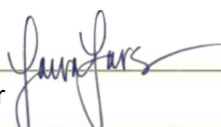



FROM	NAME & TITLE	Laura Larsen, Budget Director 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 469, City Hall		
	SUBJECT	City Council Bill 23-0347 – Department of Business Licensing and Consumer Protection		

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400

July 20, 2023

Position: Oppose

The Department of Finance is herein reporting on City Council Bill 23-0347, Department of Business Licensing and Consumer Protection, the purpose of which is to establish the Department of Business Licensing and Consumer Protection and the Baltimore City Business Licensing and Consumer Protection Board. The Department will be responsible for the administration of certain business licenses; investigation of claims of unfair, abusive, or deceptive business practices; and enforcement of business licensing and consumer protection provisions. The Board will be responsible for adjudicating all Department hearings and will be authorized to hold information hearings; conduct surveys and studies; and review and make recommendations to improve licensing and consumer protection policies.

Background

The proposed legislation seeks to consolidate administration of specified business licenses within a central Department. Currently, the City Code identifies several agencies as responsible for administration of various business licenses, including the Department of Finance, Department of Housing and Community Development (DHCD), Police Department (BPD), and Department of Transportation (DOT). Finance’s Bureau of Revenue Collections (BRC) is responsible for a majority of business licensing, including amusement devices, auctioneers, employment agencies, pawnbrokers, and street entertainers. DHCD is responsible for licensing of peep show establishments, amusement device locations, and the board of licenses for massage establishments. BPD is responsible for licensing of scrap collectors and scavengers. DOT is responsible for the Board of Licenses for Towing Services of Baltimore City. Other business licenses that are related more specifically linked to subject matter expertise are not included in this legislation and are maintained within specific agencies. For example, licensing related to food dealers and swimming pools will continue to be managed by the Health Department under this legislation.

This legislation also establishes consumer protection services, specifically the investigation and resolution of consumer complaints, including instances of unfair, abusive, or deceptive trade practices. The new Department would be responsible for receiving and investigating consumer complaints; bringing enforcement actions against businesses; issuing summonses and subpoenas related to investigations; and issuing civil and environmental citations. This legislation also seeks to establish the Baltimore City Business Licensing and Consumer Protection Board that would be responsible for adjudicating all hearings; proposing recommendations to improve related rules and regulations; implement new programs and trainings for businesses and consumers; evaluate the impacts of current

programs and proposed legislation on consumers and businesses; conduct informational hearings to review and propose improvements to existing related rules and regulations; and compile an annual report detailing the Board’s activities for the year. Under the Maryland Consumer Protection Act, local governments are authorized to enact and enforce local consumer protection ordinances that protect residents from harmful practices. While the City Code permits the City to pursue consumer protection actions against companies that directly harm the City, the City does not currently have local consumer protection legislation and services in place.

Finally, this legislation expands the City’s ability to use affirmative litigation to take action against businesses for unfair, abusive, and deceptive practices. Under this legislation, the City would be authorized to litigate on behalf of residents, seeking fines and prohibiting bad conduct when businesses violate the City’s consumer protections. Currently, the City is limited to only taking action when businesses harm the City directly.

The structure and scope of services of the proposed agency is modeled on Montgomery County’s Office of Consumer Protection (OCP). OCP consists of 19 full time employees, including one Director, one Administrative Manager, one Investigator Manager, eight Consumer Complaint Investigators, four Business Licensing Positions, and one Outreach and Communications position. Although OCP also conducts business licensing, the scope of OCP’s licensing areas is much smaller than what this legislation proposes to consolidate within the new agency. For Fiscal 2024, OCP has a recommended operating budget of \$2.6 million, with \$2.5 million allocated for personnel expenses and \$130,000 allocated for operating expenses.

Fiscal Impact

The Department of Finance anticipates a total cost of \$2.85 to \$3.09 million to enact this legislation. Since business licensing administration is already provided by the City, the net impact of this legislation to the General Fund is an estimated \$1.51 to \$1.76 million. The table below details the total cost and net cost increase associated with this legislation:

Expense	Total Positions	Total Cost	Net Position Increase	Net Cost Increase
Personnel	20	\$1,962,471	12	\$1,393,567
Non-Personnel	-	\$882,945 - 1,126,945	-	\$118,045 - 362,045
Total	20	\$2,845,417 - 3,089,417	12	\$1,511,612 - 1,755,612

Personnel

Finance anticipates the Department would require 20 positions, including 12 newly funded positions.

Finance expects that 8 positions from BRC would be transferred to the new Department. Currently, BRC administers all licenses for Finance, as well as the licenses for DHCD and BPD that are being transferred per this legislation. Finance assumes that licenses for DOT that will be transferred to this Department can be absorbed by these staff. These positions are budgeted for \$568,905 and the transfer of these positions would be budget neutral. Finance does not anticipate a fiscal cost for larger affirmative litigation cases resulting from this legislation because these actions will be managed by current staff in the Law Department, along with outside counsel that work on a contingent basis.

