout the county. With Deep Creek Lake, Wisp Ski Resort, and numerous other recreational opportunities, Garrett County is sometimes referred to as “Maryland’s mountaintop playground.” Agriculture and coal mining are also important parts of the local economy.

The county has a commission form of government and is governed by three county commissioners. Garrett County’s official web site is found at <http://www.garrettcounty.org>.

## **Harford County**

Harford County was created out of Baltimore County in 1773 and was named for Henry Harford, last Proprietary of Maryland. Billing itself as the “Gateway to the Chesapeake,” Harford County is located near the northern edge of the Chesapeake Bay in Central Maryland. Bel Air, one of three municipal corporations, serves as the county seat.

Historically, in addition to agriculture, the Susquehanna River and Tidewater Canal was an important economic engine in Harford County. Today, this piece of history plays a part of the county’s tourism, with offerings such as the Susquehanna Museum, the Havre de Grace Duck Decoy Museum, and the Concord Point Lighthouse. In addition, visitors and residents enjoy outdoor activities and baseball at the Ripkin Stadium in Aberdeen.

Since 1972, Harford County has been a charter county governed by an elected executive and a seven-member council. Its official web site is found at <http://www.harfordcountymd.gov>.

## **Howard County**

Located in Central Maryland, Howard County was originally created as Howard District from Anne Arundel County in 1838. While the district enjoyed the status of a county, it was not until 1851 that it was officially formed as such. It was named for John Eager Howard, an officer in the Revolutionary War and a Governor of Maryland, and is considered a “county of contrasts,” home to urban and rural settings, mountains, and plains. With no municipal corporations, Ellicott City serves as the county seat.

Like many other counties, Howard County’s early economy was based on tobacco. Today, the county’s agrarian history is highlighted by Savage Mill and Ellicott City, former mill towns that have been renovated into unique marketplaces featuring antique dealers, artisans, and retailers. As one of the fastest growing counties in the State, it has a

diverse economic base, including biotechnology companies, research and development firms, telecommunication companies, and wholesale distributors.

Since 1968, it has been a charter county governed by an elected executive and a five-member council. Howard County's official web site is found at <http://www.co.ho.md.us>.

## **Kent County**

Kent County was first mentioned as a county in 1642 and was named for a county of the same name bordering the English Channel in southeast England. Located between the Sassafras and Chester rivers on the Eastern Shore, locals and visitors think of Kent County as "quintessentially rural." Chestertown, the largest of the five municipal corporations, serves as the county seat.

A significant portion of Kent County is devoted to agriculture. County agricultural products include corn, milk, soybeans, and vegetables. Outdoor activities such as fishing, boating, and cycling appeal to residents and visitors. Kent County is home to the Eastern Neck Wildlife Refuge, an unspoiled island habitat.

Since 1970, Kent County has operated as a code home rule county, governed by three county commissioners. Kent County's official web site is found at <http://www.kentcounty.com>.

## **Montgomery County**

Montgomery County was created out of Frederick County by resolve of the Constitutional Convention of 1776. The county was named for Richard Montgomery, a Revolutionary War general. Of the 19 municipal corporations in the county, Rockville serves as the county seat.

Montgomery County is culturally diverse and economically robust. Home to the Mormon Temple Visitor Center, the Clara Barton National Historic Site, and the C & O Canal National Historic Park, the county also has the State's largest Hispanic/Latino population. Montgomery County is the nation's third largest biotech center and home to world-famous Celera Genomics, the company that helped decode the human genome. The county is also home to 19 major federal research and development installations, including the Food and Drug Administration and the National Institutes of Health, the county's largest employer. The county's population is among the most affluent and diverse in the country.

In 1948, Montgomery County became the first county to adopt charter home rule. Today, it is governed by an elected executive and a nine-member council. Montgomery County's official web site is found at <http://www.montgomerycountymd.gov>.

### **Prince George's County**

Prince George's County was created out of Calvert and Charles counties in 1695. The county was named for Prince George of Denmark, the husband of Queen Anne. Upper Marlboro, one of 27 municipal corporations, serves as the county seat.

Prince George's County has retained aspects of its past even as it has attracted cutting-edge research facilities. Farmers harvest crops from centuries-old family farms adjacent to facilities such as the NASA-Goddard Space Flight Center. The county's proximity to the nation's capital has attracted nearly a dozen other federal facilities such as the USDA Beltsville Agricultural Research Center and the Army Research Laboratory. Prince George's County is also home to the University of Maryland, College Park, the University System of Maryland's flagship campus and the second largest employer in the county. FEDEX Stadium, the home of the Washington Redskins, is also located in the county.

Since 1970, it has been a charter county governed by an elected executive and a nine-member council. Prince George's County's official web site is found at <http://www.co.pg.md.us>.

### **Queen Anne's County**

Queen Anne's County was established in 1706 and named for Queen Anne, who ruled Great Britain during the period Maryland was governed as a royal colony rather than a proprietary province. The county is called the "Gateway to the Eastern Shore" because eastbound travelers enter Queen Anne's County via the Chesapeake Bay Bridge. Centreville, the largest of eight municipal corporations in the county, serves as the county seat.

Although Queen Anne's County has experienced significant growth, it has maintained a primarily agricultural and tourism-based economy. Wye Oak State Park, Tuckahoe State Park, and Wye Island Wildlife Refuge provide unique experiences for nature lovers. The county is also home to the Wildfowl Trust of North America. A sizeable number of county residents commute to the Annapolis, Baltimore, and Washington areas for jobs.

Since 1990, Queen Anne's County has operated as a code home rule county, governed by five county commissioners. Queen Anne's County's official web site is found at <http://www.qac.org>.

### **St. Mary's County**

St. Mary's County, Maryland's first county, was established in 1637. This Southern Maryland county was named in honor of Mary, mother of Jesus. It was here that the Ark and Dove landed on March 25, 1634, and the county is considered Maryland's birthplace. Leonardtown, the only municipal corporation in the county, serves as the county seat.

Traditionally, agriculture and seafood have been St. Mary's County's economic mainstays. However, the county has emerged as a world-class center for aviation and avionics research, development, and testing. The county is home to the Patuxent Naval Air Test Center, an installation that has prompted significant growth in the county as it has assumed additional responsibilities due to closure of other military installations around the country. The U.S. Naval Air Systems Command, the Naval Air Warfare Center Aircraft Division, as well as over 200 high-tech defense contractors are located in the county. The influx of technical jobs resulting from growth at the naval facilities has resulted in a significant increase in the median household income for county residents.

The county has a commission government and is governed by five county commissioners. St. Mary's County's official web site is found at <http://www.co.saint-marys.md.us>.

### **Somerset County**

Somerset County was established in 1666 and named for Lady Mary Somerset, the sister of Lady Anne Arundell. Princess Anne serves as the county seat; the only other municipal corporation is Crisfield.

Somerset County is noted for its water-oriented activities, natural wildlife sites, and blue crabs. The agriculture, seafood, and timber industries are important components of the local economy. Crisfield, the largest municipality in the county, serves as a major seafood processing center. Called "The Crab Capital of the World," each year the county holds the Crisfield Hard Crab Derby to celebrate the county's rich seafood heritage. State facilities include the University of Maryland Eastern Shore and the Eastern Correctional Institution.

The county has a commission government and is governed by five county commissioners. The official web site for the Somerset County Economic Development Commission is found at <http://www.somersetcountyedc.org>.

## **Talbot County**

Talbot County was created in 1662 and named for Lady Grace Talbot, the sister of the Second Lord Baltimore. Easton, the largest of five municipal corporations, serves as the county seat.

Talbot County contains numerous historical sites and landmarks making the county a popular tourist destination. Easton's historic downtown reflects the city's colonial days when the shipbuilding industry flourished. Today, people can relive this earlier time by visiting the Chesapeake Bay Maritime Museum located in St. Michaels. The Waterfowl Festival is held each November, attracting thousands of visitors to the county. Due to its natural setting along the bay, the county has focused on environmental science and related information technology companies for new employment growth. Manufacturing remains a significant part of the local economy.

Since 1973, Talbot County has operated as a charter county governed by a five-member council that appoints a county manager. Its official web site is found at <http://www.talbotcountymd.gov>.

## **Washington County**

Washington County was created out of Frederick County by resolve of the Constitutional Convention of 1776 and named for George Washington. Known for its historic Civil War attractions, the county is located in Western Maryland. Hagerstown, the largest of nine municipal corporations in the county, serves as the county seat.

Washington County has become a popular destination for its Civil War history, outdoor sports, and easy access to nearby metropolitan areas. The county is home to Antietam National Battlefield, C & O Canal National Park, and Fort Frederick State Park. Traditionally, agriculture has been an economic mainstay. However, with the intersection of Interstates 70 and 81, the area has attracted major financial, industrial, and distribution centers.

The county has a commission government and is governed by five county commissioners. Washington County's official web site is found at <http://www.washco-md.net>.

## **Wicomico County**

Wicomico County was created out of Somerset and Worcester counties as part of the adoption of the Maryland Constitution in 1867. The county was named after the Wicomico River, a name derived from the Native American words “wicko” and “mekee,” meaning a “place where houses are built.” Salisbury, the largest of eight municipal corporations, serves as the county seat.

Wicomico County boasts an award-winning parks system, a nationally recognized hospital, and easy access to nearby beach attractions. It leads in the State in agricultural production, although it also is the commercial/industrial center of the Lower Eastern Shore. The county is home to Salisbury University and the Delmarva Shorebirds, a Class A minor league affiliate of the Baltimore Orioles.

Since 1964, it has operated as a charter county and is now governed by an elected executive and a seven-member council. Wicomico County’s official web site is found at <http://www.wicomicocounty.org/>.

## **Worcester County**

Worcester County, created out of Somerset County in 1742 and named for the Earl of Worcester, is Maryland’s only county bordering the Atlantic Ocean. Snow Hill, one of four municipal corporations in the county, serves as the county seat.

Ocean City is the county’s largest municipality and serves as the State’s most prominent tourist attraction, offering cruises, fishing, golfing, surfing, amusement parks, and sunbathing. Worcester County is host to the White Marlin and Tuna Tournament, the Delmarva Birding Weekend, and the World Wildfowl Carving Competition. Besides tourism, chicken growing and processing is the major industry.

Since 1976, Worcester County has operated as a code home rule county, governed by seven county commissioners. Its official web site is found at <http://www.co.worcester.md.us>.

## **County Demographics**

Maryland, consisting of 9,774 square miles, ranks forty-second among states in terms of land area. Maryland’s counties range from Calvert County with 215 square miles to Frederick County with 663 square miles. Baltimore City comprises 81 square miles. According to 2005 Census Bureau estimates, 5.6 million people live in Maryland. Montgomery County is the State’s most populous county with 928,000 residents, and Kent

County has the smallest population with 19,900 residents. Baltimore City, although fourth in total population, has the highest population density in the State. Montgomery County is second in terms of population density. Garrett County has the lowest population density.

Maryland is among the most racially diverse states in the nation. As shown in Exhibit 1.3, racial minorities constitute 40.8 percent of the State's population. African Americans are the largest racial minority in Maryland, comprising 28.8 percent of the State's population. Hispanics/Latinos and Asians make up 5.7 and 4.7 percent of the State's population, respectively. Montgomery County is the most diverse county in the State with Hispanics/Latinos and Asians each comprising about 13 percent of the county's population. Nationally, Hispanics/Latinos are the largest minority group comprising 14.4 percent of the nation's population.

## **Population Growth**

Growth remains a key issue as Maryland's population continues to expand. Since April 2000, Maryland's population has increased by nearly 304,000 people. This represents a 5.7 percent increase over the five-year period, giving Maryland the nineteenth highest growth rate in the nation. For comparison purposes, the United States' population increased by 5.3 percent during this same period.

Population growth throughout Maryland has not been uniform. The largest growth occurred in Southern Maryland, the Eastern Shore, and the north-central region of the State. Baltimore City and many economically distressed rural counties realized either marginal growth or continued reductions in population.

Calvert County led the State in population growth from 1990 to 2000 with a growth rate of 45 percent. Worcester, Howard, and Frederick counties had growth rates at or above 30 percent. Baltimore City and Allegany County were the only jurisdictions that lost population during the 1990s. From 2000 to 2005, Calvert County continued to lead the State in population growth, followed by Charles, Cecil, Frederick, and Queen Anne's counties. Exhibits 1.4a and 1.4b illustrate population growth by county.

## **Economic and Social Indicators**

The economic vitality of local jurisdictions varies across the State. Baltimore City and many rural counties are challenged by below average employment growth, high unemployment, and low household incomes. Counties in the Capital Region have high rates of employment growth, low unemployment, and above-average household incomes. As indicated in Exhibit 1.5, median household income ranges from \$88,600 in Howard County to \$34,900 in Somerset County.

**Exhibit 1.3**  
**Maryland Demographic Information**

<b>County</b>	<b>Land Area (Sq. Miles)</b>	<b>Population 2005 Est.</b>	<b>Population Density</b>	<b>White</b>	<b>African American</b>	<b>Hispanic/ Latino</b>	<b>Asian</b>
Allegany	425.4	73,639	173.1	91.9%	5.9%	1.0%	0.6%
Anne Arundel	415.9	510,878	1,228.4	77.3%	14.4%	3.6%	2.8%
Baltimore City	80.8	635,815	7,869.0	30.1%	64.4%	2.2%	1.8%
Baltimore	598.6	786,113	1,313.3	68.4%	23.8%	2.4%	3.9%
Calvert	215.2	87,925	408.6	82.7%	12.7%	2.0%	1.0%
Caroline	320.1	31,822	99.4	80.6%	13.9%	4.0%	0.5%
Carroll	449.1	168,541	375.3	93.3%	2.9%	1.5%	1.3%
Cecil	348.1	97,796	280.9	90.9%	4.9%	2.0%	1.0%
Charles	461.0	138,822	301.1	57.6%	34.3%	3.1%	2.2%
Dorchester	557.5	31,401	56.3	69.3%	27.4%	1.9%	0.8%
Frederick	662.9	220,701	332.9	83.2%	7.5%	4.6%	2.9%
Garrett	648.0	29,909	46.2	98.6%	0.5%	0.5%	0.2%
Harford	440.3	239,259	543.4	82.8%	11.3%	2.4%	1.8%
Howard	252.0	269,457	1,069.3	67.1%	15.8%	4.0%	10.9%
Kent	279.4	19,899	71.2	79.8%	15.5%	3.3%	0.9%
Montgomery	495.5	927,583	1,872.0	55.8%	15.6%	13.6%	13.0%
Prince George's	485.4	846,123	1,743.1	19.0%	64.7%	10.7%	3.8%
Queen Anne's	372.2	45,612	122.5	89.0%	7.8%	1.4%	0.8%
St. Mary's	361.2	96,518	267.2	79.7%	14.1%	2.3%	2.0%
Somerset	327.2	25,845	79.0	55.3%	41.2%	1.8%	0.8%
Talbot	269.1	35,683	132.6	82.1%	14.5%	2.6%	0.6%
Washington	458.1	141,895	309.7	87.1%	8.8%	1.9%	1.1%
Wicomico	377.2	90,402	239.7	70.7%	23.5%	2.8%	1.7%
Worcester	473.2	48,750	103.0	81.7%	14.8%	1.8%	0.9%
<b>Maryland</b>	<b>9,773.4</b>	<b>5,600,388</b>	<b>573.0</b>	<b>59.2%</b>	<b>28.8%</b>	<b>5.7%</b>	<b>4.7%</b>
<b>United States</b>		<b>296,410,404</b>		<b>66.9%</b>	<b>12.3%</b>	<b>14.4%</b>	<b>4.2%</b>

