

**CITY OF BALTIMORE
COUNCIL BILL 10-0451
(First Reader)**

Introduced by: Councilmembers Welch, D’Adamo, Henry, Curran, Clarke, Middleton,
Reisinger, Conaway, Branch, Holton, Kraft, Spector, Stokes, Cole

Introduced and read first time: March 8, 2010

Assigned to: Public Safety and Health Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Department of
Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Childhood Obesity Prevention Authority**

3 FOR the purpose of establishing the Childhood Obesity Prevention Authority; specifying its
4 purpose, goals, powers, duties, and limitations; providing for the appointment of a board of
5 directors and specifying the board’s powers and duties; requiring an annual financial plan;
6 providing for an executive director and specifying the director’s powers and duties;
7 providing for general oversight of the Authority by the Board of Estimates; and generally
8 relating to the establishment of a program to prevent childhood obesity.

9 By adding

10 Article 1 - Mayor, City Council, and Municipal Agencies
11 Section(s) 29-1 through 29-8, to be under the new subtitle,
12 “Subtitle 29. Childhood Obesity Prevention Authority”
13 Baltimore City Code
14 (Edition 2000)

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

17 **Baltimore City Code**

18 **Article 1. Mayor, City Council, and Municipal Agencies**

19 **SUBTITLE 29. CHILDHOOD OBESITY PREVENTION AUTHORITY**

20 **§ 29-1. DEFINITIONS.**

21 (A) *IN GENERAL.*

22 IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

23 (B) *AUTHORITY.*

24 “AUTHORITY” MEANS THE CHILDHOOD OBESITY PREVENTION AUTHORITY.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (C) *BOARD.*

2 “BOARD” MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

3 (D) *EXECUTIVE DIRECTOR.*

4 “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE AUTHORITY.

5 **§ 29-2. AUTHORITY ESTABLISHED; PURPOSE.**

6 (A) *AUTHORITY ESTABLISHED.*

7 THERE IS A CHILDHOOD OBESITY PREVENTION AUTHORITY.

8 (B) *NATURE OF AUTHORITY.*

9 THE AUTHORITY IS AN INDEPENDENT UNIT OF CITY GOVERNMENT.

10 (C) *PURPOSE AND GOALS.*

11 (1) THE PURPOSE OF THE AUTHORITY IS TO IDENTIFY THE CAUSES OF AND TAKE ACTIONS
12 NECESSARY AND APPROPRIATE TO PREVENT CHILDHOOD OBESITY.

13 (2) THE GOALS OF THE AUTHORITY INCLUDE, AMONG OTHERS:

14 (I) TO IMPROVE AND SUSTAIN ACCESS TO HEALTHY FOOD AND PHYSICAL ACTIVITY
15 AT THE COMMUNITY ORGANIZATIONAL AND ENVIRONMENTAL LEVELS;

16 (II) TO IMPROVE AND SUSTAIN ACCESS TO HEALTHY FOOD AND PHYSICAL ACTIVITY
17 IN THE SCHOOL SETTING;

18 (III) TO IMPROVE AND SUSTAIN HEALTHY EATING AND PHYSICAL ENVIRONMENTS IN
19 THE “AFTER SCHOOL” SETTING;

20 (IV) TO IMPROVE NUTRITION AND PHYSICAL ACTIVITY ENVIRONMENTS IN THE
21 PRESCHOOL AND CHILD CARE SERVICES SETTING; AND

22 (V) TO IMPROVE AND SUSTAIN ACCESS TO HEALTHY NUTRITION AND PHYSICAL
23 ACTIVITY INFORMATION AND ENVIRONMENTS IN THE HEALTHCARE SETTING.

24 **§ 29-3. POWERS OF AUTHORITY.**

25 (A) *IN GENERAL.*

26 THE POWERS OF THE AUTHORITY SHALL BE BROADLY INTERPRETED TO ALLOW THE
27 AUTHORITY TO ACHIEVE THE PURPOSES OF THIS SUBTITLE.