Based on analysis of Montgomery County’s model and conversations with partner City agencies, Finance anticipates the need for twelve additional positions to manage the Department, implement consumer protection services, and provide administrative support. These positions include a Director; three Operations Officers to manage the business licensing, consumer protection, and community outreach and customer communications services; five Consumer Complaint Investigators; and three administrative positions including one Paralegal, one HR Generalist, and one Fiscal Officer. This staffing model reflects the increased licensing authority under this legislation compared to Montgomery County, as well as a paralegal to provide legal assistance for smaller complaint cases and investigations. Total personnel costs for these positions are outlined in the table below.

Position	Total Cost
Director	\$168,055
Communications and Outreach Manager	\$116,232
Business Licenses Manager	\$140,985
Consumer Complaints Manager	\$140,985
Fiscal Officer	\$125,257
Human Resources	\$124,180
Consumer Complaint Investigators (5)	\$478,898
Paralegal	\$98,975
Total	\$1,393,567

Non-Personnel

Finance anticipates costs for general operations, such as office supplies and printing, as well as consumer complaint case management software, office space, and fleet costs. It is expected that operational costs for business licensing budgeted in BRC, including equipment and licensing administration and management tools, would be transferred to the new Department for a total budgeted amount of \$757,420.

Based on discussions with Baltimore City Office of Information and Technology, the initial cost of case management software could range from several thousand to several hundred thousand dollars. The actual cost will depend on if the system is built internally or procured from a vendor. In either case, the system will have ongoing maintenance and upgrade costs, as well as general service support. Given the public nature of the new Department, Finance anticipates the need for office space to best service residents. The Department of General Services estimates the cost of accommodations for 20 staff operating on a hybrid basis to be between \$40,000 and \$75,000 annually. Finally, Finance anticipates costs for business license inspectors and consumer complaint investigators to use vehicles from the City’s fleet, as well as reimbursement for use of personal vehicles.

Other Considerations

There are several factors the City Council should consider when reviewing this legislation.

First, Finance does not anticipate that there will be a significant amount of new revenue from individual consumer complaints because most are likely to be resolved without issuing fines. In Fiscal 2022, Montgomery County’s OCP collected \$3,100 in revenue related to fines and forfeitures. Affirmative litigation on behalf of consumers could provide significant new revenues, though it is difficult to estimate the timing and magnitude of such revenues. In recent years, there have been numerous

consumer protection cases that have led to large settlements and recoveries for local jurisdictions. These include:

- \$2.5 million settlement for Washington, D.C. from DoorDash in 2020;
- \$2 million settlement for Los Angeles County from Match.com in 2021;
- \$4.5 million court judgment for Washington, D. C. against Polymer80;
- \$2 million settlement for Chicago and \$8 million for Chicago restaurants from UberEats in 2022.

Since 2015, Washington DC's Office of Consumer Protection has secured over \$125 million in penalties, restitution for DC consumers, and other payments through affirmative litigation. While this legislation would authorize and enable the City to engage in litigation of this nature, the timing and magnitude of such revenues is not predictable nor consistent enough to budget based on estimates from these examples.

Second, one component of Montgomery County's OCP services is free alternative dispute resolution (ADR), through mediation from volunteer expert mediators, for consumer-business disputes and business-business disputes. This service provides parties with the opportunity to reach a resolution while avoiding costly litigation. This service is not included in the proposed legislation but is an additional tool for resolving consumer complaints if a resolution can't be reached by the complaint investigator. Currently, the Circuit Court for Baltimore City offers ADR mediation and could be a partner in offering these services for consumer complaint disputes.

Finally, expansion of the City's consumer protections may provide additional financial benefits to the City and residents that are difficult to quantify. For example, deterrence of harmful behavior by businesses that are primarily patronized by low-income consumers may directly improve the economic stability of these consumers and indirectly improve other outcomes, reducing costs of other services provided to impacted communities.

Conclusion

The Department of Finance supports the intent of this legislation to consolidate administration and enforcement of certain business licenses within a central agency and expand the City's abilities to protect residents from harm and investigate claims of unfair, abusive, or deceptive business practices. These actions would improve efficiency and effectiveness of the City's licensing administration, as well as provide important services to residents. However, due to the City's current fiscal constraints, the estimated cost of up to \$1.76 million presents a challenge to meet the requirements of this legislation.

Considering the benefit that this legislation would have for residents and the City, Finance is open to working with the City Council to identify ways to reduce the estimated costs. To this end, Finance has identified two strategies. One strategy is to identify vacant positions within agencies that will no longer manage licensing under this legislation and transfer those positions to the new Department to offset personnel costs. Another strategy is to evaluate estimated staffing needs for licensing and consumer investigations to identify areas for consolidation and reduce the number of staff.

Finance is supportive of the intent of this legislation but concerned about the costs. Finance will work closely with the Administration and City Council to identify ways to reduce costs to implement this legislation, which could benefit residents across the city and provide for efficient service delivery for business licensing.

For the reasons stated above, the Department of Finance opposes City Council Bill 23-0347.

cc: Michael Moiseyev
Nina Themelis