Source: Maryland Department of Planning, U.S. Census Bureau

**Exhibit 1.4a**  
**Demographics – Population Growth by County**

<b>County</b>	<b>1990</b>	<b>2000</b>	<b>2005</b>	<b>Percent Change</b>	
				<b>1990-2000</b>	<b>2000-2005</b>
Allegany	74,946	74,930	73,639	0.0%	-1.7%
Anne Arundel	427,239	489,656	510,878	14.6%	4.3%
Baltimore City	736,014	651,154	635,815	-11.5%	-2.4%
Baltimore	692,134	754,292	786,113	9.0%	4.2%
Calvert	51,372	74,563	87,925	45.1%	17.9%
Caroline	27,035	29,772	31,822	10.1%	6.9%
Carroll	123,372	150,897	168,541	22.3%	11.7%
Cecil	71,347	85,951	97,796	20.5%	13.8%
Charles	101,154	120,546	138,822	19.2%	15.2%
Dorchester	30,236	30,674	31,401	1.4%	2.4%
Frederick	150,208	195,277	220,701	30.0%	13.0%
Garrett	28,138	29,846	29,909	6.1%	0.2%
Harford	182,132	218,590	239,259	20.0%	9.5%
Howard	187,328	247,842	269,457	32.3%	8.7%
Kent	17,842	19,197	19,899	7.6%	3.7%
Montgomery	762,875	873,341	927,583	14.5%	6.2%
Prince George's	722,705	801,515	846,123	10.9%	5.6%
Queen Anne's	33,953	40,563	45,612	19.5%	12.4%
St. Mary's	75,974	86,211	96,518	13.5%	12.0%
Somerset	23,440	24,747	25,845	5.6%	4.4%
Talbot	30,549	33,812	35,683	10.7%	5.5%
Washington	121,393	131,923	141,895	8.7%	7.6%
Wicomico	74,339	84,644	90,402	13.9%	6.8%
Worcester	35,028	46,543	48,750	32.9%	4.7%
<b>Maryland</b>	<b>4,780,753</b>	<b>5,296,486</b>	<b>5,600,388</b>	<b>10.8%</b>	<b>5.7%</b>

Source: U.S. Census Bureau

**Exhibit 1.4b**  
**Demographics – Population Growth by County**

<b>Highest to Lowest Growth</b>			<b>Highest to Lowest Growth</b>		
<b><u>1990 to 2000</u></b>			<b><u>2000 to 2005</u></b>		
1.	Calvert	45.1%	1.	Calvert	17.9%
2.	Worcester	32.9%	2.	Charles	15.2%
3.	Howard	32.3%	3.	Cecil	13.8%
4.	Frederick	30.0%	4.	Frederick	13.0%
5.	Carroll	22.3%	5.	Queen Anne's	12.4%
6.	Cecil	20.5%	6.	St. Mary's	12.0%
7.	Harford	20.0%	7.	Carroll	11.7%
8.	Queen Anne's	19.5%	8.	Harford	9.5%
9.	Charles	19.2%	9.	Howard	8.7%
10.	Anne Arundel	14.6%	10.	Washington	7.6%
11.	Montgomery	14.5%	11.	Caroline	6.9%
12.	Wicomico	13.9%	12.	Wicomico	6.8%
13.	St. Mary's	13.5%	13.	Montgomery	6.2%
14.	Prince George's	10.9%		<b>Maryland</b>	<b>5.7%</b>
	<b>Maryland</b>	<b>10.8%</b>	14.	Prince George's	5.6%
15.	Talbot	10.7%	15.	Talbot	5.5%
16.	Caroline	10.1%	16.	Worcester	4.7%
17.	Baltimore	9.0%	17.	Somerset	4.4%
18.	Washington	8.7%	18.	Anne Arundel	4.3%
19.	Kent	7.6%	19.	Baltimore	4.2%
20.	Garrett	6.1%	20.	Kent	3.7%
21.	Somerset	5.6%	21.	Dorchester	2.4%
22.	Dorchester	1.4%	22.	Garrett	0.2%
23.	Allegany	0.0%	23.	Allegany	-1.7%
24.	Baltimore City	-11.5%	24.	Baltimore City	-2.4%

Source: U.S. Census Bureau, Department of Legislative Services

**Exhibit 1.5  
Demographics – Selected Maryland Economic Indicators**

<b>County</b>	<b>Average Annual Employment CY 2005</b>	<b>Jobs per 1,000 Residents CY 2005</b>	<b>Average Weekly Wage per Worker CY 2005</b>	<b>Average Unemployment Rate CY 2005</b>	<b>Median Household Income CY 2005</b>	<b>Median Home Price FY 2005</b>
Allegany	30,284	411.2	\$553	6.0%	\$36,650	\$76,750
Anne Arundel	222,106	434.8	814	3.5%	76,350	289,900
Baltimore City	349,980	550.4	917	7.1%	35,400	123,500
Baltimore	371,371	472.4	813	4.3%	60,700	209,900
Calvert	20,810	236.7	699	3.2%	84,650	288,900
Caroline	8,744	274.8	564	4.3%	45,800	178,000
Carroll	54,082	320.9	615	3.2%	75,050	295,000
Cecil	29,203	298.6	742	4.5%	60,350	225,000
Charles	40,769	293.7	665	3.3%	78,750	282,000
Dorchester	12,035	383.3	585	5.3%	40,550	175,000
Frederick	91,079	412.7	742	3.0%	78,050	282,000
Garrett	11,489	384.1	487	4.8%	39,000	131,000
Harford	80,479	336.4	725	3.9%	71,450	230,000
Howard	138,778	515.0	907	3.0%	88,600	339,883
Kent	8,106	407.4	586	3.9%	45,750	240,092
Montgomery	458,668	494.5	1,042	3.1%	84,850	375,000
Prince George's	312,639	369.5	848	4.5%	69,300	245,000
Queen Anne's	12,928	283.4	575	3.4%	71,750	326,493
St. Mary's	37,591	389.5	885	3.4%	63,250	250,000
Somerset	6,973	269.8	603	5.9%	34,900	128,000
Talbot	19,124	535.9	609	3.7%	50,100	298,400
Washington	65,957	464.8	646	4.3%	47,900	205,000
Wicomico	45,364	501.8	623	4.2%	44,650	172,000
Worcester	24,479	502.1	480	6.7%	49,400	290,000
<b>Statewide</b>	<b>2,453,038</b>	<b>438.0</b>	<b>\$853</b>	<b>4.1%</b>	<b>\$64,300</b>	<b>\$265,500</b>

Source: U.S. Census Bureau; Department of Labor, Licensing, and Regulation; State Department of Assessments and Taxation; Department of Legislative Services

## **Employment Statistics**

The unemployment rate measures the percentage of a county's total civilian labor force that is out of work. In calendar 2005, the statewide unemployment rate averaged 4.1 percent, a slight decrease from the prior year. Howard and Frederick counties had the lowest unemployment rate at 3.0 percent, while Baltimore City had the highest at 7.1 percent.

In calendar 2005, the average weekly wage was \$853 statewide, ranging from \$480 in Worcester County to \$1,042 in Montgomery County. Baltimore City had the second highest average weekly wage at \$917 followed by Howard County at \$907. As calculated by the Department of Labor, Licensing, and Regulation, the average weekly wage is based on individuals' place of employment, not their place of residence.

## **Household Income**

Based on a three-year average from 2002 through 2004, Maryland ranked third among states with the highest median household income, behind New Hampshire and New Jersey. The median household income in 2005 for Maryland jurisdictions averaged \$64,300 statewide, ranging from \$34,900 in Somerset County to \$88,600 in Howard County. Montgomery County had the second highest median income at \$84,850. Five counties (Allegany, Dorchester, Garrett, Somerset, and Wicomico) and Baltimore City had a median household income below 70 percent of the statewide average.

## **Median Sale Price for Homes**

The median sale price for owner-occupied real property was \$265,500 statewide in fiscal 2005, up \$44,400 from the previous year, representing a 20.1 percent increase. For comparison purposes, the median household income increased by only 3.7 percent from calendar 2004 to 2005. The median sale price ranged from \$76,750 in Allegany County to \$375,000 in Montgomery County. The highest increase in median value for home sales in fiscal 2005 occurred in Kent (42.9 percent) and Worcester (38.1 percent) counties. Allegany County had the lowest annual increase at 7.7 percent.

## **Poverty Rates**

Maryland has one of the lowest poverty rates in the nation. Based on the 2000 Census, 8.5 percent of Marylanders live in poverty compared to 12.4 percent at the national level. As shown in Exhibit 1.6, across the State, the poverty rate in 2000 ranged from 3.8 percent in Carroll County to 22.9 percent in Baltimore City. Seven counties had poverty rates exceeding the national average. Poverty rate statistics are taken from the

2000 Census. More recent data on a county-by-county basis is not yet available from the U.S. Census Bureau.

### **Single-parent Households**

The effects of poverty are compounded by the fact that many children in Maryland do not live in a two-parent household (see Exhibit 1.6). According to 2000 Census data, more than 30 percent of Maryland households with children are headed by a single parent, up from 12.8 percent in 1970. Single-parent families with children range from a high of 61 percent in Baltimore City to a low of 17 percent in Carroll County. Counties with a high level of single-parent households also tend to have a high child poverty rate.

### **High School Dropout Rate**

Maryland's high school dropout rate declined in 2005. According to the *2005 Maryland Report Card* produced by the Maryland State Department of Education, Maryland's high school dropout rate averaged 3.7 percent in 2005 (see Exhibit 1.6). This compares to 5.4 percent in 1993 and 3.9 percent in 2004. The high school dropout rate ranges from 0.7 percent in Frederick County to 11.8 percent in Baltimore City. Compared to 2004, high school dropout rates declined in 13 local school systems in 2005 but increased in 10 local school systems, with rates in one local school system unchanged.

### **Crime Statistics**

As shown in Exhibit 1.6, according to the *Uniform Crime Report* for 2005, compiled by the Maryland State Police, Prince George's County has the highest crime rate in the State, followed closely by Baltimore City. Frederick, Carroll, and Garrett counties have the lowest crime rates. The crime rate calculates the number of offenses per 1,000 in population. While the State's overall crime rate slightly decreased between calendar 2004 and 2005, 13 counties experienced higher crime rates in 2005.

Baltimore City and Prince George's County continue to be plagued with a high murder rate. The number of murders in Baltimore City declined in 2005, while murders increased in Prince George's County. The two jurisdictions accounted for nearly 80 percent of the State's murders. In addition, Prince George's County maintains the highest number of vehicle thefts statewide. Over one-half of the motor vehicle thefts in the State occur in Prince George's County. In 2005, 17,242 vehicles were reported stolen in Prince George's County compared to 2,671 in neighboring Montgomery County. Baltimore City has the second highest number of vehicle thefts at 6,232.

**Exhibit 1.6**  
**Demographics – Social Indicators**

<b>County</b>	<b>Poverty Rate 2000 Census</b>	<b>Single-parent Households 2000 Census</b>	<b>High School Dropout Rate 2005 Report</b>	<b>Crime Rate CY 2005</b>	<b>Murder Count CY 2005</b>	<b>Vehicle Theft Count CY 2005</b>
Allegany	14.8%	28.6%	2.71%	31.0	1	57
Anne Arundel	5.1%	24.2%	2.30%	39.2	16	1,524
Baltimore City	22.9%	60.9%	11.81%	70.3	269	6,232
<b>Baltimore</b>	<b>6.5%</b>	<b>30.4%</b>	<b>4.46%</b>	<b>39.3</b>	<b>40</b>	<b>3,046</b>
Calvert	4.4%	20.0%	2.08%	21.2	2	86
Caroline	11.7%	32.6%	2.35%	30.7	1	51
Carroll	3.8%	17.1%	1.24%	19.0	2	170
Cecil	7.2%	26.6%	4.23%	35.4	4	278
Charles	5.5%	29.0%	3.45%	36.8	4	627
Dorchester	13.8%	39.7%	5.95%	42.4	0	77
Frederick	4.5%	20.0%	0.73%	19.4	1	197
Garrett	13.3%	21.2%	2.49%	17.4	0	19
Harford	4.9%	21.5%	3.07%	24.2	2	359
Howard	3.9%	18.9%	1.44%	29.0	4	544
Kent	13.0%	34.2%	4.80%	20.0	1	24
<b>Montgomery</b>	<b>5.4%</b>	<b>20.9%</b>	<b>1.76%</b>	<b>27.0</b>	<b>21</b>	<b>2,671</b>
Prince George's	7.7%	39.4%	3.57%	73.7	164	17,242
Queen Anne's	6.3%	22.4%	3.16%	22.1	1	48
St. Mary's	7.2%	24.4%	2.91%	24.2	1	142
<b>Somerset</b>	<b>20.1%</b>	<b>37.2%</b>	<b>5.36%</b>	<b>33.5</b>	<b>1</b>	<b>27</b>
Talbot	8.3%	27.5%	1.17%	28.4	3	26
Washington	9.5%	29.2%	1.87%	26.9	4	261
Wicomico	12.8%	34.7%	4.23%	56.5	4	205
<b>Worcester</b>	<b>9.6%</b>	<b>32.1%</b>	<b>2.09%</b>	<b>51.3</b>	<b>2</b>	<b>101</b>
<b>Maryland</b>	<b>8.5%</b>	<b>30.3%</b>	<b>3.70%</b>	<b>42.5</b>	<b>552</b>	<b>34,070</b>

Note: Crime rate is shown per 1,000 residents.

Source: United States Census Bureau, Maryland State Department of Education, Maryland State Police, Maryland Department of Planning

## Voter Registration

Exhibit 1.7 provides the number of registered voters in each county as well as party affiliations in 2005. While registered Democrats outnumber registered Republicans throughout the State by almost two to one, the pattern varies regionally. In eight counties (Allegany, Calvert, Carroll, Frederick, Garrett, Queen Anne's, Talbot, and Washington), registered Republicans outnumber registered Democrats. In other jurisdictions, registered Democrats outnumber registered Republicans.

## Municipal Profile

Maryland has 156 municipal corporations, commonly referred to as municipalities, with home rule powers under Article XI-E of the Maryland Constitution. The dimensions of the municipal corporations varies widely, as does the number of county residents who live in them.

The largest municipal corporation in Maryland is Frederick (Frederick County) with 57,907 residents, followed by Gaithersburg (Montgomery County) with 57,698. The smallest municipal corporation is the Town of Port Tobacco (Charles County) with 18 residents. Of 156 municipal corporations, 94 have fewer than 2,500 residents, while only 8 have more than 25,000 residents. The 10 largest municipal corporations are listed in Exhibit 1.8, and the number of municipal corporations by size is shown in Exhibit 1.9.

The number of municipal corporations in each county and the percentage of residents in each county who reside within a municipal corporation vary considerably. Prince George's County, with 27 municipal corporations, has the greatest number among the 23 counties. Although Prince George's County has the highest number of residents who reside within a municipal corporation (225,735), municipal residents only equal 26.7 percent of the county population. Talbot County has the highest percentage of residents who reside within a municipal corporation (46.3 percent). In contrast, in St. Mary's County 2.1 percent of residents reside within a municipal corporation. Baltimore and Howard counties have no municipal corporations entirely within their boundaries although a small portion of the Town of Hampstead does extend into Baltimore County. The number of residents in each county who reside within a municipal corporation is provided in Exhibit 1.10.

A detailed discussion of the structure and authority of municipal corporations can be found in Chapter 3 of this *Maryland Local Government Handbook*.

