

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 10-0484

Introduced by: Councilmember Cole
At the request of: The Downtown Partnership of Baltimore
Introduced and read first time: April 19, 2010
Assigned to: Taxation, Finance and Economic Development Committee

Committee Report: Favorable with amendments
Council action: Adopted
Read second time: June 14, 2010

AN ORDINANCE CONCERNING

Downtown Management District – Adjustment to Supplemental Tax

FOR the purpose of changing the procedures for setting the surcharge rate for the Downtown Management District; ~~changing the procedures for borrowing capital funds by the District; increasing the authorized amount of outstanding long term debt that the District may issue;~~ conforming related provisions; and generally relating to the Downtown Management District.

BY repealing and reordaining, with amendments

Article 14 - Special Benefits Districts

Section(s) 1-1, ~~1-5(6), 1-6(10), 1-7(e), 1-9(c), 1-10(c), 1-16, and 1-20(e)~~

Baltimore City Code

(Edition 2010)

Recitals

The Downtown Management District was established by Ordinance 92-057 (now codified as City Code Article 14, Subtitle 1), pursuant to authority granted by City Charter Article II, § 61. Since 1992, the District has been renewed by overwhelming support of its stakeholders for three five-year renewal terms.

The proposed legislation would give the District flexibility in setting the amount of its surcharge rate, similar to the powers available to other districts in Baltimore City. ~~Also, the legislation would amend the borrowing restrictions governing the District, allowing the District to borrow capital funds to initiate projects necessary for the continuing renaissance of Downtown Baltimore.~~

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 14. Special Benefits Districts

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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Subtitle 1. Downtown Management District

§ 1-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Administrator.*

“Administrator” means the individual or entity engaged to administer the programs and undertakings of the Authority.

(c) *Authority.*

“Authority” means the Downtown Management Authority established by this subtitle.

(d) *Board.*

“Board” means the Board of Directors of the Authority.

(e) *CBD.*

“CBD” means the downtown or central business district of the City.

(f) *District.*

“District” means the Downtown Management District established by this subtitle.

(g) *Enabling Legislation.*

“Enabling Legislation” means Article II, § (61) of the City Charter.

(h) ~~LONG-TERM DEBT.~~

~~“LONG-TERM DEBT” MEANS ANY BORROWING BY THE AUTHORITY THAT IS INTENDED TO SURVIVE BEYOND THE NEXT DATE FOR RENEWAL OF THE DISTRICT.~~

(i) ~~Partnership.~~

“Partnership” means the Downtown Partnership of Baltimore, Inc.

(j) ~~PROPERTY-OWNER REPRESENTATIVE.~~

“PROPERTY-OWNER REPRESENTATIVE” MEANS A MEMBER OF THE BOARD WHO IS AN OWNER, OR REPRESENTATIVE OF AN OWNER, OF PROPERTY SUBJECT TO THE TAX IMPOSED BY THIS SUBTITLE.

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§ 1-5. Powers of Authority.

~~(6) to, WITH THE APPROVAL OF A MAJORITY OF THE BOARD, borrow funds for purposes consistent with the public purposes of the Authority, [provided that unless specific approval is provided by the Board of Estimates no borrowing shall be for a term beyond the date for renewal of the District under § 1-20 of this subtitle];~~

§ 1-6. Limitations on Authority.

~~(10) [Notwithstanding any other provisions of this subtitle, unless specifically approved by the Board of Estimates, no borrowing,] WITH THE EXCEPTION OF LONG-TERM DEBT AUTHORIZED BY § 1-16 OF THIS SUBTITLE, NO leasing, contracting, or other agreement or obligation shall be for a term beyond the date for renewal of the District under § 1-20 of this subtitle UNLESS SPECIFICALLY APPROVED BY THE BOARD OF ESTIMATES.~~

§ 1-7. Board of Directors.

(e) Minimum representation.

The following minimum representation shall be present on the Board, except during periods of temporary vacancies:

- (1) 1 member shall be appointed by the Mayor.
- (2) 1 member shall be appointed by the Governor.
- (3) 1 member shall be selected by and approved through Resolution of the City Council.
- (4) The Administrator shall designate an individual to be on the Board.
- (5) At least 1 member, EACH OF WHOM MUST BE A PROPERTY-OWNER REPRESENTATIVE, shall be appointed by and shall represent each of the following constituent groups within the District:
 - (i) a trade group recognized by the Board as representing the hotels and motels within the District, which at the time of passage of this subtitle is acknowledged to be the Hotel and Motel Association of Greater Baltimore;
 - (ii) a trade group recognized by the Board as representing the retail merchants within the Market Center area, which at the time of passage of this subtitle is acknowledged to be the Market Center Association;
 - (iii) a trade group recognized by the Board as representing the retail merchants within the Charles Street corridor, which at the time of passage of this subtitle is acknowledged to be the Charles Street Association;

