

CITY OF BALTIMORE

SHEILA DIXON, Mayor

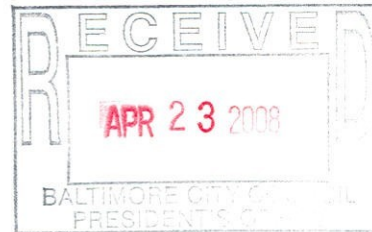


DEPARTMENT OF LAW

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

April 22, 2008

The Honorable President and
Members of the Baltimore
City Council
c/o Karen Randle, Executive Secretary
409 City Hall
Baltimore, MD 21202



Re: City Council Bill 08-0055 Charter Amendment – Sustainability Funds

Dear President and Members

You have requested the advice of the Law Department regarding City Council Bill 08-0055. City Council Bill 55 proposes to amend Article I of the Baltimore City Charter to authorize the Mayor and City Council by ordinance to provide for a fund or funds for promoting sustainability and a clean and safe environment within the City of Baltimore. The fund would be used to administer the activities of the Office of Sustainability, perform educational outreach on sustainability issues, provide assistance by loan, grant or otherwise to individuals and organizations undertaking activities to promote sustainability, conduct research for the purpose of promoting sustainability and funding related City programs. The revenue sources for the funds would be money appropriated to the fund in the annual Ordinance of Estimate, grants and donations and proceeds from fines, fees and programs dedicated to the fund by ordinance.

The Law Department has two concerns about City Council Bill 55. First, on page 2, line 2, the bill authorizes the creation, by ordinance, of a fund which would provide funding for “related City programs.” “Related City programs” is not defined in the bill. If the term is not defined, it will not be possible to determine whether an ordinance creating a fund is for the purpose of funding “related City programs” and therefore authorized by the Charter. The Law Department therefore recommends that the language on page 2, line 2 be deleted from the bill.

The Law Department’s second concern is on page 2, lines 7-8. This portion of the bill appears to authorize the City Council to, by ordinance, dedicate the proceeds from fines, fees and programs to a sustainability fund. The language can be interpreted as giving the City Council the authority to designate the proceeds from any fines, fees or programs collected by the City to such a fund. This authority would conflict with the power of the Board of Estimates to prepare the Ordinance of Estimates which provides for the financial needs of City agencies and programs for the fiscal year and for the source of funds to meet those needs. As already stated in the bill, money can be appropriated for a sustainability fund in the annual Ordinance of Estimates. To allow the City Council to enact an ordinance diverting funds which are already dedicated to

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another City agency or program under the Ordinance of Estimates to a sustainability fund will create a deficit in the account to which the money was originally appropriated. Depending on the availability of surplus funds, the City may or may not be able to remedy such a deficit. If surplus funds become available after the enactment of the Ordinance of Estimates, a supplemental appropriation would be available to a sustainability fund under Art. VI, Section 8 of the Charter. The Law Department, therefore, recommends that page 2, lines 7-8 be deleted from the bill.

With the amendments discussed above, the Law Department would approve the City Council Bill 08-0055 for form and legal sufficiency.

Sincerely yours,


Elena R. DiPietro
Assistant Solicitor

cc: Honorable James B. Kraft
Angela Gibson, City Council Liaison
George A. Nilson, City Solicitor
Linda C. Barclay, Chief Solicitor
Deepa Bhattacharyya, Assistant Solicitor