**Exhibit 1.7**  
**Voter Registration – 2005**

<b>County</b>	<b>Total</b>	<b>Democratic</b>	<b>Percent</b>	<b>Republican</b>	<b>Percent</b>	<b>Other</b>	<b>Percent</b>
Allegany	40,580	16,758	41.3%	19,309	47.6%	4,513	11.1%
Anne Arundel	300,060	131,634	43.9%	116,324	38.8%	52,102	17.4%
Baltimore City	312,709	249,798	79.9%	30,082	9.6%	32,829	10.5%
Baltimore	443,624	262,754	59.2%	123,454	27.8%	57,416	12.9%
Calvert	48,684	19,923	40.9%	20,510	42.1%	8,251	16.9%
Caroline	15,581	6,737	43.2%	6,388	41.0%	2,456	15.8%
Carroll	96,912	32,254	33.3%	51,063	52.7%	13,595	14.0%
Cecil	50,710	21,536	42.5%	19,779	39.0%	9,395	18.5%
Charles	75,115	37,199	49.5%	25,773	34.3%	12,143	16.2%
Dorchester	17,877	9,449	52.9%	6,465	36.2%	1,963	11.0%
Frederick	123,056	44,779	36.4%	56,139	45.6%	22,138	18.0%
Garrett	17,312	5,009	28.9%	10,790	62.3%	1,513	8.7%
Harford	141,848	61,990	43.7%	60,831	42.9%	19,027	13.4%
Howard	160,672	74,754	46.5%	55,250	34.4%	30,668	19.1%
Kent	11,645	5,912	50.8%	4,210	36.2%	1,523	13.1%
Montgomery	517,146	277,201	53.6%	131,156	25.4%	108,789	21.0%
Prince George's	428,421	317,732	74.2%	48,786	11.4%	61,903	14.4%
Queen Anne's	27,065	10,569	39.1%	12,686	46.9%	3,810	14.1%
St. Mary's	50,440	21,695	43.0%	20,281	40.2%	8,464	16.8%
Somerset	11,886	6,669	56.1%	3,916	32.9%	1,301	10.9%
Talbot	25,080	10,033	40.0%	11,221	44.7%	3,826	15.3%
Washington	77,544	29,903	38.6%	35,683	46.0%	11,958	15.4%
Wicomico	48,696	22,948	47.1%	18,444	37.9%	7,304	15.0%
Worcester	32,732	15,108	46.2%	12,685	38.8%	4,939	15.1%
<b>Maryland</b>	<b>3,075,395</b>	<b>1,692,344</b>	<b>55.0%</b>	<b>901,225</b>	<b>29.3%</b>	<b>481,826</b>	<b>15.7%</b>

Source: Maryland State Board of Elections

**Exhibit 1.8**  
**10 Largest Municipal Corporations in Maryland**  
**2005**

<u>Municipal Corporations</u>	<u>County</u>	<u>Population</u>
Frederick	Frederick	57,907
Gaithersburg	Montgomery	57,698
Rockville	Montgomery	57,402
Bowie	Prince George's	53,878
Hagerstown	Washington	38,326
Annapolis	Anne Arundel	36,300
Salisbury	Wicomico	26,295
College Park	Prince George's	25,171
Greenbelt	Prince George's	22,242
Laurel	Prince George's	22,125

Source: Maryland Department of Planning

**Exhibit 1.9**  
**Municipal Corporations by Size**  
**2005**

<u>Population Range</u>	<u>Number of Municipal Corporations</u>
25,001 – 60,000	8
10,001 - 25,000	13
5,001 - 10,000	17
2,501 - 5,000	24
2,500 and less	94

Source: Maryland Department of Planning

**Exhibit 1.10**  
**Estimated Population of Municipal Residents within Each County**  
**2005**

<b>County</b>	<b>Population in Municipal Corporations</b>	<b>Percent of County's Population</b>
Allegany	33,054	44.9%
Anne Arundel	36,411	7.1%
Baltimore City	0	0.0%
Baltimore	0	0.0%
Calvert	5,345	6.1%
Caroline	10,426	32.8%
Carroll	43,171	25.6%
Cecil	25,909	26.5%
Charles	12,102	8.7%
Dorchester	14,445	46.0%
Frederick	87,695	39.7%
Garrett	6,640	22.2%
Harford	36,203	15.1%
Howard	0	0.0%
Kent	8,389	42.2%
Montgomery	153,140	16.5%
Prince George's	225,735	26.7%
Queen Anne's	4,563	10.0%
St. Mary's	2,075	2.1%
Somerset	5,608	21.7%
Talbot	16,530	46.3%
Washington	50,951	35.9%
Wicomico	36,688	40.6%
Worcester	16,992	34.9%
<b>Statewide</b>	<b>832,072</b>	<b>14.9%</b>

Source: Maryland Department of Planning

## Chapter 2. County Government

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This chapter reviews the three forms of county government: commission, charter home rule, and code home rule. Although Baltimore City has a unique history, it will be reviewed in conjunction with the charter home rule counties because it was granted authority to adopt its charter under Article XI-A of the Maryland Constitution, the same article under which the charter home rule counties operate. Exhibit 2.1 shows the form of government for each Maryland county and the year in which local home rule was granted.

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### Exhibit 2.1 Forms of County Governments in Maryland

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

Source: Department of Legislative Services

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### Establishment and Alteration of Counties

As the county historical overview in Chapter 1 indicates, Maryland's counties were created in different ways. Despite the historical variations, Article XIII of the Maryland Constitution prescribes the manner in which counties may be established and county boundaries may be altered.

Article XIII, Section 1 of the Maryland Constitution establishes minimum area and population standards for the establishment of new counties. A county may not be established in an area that is less than 400 square miles or that includes less than 10,000 inhabitants, nor may a new county be formed in a manner that would leave another county reduced in size or population below these amounts. Although the General

Assembly is vested with authority to establish new counties or modify county boundaries, these changes require the approval of the majority of the voters residing within the affected area. The General Assembly may not impose additional referendum requirements beyond that prescribed by the Maryland Constitution. Otherwise, voters beyond the affected area would have veto authority over the decision of the voters residing within the affected area. (67 Op. Att’y Gen. 279 (1982)).

The last county in the State was established in 1872 (Garrett County); formation of a new county appears unlikely. However, occasionally questions arise concerning the alteration of county boundaries. For example, for several decades, the City of Takoma Park was located partly in Montgomery County and partly in Prince George’s County. In 1994, after 12 years of debate, the General Assembly passed legislation that allowed the voters in each portion of Takoma Park to decide by referendum whether the county line should be altered in order to locate Takoma Park entirely within one county. In November 1995, the voters elected to place the city entirely within Montgomery County, and the county boundary change took effect July 1, 1997.

### **Development of Home Rule Authority**

Within three years after the establishment of Lord Baltimore’s first settlement in 1634 at what is currently St. Mary’s City, the rudimentary traces of local government were present. Maryland’s first unit of local government, St. Mary’s County, was established in 1637. Over the next three centuries, both the number and form of local government units in Maryland grew. However, the local governments were strictly seen as “creatures of the State” and had no inherent powers of their own. The State’s first grant of home rule authority to local governments was not made until 1914, and it took over five more decades for the majority of local government units to receive and implement home rule powers.

Because local governments historically had no home rule powers, the General Assembly spent considerable time dealing with local issues. Despite the tradition of “local courtesy,” whereby the General Assembly gave considerable weight to the sentiment of the representatives of the local jurisdiction that was the subject of a particular bill, significant time was devoted to local matters.

The impact of local legislation on the General Assembly’s time and resources, as well as the developing trend in other states to grant home rule powers to their municipal and county governments, prompted Maryland to become the second State to adopt a constitutional provision permitting counties and Baltimore City to adopt and frame their own charters. This measure was passed by the General Assembly in 1914, ratified by the voters in 1915, and became Article XI-A of the Maryland Constitution, the so-called

charter home rule amendment. Despite having this new vehicle to exercise home rule powers, only two jurisdictions took advantage of this opportunity during the next several decades: Baltimore City in 1918 and Montgomery County in 1948.

Since Article XI-A had limited implementation for the first half of the twentieth century, the General Assembly continued to handle voluminous amounts of local legislation. An estimate for the years 1924 to 1939 placed the average number of bills passed dealing with counties and municipal corporations at 59 percent of the total. The amount of local legislation reached an all-time high during the 1951 session when 70 percent of the bills passed were local in nature. Typically, the General Assembly spent considerable time dealing with provisions relating to covers on refuse cans, prescribing the maximum length of dog license tags, and the placement of signs, to name a few. Because it became increasingly apparent that local legislation was forcing legislators to spend a disproportionate amount of time away from matters of statewide policy, a special commission was established to study local legislation. In 1951, Governor McKeldin appointed the Commission on Administrative Organization of the State, chaired by Simon E. Sobeloff. The Sobeloff Commission, among other findings, determined that it was only proper that localities should have full power and authority to consider matters of a local nature.

The recommendations of the Sobeloff Commission bore fruit promptly, at least as to municipal corporations. In 1954, another constitutional amendment was enacted and ratified by the voters, Article XI-E, providing municipal home rule to the incorporated cities and towns of Maryland. This, coupled with the enactment of a statutory subtitle on home rule, granted municipal corporations broad powers to amend, enact, or repeal their charters and at the same time restricted the General Assembly's powers to pass local legislation for municipal corporations.

As to the counties, only three more counties adopted home rule under Article XI-A during mid-century: Baltimore County in 1956, and Anne Arundel and Wicomico counties in 1964. It was suggested that this slow moving trend indicated a need for an alternative form of home rule government for the counties, a form that could meet the need of counties that might adopt home rule but for the arduous process and political challenges associated with the adoption of a charter and the restructuring of government.

In 1965, the General Assembly proposed a constitutional amendment offering an alternative form of county government referred to as "code" home rule. "Requiring neither the drafting and approval of a local charter nor carrying with it any requirement or association with a major re-organization of county government, code home rule ... presented a very real alternative to charter home rule in Maryland." (62 Op. Att'y Gen. 275, 281 (1977), citing Spencer, *Contemporary Local Government in Maryland*,

pp. 26-27 (1965)). In 1966, the voters ratified the proposed amendment, adding to the Maryland Constitution Article XI-F, “Home Rule for Code Counties.”

Today, nine counties exercise charter home rule and six counties operate under code home rule. The other eight counties remain commission counties. While the General Assembly still handles a considerable amount of local legislation each year, the overall burden has been significantly reduced. Further, there appears to be no particular momentum to change the current balance of power between the General Assembly and the local governments.

## **County Functions and Services**

Regardless of the form of county government, certain functions and services have come, overtime, to be provided by every county, although the level of services and the manner in which services are provided may vary. 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. Types of services that are provided at the local level include general government (*i.e.*, executive and legislative functions, finance, legal services, personnel, and procurement), land use matters and regulation of development (*i.e.*, planning and zoning, issuance of building permits, and inspections), public safety (*i.e.*, fire, police, emergency services, and corrections), public works (*i.e.*, transportation, sanitation, and sewer and water), health and social services, primary and secondary education, community colleges, libraries, and recreation.

## **Commission Counties**

### **Colonial Origins**

At the time the first colonial counties were formed, county courts served as the administrative units of county government. Chapter 53 of 1794 established levy courts, composed of the justices of the peace in the counties. The basic duty of the levy courts was to determine the necessary expenses of the county and impose an assessment on property to defray the county’s expenses. Starting in 1827, boards of county commissioners began to administer county governments under authority of the General Assembly. The term “county commissioners” was first recognized in the Maryland Constitution of 1851. However, until the Maryland Constitution of 1867, county commissioners were simply administrative officers, in charge of county finances and the care of public roads. After the Maryland Constitution of 1867 was adopted, the General Assembly gradually expanded the authority of county commissioners.

## **Constitutional/Statutory Authority**

Article VII, Section 2 of the Maryland Constitution provides that the number, compensation, and powers and duties of the county commissioners “shall be such as now are or may be hereafter prescribed by law.” This provision has been interpreted to mean that the General Assembly has full power to legislate for commission counties.

Article 25, Section 1 of the Annotated Code of Maryland provides that the county commissioners of each county are declared to be a corporation. Commission counties generally have been granted extensive statutory authority to handle local matters under various and numerous public general laws and public local laws. However, in many areas there are significant variations in the authority of individual commission counties. In addition, when granting some new authority, the General Assembly may make the provision applicable to all commission counties, to all counties except those counties specifically exempted, or only to those specified counties. Moreover, when interpreting the statutory authority of commission counties, the courts will strictly construe the scope of the authority granted.

In carrying out their duties, the county commissioners wear numerous hats. They act in legislative, executive or administrative, and quasi-judicial capacities. However, the line between these roles is often blurred. The day-to-day administration of county government varies among commission counties. In some cases, the county commissioners have delegated significant responsibility to a county administrator. In other commission counties, the commissioners have retained greater involvement in day-to-day operations.

## **Structure and Election of County Officers**

Article VII of the Maryland Constitution vests in the General Assembly authority to determine the number of county commissioners in each commission county as well as the manner that county commissioners are elected. Six of the commission counties have five county commissioners each; the remaining counties have three commissioners<sup>1</sup>. Commissioners are elected at-large, by district, or by some combination. Under Article XVII of the Maryland Constitution (which applies to all counties except Cecil County since 2000), county commissioners are elected for four-year terms, coincident with the election of the Governor and members of the General Assembly. Exhibit 2.2 shows the structure and election system for each commission county.

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<sup>1</sup> In accordance with the June 2006 Court of Appeals decision in *Getty v. Board of Elections*, the Circuit Court for Carroll County ordered the Carroll County Board of Elections to conduct the 2006 elections in accordance with Section 3-101(a) of the Public Local Laws of Carroll County, as it provided, prior to the passage of Chapter 417 of 2003, for three county commissioners, not five, due to the absence of subsequent legislation to carry out the election of five commissioners.

## Exhibit 2.2 County Governments – Form and Structure

County	Government Form	Elected		Members on County Council/Board		
		Executive	Legislative Structure	At-Large	District	Total
Allegany	Code Home Rule	No	Board of Commissioners	3	0	3
Anne Arundel	Charter Home Rule	Yes	County Council	0	7	7
Baltimore City	Charter Home Rule	Yes	City Council	1	14	15
Baltimore	Charter Home Rule	Yes	County Council	0	7	7
Calvert	Commission	No	Board of Commissioners	2	3	5
Caroline	Code Home Rule	No	Board of Commissioners	3	0	3
Carroll	Commission	No	Board of Commissioners	3	0	3
Cecil	Commission	No	Board of Commissioners	0	5	5
Charles	Code Home Rule	No	Board of Commissioners	1	4	5
Dorchester	Charter Home Rule	No	County Council	0	5	5
Frederick	Commission	No	Board of Commissioners	5	0	5
Garrett	Commission	No	Board of Commissioners	0	3	3
Harford	Charter Home Rule	Yes	County Council	1	6	7
Howard	Charter Home Rule	Yes	County Council	0	5	5
Kent	Code Home Rule	No	Board of Commissioners	3	0	3
Montgomery	Charter Home Rule	Yes	County Council	4	5	9
Prince George's	Charter Home Rule	Yes	County Council	0	9	9
Queen Anne's	Code Home Rule	No	Board of Commissioners	1	4	5
St. Mary's	Commission	No	Board of Commissioners	1	4	5
Somerset	Commission	No	Board of Commissioners	0	5	5
Talbot	Charter Home Rule	No	County Council	5	0	5
Washington	Commission	No	Board of Commissioners	5	0	5
Wicomico	Charter Home Rule	Yes	County Council	2	5	7
Worcester	Code Home Rule	No	Board of Commissioners	0	7	7

Note: In Baltimore City and Charles, Harford, and St. Mary's counties, the council or board president is elected at-large. In other counties the individual is either selected by the council/board members or received the most votes in the election.

Source: Department of Legislative Services

## **Consideration of Home Rule**

In the decade after the second form of home rule authority was made available under the Maryland Constitution, the voters in six commission counties approved some form of home rule: charter home rule was adopted by Prince George's County in 1970, Harford County in 1972, and Talbot County in 1973; and code home rule was adopted by Kent County in 1970, Allegany County in 1974, and Worcester County in 1976. However, this momentum slowed dramatically as home rule was adopted by only one county in each of the two subsequent decades: Caroline County in 1984 and Queen Anne's County in 1990, both adopting code home rule.

Since 1990, at least five of the remaining commission counties have considered home rule on one or more occasion. Until recently, the voters in each instance rejected the proposed change, apparently satisfied that their commission form of government met local needs. However, in 2002, the home rule referendums were successful in two counties: Charles County adopted code home rule and Dorchester County adopted charter home rule. Whether any of the remaining eight commission counties eventually opts for some form of home rule, or retains the traditional form of county government, remains to be seen.

## **Charter Counties**

### **Adoption of Charter Home Rule**

Article XI-A of the Maryland Constitution prescribes two methods of adopting charter home rule, the original procedure dating from 1915 and an alternative procedure that was added in 1970. Both procedures include the creation of a charter board and the drafting of a charter and are outlined in Exhibit 2.3. Although Baltimore City adopted a charter form of government in 1918, it was not until 1948 that Montgomery County became the first county to adopt charter home rule. Today nine counties operate under charter home rule. These counties and the date that charter home rule was adopted are shown in Exhibit 2.1.

