

Memo

To: Janice O'Connell, Clerk
From: Robert S. Troy, County Counsel *RST*
Date: April 26, 2017
Re: Budget Process

The Assembly Clerk has requested me to clarify the role of the Assembly of Delegates in the County's budget process. I propose to do that by way of two distinct responses: the "rules" that have always governed the adoption of the budget for all Massachusetts counties and a summary of actions that Assembly Members may take when the Budget is addressed at the Assembly's next meeting.

First, prior to the adoption of the Charter, all county government in Massachusetts was regulated by legislative enactments. Most of those enactments that relate to finance of county government were included in Chapter 35 of Massachusetts General Laws. Portions of this Chapter were adopted centuries ago.

Legislative enactments governing the budgetary process of Massachusetts Counties are primarily established in General Laws Chapter 35, Section 28 et al, entitled "County Finances." These provisions form the basis for the Charter's mechanism on the identical subject and are critical in interpreting the intent of the Charter.

Section 28 of Chapter 35 discusses the "preparation" of the County budget: "(b) The county commissioners shall annually prepare an itemized budget containing estimates of county revenues

and expenditures for the ensuing fiscal year.." in a format described in the remainder of this section.

Chapter 35, Section 28B is critical because it describes the function of the Advisory Board for County Expenditures. The Charter incorporates by reference these "rules" by specifically stating that the Assembly of Delegates shall perform the functions of the Advisory Board for County Expenditures. Section (b) provides: "The advisory board on county expenditures, upon receipt of the proposed itemized budget prepared by the county commissionersshall review the proposed budget. The advisory board may increase, decrease, alter and revise the proposed budget..." predicated on certain criteria in this section. The statute also provides that the Advisory Board hold public hearings, and after those hearings, includes a provision critical to interpreting the extent of the authority of the Assembly of Delegates with respect to this process: "After such hearing or hearings, the advisory board, by a majority votemay delete, add to, alter and revise any line item appearing in said budget request or plan."

The cited section of the statute is consistent with my interpretation of the role of the Assembly of Delegates in the budget process, action in its function as the Advisory Board on County Expenditures. The Assembly may "delete, add to, alter and revise any line item appearing in said budget or plan." It may not - "create" - line items that are not included in the "proposed" budget of the County Commissioners. Put simply, the Assembly may add or subtract amounts or delete, alter and revise amounts listed in line items that are included in the Budget proposed by the County Commissioners.

This segues to the second part of my analysis. At its proceedings to review the FY2018 Budget submission by the County Commissioners, Assembly members may add, subtract, delete, alter and revise amounts listed in the line items of the proposed budget. This authority is unlimited so long as it is exercised with respect to the amounts listed in the line items of the Commissioners' proposed budget.

The Charter provides a process that similarly limits the Assembly to amending amounts proposed in line items of the Commissioners' budget. That authority does not include creating line items or proposing programs that are not reflected in the Commissioners' proposed budget but does include plenary authority over the determination of the amounts budgeted by the Commissioners for programs that are included within the line item designations.

In interpreting the Charter, I have also given effect to the provisions of Ordinance 16-03 that bestows additional authority to the Assembly of Delegates that is not granted by the Charter. This Ordinance provides a mechanism for resolving differences between the Commissioners' budget and the Assembly's efforts to "amend" that budget. In the event that the "reconciliation" effort fails, this Ordinance provides a process by which the impasse is resolved, with the "final action" reflecting the authority of the Assembly - by a weighted vote reflecting two-thirds of the County's population - to make a binding decision overruling the objections of the County Commissioners to amendments to the Commissioners' proposed budget.

Please let me know if there are any additional questions.

RST:geo