28 (B) *ENUMERATION.*

29 IN ADDITION TO ANY OTHER POWERS SPECIFIED IN THIS SUBTITLE, THE AUTHORITY MAY:

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- 1 (1) ACQUIRE, LEASE, OR HOLD BOTH REAL AND PERSONAL PROPERTY FOR THE
2 PURPOSES OF THE AUTHORITY;
- 3 (2) ENGAGE THE SERVICES OF AN EXECUTIVE DIRECTOR, WHICH MAY BE AN
4 INDIVIDUAL OR AN ENTITY, TO ADMINISTER THE PROGRAMS AND UNDERTAKINGS
5 OF THE AUTHORITY;
- 6 (3) SUE AND BE SUED;
- 7 (4) ACCEPT GRANTS AND OTHER REVENUE FROM INDIVIDUALS AND PUBLIC OR
8 PRIVATE FOUNDATIONS, AGENCIES, ORGANIZATIONS, AND ENTITIES NECESSARY OR
9 BENEFICIAL TO CARRY OUT THE PURPOSES OF THE AUTHORITY;
- 10 (5) SUBJECT TO THE APPROVAL OF THE BOARD OF ESTIMATES, BORROW FUNDS FOR
11 PURPOSES CONSISTENT WITH THE PUBLIC PURPOSES OF THE AUTHORITY;
- 12 (6) SUBJECT TO THE APPROVAL OF THE BOARD OF ESTIMATES, INCUR
13 LIMITED-OBLIGATION DEBT THAT WILL BE AN OBLIGATION SOLELY OF THE
14 AUTHORITY;
- 15 (7) CREATE AND ENTER INTO PARTNERSHIPS AND CONTRACTS WITH THE BALTIMORE
16 CITY PUBLIC SCHOOLS AND OTHER AGENCIES TO PROVIDE SERVICES AND BENEFITS
17 IN EXCHANGE FOR PAYMENTS IN CASH OR IN KIND OR WITHOUT CHARGE;
- 18 (8) CONTRACT FOR AND PURCHASE GOODS AND SERVICES WITHOUT BEING SUBJECT TO
19 APPROVAL BY THE BOARD OF ESTIMATES, BUT SUBJECT TO THE PROVISIONS OF
20 ARTICLE 5 OF THE CITY CODE GOVERNING THE PREVAILING WAGE AND
21 GOVERNING CITY POLICY ON ENCOURAGING AND ACHIEVING GOALS FOR
22 MINORITY AND WOMEN’S BUSINESS ENTERPRISES’ PARTICIPATION IN THE
23 CONTRACTING ACTIVITIES OF THE AUTHORITY;
- 24 (9) IMPLEMENT THE PROGRAMS AND GOALS OF THE AUTHORITY DIRECTLY THROUGH
25 EMPLOYEES, OR THROUGH 1 OR MORE CONTRACTS, WHICH CONTRACTS MAY BE
26 WITH INDEPENDENT CONTRACTORS OR CONTRACTUAL EMPLOYEES;
- 27 (10) APPOINT, HIRE, OR ENGAGE AUDITORS, ACCOUNTANTS, ATTORNEYS, ASSISTANTS,
28 AIDES, EMPLOYEES, AND ADVISORS AS IT CONSIDERS NECESSARY AND CONSISTENT
29 WITH THIS SUBTITLE; AND
- 30 (11) DO ALL OTHER THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
31 PURPOSES AND POWERS OF THE AUTHORITY.

32 (C) *EXEMPTIONS.*

33 TO THE EXTENT NOT SPECIFICALLY MADE SUBJECT TO LAWS AND PROCEDURES THAT
34 WOULD OTHERWISE APPLY TO ANY UNIT OF THE CITY GOVERNMENT, THE AUTHORITY IS
35 EXEMPT FROM THOSE LAWS AND PROCEDURES.

36 **§ 29-4. LIMITATIONS ON AUTHORITY.**

37 (A) *IN GENERAL.*

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1 (1) THE AUTHORITY IS NOT, DOES NOT CONSTITUTE, AND MAY NOT BE CONSIDERED TO BE
2 AN AGENCY OF THE MAYOR AND CITY COUNCIL OF BALTIMORE, AND ITS OFFICERS
3 AND EMPLOYEES ARE NOT AGENTS OR EMPLOYEES OF THE MAYOR AND CITY COUNCIL
4 OF BALTIMORE.

5 (2) THE AUTHORITY MAY NOT EXERCISE ANY POWER SPECIFICALLY WITHHELD BY THE
6 TERMS OF THIS SUBTITLE.

7 (3) THE AUTHORITY DOES NOT AND MAY NOT EXERCISE ANY POLICE POWERS OTHER THAN
8 THOSE EXPRESSLY AUTHORIZED BY STATE OR LOCAL LAW.

9 (4) THE AUTHORITY MAY NOT PLEDGE THE FULL FAITH AND CREDIT OF THE CITY OR
10 OTHERWISE OBLIGATE THE CITY TO ANY DEBT, OBLIGATION, OR CONTRACT.

11 (5) THE AUTHORITY DOES NOT HAVE ANY TAXING POWER.