Concern about the lengthy time required to complete the adoption of charter home rule under the original process led to the creation of the alternative procedure, which has streamlined provisions for the initiation of the process, the creation of the charter board, and the vote on the proposed charter. In addition, the time in which a charter board has to prepare a proposed charter has been expanded twice. Under the original law, a charter board was given six months to draft a charter. In 1964, the time frame was extended to 12 months; in 1992, it was extended to 18 months. Despite having the streamlined option, seven of the nine charter home rule counties have adopted home rule under the original method rather than the alternative process.

**Exhibit 2.3**  
**Adoption of Charter Home Rule under the Maryland Constitution**

<b>Process</b>	<b>Article XI-A, Section 1</b>	<b>Article XI-A, Section 1A</b>
<b>Initiation of Process: Proposal of Charter Board</b>	Petition by 20% or 10,000 voters, whichever is less, requires governing body to nominate charter board. (In Baltimore City, Mayor and City Council may initiate process.) Charter board consists of 5 members. (In Baltimore City, 11 members.)	1. At any time, County Commissioners may appoint charter board consisting of uneven number of members, ranging from 5 to 9. OR 2. Petition by 5% or 10,000 voters, whichever is less; appointments must be made by the County Commissioners within 30 days of receipt of the petition.
<b>Nomination of Charter Board</b>	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.	After 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.
<b>Election on Charter Board and Its Membership</b>	Next general or congressional election. If no more than 5 nominations (or 11 in Baltimore City) are received, the nominees constitute the charter board. Sole question is whether to create a charter board. If more than 5 nominations, the voters must determine whether to create a charter board <i>and</i> the membership of the board.	If petition is submitted, 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.)
<b>Result of Election</b>	If majority favor creating charter board, top 5 vote getters constitute charter board. (11 in Baltimore City) If only 5 nominees, no vote on board members. If majority reject creation of charter board, election of board members is void, and process ends.	Top vote getters equal to the number of board members initially appointed constitute charter board.
<b>Drafting of Charter</b>	Within 18 months of election, charter board must prepare and submit proposed charter to President of Board of County Commissioners (or Mayor of Baltimore City).	Within 18 months of appointment, or 18 months after an election if an election is held, charter board must prepare and submit proposed charter to Board of County Commissioners.
<b>Publication of Proposed Charter</b>	Within 30 days of receipt, proposed charter must be published in at least 2 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.
<b>Election on Proposed Charter</b>	Next general or congressional election.	Special or regular election held no sooner than 30 days or more than 90 days after publication.
<b>Result of Election</b>	If majority favor adoption of charter, charter effective on the 30th day from the date of election. If majority reject adoption of charter, process ends.	If majority favor adoption of charter, charter effective on the 30th day after date of election or later date specified in charter. If majority reject adoption of charter, process ends.

Source: Department of Legislative Services

## **County Charter**

The charter of a county is often likened to a constitution. It establishes a framework for county government, subject to the constitution and public general laws of the State. Although county charters vary, they generally cover legislative and executive functions and the structure and organization of government, including the establishment of county offices, departments, and boards. County fiscal, personnel, purchasing, and ethics matters are often addressed. In some counties, the charter limits the level of county debt and taxes.

Although the charter may prescribe certain limits affecting the operation of county government, the voters may not abate the constitutionally prescribed role of the council through provisions of the charter. For example, a charter may authorize the citizens of a county to petition a legislative enactment of the council to referendum, similar to the constitutional right of the citizens of the State to petition certain legislation passed by the General Assembly to referendum. But a charter may not grant the citizens of the county the power of initiative. The power of initiative is inconsistent with the constitutionally prescribed role of the council under Article XI-A, Section 3 of the Maryland Constitution. Moreover, the voters may not legislate through the charter amendment process. In September 1998, the Court of Appeals invalidated efforts by citizens in Harford and Montgomery counties to address certain matters through proposed charter amendments. The proposal put forth in Harford County would have allowed voters to decide whether to ban new development for a year. The proposal put forth in Montgomery County would have allowed the voters to ban speed bumps on residential streets.

While a county charter is similar to a constitution, there are some noteworthy differences. For example, unlike the Maryland Constitution under which constitutional amendments may only be proposed by the General Assembly, amendments to county charters may be proposed by either the mayor and city council of Baltimore City or county council, or the voters themselves. Article XI-A, Section 5 of the Constitution addresses the charter amendment process. Basically, charter amendments may be proposed by resolution of the council or by a petition signed by at least 20 percent of the registered voters or by 10,000 registered voters, whichever is less. The petition is filed with the council and published in local newspapers. The proposed amendment is then submitted for consideration by the voters at the next general or congressional election. If the voters approve the proposed amendment, the amendment becomes part of the charter on the thirtieth day after the election.

## **Constitutional Authority**

Article XI-A of the Maryland Constitution specifies the authority of charter counties as outlined below:

- Section 1 allows the voters of each county, as well as Baltimore City, to adopt a charter form of government under which a locally elected council is authorized to legislate on local matters, to the extent authorized by a grant of express powers from the General Assembly.
- Section 1A sets forth alternative procedures for the adoption of charter home rule.
- Section 2 mandates that the General Assembly provide a grant of express powers to charter counties by public general law. The right to alter the express powers is reserved to the General Assembly.
- Section 3 requires that a county charter provide for an elective legislative body known as the county council, or in the case of Baltimore City, a city council, and allows for the election of an executive. It also vests legislative authority in the council, subject to certain limitations.
- Section 3A provides options with which a charter may provide for the election of council members.
- Section 4 restricts the General Assembly from enacting a public local law for a charter county on any matter covered by the Express Powers Act.
- Section 5 prescribes the manner in which a charter may be amended.
- Section 6 transfers from the General Assembly to the voters powers relating to the number, compensation, and powers and duties of the county governing body. However, such powers must be exercised through the charter and may not exceed powers granted to charter counties by the General Assembly.
- Section 7 addresses petition requirements for purposes of the charter home rule amendment of the Constitution.

## **Statutory Powers**

Except as it relates to the adoption of charter home rule, the Maryland Constitution does not actually grant authority to charter counties. Instead, Article XI-A, Section 2 of the constitution requires the General Assembly to provide by public general law a grant of express powers for those counties that adopt charter home rule. The General Assembly has complied with this mandate with enactment of Article 25A, Sections 4 and 5 of the Annotated Code of Maryland (the “Express Powers Act”).

Article 25A, Section 4 of the Annotated Code of Maryland provides in part that a charter county “shall be entitled to exercise the following express powers ... granted as a substitute for and in extension of the powers codified in Article 25 of the Annotated Code of Maryland, title ‘County Commissioners’ ...” Subject to the constitution and the public general law of the State, a county council may enact local laws for the county on any matter covered under the Express Powers Act. The county council may also amend or repeal a local law adopted by the General Assembly before the adoption of home rule as long as the scope of the law is within the Express Powers Act. Although a detailed treatment of the Express Powers Act is not provided here, it is worth mentioning some specific provisions as illustrative of a charter county’s authority. A charter county may establish civil penalties and criminal penalties up to a certain statutory cap. It may incur general obligation debt up to a certain statutory cap and subject to the possibility of a petition to referendum. It may establish special taxing districts for any of the purposes enumerated in Article 25A of the Annotated Code of Maryland. It exercises zoning authority under the Express Powers Act rather than Article 66B of the Annotated Code of Maryland.

An important enumerated power of charter counties is the general welfare clause under Article 25A, Section 5(S) of the Annotated Code of Maryland:

The foregoing or other enumeration of powers in this article shall not be held to limit the power of the county council, in addition thereto, to pass all ordinances, resolutions or bylaws, not inconsistent with the provisions of this article or the laws of the State, as may be proper in executing and enforcing any of the powers enumerated in this section or elsewhere in this article, as well as such ordinances as may be deemed expedient in maintaining the peace, good government, health and welfare of the county...

This provision, referred to as the so-called “police powers,” allows charter counties to enact local laws for the public good as long as the local laws are not

inconsistent with the public general law of the State. In interpreting this provision, the Maryland Court of Appeals has stated that, “[g]ratification would not be afforded the purposes of home rule or the reasons which prompted it if the language of [Article 25A, Section 5(S)] were not to be construed as a broad grant of power to legislate on matters not specifically enumerated in Art. 25A ...” (*Mont. Citizens League v. Greenhalgh*, 253 Md. 151, 160-161 (1969))

Although charter counties have broad home rule authority, such authority is not unlimited. The Express Powers Act does not grant charter counties general taxing authority, although some charter counties have received limited taxing authority under other laws. Moreover, charter counties may not legislate in areas that would not be considered “local law.” For example, the Court of Appeals has rejected an effort by a charter county to establish what was viewed as a new legal cause of action, a right reserved to the General Assembly or Court of Appeals. For matters outside the Express Powers Act, charter counties are required to seek authority from the General Assembly.

### **Structure and Election of County Officers**

Seven of the nine charter counties have an elected county executive and county council structure; consequently, there is a separation of executive and legislative powers similar to that found in State government. Dorchester and Talbot counties use a council-manager form of government. Although significant responsibility for executive functions may be vested in the county administrator or manager, the individual in that position is appointed by and ultimately responsible to the county council.

Article XI-A, Section 3A of the Maryland Constitution provides alternatives by which council members may be elected. Council members may be elected by councilmanic districts, at-large, or a combination of these methods. Further, Article 25A, Section 3 of the Annotated Code of Maryland provides that a charter may require council members to reside within specified districts but be elected by voters throughout the county. Under Article XVII of the Maryland Constitution, all council members and any elected executives serve four-year terms and are elected at the same time that the Governor and members of the General Assembly are elected. In 1996, the constitution was amended to allow council vacancies to be filled by special election as authorized by the General Assembly. Within these limits, and limits contained in the federal constitution, the voters in a charter county have considerable discretion in shaping the structure of their county government through the charter. Exhibit 2.2 shows the structure and election system for each charter county.

## **Baltimore City**

Baltimore City is unique among Maryland's local governments. While the city is a municipal corporation, it is treated as a county for most purposes of State law because it derives its home rule powers under Article XI-A of the Maryland Constitution, the first article under which the city and counties were given the opportunity to exercise home rule, rather than Article XI-E of the Maryland Constitution which grants home rule to the rest of the municipal corporations in the State. Moreover, Article 1, Section 14 of the Annotated Code of Maryland provides that, for purposes of the code, the word "county" includes the City of Baltimore unless such construction would be unreasonable. In addition, in Article 23A, Section 9, the City of Baltimore is specifically excluded from the definition of "municipal corporation" for that article which otherwise applies to the State's municipal corporations.

Originally, Baltimore City was established as a municipal corporation within the confines of Baltimore County. The government performed exclusively municipal functions. In 1851, Baltimore City was separated from Baltimore County and has since functioned as an independent unit. The Baltimore City Charter enumerates the powers of the city and defines its administrative and organizational structure. Unlike the charter counties, the express powers granted to the city by the General Assembly are codified in Article II of the Baltimore City Charter rather than in Article 25A of the Annotated Code of Maryland. The voters of Baltimore City may not alter this particular article of the charter; revisions to the city's express powers can be made only by the General Assembly. In addition, the procedure for issuance of general obligation debt in Baltimore City was established in the constitution and can only be changed through constitutional amendment.

The Baltimore City Charter sets forth the structure of the city government. The Mayor and City Council of Baltimore govern jointly. They share general powers to address health, safety, and welfare issues. Baltimore City has three officials who are elected citywide: the mayor, the comptroller, and the president of the city council. These officials along with the city solicitor and director of public works sit as the Board of Estimates. This board creates the annual city budget, awards contracts, supervises procurement, and establishes salaries and working conditions for city employees. In 2004, the city charter was amended to reduce the number of council members to 15, including the president of the city council. The other 14 members are elected by single-member districts.

Unlike the election year cycle for the governor, most other State officers, and most county officers as required under Article XVII of the Maryland Constitution, Baltimore's elections are not bound by Article XVII and have been held, in accordance with the city

charter, in the years after each election of the governor, e.g., in 1995 and 1999. There was an aberration to this cycling when the city's voters in 1999 approved changes to the city charter that would have moved both the city's primary and general election dates to presidential election years. However, the Office of the Attorney General advised that the city had authority to change only the date of the general election. (87 Op. Att'y Gen. \_\_\_ (2002) [Opinion No. 02-018 (October 17, 2002)]). Accordingly, in the next election cycle, the Baltimore City primary was held in September 2003 and the municipal general election was held in November 2004. In 2004, the city voters approved further changes to the city's charter to provide that the city's officers will next be elected in 2007 and every four years afterwards.

## **Code Counties**

### **Adoption of Code Home Rule**

In comparison to the procedures for adopting charter home rule, adoption of code home rule is relatively simple. This procedure is governed by Article XI-F, Section 2 of the constitution as supplemented by Article 25B, Sections 3 through 7 of the Annotated Code of Maryland. This process is outlined in Exhibit 2.4. Basically, a board of county commissioners initiates and votes, after public notice and hearings, on a resolution to adopt code home rule; if the board passes the resolution, the question is put to the voters for their approval or rejection at the next general election. There is no drafting of a charter or need to reorganize the county government. Exhibit 2.1 lists the six counties that have adopted code home rule and the year of adoption.

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**Exhibit 2.4**  
**Adoption of Code Home Rule under Article XI-F of the Maryland Constitution and Article 25B of the Code**

<b>Initiation of Process: Authority</b>	Article XI-F, Section 2 of the Maryland Constitution, and Article 25B, Section 3 of the Annotated Code of Maryland, give the board of county commissioners authority to propose code home rule by resolution of a two-thirds majority of the board.
<b>Notice of Proposed Resolution</b>	Under Article 25B, Section 4 of the Annotated Code of Maryland, the board must publish notice containing the dates, times, and places of public hearings concerning adoption of code home rule. The notice must be published 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.
<b>Public Hearings on Proposed Resolution</b>	Under Article 25B, Section 5 of the Annotated Code of Maryland, the board shall hold at least two public hearings on the question of code home rule.
<b>Adoption of Resolution</b>	Under Article 25B, Section 6 of the Annotated Code of Maryland, within 60 days from the last public hearing, the board must adopt or reject the proposed resolution. Adoption requires a two-thirds majority of the board.
<b>Election</b>	Under Article 25B, Section 7 of the Annotated Code of Maryland, following adoption by the board, the resolution must be submitted to 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.”
<b>Consideration of Charter Home Rule: Effect on Process</b>	Under Article XI-F, Section 2 of the Maryland Constitution, 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 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 voters at the next general election.
<b>Result of Election</b>	Under Article 25B, Section 7 of the Annotated Code of Maryland, within 10 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 30th day after the proclamation of the election results. If a majority rejects adoption of the proposed resolution, the process ends.

Source: Department of Legislative Services

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## **Constitutional/Statutory Authority**

Unlike a charter county, a code county's legislative authority is derived from two sources: (1) the General Assembly, primarily under Article 25B of the Annotated Code of Maryland; and (2) Article XI-F of the Maryland Constitution itself. The following specifies the authority of code counties under Article XI-F of the Maryland Constitution:

- Section 1 of the constitution defines “code county” and “public local law” for purposes of the article.
- Section 2 describes how code home rule is adopted, a process elaborated on by the General Assembly in Article 25B of the Annotated Code of Maryland.
- Section 3 grants a code county authority to enact, amend, or repeal a public local law of the county, except as otherwise provided in Article XI-F.
- Section 4 restricts the General Assembly from passing legislation for individual code counties.
- Section 5 requires the General Assembly to classify code counties into not more than four classes based on population or other criteria determined by the General Assembly to be appropriate. In 1997, the General Assembly classified the code counties for the first time, dividing the State into four geographic regions, or classes, as identified in Article 25B, Section 2 of the Annotated Code of Maryland.
- Section 6 describes how a code county enacts public local laws and authorizes the General Assembly to amplify the provisions by public general law. The General Assembly has passed legislation concerning code county legislative procedures which are found in Article 25B of the Annotated Code of Maryland.
- Section 7 reserves to the voters the right to petition public local laws enacted by the county commissioners of a code county to referendum.
- Section 8 allows the General Assembly to pass local laws applicable to individual code counties for purposes of restricting tax rates and county debt.

