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CITY OF BALTIMORE

BRANDON M. SCOTT,  
Mayor



DEPARTMENT OF LAW  
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BALTIMORE, MD 21202

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March 31, 2023

The Honorable President and Members  
of the Baltimore City Council  
Attn: Executive Secretary  
Room 409, City Hall, 100 N. Holliday Street  
Baltimore, Maryland 21202

Re: City Council Bill 23-0364 – Task Force

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 23-0364 for form and legal sufficiency. The bill would create a public body, called the Fiscal Policy Democratization Task Force, to study the Board of Estimates. There would be 6 appointed members and the Chair of the Ethics Board as an ex-officio member. In addition to providing the topics upon which the Task Force must report, the types of meetings to be held and reports to be written, the Task Force also is to interview City employees.

The creation of a task force is within the general welfare power of the Mayor and City Council. City Charter, Art. II, § (47). Although the Task Force is required to interview City employees concerning procurement generally, it is important to note that such interviews would be subject to state and federal laws, including the federal bounds on interviewing government employees contained within the *Garrity v. N.J.*, 385 U.S. 493 (1967) and *Kalkines v. U.S.*, 473 F.2d 1391 (1973) cases, as well as any state or federal laws on document review and production. The Task Force will also be subject to the state's Open Meetings Act. Md. Code, Gen. Prov., § 3-101(h). It would also be required to follow any union representation or other contractual provisions in applicable labor law agreements.

Additionally, the bill seeks to make the Chair of the Ethics Board an ex-officio member of the Task Force. This is not within the Chair's permissible duties under the City's Charter. City Charter, Art. VII, § 105-111. The only non-Ethics related duty of the Chair of the Ethics Board (randomly selecting names out of a hat to effectuate appointments to the Inspector General Advisory Board) is ministerial, does not conflict with the state ethics law that is the foundation for local ethics laws and is expressly permitted by the City's Charter. City Charter, Art. VII, § 110. In contrast, this bill would give a non-ministerial, discretionary duty to the Chair of the Ethics Board that is arguably outside of the scope of the state ethics laws and is not outlined within the City Charter. Therefore, the bill should be amended to remove the Chair of the Ethics Board as an ex-officio member of the Task Force. Amendment language is attached.

Subject to the required amendment, the Law Department approves the bill for form and legal sufficiency.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Hilary R. Ruley".

Hilary Ruley  
Chief Solicitor

cc: Ebony Thompson, Acting City Solicitor  
Nina Themelis, Mayor's Office of Government Relations  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Jeff Hochstetler, Chief Solicitor  
Ashlea Brown, Chief Solicitor  
D'ereka Bolden, Assistant Solicitor  
Michelle Toth, Assistant Solicitor  
Teresa Cummings, Assistant Solicitor

**AMENDMENTS TO COUNCIL BILL 23-0364**  
(1<sup>st</sup> Reader Copy)

Proposed by: Law Dep't

**Amendment No. 1: Conform language to the City Charter**

On page 2, in line 12, replace "~~7 Members, 6 of whom are~~" with "6 MEMBERS"; in line 13 and 14 delete "~~, AND 1 WHO IS AN EX-OFFICIO MEMBER~~"; in line 15 delete "~~APPOINTED~~"; delete line 16; and on page 3, delete lines 4 and 5.