12 (6) THE AUTHORITY MAY NOT EXERCISE THE POWER OF EMINENT DOMAIN.

13 (B) *INDEMNIFICATION OF MAYOR AND CITY COUNCIL.*

14 THE AUTHORITY SHALL INDEMNIFY AND HOLD HARMLESS THE MAYOR AND CITY
15 COUNCIL OF BALTIMORE AND ITS OFFICERS, AGENTS, AND EMPLOYEES AGAINST ALL ACTS,
16 CONDITIONS, DAMAGES, SUITS, CLAIMS, AND LIABILITIES ARISING OUT OF OR IN
17 CONNECTION WITH ANY ACTIVITIES OF THE AUTHORITY OR OF ITS BOARD, EXECUTIVE
18 DIRECTOR, OFFICERS, AGENTS, OR EMPLOYEES.

19 **§ 29-5. BOARD OF DIRECTORS.**

20 (A) *BOARD TO GOVERN AUTHORITY.*

21 THE AUTHORITY IS GOVERNED AND ADMINISTERED BY A BOARD OF DIRECTORS.

22 (B) *COMPOSITION.*

23 THE BOARD COMPRISES 9 MEMBERS, OF WHICH:

24 (1) 3 SHALL BE APPOINTED BY THE MAYOR;

25 (2) 3 SHALL BE APPOINTED BY THE PRESIDENT OF THE CITY COUNCIL; AND

26 (3) 3 SHALL BE APPOINTED BY THE CITY COUNCIL.

27 (C) *TERM OF MEMBERS.*

28 (1) THE TERM OF A MEMBER OF THE BOARD IS 4 YEARS.

29 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS OF THE
30 MEMBERS FIRST APPOINTED TO THE BOARD.

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1 (D) *VACANCIES.*

2 (1) A VACANCY ON THE BOARD SHALL BE FILLED BY THE APPOINTING AUTHORITY FOR
3 THE PARTICULAR VACANT POSITION.

4 (2) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST
5 OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

6 (E) *BYLAWS, RULES, AND REGULATIONS.*

7 (1) SUBJECT TO THE APPROVAL OF THE BOARD OF ESTIMATES, THE BOARD MAY ADOPT
8 BYLAWS, RULES, AND REGULATIONS NOT INCONSISTENT WITH THIS SUBTITLE.

9 (2) EXCEPT AS MAY BE RESTRICTED BY THIS SUBTITLE, THE BOARD MAY ESTABLISH ITS
10 OWN PROCEDURES FOR THE INTERNAL ADMINISTRATION OF THE AUTHORITY.

11 (F) *OFFICERS.*

12 (1) THE BYLAWS SHALL PROVIDE FOR OFFICERS OF THE BOARD, INCLUDING A PRESIDENT,
13 VICE-PRESIDENT, TREASURER, SECRETARY, AND ANY OTHER OFFICERS THOUGHT
14 NECESSARY, AND SHALL SPECIFY THEIR QUALIFICATIONS, TERMS, AND DUTIES.

15 (2) THE BOARD SHALL SELECT FROM AMONG ITS MEMBERS INDIVIDUALS TO SERVE AS
16 OFFICERS, AND IT MAY DELEGATE TO THOSE OFFICERS THE RESPONSIBILITIES THE
17 BOARD CONSIDERS APPROPRIATE.

18 (G) *EXERCISE OF AUTHORITY'S POWERS.*

19 ALL POWERS OF THE AUTHORITY SHALL BE EXERCISED BY THE BOARD, UNLESS
20 DELEGATED BY THE BOARD TO 1 OR MORE OF THE OFFICERS OR TO THE EXECUTIVE
21 DIRECTOR.

22 **§ 29-6. ANNUAL FINANCIAL PLAN.**

23 (A) *PLAN REQUIRED.*

24 (1) SUBJECT TO THE APPROVAL OF THE BOARD OF ESTIMATES, THE BOARD SHALL ADOPT
25 A FINANCIAL PLAN BASED ON THE CITY'S FISCAL YEAR.

26 (2) THE PLAN SHALL INCLUDE A PROPOSED SCHEDULE OF FEES OR CHARGES TO BE
27 IMPOSED AND AN ANNUAL BUDGET.

28 (B) *SUBMISSION TO BOARD OF ESTIMATES.*

29 EACH YEAR, THE BOARD SHALL SUBMIT ITS PROPOSED PLAN AND ALL BACKGROUND
30 MATERIAL TO THE BOARD OF ESTIMATES AT LEAST 2 MONTHS BEFORE THE PLAN'S
31 PROPOSED EFFECTIVE DATE.