- Section 9 restricts the ability of a code county from imposing “any type of tax, license fee, franchise tax, or fee” unless authorized prior to adoption of home rule or, if authorized by the General Assembly for all code counties within a given class, following adoption of home rule.
- Section 10 provides that laws in effect at the time home rule is adopted continue in effect until altered under the provisions of the constitution.

As noted above, Article XI-F, Section 3 of the constitution authorizes code counties to enact public local laws. “Public local law” is defined in the constitution, in part, as “a law applicable to the incorporation, organization, or government of a code county and contained in the county’s code of public local laws ....” Interestingly, this definition of “public local law” does not include the term “affairs” as is included in a very similar provision for the municipal corporations under Article XI-E, Section 1 of the Maryland Constitution. Whether this term when drafted was viewed as surplusage or whether it was excluded to limit the breadth of code counties’ authority is open to interpretation. Moreover, the definition would seem to suggest that the codification of law is determinative. As discussed further in Chapter 5, in an in-depth analysis of Article XI-F of the constitution, the Office of the Attorney General has determined that a code county’s authority nonetheless should be broadly construed. However, this view may be inconsistent with those who view code home rule as an intermediate step short of charter home rule.

In terms of statutory authority, the primary source is Article 25B of the Annotated Code of Maryland. Article 25B, Section 13 provides that a code county may exercise, in addition to other powers under “any public general or local law applicable to the county,” the powers enumerated in Article 25 of the Annotated Code of Maryland in Section 3 and the subtitle “Draining Lands,” and in Article 25A of the Annotated Code of Maryland in Section 5 (the Express Powers Act for charter counties) other than Subsections 5(A), (P), and (S). Article 25A, Section 5(A) deals with passage of legislation and Section 5(P) deals with general obligation debt. Interestingly, both of these powers are granted to code counties under alternative provisions of law elsewhere in Article 25B. Article 25A, Section 5(S): enables amendments to a county charter (which a code county does not have); requires the express powers to be exercised only to the extent as not provided for by public general law and prohibits any legislation dealing with alcoholic beverages (which are the same provisions applicable to all local governments); and grants the authority to pass ordinances “deemed expedient in maintaining the peace, good government, health and welfare of the county,” the so-called “police powers.” This last provision is yet another source of much debate over the scope of authority that a code county may exercise.

## **Structure and Election of County Officers**

When a commission county adopts code home rule, it retains a board of county commissioners as its governing body. The board exercises both legislative and executive authority. Although a code county may delegate significant authority to a county administrator or other personnel, ultimate authority remains with the county commissioners. Because the number of commissioners and method of election are controlled by public local law, the county commissioners may alter the composition of the board, subject to applicable restrictions of the Maryland Constitution. The current structure in place in each code county is summarized in Exhibit 2.2. Under Article XVII of the constitution, the county commissioners in all code counties serve four-year terms and are elected at the same time as the Governor and members of the General Assembly.

## Chapter 3. Municipal Corporations

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There are 156 municipal corporations, commonly referred to as municipalities, with home rule powers under Article XI-E of the Maryland Constitution. While the City of Baltimore is a municipal corporation, it is usually grouped with the charter home rule counties for legal and legislative purposes because it receives its home rule authority under Article XI-A of the constitution.

Despite a common foundation under Article XI-E of the Maryland Constitution, there is a great variety in the size, structure, budget, and services of municipal corporations. With limited exceptions, the authority granted to municipal corporations under the constitution and public general laws is uniform throughout the State. However, the extent that such authority is exercised within an individual municipal corporation is a decision of the voters by adoption or amendment of their charter and, within the confines of the charter, a decision of their elected governing body by adoption of local laws. This chapter reviews the development and powers of municipal corporations.

### Historical Development

From the 1600s to the mid-1950s, the General Assembly closely supervised the creation and operation of municipal corporations in the State through the enactment of public local laws. Of the 156 municipal corporations still in existence, all but five were created by the General Assembly before municipal corporations were granted home rule authority in 1954. Exhibit 3.1 shows the time periods in which municipal corporations were established.

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**Exhibit 3.1**  
**Establishment of Maryland Municipal Corporations**

<u>Time Period</u>	<u>Number</u>	<u>% of Total</u>
1700s	6	3.8%
1800s	90	57.7%
1900 - 1953	55	35.3%
1954 - Present	5	3.2%
<b>Total</b>	<b>156</b>	<b>100.0%</b>

Source: Department of Legislative Services

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The oldest municipal corporation is Annapolis, in Anne Arundel County, created by Chapter 7 of 1708. Only five other existing municipal corporations were created in the eighteenth century – Havre de Grace (Harford County – 1785), Charlestown (Cecil County – 1786), Easton (Talbot County – 1790), Cambridge (Dorchester County – 1793), and Centreville (Queen Anne’s County – 1794). The State created 90 of the existing municipal corporations from 1800 to 1899, and 55 of the existing municipal corporations from 1900 to 1954. The last three municipal corporations created by the General Assembly prior to the ratification of municipal home rule authority were Brookview (Dorchester County), New Carrollton (Prince George’s County), and Queen Anne (Queen Anne’s and Talbot counties), all established in 1953.

After 1954, the General Assembly’s involvement in local municipal affairs diminished significantly with the ratification of Article XI-E of the Maryland Constitution, which provides for municipal home rule. Since ratification of the Municipal Home Rule Amendment, there have been only five new municipal incorporations. All these municipal corporations are located in Montgomery County and all were originally created by the State as special taxing districts: Village of Chevy Chase, Section 3 (1982); Village of Chevy Chase, Section 5 (1982); Village of Martin’s Additions (1985); Town of Chevy Chase View (1993); and Village of North Chevy Chase (1996). While the particular reasons and histories vary, the common theme in pursuing and achieving municipal status is the desire to exercise home rule powers under Article XI-E of the constitution. Rather than by action of the General Assembly, these new municipal corporations were created by the successful referendum of the voters in each of the former special taxing districts in accordance with the provisions of Article 23A, Sections 20 through 30 of the Annotated Code of Maryland.

Despite the overall growth in the total number of municipal corporations throughout Maryland’s history, it is important to note that over the years several municipal corporations have formally dissolved. For example, the municipal charter of Piscataway, in Prince George’s County, was proclaimed repealed by the Secretary of State in 1964 under the provisions of Article 23A, Section 43 of the Annotated Code. Other former municipal corporations include St. Mary’s City in St. Mary’s County and Arundel on the Bay in Anne Arundel County.

Exhibit 3.2 lists the authority by which today’s 156 municipal corporations were created within each county.

**Exhibit 3.2**  
**Incorporated Cities and Towns**

<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>	<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>
<b>Allegheny</b>			<b>Carroll</b>		
Barton	1900	Ch. 729	Hampstead	1888	Ch. 295
Cumberland	1815	Ch. 136	Manchester	1833	Ch. 193
Frostburg	1839	Ch. 179	Mount Airy	1894	Ch. 91
Lonaconing	1890	Ch. 132	(also in Frederick)		
Luke	1922	Ch. 73	New Windsor	1843	Ch. 47
Midland	1900	Ch. 681	Sykesville	1904	Ch. 256
Westernport	1858	Ch. 54	Taneytown	1836	Ch. 309
			Union Bridge	1872	Ch. 174
			Westminster	1818	Ch. 128
<b>Anne Arundel</b>			<b>Cecil</b>		
Annapolis	1708	Ch. 7	Cecilton	1864	Ch. 353
Highland Beach	1922	Ch. 213	Charlestown	1786	Ch. 20
			Chesapeake City	1849	Ch. 271
<b>Baltimore</b>			Elkton	1821	Ch. 143
None			North East	1849	Ch. 339
			Perryville	1882	Ch. 212
<b>Calvert</b>			Port Deposit	1824	Ch. 33
Chesapeake Beach	1886	Ch. 203	Rising Sun	1860	Ch. 383
North Beach	1910	Ch. 395			
			<b>Charles</b>		
<b>Caroline</b>			Indian Head	1920	Ch. 590
Denton	1802	Ch. 25	La Plata	1888	Ch. 325
Federalsburg	1823	Ch. 174	Port Tobacco	1888	Ch. 297
Goldsboro	1906	Ch. 87			
Greensboro	1826	Ch. 97			
Henderson	1949	Ch. 498			
Hillsboro	1853	Ch. 161			
Marydel	1929	Ch. 38			
Preston	1892	Ch. 689			
Ridgely	1896	Ch. 178			
Templeville	1865	Ch. 86			
(also in Queen Anne's)					

**Exhibit 3.2 (continued)**  
**Incorporated Cities and Towns**

<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>	<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>
<b>Dorchester</b>			<b>Howard</b>		
Brookview	1953	Ch. 704	None		
Cambridge	1793	Ch. 66			
Church Creek	1867	Ch. 53	<b>Kent</b>		
East New Market	1832	Ch. 167	Betterton	1906	Ch. 227
Eldorado	1947	Ch. 313	Chestertown	1805	Ch. 271
Galestown	1951	Ch. 92	Galena	1858	Ch. 373
Hurlock	1892	Ch. 249	Millington	1890	Ch. 386
Secretary	1900	Ch. 555	(also in Queen Anne's)		
Vienna	1833	Ch. 216	Rock Hall	1908	Ch. 171
<b>Frederick</b>			<b>Montgomery</b>		
Brunswick	1890	Ch. 577	Barnesville	1888	Ch. 254
Burkittsville	1894	Ch. 652	Brookeville	1808	Ch. 90
Emmitsburg	1824	Ch. 29	Chevy Chase	1918	Ch. 177
Frederick	1816	Ch. 74	Chevy Chase, Sec. 3	1982	Referendum
Middletown	1833	Ch. 143	Chevy Chase, Sec. 5	1982	Referendum
Mount Airy	1894	Ch. 91	Chevy Chase View	1993	Referendum
(also in Carroll)			Chevy Chase Village	1910	Ch. 382
Myersville	1904	Ch. 94	Gaithersburg	1878	Ch. 397
New Market	1878	Ch. 90	Garrett Park	1898	Ch. 453
Rosemont	1953	Ch. 262	Glen Echo	1904	Ch. 436
Thurmont	1894	Ch. 16	Kensington	1894	Ch. 621
Walkersville	1892	Ch. 351	Laytonsville	1892	Ch. 497
Woodsboro	1836	Ch. 299	Martin's Additions	1985	Referendum
<b>Garrett</b>			North Chevy Chase	1996	Referendum
Accident	1916	Ch. 514	Poolesville	1867	Ch. 174
Deer Park	1884	Ch. 519	Rockville	1860	Ch. 373
Friendsville	1902	Ch. 477	Somerset	1906	Ch. 795
Grantsville	1864	Ch. 99	Takoma Park	1890	Ch. 480
Kitzmiller	1906	Ch. 285	Washington Grove	1937	Ch. 372
Loch Lynn Heights	1896	Ch. 450			
Mountain Lake Park	1931	Ch. 507			
Oakland	1862	Ch. 250			
<b>Harford</b>					
Aberdeen	1892	Ch. 136			
Bel Air	1874	Ch. 273			
Havre de Grace	1785	Ch. 55			

**Exhibit 3.2 (continued)**  
**Incorporated Cities and Towns**

<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>	<u>County</u>	<u>Year</u>	<u>Chapter/ Referendum</u>
<b>Prince George's</b>			<b>St. Mary's</b>		
Berwyn Heights	1896	Ch. 267	Leonardtwn	1858	Ch. 73
Bladensburg	1854	Ch. 137	<b>Somerset</b>		
Bowie	1882	Ch. 488	Crisfield	1872	Ch. 151
Brentwood	1912	Ch. 401	Princess Anne	1894	Ch. 543
Capitol Heights	1910	Ch. 513	<b>Talbot</b>		
Cheverly	1931	Ch. 200	Easton	1790	Ch. 14
College Park	1945	Ch. 1051	Oxford	1852	Ch. 367
Colmar Manor	1927	Ch. 178	Queen Anne	1953	Ch. 17
Cottage City	1924	Ch. 390	(also in Queen Anne's)		
District Heights	1936	Ch. 61	St. Michaels	1804	Ch. 82
Eagle Harbor	1936	Ch. 397	Trappe	1827	Ch. 103
Edmonston	1924	Ch. 154	<b>Washington</b>		
Fairmount Heights	1935	Ch. 199	Boonsboro	1831	Ch. 139
Forest Heights	1949	Ch. 142	Clear Spring	1836	Ch. 141
Glenarden	1939	Ch. 650	Funkstown	1840	Ch. 78
Greenbelt	1937	Ch. 532	Hagerstown	1813	Ch. 121
Hyattsville	1886	Ch. 424	Hancock	1853	Ch. 319
Landover Hills	1945	Ch. 465	Keedysville	1872	Ch. 251
Laurel	1870	Ch. 260	Sharpsburg	1832	Ch. 28
Morningside	1949	Ch. 589	Smithsburg	1841	Ch. 284
Mount Rainier	1910	Ch. 514	Williamsport	1823	Ch. 125
New Carrollton	1953	Ch. 441	<b>Wicomico</b>		
North Brentwood	1924	Ch. 508	Delmar	1888	Ch. 167
Riverdale Park	1920	Ch. 731	Fruitland	1947	Ch. 662
Seat Pleasant	1931	Ch. 197	Hebron	1931	Ch. 90
University Park	1936	Ch. 132	Mardela Springs	1906	Ch. 325
Upper Marlboro	1870	Ch. 363	Pittsville	1906	Ch. 499
<b>Queen Anne's</b>			Salisbury	1854	Ch. 287
Barclay	1931	Ch. 483	Sharptown	1874	Ch. 465
Centreville	1794	Ch. 23	Willards	1906	Ch. 195
Church Hill	1876	Ch. 201	<b>Worcester</b>		
Millington (also in Kent)	1890	Ch. 386	Berlin	1868	Ch. 424
Queen Anne (also in Talbot)	1953	Ch. 17	Ocean City	1880	Ch. 209
Queenstown	1892	Ch. 542	Pocomoke City	1878	Ch. 253
Sudlersville	1870	Ch. 313	Snow Hill	1812	Ch. 72
Templeville (also in Caroline)	1865	Ch. 86			

Source: Maryland State Archives; Department of Legislative Services

## **Constitutional Home Rule**

Prior to 1954, the General Assembly closely supervised the creation and operation of municipal corporations by enacting individually drafted charters and any amendments to the charters. However, the General Assembly shifted the balance of municipal power to the municipal corporations themselves with the adoption of Chapter 53 of 1954, proposing a constitutional amendment. Upon ratification by the voters on November 2, 1954, Article XI-E, known as the “Municipal Home Rule Amendment,” was added to the Maryland Constitution. The general purpose of Article XI-E is to permit the municipal corporations to govern themselves in local matters. The courts have interpreted this amendment as a strong and explicit intention that the General Assembly only address the charters of the municipal corporations on a general basis and not pass local legislation to amend the charters of individual municipal corporations.

Article XI-E of the Maryland Constitution specifies certain provisions relating to municipal corporations as outlined below:

- Section 1 of the Maryland Constitution, except as otherwise provided, provides that the General Assembly may only legislate on matters relating to the incorporation, organization, government, or affairs of municipal corporations by general laws which apply “alike to all municipal corporations in one or more of the classes provided for in Section 2 of this Article.”
- Section 2 requires the General Assembly to divide municipal corporations into not more than four classes based on population. However, Article 23A, Section 10 of the Annotated Code of Maryland provides that there is only one class, which contains all municipal corporations.
- Section 3 grants each municipal corporation authority to adopt a new charter or to amend or repeal its municipal charter or local laws relating to the incorporation, organization, government, or affairs of the municipal corporation.
- Section 4 addresses the manner in which a municipal charter may be amended and requires the General Assembly to amplify its provisions by general law. Statutory provisions governing municipal charter amendments are codified in Article 23A, Sections 11 through 18 of the Annotated Code of Maryland.
- Section 5 grants the General Assembly authority to set maximum property tax rates and to limit the amount of debt that a municipal corporation may incur.

However, a tax or debt limit may not take effect until approved by the voters of the municipal corporation at a regular or special election.

- Section 5 also prohibits a municipal corporation from levying “any type of tax, license fee, franchise tax or fee” that was not in effect on January 1, 1954, unless authorized by the General Assembly by general law.
- Section 6 addresses the relationship between municipal charters and other law.

