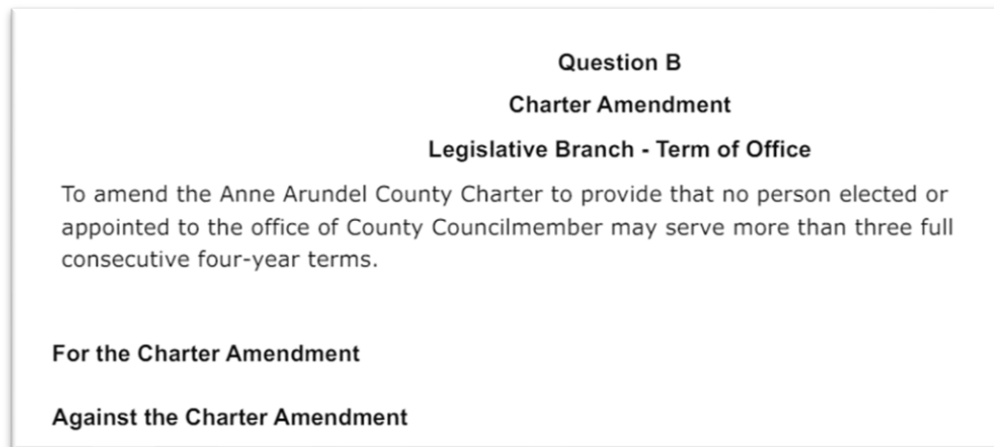


## Draft Testimony / Opinion Piece – Purposeful Misrepresentation

**Words matter.** It is important to recognize that the wording of ballot questions significantly influences the voter’s understanding of the true impact of a vote “for” or “against.” It is also important to note that the County Council consciously chooses the specific wording. For example, the following Charter amendment was on the 2022 ballot:



Here is the reply I received from a friend after I responded to her request for my thoughts about the 2022 ballot (emphasis added):

“Back to the Charter questions, it is so helpful to know the background on these because, for example, *if I wasn't aware that 2 terms are the existing limit, I could think that Question B is creating a limitation where there is none already.*”

It would have been simple to phrase this question in **a more honest** manner. For example,

“To amend the Anne Arundel County Charter to increase the number of consecutive four-year terms a person elected or appointed to the office of County Councilmember may serve from two to three terms.”

At your last meeting, it was disappointing to witness this body, our current County Council, approve Resolution 20-24 with a similarly **misleading** ballot question to amend the County Charter:

“To amend the Anne Arundel County Charter to require that all meetings and 23 legislative sessions of the County Council comply with the Maryland Open Meetings Act.”

**In fact**, Section 305 of the County Charter already acknowledges that the County Council must comply with the Maryland Open Meetings Act. The Maryland Supreme Court has clearly stated this State law “...only outlines the *minimum* requirements for conducting open meetings.”

**In fact**, this amendment **REPLACES the more restrictive existing provision** of Section 307 with an unnecessary and duplicative statement that the County will comply with a less restrictive State law. (See page 2 for the full text of these Charter sections.)

**A more honest question would be:** “To amend the Anne Arundel County Charter, Section 307 (a), by providing certain exceptions to the requirement that all meetings and legislative sessions of the County Council be open to the public, including [specific exception(s)] as provided in the Maryland Open Meetings Act.” [e.g., personnel matters and litigation]

## Draft Testimony / Opinion Piece – Purposeful Misrepresentation

The Council was presented with [public testimony expressing concern](#) about this wording but ***consciously chose to retain the MISLEADING form of this question***. At a time when public trust in government institutions is at an all-time low, taking this disingenuous approach is not a good look.

The most frustrating part about this is that the concerned public testimony on this question did **NOT** take serious issue with the end goal of this proposed change, and there is a simpler way to address it... short of taking an ***“all or nothing”*** approach. My concern is focused on the lack of respect being shown for County citizens... as if we are just blind “consumers” of Council’s unified “spin.”

