

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

June 29, 2016

The Honorable President and Members
of the Baltimore City Council
c/o Natawna Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 15-0589 – Employees’ Retirement System- Credit for Prior
Contractual Service to City

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0589. Although the bill was not referred to the Law Department, there are legal issues that should be considered. Bill 589 provides that “on proper documentation and submission of supporting documents satisfactory to the system, service credit shall be granted to” Class C and D members who, before becoming a member, worked for at least one year for the City under a personal contractual basis and subsequently worked, as a member of the system, for at least 10 years. The bill provides for the calculation of the service credit and for what purposes the credit can be counted.

Although Article II, Section 24 gives authority to the Mayor and City Council to establish a pension system and provide for conditions for the applicability and operation of the employees retirement system, any statutes enacted pursuant to this authority are required to possess certainty and definiteness so that they can be understood by persons of ordinary intelligence or they may be found void for vagueness. *See Northampton Corp. v. Wash. Suburban Sani. Comm.* 278 Md. 677 (1976). In this bill, there are several areas that could be considered vague. First, Sec.9 (D-2)(1) and Sec. 9.2(E-1)(1) require the submission of “supporting documents satisfactory to the system.” There is nothing in the bill to clarify this language in order for an ordinary person to know what is required. In addition, it allows for varying interpretations as to what documents are acceptable.

Second, in Sec.9(D-2)(1)(I) and Sec. 9(E-1)(1)(I), the bill allows service credit to be granted under certain conditions to someone who provides service to the City on a “personal contractual” basis. “personal contractual basis” is not defined. It could mean a contractual employee or an independent contractor. This could lead to significantly different impacts should

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the bill be enacted. Finally, Sec. 9(D-2)(2) and 9.2(E-1)(2) are also confusing. The language in (II) and (III) of those sections appear to overlap. Someone with 20 but less than 30 years is covered by both (II) and (III).

It is also noteworthy that the bill gives credit for time served on a contractual basis during which those employees made no contribution to the system while all permanent employees would be required to make contributions for that same amount of time in the system credit. At retirement, former contractual employees could receive the same benefit but made far less contribution of the System.

Accordingly, the Law Department cannot approve Council Bill 15-0589 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Hilary Ruley, Assistant Solicitor
Victor Tervalá, Assistant Solicitor
Jenny Landis, Assistant Solicitor