## **Incorporation Process**

Article 23A, Sections 20 through 30 of the Annotated Code of Maryland prescribe the manner in which a new municipal corporation is incorporated under Article XI-E of the Maryland Constitution.

In order to incorporate, a community must consist of a minimum of 300 residents in the area proposed for incorporation. A petition to incorporate must be submitted to the county in which the area proposed for incorporation is located. A standardized petition form developed by the Office of the Attorney General is available for communities seeking incorporation through each county’s board of election supervisors. If the community’s petition satisfies statutory requirements, the county must appoint a liaison to work with the community’s organizing committee. What follows is an exchange of information, development of a proposed charter, and exchange of comments between the county and the organizing committee. Next, the county may schedule a referendum on the matter of incorporation or reject a proposed incorporation. However, if a county rejects a referendum request, the county must provide in writing the reasons for the rejection and establish reasonable procedures for reconsideration of its rejection, including an opportunity for a public hearing. The county may then schedule a referendum on incorporation or affirm its earlier rejection.

If the incorporation effort advances to referendum and the voters of the community approve incorporation, the county must proclaim the results within 10 days after receiving certification from the county board of elections. Subject to certain required statutory procedures, the incorporation takes effect 30 days following the proclamation.

## **Governmental Structure**

Neither the Maryland Constitution nor the Annotated Code of Maryland prescribes the forms of government for municipal corporations. Article 23A, Section 9(a) of the code merely states that, “the term municipal corporation shall include all cities, towns

and villages, now or hereafter created under any general or special law of this State for general governmental purposes, which are subject to the provisions of Article XI-E of the constitution, which possess legislative, administrative and police powers for the general exercise of municipal functions, and which carry on such functions through a set of elected and other officials.”

Given these broad guidelines, the forms of government that the municipal corporations have developed can be grouped into three basic categories: Commission; Mayor - Council; and Council - Manager.

According to the Maryland Municipal League, approximately 70 percent of municipal corporations utilize the mayor-council form of government. In this form of government, the mayor and council share the legislative power, and the mayor exercises the executive power. Some mayors are “stronger” than others, meaning that they have veto power over legislative actions of the council; others share power as a member of the council.

Of the other forms, approximately 20 percent have commissions and approximately 10 percent use the council-manager structure. In the commission form of government, the commissioners share the legislative power, and the executive powers are generally divided among the different commissioners. In the council-manager form of government, the council appoints a municipal manager who is the chief executive officer of the municipal corporation.

Within each category, there are variations in the qualifications, number, terms, and duties of municipal officials. Titles of municipal officials also vary; for example, in some municipal corporations, such as the Town of Middletown, the title “burgess” is used.

In addition, the governing bodies of municipal corporations can appoint managers or administrators who help implement the policies developed by elected officials. Municipal managers may also provide the corporate memory and attention to details that policy-oriented and often transient elected officials frequently cannot offer. According to the Maryland Municipal League, 114 municipal corporations have full-time, professional managers or administrators, and 16 municipal corporations have part-time, circuit-rider administrators. In the remaining 26 municipal corporations, the day-to-day administrative operations are conducted by the elected officials, typically the mayor.

## **Election of Local Officials**

Because municipal corporations are not subject to Article XVII of the Maryland Constitution (Quadrennial Elections), they have considerable discretion as to the manner

in which local officials are elected. Local election procedures are outlined in the charters of the municipal corporations. Municipal charters establish the terms of office and dates of elections. Often, the terms of office for municipal officials are staggered.

State laws governing elections generally do not apply to municipal elections. However, two State laws dealing with municipal elections are noteworthy. Title 3, Subtitle 4 of the Election Law Article provides generally for the universal registration of voters in municipal elections, so that the list of individuals eligible to vote in a municipal election includes those residents of the municipal corporation who are registered to vote with the local elections board for the county in which an individual's residence is located. In addition, Article 23A, Section 47 of the Annotated Code requires municipal corporations to allow voting in municipal elections by absentee ballot. In practice, municipal corporations may, and frequently do, rely on county election boards to administer municipal elections. Overall, the flexibility that municipal corporations possess in election matters contributes to the autonomy of Maryland's municipal corporations.

## **Powers of Municipal Corporations**

Article XI-E of the Maryland Constitution grants a municipal corporation authority to amend or repeal its charter or local laws relating to the incorporation, organization, government, or affairs of the municipal corporation and authority to adopt a new charter. Procedures governing charter amendments are found in Article 23A, Sections 11 through 18 of the Annotated Code.

The General Assembly has codified the powers of a municipal corporation in Article 23A, Section 2 of the Annotated Code. This section includes a detailed list of municipal powers. Article 23A, Section 2 also provides a broad grant of authority:

...to pass such ordinances not contrary to the Constitution of Maryland, public general law, or except as provided in Section 2B of this Article [Application of county legislation to municipalities], public local law as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality...

In addition, three specific powers deserve particular mention: (1) amendments to municipal charters; (2) annexation of property; and (3) urban renewal powers for slum clearance. There are also two areas where municipal corporations have concurrent authority with the General Assembly: limitations on property taxes and limitations on debt.

### **Charter Amendments**

As noted above, Article XI-E of the constitution grants authority for the amendment of municipal charters and the General Assembly has established specific procedures. A charter amendment may be initiated either by resolution of the legislative body of the municipal corporation or by a petition signed by at least 20 percent of the qualified voters of the municipality. A proposed charter amendment must contain only a single subject. The law prescribes detailed procedural requirements pertaining to proposed charter amendments, including notice and publication requirements. An amendment proposed by the legislative body may be petitioned to referendum by 20 percent of the qualified voters. Otherwise, it may be adopted as proposed by majority vote of the legislative body. A charter amendment proposed by petition may be either adopted by resolution of the legislative body or submitted to referendum.

If a charter amendment is petitioned or submitted to referendum, the election may be held at the next regular municipal election or at a special election held within a statutorily prescribed time frame. Within 10 days following an election, the mayor or chief executive officer of the municipal corporation is required to proclaim the results. The law prescribes the time that a proposed charter amendment normally takes effect, subject to certain procedural requirements under Article 23A of the Annotated Code of Maryland.

### **Annexations**

As part of its home rule powers, a municipal corporation may annex contiguous, unincorporated property in accordance with the provisions of Article 23A, Section 19 of the Annotated Code. An annexation may be initiated by the municipal legislative body or by petition of the residents of the area seeking annexation. The legislative body must satisfy public notice and hearing requirements on the resolution to incorporate. In addition, pursuant to changes to the annexation laws under Chapter 381 of 2006, the governing body of a municipal corporation that exercises zoning authority must develop an annexation plan as part of a proposed annexation. After October 1, 2009, the annexation plan must be consistent with the municipal growth element contained in the municipal corporation's comprehensive plan that is developed in consultation with the county in which the municipal corporation is located and submitted to the Maryland

Department of Planning. The annexation resolution becomes effective after the favorable vote by the legislative body, provided that the resolution is not petitioned to a referendum by the residents of the area seeking annexation, by the municipal residents, or by the county governing body. Following annexation, Article 23A, Section 9(c) of the Annotated Code restricts substantial changes by the municipal corporation in the use or density for the zoning classification applicable at the time of the annexation without the consent of the county.

### **Urban Renewal Powers for Slum Clearance**

Notwithstanding the broad grant of municipal home rule authority under the constitution and Article 23A of the code, and the general condemnation power under Article 23A, Section 2(b)(24) in particular, a municipal corporation must receive express authority from the General Assembly in order to exercise urban renewal powers for slum clearance. This power is authorized under Article III, Section 61 of the Maryland Constitution, the Urban Renewal Amendment. This provision allows the General Assembly to authorize a municipal corporation (or a county) to carry out urban renewal projects and to condemn property for this purpose. To date, 66 out of Maryland's 156 municipal corporations have been granted urban renewal authority under this provision of the constitution. Once granted this authority, a municipal corporation may condemn individual blighted properties under Article 23A, Section 2(b)(37) of the code.

### **Limitations on Municipal Authority**

Although municipal corporations exercise broad home rule authority, such authority is not absolute. Article XI-E, Section 6 of the constitution provides, in part, that “[a]ll charter provisions, or amendments thereto ... shall be subject to all applicable [public general] laws enacted by the General Assembly...” This provision also restricts municipal corporations from regulating alcoholic beverage sales as well as sales on Sundays (blue laws) in its charter. Article XI-E restricts a municipal corporation from imposing “any tax, license fee, franchise tax or fee” unless it was in effect on January 1, 1954, or authorized by the General Assembly for all municipal corporations within a given class. Moreover, the governing body of a municipal corporation may not legislate in areas that have been preempted by the State either by express preemption or preemption by implication.

### **Codification of Municipal Charters**

While municipal corporations have broad authority to amend their charters, the law requires municipal corporations to follow certain procedures. Under Article 23A, Section 9A(c) municipal corporations must regularly mail charter amendment resolutions,

as well as all annexation resolutions, to the Department of Legislative Services within 10 days of the effective date of the resolution. Generally, provided that a resolution is not petitioned to referendum, the effective date for a charter resolution is 50 days after enactment, and for an annexation resolution, no earlier than 45 days after enactment (Article 23A, §§ 13(f) and 19(e)).

In accordance with Chapter 77 of 1983, and Sections 10 and 11 of Chapter 14 of 1997, the Department of Legislative Services publishes a compilation of all the municipal charters, *Public Local Laws of Maryland - Compilation of Municipal Charters*. This publication contains the official version of the charter for each municipal corporation in the State and is updated annually to reflect the charter amendments that are passed by the legislative body of each municipal corporation. The compilation also includes the urban renewal powers that have been granted by the General Assembly under Article III, Section 61 of the Constitution of Maryland. An appendix to the charter of each of these municipal corporations reflects the specific urban renewal powers of that municipal corporation. The appendix may be amended or repealed only by the General Assembly.

## Chapter 4. Special Taxing Districts and Regional Agencies

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While the term local government usually refers to counties and municipal corporations, other local government entities known as special districts have been created by State or local law to address specific goals or needs within a small geographic area, or to deal with issues and problems that cross county boundaries. Despite sharing some features similar to counties and municipal corporations, these entities lack home rule authority and must come to the legislative body that created them in order to change the scope of their powers.

According to the U.S. Census Bureau's *2002 Census of Governments*, Maryland has 85 special districts. The Census Bureau defines special districts as independent, special purpose governmental units, excluding school district governments, that exist as separate entities with substantial administrative and fiscal independence from general purpose governments. Exhibit 4.1 lists the number of special districts in each county and Baltimore City as defined by the U.S. Census Bureau. Special districts provide specific services that are not being supplied by existing general purpose governments. Although most special districts perform a single function, in some cases the enabling legislation for a special district allows for the provision of multiple services.

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**Exhibit 4.1**  
**Special Districts Based on Census Classifications – 2002**

<u>County</u>	<u>Special Districts</u>	<u>County</u>	<u>Special Districts</u>
Allegany	15	Harford	3
Anne Arundel	4	Howard	2
Baltimore City	4	Kent	1
Baltimore	2	Montgomery	6
Calvert	2	Prince George's	3
Caroline	1	Queen Anne's	2
Carroll	1	St. Mary's	2
Cecil	3	Somerset	5
Charles	2	Talbot	3
Dorchester	3	Washington	3
Frederick	3	Wicomico	3
Garrett	2	Worcester	10

Source: U. S. Census Bureau, *2002 Census of Governments*

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This chapter does not address every form of special district in Maryland. Instead, discussion is limited to multi-purpose special taxing districts that have been created by the General Assembly and by the authority of Maryland's counties and municipal corporations to establish special taxing districts within their boundaries. This chapter concludes with a brief overview of regional agencies that operate under State law. These entities may or may not fit the definition of a special district; however, they do work closely with local governments in their respective regions.

## **Special Taxing Districts in Maryland**

This category of local government is quite broad. Special taxing districts include entities created by the General Assembly and entities created by a county or municipal corporation. Some special taxing districts resemble municipal corporations because they provide a range of municipal services. Other districts exist for a limited purpose, such as the financing of public drainage associations within a limited area or the creation and maintenance of street lighting in a particular neighborhood. Despite this variety in origin and powers, each district has some sort of tax-setting or fee-charging power.

### **Special Taxing Districts Created by the State**

Many of the quasi-municipal special taxing districts were created by legislation passed by the General Assembly. Unlike municipal corporations, these special taxing districts lack home rule powers and must come to the General Assembly for any changes affecting the districts' authority.

Since 1982, five special taxing districts have opted to become municipal corporations with home rule powers under Article XI-E of the Maryland Constitution. Exhibit 4.2 lists the five former special taxing districts created by the General Assembly that, through a referendum of their voters, have become municipal corporations; all are located in Montgomery County. These villages and towns are also the only new municipal incorporations created since 1954 when the Municipal Home Rule Amendment, Article XI-E of the Constitution, was ratified.

Today, there are 11 special taxing districts still in existence that were created by the General Assembly to address the needs of individual communities. Eight are located in Allegany County; three are located in Montgomery County. Each of these special taxing districts was created before its respective county obtained home rule status. Although home rule counties generally have authority to modify or abolish special taxing districts, there is an important limitation on such authority. Under Article 25A, Section 5(O) of the Annotated Code of Maryland, a home rule county's authority does not extend to special taxing districts performing municipal services, other than fire protection or

library service, that are governed by a citizens’ committee or a commission elected or appointed independently of the county’s governing body.

**Exhibit 4.2  
Municipal Corporations Originally Established  
as Special Taxing Districts**

<u>Name of Municipal Corporation</u>	<u>Year of Incorporation</u>
Village of Chevy Chase, Section 3	1982
Village of Chevy Chase, Section 5	1982
Village of Martin’s Additions	1985
Town of Chevy Chase View	1993
Village of North Chevy Chase	1996

Source: Department of Legislative Services

The 11 extant special taxing districts are described below.

**Allegany County**

*Bel Air Special Taxing Area* was created by Chapter 171 of 1965 to provide street lighting. Surplus resources are to be used for contributions to volunteer fire departments, playgrounds, and other facilities and services desired by residents. A maximum real property tax rate of 4 cents per \$100 of assessable base may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes. It is governed by a citizens’ committee of seven members elected to three-year staggered terms.

*Bowling Green and Robert’s Place Special Taxing Area* was created by Chapter 637 of 1972 to provide street lighting, a water system, street signs, refuse collection, and recreational facilities. Surplus resources are to be used for contributions to fire departments. A maximum real property tax rate of 3.2 cents per \$100 of assessable base may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 3.2 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county

property taxes. It is governed by a citizens' committee of seven members elected for three-year staggered terms.

*Cresaptown Special Taxing District* was created by Chapter 169 of 1949 to provide a water supply system. Surplus resources are to be used to acquire interests or rights in real property and for playgrounds and other projects and services desired by its residents. A maximum real property tax rate of 18 cents per \$100 of assessable base may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes. It is governed by the Cresaptown Civic Improvement Association, a citizens' committee of five members elected for five-year staggered terms.

*Ellerslie Special Taxing Area* was created by Chapter 587 of 1963 to provide street lighting. Surplus resources are to be used for playgrounds and other projects and services desired by its residents. A maximum real property tax rate of 6 cents per \$100 of assessable base may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes. It is governed by a citizens' committee of five members elected for two-year staggered terms.

*LaVale Sanitary District* was created by Chapter 13 of 1947 to provide water and sewer service. A maximum real property tax rate of 40 cents per \$100 of assessable base may be adopted by the district commissioners. The real property tax rate in fiscal 2007 was set at 10 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes. It is governed by three commissioners appointed to staggered six-year terms by the Allegany County Commissioners.

*McCoole Special Taxing District* was created by Chapter 505 of 1965 to provide street lighting. Surplus resources are to be used for playgrounds and other projects and services desired by its residents. A maximum real property tax rate of 8 cents per \$100 of assessed value may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes. It is governed by a citizens' committee of three members elected for three-year staggered terms.

*Mount Savage Special Tax Area* was created by Chapter 99 of 1950 to provide street lighting. Surplus resources are to be used for contributions to fire departments,

playgrounds, water supply, and other projects and services desired by its residents. A maximum real property tax rate of 8 cents per \$100 of assessed value may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 4 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes. It is governed by a citizens' committee of three members elected for two-year terms.