Perhaps I have been naïve in my efforts over the past few years to encourage this County Council, with elected representatives from **both** parties, to be a true “champion” for the Anne Arundel County citizens they represent. ***I’m belatedly coming to realize that direct citizen action is likely required***. The sort of informed initiative embodied in the Original Charter of 1964, the harnessed energy of taxpayer frustration that spawned voter approval of the property tax cap in 1994, etc.

Sincerely,

Kurt Svendsen, Arnold, MD

### REFERENCED RESOURCES:

**Full text of relevant sections of the currently effective County Charter** (emphasis added)

[Sec. 305. Limitation on exercise of County Council's powers.](#)

In the exercise of all its powers, the County Council shall be subject to the express limitations imposed by this Charter ***and by all applicable provisions of the Constitution and laws of this State.***

**Important Takeaway:** While the County Charter cannot exempt the County from requirements imposed by the State Constitution and/or State law, ***it can and often does impose stricter requirements... Consistent with the concept of “home rule.”***

[Section 307. Legislative procedure.](#)

(a) **Public Meetings.** All meetings and legislative sessions of the County Council shall be open to the public.

### **Reporters Notes from Original County Charter (effective December 1964)**

Section 307. LEGISLATIVE PROCEDURE.

(a) PUBLIC MEETINGS. The Board felt that meetings and legislative sessions of the County Council should be open to the public.

A requirement of this sort that Council meetings be open to the public is found in almost all charters which have come to the attention of the Charter Board. This section is intended to be more restrictive than the provisions of Article 25, Section 4 of the State Code, which provides that the meetings of the Board of County Commissioners shall be public. However, that section further provides that the Commissioners may have “executive” sessions. The Board felt that, since the County Council was a legislative body and had no executive or administrative functions, that all meetings and sessions should be open to the public. The requirement that government function in the public view and not in the back room needs no explanation.

## Draft Testimony / Opinion Piece – Purposeful Misrepresentation

### **Open Meetings Act Manual – Exceptions** ([link to manual](#))

(a) personnel matters, (b) privacy or reputation, (c) real property acquisition, (d) business location, (e) investment of public funds, (f) marketing of public securities, (g) legal advice, (h) pending or potential litigation, (i) collective bargaining, (j) public security, (k) scholastic, licensing and qualifying examination, (l) investigative proceeding regarding criminal conduct, (m) other law, (n) procurement, (o) cybersecurity.

### **Open Meetings Act Manual (12th ed., October 2023)**

**4-2**

bodies to close a meeting for “an exceptional reason” that was “so compelling” as to override the public interest in open meetings. That exception was repealed in 1991. *See* 1991 Md. Laws, ch. 655. The exceptions now reflect the General Assembly’s efforts to balance the public’s need to know with public bodies’ need to address certain specific topics in private. A local government with home rule powers may enact an open meetings ordinance with fewer exceptions—that is, a law that more stringently requires openness—but it may not add exceptions. *See* § 3-105 (“Whenever [the Act] and another law that relates to meetings of public bodies conflict, [the Act] applies unless the other law is more stringent.”).

From page ii (Introduction):

### ***B. Other laws***

This manual only addresses the Maryland Open Meetings Act, §§ 3-101 through 3-501 of the General Provisions Article of the Maryland Code. Some public bodies are additionally subject to open meetings requirements set forth in different laws, such as a county charter or other law applicable only in certain political subdivisions. *See, e.g.,* 89 *Opinions of the Attorney General* 22 (2004) (discussing the St. Mary’s County Open Meetings Act). Under the Act, when the other law contains a provision that “is more stringent,” that provision will apply. § 3-105. As explained by the Maryland Supreme Court<sup>2</sup> in *City of College Park v. Cotter*, 309 Md. 573 (1987):

This provision establishes that, although the Maryland Sunshine Law is the touchstone by which public bodies are to conduct their meetings, the statute is not exclusive in its application. The statute only outlines the *minimum* requirements for conducting open meetings. . . . It does not supersede legislative enactments designed to bring more openness to public meetings.

*Id.* at 586. *See also* 94 *Opinions of the Attorney General* 161 (2009) (discussing the provision that is now § 3-105).