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1 (iv) a trade group recognized by the Board as representing the property
2 owners and managers within the District, which at the time of passage of
3 this subtitle is acknowledged to be the Building Owners and Managers
4 Association of Metropolitan Baltimore;

5 (v) a group recognized by the Board as representing the leaders of major
6 institutional and business interests within the District, which at the time of
7 passage of this subtitle is acknowledged to be the Greater Baltimore
8 Committee;

9 (vi) a professional trade organization recognized by the Board as representing
10 the users of commercial real estate space within the District, which at the
11 time of passage of this subtitle is acknowledged to be the Greater
12 Baltimore Board of Realtors; and

13 (vii) in the event that the Partnership is not the Administrator, the Partnership
14 or any successor organization having similar functions and constituent
15 boundaries, as determined by the Board[;

16 provided that each such member of the Board shall also be or represent an owner
17 of property subject to the tax imposed by this subtitle].

18 (6) At least $\frac{2}{3}$ of the Board [shall be comprised of owners or representatives of
19 owners of property subject to the tax imposed by this subtitle; provided that]
20 MEMBERS MUST BE PROPERTY-OWNER REPRESENTATIVES; members of the Board
21 elected under clauses (1) [though] THROUGH (5) above may be [included in such
22 group] COUNTED AS PROPERTY-OWNER REPRESENTATIVES FOR THIS PURPOSE if
23 they otherwise qualify.

24 (7) The Board shall endeavor to maintain representatives on the Board from the
25 tourist and convention industry, professionals practicing in the District, retail
26 merchants in the District, and tenants of properties in the District; however, no
27 minimum representation applies.

28 (8) Consistent with the encouragement of partnerships between the Authority and
29 property owners exempt from the tax imposed by this subtitle, the Board should
30 consider representation of such partners within the Board.

31 § 1-9. Annual Financial Plan.

32 (c) *Board of Estimates approval required.*

33 (1) The Financial Plan shall be subject to the approval of the Board of Estimates in
34 accordance with the procedures set forth in this subtitle.

35 (2) The Authority may [not approve a Financial Plan that includes taxes or charges in
36 excess of those approved by the Board of Estimates] APPROVE TAXES AND CHARGES
37 THAT ARE SUBJECT TO SUBSEQUENT APPROVAL BY THE BOARD OF ESTIMATES.

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§ 1-10. Supplemental Tax.

(c) *[Limitations.] DETERMINATION OF TAX.*

[The Supplemental Tax shall be further subject to the following limitations.

(1) The rate of the Supplemental Tax for the Initial Fiscal Year shall be that amount (the "Initial Base Rate") required to generate \$1,700,000 in revenues for a full budget year from properties subject to the Supplemental Tax (the "Initial Base Budget").

(2) For any year after the Initial Fiscal Year, the rate of the Supplemental Tax may be increased to generate revenues equal to the "Adjusted Base Budget", which is the Initial Base Budget plus a cumulative annual increase in the Initial Base Budget equal to 5% of the Initial Base Budget for each year after the Initial Fiscal Year, but shall be subject to the further limitations set forth below:

(i) Any increase in the rate of the Supplemental Tax must be approved by a majority of the Board members that are property owner representatives for purposes of § 1-7(e)(6).

(ii) The rate of the Supplemental Tax shall not at any time exceed the then current equivalent of a limitation on March 1992 of 30¢ per \$100 of assessed value. This limitation shall be adjusted for any increases in the cost-of-living, using standards approved by the Board, up to a maximum cost-of-living adjustment of 5% from the prior year. This clause (ii) limitation shall not apply to any portion of the Supplemental Tax imposed to retire obligations ("Approved Debt Service") incurred with the approval of the Board of Estimates under §§ 1-5(6), 1-6(10), and 1-16 of this subtitle.]

(1) THE SUPPLEMENTAL TAX RATE MUST BE SET EACH YEAR BY THE BOARD AS PART OF THE ANNUAL FINANCIAL PLAN.

(2) ANY INCREASE IN THE RATE OF THE SUPPLEMENTAL TAX MUST BE APPROVED BY:

(I) A MAJORITY OF THE BOARD'S VOTING MEMBERS; AND

(II) IF A RATE INCREASE OF 10% OR MORE IS PROPOSED, 80% OR MORE OF THE PROPERTY-OWNER REPRESENTATIVES ON THE BOARD.