*Potomac Park Citizens Taxing District* was created by Chapter 843 of 1947 to provide street lighting and water for fire protection. Surplus resources are to be used for contributions to fire departments, playgrounds, water supply, and other projects and services desired by its residents. A maximum real property tax rate of 8 cents per \$100 of assessed value may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 3.2 cents. The tax is levied by the Board of County Commissioners of Allegany County on behalf of the district and collected in conjunction with county property taxes. It is governed by a citizens' committee of five members elected for two-year staggered terms.

### **Montgomery County**

*Village of Drummond Special Taxing Area* was created by Chapter 22 of 1916 to construct and maintain streets, and to provide lighting, drainage, sewage, refuse, police, and fire services. A maximum real property tax rate of 14 cents per \$100 of assessed value and a five-year front foot assessment may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 4.8 cents. Indebtedness of the area may not exceed 10 percent of the assessed valuation of the operating real property of a public utility within the Village of Drummond. The tax is levied by the Montgomery County Council on behalf of the district and collected in conjunction with county property taxes. It is governed by a citizens' committee of three members elected annually.

*The Village of Friendship Heights Special Tax District* is comprised of two villages, "Friendship Heights" and "The Hills." The district was created by Chapter 131 of 1914 to construct and maintain streets, and to provide lighting, sewage, refuse, police, and fire services. A real property tax rate of not less than 4 cents or more than 20 cents per \$100 of assessed value and a three-year front foot assessment may be adopted by the village council. The real property tax rate in fiscal 2007 was set at 4 cents. Indebtedness may not exceed 10 percent of the assessed valuation of the operating real property of a public utility within the taxable area. The tax is levied by the Montgomery County Council on behalf of the district and collected in conjunction with county property taxes. The district is governed by a village council of seven members elected to two-year terms.

*Oakmont Special Tax District* was created by Chapter 190 of 1918 to construct and maintain streets and to provide lighting, sanitation, and other maintenance and upkeep of existing improvements. A real property tax rate of not less than 4 cents or more than 20 cents per \$100 of assessed value and a front foot assessment of not less than 8 years or more than 15 years may be adopted by the committee. The real property tax rate in fiscal 2007 was set at 6 cents. Indebtedness may not exceed 2 percent of the assessed valuation of the operating real property of a public utility within the Oakmont Subdivision. The tax is levied by the Montgomery County Council on behalf of the district and collected in conjunction with county property taxes. It is governed by a citizens' committee of three members elected to three-year staggered terms.

### **Special Taxing Districts Created by County and Municipal Governments**

All counties have authority to establish special taxing districts for limited purposes, such as providing drainage improvements or providing street lighting. In addition, the governing bodies of counties that have adopted charter home rule or code home rule also have broad authority under the Express Powers Act to create special taxing districts to carry out most municipal services. The number of special taxing districts established under this authority varies significantly. Anne Arundel County has established 65 special taxing districts known as community benefit districts. Other home rule counties have created few, if any, special taxing districts under this authority.

In addition, the General Assembly has granted nine counties (Anne Arundel, Calvert, Charles, Garrett, Howard, Prince George's, St. Mary's, Washington, and Wicomico) and Baltimore City broad authority to create special taxing districts and to levy ad valorem taxes and issue bonds and other obligations for purposes of financing infrastructure improvements (Article 24, Section 9-1301, Annotated Code and Charter of the City of Baltimore Art. II, Section 62A). The types of infrastructure improvements authorized include storm drainage systems, water and sewer systems, roads, lighting, parking, parks and recreational facilities, libraries, schools, transit facilities, and solid waste facilities.

The General Assembly also has authorized municipal corporations to create special taxing districts within their borders (Article 23A, Sections 44 and 44A, Annotated Code). Special taxing districts may be established for purposes of storm drainage systems, public parking facilities, pedestrian malls, area and street lighting, bus systems, other enumerated infrastructure improvements and municipal services, and financing capital and operating costs to enhance police, fire protection, and rescue services. However, very few municipal corporations have established special taxing districts.

## **Regional Agencies**

Maryland has numerous governmental entities that have been established to address issues that transcend county boundaries or that are otherwise more effectively addressed on a regional basis. These entities vary in terms of organization, financing, services, and connection to the State or local governments. However, the one common element they share is that they were all established by legislation passed by the General Assembly.

Some entities serve as regional planning and development agencies such as the Baltimore Metropolitan Council, the Tri-County Council for the Lower Eastern Shore, the Tri-County Council for Southern Maryland, and the Tri-County Council for Western Maryland. Other agencies have been developed to address a more specific purpose on a regional basis. Sometimes these entities were established in connection with federal programs or in connection with cooperative efforts with governments outside of the State. Examples of regional agencies include the Northeast Maryland Waste Disposal Authority, a public corporation addressing waste disposal matters in the metropolitan region of the State; the Upper Potomac River Commission, which oversees the Savage River Dam and a sewage treatment facility, thereby regulating flow to the Potomac River; and the Washington Suburban Transit Commission, which coordinates Maryland's involvement under the Washington Metropolitan Area Transit Compact.

Two regional agencies that serve the Montgomery County and Prince George's County area, the Maryland-National Capital Park and Planning Commission and Washington Suburban Sanitary Commission, deserve additional discussion due to the level of attention they receive every session by the General Assembly.

### **Maryland-National Capital Park and Planning Commission**

Created by Chapter 448 of 1927, the commission has jurisdiction over parks and land use planning in most of Montgomery and Prince George's counties. The commission is governed by Article 28 of the Annotated Code of Maryland.

The commission consists of 10 members serving four-year staggered terms. Five members are appointed from each county. In Prince George's County, members are appointed by the county executive with the approval of the county council. In Montgomery County, the members are appointed by the county council, subject to the approval of the County Executive. State law prescribes procedures for the appointment of commission members and selection of the commission chairman and vice chairman. The five members of the commission from each county also serve as the planning board for their respective counties.

The commission prepares and administers a general plan for the physical development of the Maryland-Washington Regional District, an area that encompasses almost all of Montgomery and Prince George's counties. This general plan is subject to the concurrence of each county council, sitting in its capacity as district council for its own county. At the direction of the respective district councils, the commission divides the general plan into planning areas and prepares master plans for each local planning area. The local master plans must include recommendations for zoning and the staging of development and necessary public improvements. The local master plans are subject to the approval of the governing district council. The commission may recommend subdivision regulations for adoption by the county council. The district council of each county generally exercises zoning authority over its own county under Article 28 of the Annotated Code.

The commission is charged with acquiring and maintaining a system of parks within the metropolitan district in the two counties. In addition, the commission operates a recreation system for Prince George's County. The commission is funded primarily through various property taxes authorized under Article 28 of the Annotated Code of Maryland and imposed by Montgomery and Prince George's counties. In addition, enterprise fund operations are supported by various service fees and charges.

### **Washington Suburban Sanitary Commission**

Created by Chapter 122 of 1918, the commission's primary purpose is to provide water service and sewage treatment service in Montgomery and Prince George's counties. The commission is governed by Article 29 of the Annotated Code.

The sanitary commission consists of six members serving four-year staggered terms. Three members are appointed from each county by the county executive, subject to confirmation by the county council of that county. State law prescribes procedures for the appointment of commission members and selection of the commission chairman.

The commission serves nearly all of Montgomery and Prince George's counties. In Montgomery County, the Town of Poolesville operates its own water and sewer systems and the City of Rockville operates its own water system. In Prince George's County, the City of Bowie operates its own water and sewer systems although the commission does provide water in a portion of Bowie. The commission obtains water from the Patuxent River reservoirs and the Potomac River. Sewage treatment is provided at various facilities throughout the region, including the Blue Plains Wastewater Treatment Plant where services are provided in conjunction with Washington, DC.

In addition to water and sewer charges, Article 29 of the Annotated Code authorizes several charges and fees relating to services, including a system development charge tied to new development. To meet infrastructure demands, the commission is authorized to issue long-term debt (debt extending beyond five years) in an amount not exceeding 7 percent of the assessable base of property assessed for county taxation purposes in Montgomery and Prince George's counties as of July 1, 1997. For fiscal 2006, approximately 36 cents for every dollar paid to the sanitary commission in water and sewer bills is spent for purposes of debt service. The commission is also authorized to issue revenue bonds to finance or refinance all or part of the costs associated with the development and operation of technological projects that are related to the commission's expertise in running water and wastewater systems. These bonds are not considered to constitute a pledge of the full faith and credit of the sanitary commission or any other taxing power and are tax-exempt at the local and State levels.





interpreted as a public general law for other purposes. As explained by the Court of Appeals, “a law is not necessarily a local law merely because its operation is confined to ... a single county, if it affects the interests of the people of the whole State.” (*Gaither v. Jackson*, 147 Md. 655, 667 (1925)).

The General Assembly has the authority to pass legislation that applies statewide. The authority to pass legislation affecting single or multiple political subdivisions varies based on the form of local government and relevant constitutional provisions, a concept addressed below in detail. Legislation applicable to a single political subdivision generally is referred to as a public local law. By contrast, legislation applicable to two or more political subdivisions or applicable throughout the State is referred to as a public general law. Public local laws are usually codified in the Code of Public Local Laws of the applicable political subdivision but may alternatively be codified in the Annotated Code of Maryland. A public local law might also be uncoded, in which case it would appear only in the session laws that are published following the completion of each legislative session. Regardless of the form of local government, the General Assembly may pass legislation affecting individual political subdivisions in subject areas that have been preempted by the State.

One important distinction between public general laws and public local laws relates to the ability of the General Assembly to condition legislation on approval by the voters. The General Assembly may not submit a public general law to a referendum of the voters, as this action would be an unconstitutional delegation of its legislative authority. The enactment of a public local law, however, may be made contingent on the approval of the voters in the area or political subdivision affected by the legislation.

## **Local Bill Process in the General Assembly**

### **Local Courtesy**

Legislation pertaining to a single political subdivision or a limited number of political subdivisions is usually afforded “local courtesy.” If the legislation has the support of the citizens of a particular political subdivision, as expressed by the legislators elected to represent that political subdivision, then the members of the General Assembly representing other areas of the State, as a courtesy, usually will acquiesce to the wishes of the legislators of the affected political subdivision. Exceptions occasionally occur when other legislators believe that an ostensibly local bill has statewide implications. The concept of local courtesy is historically based on an expectation that members of the legislative delegation of a county or Baltimore City are the best judges of issues relevant solely to their own political subdivision.

## **Local Delegations and Select Committees**

After the 2000 census, each legislative district of the State, represented by one senator and three delegates, includes approximately 113,000 citizens. Fifteen of the 47 legislative districts are divided into 2- or 3-member subdistricts where each delegate represents either one-third or two-thirds of the district's population. In the heavily populated, metropolitan areas of the State, a member of the Senate or the House of Delegates represents a small region of a county or Baltimore City. In the rural areas, such as Maryland's Eastern Shore, a senator or delegate may represent citizens of three or four counties. In either scenario, local courtesy provides that if a majority of the members of the Senate or the House of Delegates representing a particular political subdivision support or oppose local legislation, the rest of the senators or delegates generally will acquiesce in that decision.

The House of Delegates is organized into local county delegations for the purpose of considering local legislation. The rural counties also meet as regional delegations. Although the *Rules of the Maryland House of Delegates* allows for a delegation to act as a "select committee" for consideration of local legislation, in practice local bills approved by the appropriate delegation are referred to a House standing committee. The standing committee generally defers to the position taken by the local delegation. In the Senate, select committees consisting of single counties or groups of sparsely populated counties consider local legislation. For some counties the members of the Senate and the House of Delegates meet together for consideration of local legislation. For most counties, local legislation is introduced in the House of Delegates. If the legislation passes in the House, it then is considered by the Senate.

Procedures for consideration vary significantly among delegations. While procedures in many of the rural delegations are very informal, several of the more urban delegations have established elaborate procedures for consideration of local legislation. The Howard County, Montgomery County, and Prince George's County delegations have adopted the most complex procedures for their respective delegations. Each of these counties has published deadlines for its members to submit proposed local legislation for consideration several months before each legislative session of the General Assembly. County administration proposals generally are submitted by the delegation chair on behalf of the county administration. These bills are drafted by the Office of Policy Analysis in the Department of Legislative Services and are assigned unique local bill numbers. Copies of the draft bills (which have not been actually introduced in the General Assembly at this stage) are distributed at public hearings conducted in the respective counties weeks before the start of the legislative session.

Following local public hearings or early in the legislative session, a delegation or a committee of a delegation will consider each appropriate local bill and may extensively amend a bill before it is formally introduced in the General Assembly. If the bill receives approval of the full delegation, it will be introduced under the sponsorship of the delegation. A delegation sometimes will not complete its work before the House of Delegates bill introduction deadline, at which time the bills may be introduced before delegation approval in order to meet the deadline. A standing committee will delay formal action on a bill until it receives written notice of the appropriate delegation's approval of the bill. The General Assembly considers numerous bills each session that affect the Maryland-National Capital Park and Planning Commission and the Washington Suburban Sanitary Commission, entities that operate under State law in Montgomery and Prince George's counties. The local process for these bills is further complicated because these bills must be considered and approved by both county delegations before a standing committee of the House will take action.

An issue that occasionally results in controversy in local delegations is the weight given to the vote of a legislator whose district crosses county lines and who therefore represents fewer citizens in the respective county than legislators whose districts are entirely within the county. The *Rules of the Maryland House of Delegates* establish that each delegate who represents any portion of a county or Baltimore City is entitled to one vote unless "[a]fter an opportunity for all delegates to be heard, a majority of delegation members ... voting ... elect to allocate nonresident delegates less than one full vote." The vote of a delegate whose district is not entirely within the county may not be less than one-third of a full vote.

One might expect that the adoption of home rule would reduce the number of local bills a delegation might need to consider in the General Assembly. In fact, because the majority of charter counties are found in the more heavily populated regions of the State and provide more in terms of governmental services, these counties tend to have a significant number of local bills before the General Assembly each session. Only when evaluated on a per capita basis is the effect of home rule demonstrated in terms of reducing the work load of the General Assembly.

## **Commission Counties**

Eight of Maryland's counties operate under the traditional form of government – commission government: Calvert, Carroll, Cecil, Frederick, Garrett, St. Mary's, Somerset, and Washington.

Article VII, Section 2 of the Maryland Constitution provides in part that the "powers and duties of the County Commissioners ... shall be such as now are or may be

hereafter prescribed by law.” Commission counties gradually have been granted a significant amount of local authority and discretion in addressing local affairs, authority sometimes referred to as “statutory home rule.” Nevertheless, the powers granted commission counties are significantly more limited than the powers available to those counties that have adopted either charter or code home rule under the Maryland Constitution. Outside of those areas where all counties have been granted local authority, however, there is little uniformity in the powers of each commission county. This inconsistency is due in part to variations in industry and geography and the long tradition of local courtesy in the General Assembly.

A review of legislation considered by the General Assembly during the 2003-2006 legislative sessions pertaining to individual commission counties illustrates the legislature’s involvement in local matters that would not have been considered for home rule counties. Examples of these issues include the salaries and benefits of county officers and employees, county procurement matters, local consumer affairs, local licensing and registration, animal control, the composition of county agencies, zoning, and local regulation of farming, the seafood industry, and nuisances. The important point to remember is that the General Assembly is not in any way limited under the Maryland Constitution in passing legislation applicable to single commission counties.

## **Charter Home Rule Counties**

Nine of Maryland’s counties have adopted charter home rule under Article XI-A of the Constitution of Maryland: Anne Arundel, Baltimore, Dorchester, Harford, Howard, Montgomery, Prince George’s, Talbot, and Wicomico.

As explained in Chapter 2, Article XI-A, Section 2 of the Maryland Constitution requires the General Assembly to provide by public general law a grant of express powers for those counties that elect to adopt charter home rule. The General Assembly has fulfilled this mandate by passing Article 25A, Sections 4 and 5 of the Annotated Code of Maryland (the “Express Powers Act”). By giving charter counties authority to legislate in a given area under the express powers, the General Assembly delegates its authority to legislate in that area for an individual charter county to the county council, or county council and County Executive, of that county.