32 **§ 29-7. EXECUTIVE DIRECTOR.**

33 (A) *GENERAL POWERS.*

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1 (1) THE EXECUTIVE DIRECTOR MAY EXERCISE:

2 (I) THE POWERS GRANTED BY THIS SUBTITLE TO THE AUTHORITY; AND

3 (II) THE POWERS GRANTED BY THE BOARD TO THE EXECUTIVE DIRECTOR.

4 (2) THE EXECUTIVE DIRECTOR IS RESPONSIBLE FOR THE DAY-TO-DAY OPERATIONS OF THE
5 AUTHORITY AND ITS EMPLOYEES AND CONTRACTORS.

6 (3) THE EXECUTIVE DIRECTOR IS THE AGENT OF THE AUTHORITY.

7 (4) HOWEVER, THE BOARD RETAINS FINAL DISCRETION AND POWER WITH REGARD TO ALL
8 SUBSTANTIVE AGREEMENTS, CONTRACTS, AND OTHER ARRANGEMENTS BINDING ON
9 THE AUTHORITY.

10 (B) *DUTIES.*

11 THE EXECUTIVE DIRECTOR SHALL:

12 (1) PREPARE THE ANNUAL FINANCIAL PLAN FOR REVIEW AND APPROVAL BY THE
13 BOARD;

14 (2) IMPLEMENT THE APPROVED FINANCIAL PLAN AND ARRANGE FOR THE COLLECTION
15 AND DISBURSEMENT OF ALL CHARGES, FEES, AND REVENUES OF THE AUTHORITY;

16 (3) ESTABLISH PROCEDURES AND PROCESSES NECESSARY TO PERFORM THE FUNCTIONS
17 CALLED FOR UNDER THE FINANCIAL PLAN AND THE BUDGET; AND

18 (4) HIRE AND RETAIN THE EMPLOYEES, AGENTS, AND CONTRACTORS NEEDED TO
19 PERFORM THE FUNCTIONS OF THE EXECUTIVE DIRECTOR, SUBJECT TO THE
20 REQUIREMENTS OF § 29-3(B)(8) OF THIS SUBTITLE.

21 (C) *LIMITATIONS.*

22 ANY LIMITATIONS ON THE POWERS AND AUTHORITY OF THE BOARD APPLY AS WELL TO
23 THE EXECUTIVE DIRECTOR IN PERFORMING THE FUNCTIONS CHARGED TO THE EXECUTIVE
24 DIRECTOR BY THIS SUBTITLE OR BY THE BOARD.

25 (D) *INITIAL EXECUTIVE DIRECTOR.*

26 THE INITIAL EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL BE SELECTED BY THE
27 MAYOR FROM A LIST DEVELOPED BY THE CITY COUNCIL.

28 **§ 29-8. OVERSIGHT BY BOARD OF ESTIMATES.**

29 THE BOARD OF ESTIMATES MAY EXERCISE GENERAL OVERSIGHT RESPONSIBILITY FOR THE
30 FISCAL OPERATIONS OF THE AUTHORITY.

31 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the terms of those first appointed to the
32 Authority's Board of Directors are staggered as follows:

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1 (a) Of the members appointed by the Mayor:

2 (i) 1 shall be appointed for a term expiring June 30, 2011;

3 (ii) 1 shall be appointed for a term expiring June 30, 2012; and

4 (iii) 1 shall be appointed for a term expiring June 30, 2013.

5 (b) Of the members appointed by the Council President:

6 (i) 1 shall be appointed for a term expiring June 30, 2011;

7 (ii) 1 shall be appointed for a term expiring June 30, 2012; and

8 (iii) 1 shall be appointed for a term expiring June 30, 2013.

9 (c) Of the members appointed by the City Council:

10 (i) 1 shall be appointed for a term expiring June 30, 2011;

11 (ii) 1 shall be appointed for a term expiring June 30, 2012; and

12 (iii) 1 shall be appointed for a term expiring June 30, 2013.

13 **SECTION 3. AND BE IT FURTHER ORDAINED, That:**

14 (a) the first financial plan of the Authority may be for less than a full fiscal year; and

15 (b) the initial budget for the Authority may include the costs of preparing the financial
16 plan and start-up costs for the Authority, if the costs were incurred during that fiscal
17 year.

18 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
19 are not law and may not be considered to have been enacted as a part of this or any prior
20 Ordinance.

21 **SECTION 5. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
22 after the date it is enacted.