~~§ 1-16. Long-term debt.~~

~~(a) *In general.*~~

~~[Any borrowing by the Authority that is intended to survive beyond the next date for renewal of the District ("Long Term Debt") is] THE BOARD MAY AUTHORIZE LONG-TERM DEBT subject to the following conditions.~~

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1 ~~(b) Maximum amount.~~

2 ~~[(1)] The aggregate amount of Long-Term Debt outstanding at any one time may not~~
3 ~~exceed [\$2,000,000] \$20,000,000.~~

4 ~~[(2) No Financing Plan may be submitted and no Long-Term Debt may be approved if~~
5 ~~the current and projected payments for the sum of (i) debt service on the~~
6 ~~Long-Term Debt and (ii) any other debt having a maturity in excess of 1 year, in~~
7 ~~any year exceed 10% of the revenues of the Authority.]~~

8 ~~(c) Required Financing Plan.~~

9 ~~(1) No Long-Term Debt may be issued by the Authority until after a Financing Plan has~~
10 ~~been presented for review and approval by the Board, the Department of Finance of~~
11 ~~the City, and the Board of Estimates of the City.~~

12 ~~(2) Each Financing Plan shall provide information on:~~

13 ~~(i) the use of the proceeds of the Long-Term Debt;~~

14 ~~(ii) the anticipated term of the obligations;~~

15 ~~(iii) the annual maximum debt service anticipated for the Long-Term Debt; and~~

16 ~~(iv) the means by which the Long-Term Debt will be retired if a terminating event~~
17 ~~described in § 1-20 occurs.~~

18 ~~(3) In addition, the Plan shall consider the operation and maintenance costs of any~~
19 ~~improvements funded with the Long-Term Debt and the means by which those~~
20 ~~expenses will be paid.~~

21 ~~(d) Public hearing.~~

22 ~~Before submitting a Financing Plan for approval under subsection (c) above, the~~
23 ~~Authority shall, after notice to all taxpayers in the District, hold a public hearing at which~~
24 ~~the Plan is presented.~~

25 ~~(e) Limitation on sales.~~

26 ~~No Long-Term Debt may be issued and sold to the general public or to other than~~
27 ~~institutional investors, lending institutions, and other sophisticated purchasers of debt~~
28 ~~obligations.~~

29 ~~(f) Capital projects.~~

30 ~~Capital projects for which both City funds and Long-Term Debt proceeds are to be used~~
31 ~~must be approved in accordance with applicable requirements, including, but not limited~~
32 ~~to, approval in the Capital Budget and the Ordinance of Estimates.~~

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1 ~~(G) REPAYMENT AFTER A TERMINATING EVENT.~~

2 ~~IF LONG TERM DEBT EXISTS AT THE TIME OF A TERMINATING EVENT DESCRIBED IN § 1-20,~~
3 ~~ASSESSMENT AND COLLECTION OF THE SUPPLEMENTAL TAX MAY BE CONTINUED AFTER~~
4 ~~THE TERMINATING EVENT FOR THE SOLE PURPOSE OF FULFILLING THE REMAINING DEBT~~
5 ~~SERVICE OBLIGATIONS ON ANY BORROWED FUNDS.~~

6 **~~§ 1-20. Renewal and expiration.~~**

7 ~~(e) Expiration.~~

8 (1) ~~If the District and the Authority are not approved through the process described in~~
9 ~~§ 1-19 of this subtitle, or are not renewed as provided above, the Authority shall~~
10 ~~cease its operations and the District ceases to exist, with the end of the fiscal year of~~
11 ~~the City in which the terminating event occurs.~~

12 (2) ~~The Authority shall continue its existence only so long as is necessary to terminate~~
13 ~~operations in a reasonable fashion and shall include, as part of the Financing Plan~~
14 ~~required by § 1-16, a mechanism by which Long-Term Debt can be retired if a~~
15 ~~terminating event occurs.~~

16 (3) ~~[If a terminating event occurs, in addition, the Authority shall arrange for the~~
17 ~~refunding of all funds not needed to satisfy outstanding obligations and reserves for~~
18 ~~uncertain obligations and liabilities.] IN ACCORDANCE WITH § 1-16 (G) OF THIS~~
19 ~~SUBTITLE, ASSESSMENT AND COLLECTION OF THE SUPPLEMENTAL TAX MAY BE~~
20 ~~CONTINUED AFTER THE TERMINATING EVENT AS PART OF THE MECHANISM FOR~~
21 ~~RETIRING LONG TERM DEBT REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION.~~

22 (4) ~~IF A TERMINATING EVENT OCCURS THE AUTHORITY SHALL ARRANGE FOR THE~~
23 ~~REFUNDING OF ALL FUNDS NOT NEEDED TO SATISFY OUTSTANDING OBLIGATIONS AND~~
24 ~~RESERVES FOR UNCERTAIN OBLIGATIONS AND LIABILITIES.~~

25 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
26 are not law and may not be considered to have been enacted as a part of this or any prior
27 Ordinance.

28 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
29 after the date it is enacted.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City