Consistent with the concept of home rule, Article XI-A, Section 4 of the constitution prohibits the General Assembly from enacting a public local law for a charter county “on any subject covered by the express powers granted.” A bill applicable to two or more counties or a county and Baltimore City, however, is not a local bill for purposes of this restriction. The General Assembly may adopt such legislation notwithstanding

any inconsistency with local legislation enacted by a county under the express powers granted to charter counties, in which case, under Article XI-A, Section 3, the public general law would control.

The General Assembly also retains authority to adopt local laws applicable to individual charter counties on matters not addressed by the Express Powers Act. For example, because the Express Powers Act does not grant charter counties general authority to impose a tax, other than the property tax, the General Assembly may pass legislation authorizing a single charter county to impose a tax which, absent such authority, the county would be unable to impose. Other subject areas not delegated to charter counties under the Express Powers Act include the regulation of alcoholic beverages, control over offices established in each county under the Maryland Constitution, such as the offices of sheriff and State's Attorney, and other matters such as public education where the State has preempted local regulation.

## **Baltimore City**

The City of Baltimore is a unique public corporation under the Maryland Constitution, based on its historical role in the development of the State. Except as otherwise provided in the Maryland Constitution and the Annotated Code of Maryland, the General Assembly has almost the same authority over Baltimore City as it does over a charter county.

Because the express powers granted to Baltimore City by the General Assembly are codified in Article II of the Baltimore City Charter, and the express powers under Article 25A, Section 5 of the Annotated Code for charter counties do not apply to Baltimore City, the General Assembly is not restrained in modifying the grant of powers affecting Baltimore City alone. Thus, some argue that the General Assembly retains greater authority in legislating for Baltimore City than in legislating for individual charter home rule counties. Otherwise, the powers granted by the General Assembly under Article II of the Baltimore City Charter are very similar to the express powers that the General Assembly has granted charter counties under Article 25A of the Annotated Code.

Although there are a number of provisions in the Maryland Constitution unique to Baltimore City, one significant difference between charter home rule counties and Baltimore City relates to Baltimore City's authority to issue debt. Under Article XI, Section 7 of the Maryland Constitution, Baltimore City may not generally incur long-term debt unless first authorized by an ordinance of the mayor and city council and then approved by the voters of Baltimore City. The ordinance may not be placed on the ballot unless the proposed creation of debt is either presented to and approved by the majority of members of the General Assembly representing Baltimore City no later than

the thirtieth day of the regular legislative session preceding the ballot or authorized by an act of the General Assembly. In practice, the Baltimore City Administration circulates a packet of proposed projects to the Senators and Delegates representing Baltimore City with accompanying resolutions for their signatures. The final package is then filed with the clerk of the House of Delegates for printing in the House Journal.

## **Code Home Rule Counties**

Six of Maryland's counties have adopted code home rule under Article XI-F of the Maryland Constitution: Allegany, Caroline, Charles, Kent, Queen Anne's, and Worcester.

A code county has significant autonomy in its ability to address local issues. As addressed in Chapter 2, the exact scope of a code county's authority has been subject to debate, primarily due to the definition of a "public local law" under provisions of the Maryland Constitution governing code home rule. Article XI-F, Section 1 of the constitution defines "public local law" in part as "a law applicable to the incorporation, organization, or government of a code county and *contained* in the county's code of public local laws ...." (emphasis added). When the definition of public local law is read literally, the authority of the county commissioners to enact local legislation would appear to turn on the codification of the law. The constitution, however, also limits the authority of the General Assembly to legislate for counties that have adopted code home rule. Article XI-F, Section 4 provides:

[e]xcept as otherwise provided in this Article, the General Assembly shall not enact, amend, or repeal a public local law which is special or local in its terms or effect within a code county. The General Assembly may enact, amend, or repeal public local laws applicable to code counties only by general enactments which in term and effect apply alike to all code counties in one or more of the classes provided for in [Article XI-F, Section 5].

Article XI-F, Section 5 authorizes the General Assembly to classify code counties by grouping them into not more than four classes, based either on population or on other criteria that the General Assembly determines appropriate.

Although there are no appellate court cases that have examined Article XI-F, it has been subject to an in-depth analysis by the Office of the Attorney General. In interpreting the authority of the General Assembly to legislate for code counties, the

Attorney General concluded in part that, subject to stated exceptions, Article XI-F, Section 4 “*implicitly prohibits* the General Assembly from [enacting, amending, or repealing special or local laws in code counties] by not codifying an enactment in the code of public local laws ... [or] by making an enactment applicable to two but less than all of the code counties in a given class.” (62 Op. Att’y Gen. 275, 307 (1977) (*emphasis in original*)).

From 1966, when Article XI-F was ratified, until October 1997, there was a single class of code counties. In 1997 (Chapter 666), the General Assembly divided the State into four regions for purposes of code home rule: Central Maryland, Eastern Shore, Southern Maryland, and Western Maryland. Currently, four of the six code counties (Caroline, Kent, Queen Anne’s, and Worcester) are in the Eastern Shore class, while Allegany County is the only code county in the Western Maryland class and Charles County is the only code county in the Southern Maryland class. Thus, for example, the General Assembly may adopt legislation for just Allegany County by making the act applicable only to the Western Maryland class of code counties, provided no other counties in that region adopt code home rule.

Notwithstanding the general restriction on the ability of the General Assembly to adopt legislation affecting individual code counties, Article XI-F, Section 8 grants the General Assembly exclusive authority to pass a local law that sets a maximum property tax rate for a particular code county or that caps the maximum amount of indebtedness that a particular code county may incur. The General Assembly, however, has not chosen to exercise as yet its authority under this provision for any county that has adopted code home rule.

## **Municipal Corporations**

Since the adoption of the municipal home rule amendment to the Maryland Constitution in 1954, the role of the General Assembly in municipal affairs has diminished significantly. Before 1954, the General Assembly was authorized to grant, amend, and repeal individual charters for municipal corporations. Under Article XI-E of the constitution, each municipal corporation possesses home rule. The municipal home rule amendment is discussed in Chapter 3. Article XI-E, Section 1 precludes the General Assembly from passing a law “relating to the incorporation, organization, government, or affairs ... of ... municipal corporations ... which will be special or local in its terms or in its effect.” The General Assembly may only pass such legislation by a general law that applies to all municipal corporations in a given class.

The constitution requires the General Assembly to classify municipal corporations into not more than four classes based on population. To date, the General Assembly has

complied with this mandate in a very different way than it has done for the code counties. Specifically, Article 23A, Section 10 of the code declares simply that all municipal corporations constitute a single class.

Notwithstanding the general restriction on the General Assembly legislating for individual municipal corporations, the Maryland Constitution does provide for certain exceptions. Article XI-E, Section 5 authorizes the General Assembly to pass local legislation limiting the property tax rate that a municipal corporation might impose or the amount of indebtedness that the municipal corporation may incur. Such an act would be subject to the approval of the voters of the municipal corporation. This authority, however, is not an exclusive power of the General Assembly. A municipal corporation could take similar action through an amendment to its charter and only if the General Assembly imposed a more restrictive provision would the act of the General Assembly preempt the action of the municipal corporation. To date, the General Assembly has not exercised its authority under this provision for any municipal corporation.

Another exception is found under Article III, Section 61 of the Maryland Constitution. Notwithstanding the general condemnation power under Article 23A, Section 2(b)(24) of the Annotated Code, a municipal corporation must receive express authority from the General Assembly in order to exercise urban renewal powers for slum clearance. This power is authorized under Article III, Section 61, the Urban Renewal Amendment, and is applicable to municipal corporations as well as counties. Interestingly, this constitutional provision states that the General Assembly's authority to enact local laws regarding local urban renewal projects for slum clearance prevails over the restrictions under Article XI-E of the constitution. Accordingly, the General Assembly may legislate for one municipal corporation, or any number that is less than all municipal corporations, in this subject area unlike most other subject areas in which the General Assembly must make municipal legislation applicable to all municipal corporations. From 1960, the year Article III, Section 61 was ratified, through the 2006 session, the General Assembly has granted authority under the Urban Renewal Amendment to 66 municipal corporations. This authority is codified as an appendix to each of the municipal charters found in the *Public Local Laws of Maryland – Compilation of Municipal Charters*. Once granted the urban renewal powers for slum clearance under the constitution, a municipal corporation may exercise condemnation powers for individual blighted properties under Article 23A, Section 2(b)(37) of the Annotated Code.

## **Special Taxing Districts and Regional Agencies**

As explained in Chapter 4, special taxing districts created by the General Assembly operate similarly to municipal corporations. They provide a range of public

services or provide an individual service in a specific region, which may be an area that extends beyond a single county. Unlike home rule counties or municipal corporations, the Maryland Constitution does not restrict the General Assembly from modifying the law governing these districts, nor does the constitution restrict the General Assembly from modifying the law governing regional agencies such as the Maryland-National Capital Park and Planning Commission and the Washington Suburban Sanitary Commission.

Other multi-purpose or single-purpose special taxing districts have been established by local governments under various enabling authority granted by the General Assembly. For example, charter counties generally are authorized to “establish, modify, amend and abolish special taxing areas for any of the purposes enumerated in [Article 25A of the Annotated Code of Maryland].” Although the General Assembly may amend the law authorizing the creation of these districts, the General Assembly generally does not pass legislation affecting the districts themselves. There are possible exceptions, however, in cases where a special taxing district created by a local government seeks authority over a matter that the local government is not authorized to address.

There is an important limitation protecting special taxing districts that were established by the General Assembly to provide municipal services in a charter or code county and that are governed or administered by a citizens’ committee or a commission elected or appointed independently of the county governing body. Unless the special taxing district was established solely for fire protection or library service, the district is beyond the reach of the respective county’s authority. Any change in the authority or existence of a special taxing district would generally be within the exclusive domain of the General Assembly. In a code county, however, action by both the General Assembly and county commissioners could conceivably be required to affect a district established by public local law before the adoption of code home rule.

## **Conflict of Laws/State Preemption**

Conflict between laws is inevitable as different levels of government seek to shape policy through legislation. The Constitution of Maryland, State statutes, and case law provide guidance when conflicts occur. This section addresses constitutional and statutory provisions governing conflicts of law, the concurrent powers doctrine, the issue of State preemption, and the relationship between county and municipal law.

### **Constitutional/Statutory Provisions**

Under the home rule provisions of the Maryland Constitution, when a conflict results between a public general law passed by the General Assembly and a local law

passed by a charter or code county, the public general law controls. In contrast, under Article 1, Section 13 of the Annotated Code of Maryland, a conflict between a public general law and a public local law *passed by the General Assembly* is resolved in favor of the public local law.

In some cases, the State and local government will have concurrent powers in a given area, and the courts will attempt to reconcile the State and local law. In other areas, the State may preempt local authority in matters of State concern.

### **Concurrent Powers Doctrine**

The powers of the State and a local government to legislate in the same field are called concurrent powers. When both governments pass laws in the same field, however, an issue arises as to what extent the State has restricted local government's role by State involvement in that field. Under the concurrent powers doctrine, unless a public general law contains an express denial of the right to act by local authorities, the State's regulation of certain activity in a field does not mean that a local government cannot enact laws in that field.

For example, the Court of Appeals upheld Baltimore City's minimum wage law that required higher rates than the State minimum wage law. (*City of Baltimore v. Sitnick & Firey*, 254 Md. 303 (1969)). Even though the State had regulated minimum wages, Baltimore City's law was still valid because the State had not expressly prohibited local legislation on minimum wages. Rather than conflict with State regulation, the Baltimore City law was viewed as supplemental regulation. This doctrine, however, is not absolute. As the court recognized, "there may be times when the legislature may so forcibly express its intent to occupy a specific field of regulation that the acceptance of the doctrine of preemption by occupation is compelled."

### **State Preemption**

The State may preempt a local law in the following three ways: (1) express preemption; (2) implied preemption; and (3) preemption by conflict.

#### **Express Preemption**

Express preemption is based on the authority of the General Assembly to reserve for itself "exclusive dominion over an entire field of legislative concern." (*Ad & Soil, Inc. v County Comm'rs*, 307 Md. 307, 324 (1986)). Express preemption is not difficult to discern because the language generally is unambiguous. An example of express

preemption was recognized by the Court of Appeals in invalidating a Montgomery County ordinance regulating the sale of ammunition. (*Montgomery County v. Atlantic Guns, Inc.*, 302 Md. 540 (1985)). The court ruled that the State had expressly preempted this area. Other fields that have been preempted expressly by State law include the regulation of horse racing; the certification of insurers; certain aspects of condominium regimes, cooperative housing corporations, and homeowners' associations; and with certain enumerated exceptions, vehicle laws.

### **Implied Preemption**

Implied preemption is more difficult to define because its meaning is ascertained on a case-by-case basis. In determining whether the General Assembly has impliedly preempted a field, the courts primarily consider the comprehensiveness with which the General Assembly has legislated in the field. The courts also consider a variety of secondary factors, including:

- whether local laws existed before the enactment of the State laws governing the same subject matter;
- whether the State laws provide for pervasive administrative regulation;
- whether the local law regulates an area in which some local control has traditionally been allowed;
- whether the State law expressly provides concurrent legislative authority to local jurisdictions or requires compliance with local law;
- whether a State agency responsible for administering and enforcing the State law has recognized local authority to act in the field;
- whether the particular aspect of the field sought to be regulated by the local government has been addressed by the State legislation; and
- whether a two-tiered regulatory process, if local laws were not preempted, would engender chaos and confusion.

Examples of areas where the Court of Appeals has found that the General Assembly has implicitly preempted local regulation include campaign finance regulation, education, and the regulation of cigarette vending machines.

### **Preemption by Conflict**

Preemption by conflict generally occurs when a local ordinance prohibits an activity that is allowed by State law or allows an activity that is prohibited by State law. The courts occasionally are called on to determine whether a “conflict” exists, assuming appropriate local authority exists. As early as 1909, the Court of Appeals addressed the relationship between State law and local ordinances. A local ordinance, “must not directly or indirectly contravene the general law. Hence, ordinances which assume directly or indirectly to permit acts or occupation which [public general laws] prohibit, or to prohibit acts permitted by [the public general laws] or constitution, are under the familiar rule for validity of ordinances uniformly declared to be null and void.” However, “[a]dditional regulation by the ordinances does not render it void.” (*Rossberg v. State*, 111 Md. 394, 416-417 (1909)).

Whenever reasonably possible, the courts will try to construe legislation so that a conflict is avoided. However, sometimes conflicts occur. An example of a case where the Court of Appeals has found a local ordinance in conflict with State public general law is *County Council v. Investors Funding*, 270 Md. 403 (1973), in which Montgomery County sought to regulate retaliatory evictions. The court found that the local ordinance conflicted with the State’s summary eviction statute and therefore was invalid.

### **Conflict between County and Municipal Law**

Although less significant in terms of the legislative process in the General Assembly, questions occasionally arise concerning the effect of county law within municipal corporations. In 1981, confusion resulted from a Court of Appeals decision that held that a county law superceded the law of a municipal corporation if the two provisions were in conflict. (*Town of Forest Heights v. Frank*, 291 Md. 331(1981)). Most municipal corporations, particularly the larger ones, had presumed a substantial degree of autonomy in relation to county government. Following a compromise by county and municipal interests, the General Assembly passed legislation defining the types of county legislation applicable to a municipal corporation within the county.

As long as the county legislation is within the scope of authority granted to the county, certain categories of county legislation generally apply within the boundaries of a municipal corporation in that county. First, county legislation applies within a municipal

corporation if provided by a law passed by the General Assembly. Second, subject to the Tax-General Article, Tax-Property Article, and Article 24 of the Annotated Code, the area within a municipal corporation is subject to county revenue or tax legislation, and legislation adopting the county budget. Finally, county legislation that becomes effective immediately on the affirmative vote of at least two-thirds of the county governing body applies to the area within a municipal corporation. The vote must follow a specific finding, after a public hearing, that there would be a significant adverse impact on the public health, safety, or welfare affecting residents in unincorporated areas of the county if the county legislation does not apply in all municipal corporations in the county. Additionally, county legislation enacted under this third category is subject to specific procedural requirements, including a right of judicial review.