

Memo

To: Janice O'Connell, Clerk, Assembly of Delegates
From: Robert S. Troy, County Counsel *RST*
Date: May 12, 2014
Re: Barnstable County Budget for Fiscal Year 2015

This will respond to your request for my Opinion as County Counsel as to the appropriate actions required by the County Charter to address the following situation: The Assembly of Delegates has voted, by a majority vote, to reject the proposed Budget for Fiscal Year 2015 for Barnstable County. A motion for reconsideration has been filed by a Delegate requesting that the Assembly revisit its decision on the budget. You inquire about what process is envisioned by the Charter to address the failure of the Assembly to exercise its authority to approve or amend the proposed budget submitted by the County Commissioners. My Opinion follows.

Section 3-3 of the Charter affirms the executive authority of the Board of Regional Commissioners. Included in the delineated executive powers and responsibilities is to "Prepare and submit to the assembly of delegates an annual operating budget, and a capital outlay budget, as provided in Article 5." Another executive responsibility under this Section requires that the Commissioners "Keep the assembly of delegates and the public fully informed as to the financial and administrative condition of the Cape Cod regional government by filing oral or written reports with the assembly of delegates, at least semi-annually, summarizing such condition." Section 3-4 empowers the Commissioners to delegate to subordinate

officers any of the responsibilities of Section 3-3 and requires that delegated actions be binding on the Commissioners.

Article 5, entitled "Fiscal Procedures," details the mechanics of the budget process. Departments and agencies of the County submit budget requests, after which, the Administrator implements the guidelines of the Commissioners and submits a proposed budget to the Commissioners. In turn, the Commissioners submit to the Assembly of Delegates a proposed budget for the ensuing fiscal year along with supporting documentation. After receipt, the Assembly of Delegates, through its standing committee of finance, reviews the budget and it - or any other designated standing committee, may require the Commissioners, the Administrator, or any other department or agency, "to furnish it with such additional information as it may deem necessary to assist in its review of the proposed budget." See Section 5-5 (b).

Following its review, the standing committee on finance files its report with the Assembly "containing its recommendations with respect to each item contained in the proposed budget. The report shall contain its reason or reasons for each recommendation that differs from the recommendation of the board of regional commissioners." See Section 5-5 (c).

Pursuant to Section 5-5 (d), the Assembly of Delegates is required to adopt a budget for the ensuing fiscal year no later than June 1 of each year. The Charter provides: "If the assembly of delegates has not taken final action with respect to any amount recommended in the proposed budget by said first day of June such amount shall, without any action by the assembly of delegates become a part of the appropriations for the ensuing fiscal year."

Read together as a consistent mechanism, the appropriation procedure imposes the responsibility of submission of a proposed budget on the County Commissioners but provides the Assembly with authority to approve the proposed budget or amend the proposed budget.

In the event that the Assembly decides to amend the proposed budget, Section 3-8 of the Charter requires that the amended budget be presented to the County Commissioners, who, in turn, may approve the amended budget or disapprove the amended budget within ten days its receipt and the Assembly must act on the Commissioners' disapproval within 14 days, all as required by Section 3-8. However, the Charter requires that this process be completed on or before June 1 of each year.

In this instance, the Assembly has not approved or amended the budget, but, instead has voted to reject the Commissioners' proposed budget. However, Section 5-5 (d) requires the Assembly of Delegates to adopt a budget by June 1 of each year for the ensuing fiscal year commencing on July 1. Because of this requirement, it is my Opinion that the Assembly of Delegates must act in accordance with Section 5-5 (d) by June 1, 2014 to adopt a budget for the fiscal year commencing on July 1, 2014. Failure to do so will result in *de facto* approval of the proposed budget submitted by the County Commissioners and the appropriations contained in the proposed budget shall be lawfully authorized under the authority of the Barnstable County Home Rule Charter.

It is my understanding that the Assembly took its action rejecting the budget because of concerns that it has not been provided with information relating to fiscal issues. As noted, the Charter includes provisions relating to the submission of information to the Assembly as well as acquisition of additional information by the Assembly as part of the budget process. However, the Charter grants to the Assembly of Delegates additional powers to obtain "such records and reports, and such officials and employees of the Cape Cod regional government as the assembly of delegates shall deem necessary to insure clarification of any mater under study." See Section 2-7 of the Charter. Additionally, the Assembly or a special committee of the assembly, may summons witnesses and order the production of "books and papers at a hearing before it."

Cc: County Administrator
County Commissioners
Finance Director