
CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG
Mayor



DEPARTMENT OF LAW
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BALTIMORE, MD 21202

February 26, 2020

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

Re: Supplemental Report - City Council Bill 20-0489 – Charter Amendment – Board
of Estimates - Composition

Dear President and City Council Members:

The Law Department seeks to supplement its report of February 12, 2020.

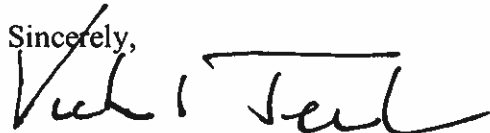
The bill reduces the Board of Estimates from 5 members to 3 members. While there is no legal obstacle to the passage of this bill, as reported in the Law Department's report of February 12, 2020, the reduction creates operational challenges for Board members and the Board itself.

Specifically, the City Council should be aware that a three-member Board will make abstentions from voting problematic. When one member abstains from a vote, the two non-abstaining members will determine the disposition of an item on the agenda, assuming the two agree on a course of action. In the event of a disagreement between them, where one member votes to approve an item and the other member votes to disapprove it, the tie vote means, in effect, the item is not approved. Yet the disapproval came as a result of a single vote, which was not supported by a majority of the membership.

Under these circumstances, the Board must either have a rule that allows for a single vote to determine the Board's disposition of an agenda item or a rule that requires all decisions to be approved by at least two votes. But notice that if the latter rule is adopted, some agenda items may be forever stalemated if one member is forced to abstain because of a conflict of interest and the remaining members cannot resolve their differences. Thus, a three-member Board raises serious operational issues about managing the flow of City business through this most important administrative body in City government. We point out that abstentions in the BOE to date have arisen almost at every meeting.

The Law Department also points out that a three-member Board makes every conversation about City business by two members of the Board – even casual ones that merely touch on City business – subject to the Maryland Open Meetings Act. In effect, those conversations will need to comply with all the notice and record-keeping required under the Act. To say the least, the law

makes casual office conversations among Board members awkward when membership is reduced to a minimal size.

Sincerely,

Victor K. Terval
Chief Solicitor

- cc: Andre M. Davis, City Solicitor
- Dana Moore, Deputy Solicitor
- Matt Stegman, Mayor's Legislative Liaison
- Caylin Young, President's Legislative Director
- Elena DiPietro, Chief Solicitor, General Counsel Division
- Hilary Ruley, Chief Solicitor
- Ashlea Brown, Assistant Solicitor