

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

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 15-0567 - Charter Amendment – Children and Youth Fund

Dear President and Members

You have requested the advice of the Law Department regarding City Council Bill 15-0567. City Council Bill 567 proposes to amend Article I of the Baltimore City Charter to authorize the Mayor and City Council by ordinance to provide for a fund for the purpose of establishing new and augmenting existing programs for and services to the children and youth of the City (“the Fund”) and provides guidelines for the types of programs that can be funded. The revenue sources for the Fund would be money appropriated to the Fund by a mandatory appropriation in the annual Ordinance of Estimates in the amount of at least \$0.03 of every \$100 of assess or assessable vale of all property on the City of Baltimore (except property exempt by law, and grants and donations. The bill also calls for the Mayor and City Council to by ordinance provide for the oversight and administration of the Fund.

The Law Department is concerned about the revenue source for the Fund that requires that a mandatory appropriation of \$0.03 for every \$100 of assessed property in the City be dedicated in the Ordinance of Estimates. Sec. 13(C). This Charter amendment would be inconsistent 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 would hinder the ability of the Board of Estimates to adapt to the changing needs of the City in any given fiscal year by permanently encumbering a specific amount for a specific purpose. The funding provision would also tie the hands of future City Councils to fund other initiatives that are important to the City Council by diverting a specific amount in perpetuity to one purpose regardless of what that amount may grow to be especially if property values increase and more properties are added to the tax base.

Sec. 13(C)(1) states that the mandatory appropriation shall be \$0.03 for every \$100 of assessed or assessable value of all property in Baltimore City “(except property exempt by law).” The quoted language is vague in that it does not specify what the property in question is exempt from. Does it mean exempt from taxation or assessment or something else? The bill should be

amended to clarify this phrase. In addition, if the quoted language is intended to remove properties that are not paying taxes from the equation, what about properties that receive substantial tax credits or are subject to PILOT agreements? Should such properties also be considered in the calculation of the appropriation?

The bill also prohibits the fund from being used to fund any program that appears in the Fiscal 2017 ordinance of estimates. See Sec 13(B). This section is overly broad in that it does not limit the prohibition to services and programs for "children and youth." In addition, if a service or program in the ordinance of estimates for 2017 is not funded in the future, the City Council will be barred from saving it via use of the Fund. This section should be amended to clarify that it refers only to programs "for children and youth" that are funded in the Fiscal 2017 ordinance of estimates.

Finally, the bill does not consider its impact on the balanced budget requirement. If, after all the City's mandatory expenditures under state and federal law are provided for, the City is unable to balance its budget, the mandatory nature of the funding source in this bill would result in a deficit situation for the City. Similarly, what if a significant event in the City resulted in a large expenditure that severely impacts the City's financial resources, the required appropriation to the Fund would not be available to address emergencies of this nature. The Law Department, therefore, recommends that the City Council consider amending Section 13(C) (1) to read "money appropriated to the fund in the annual Ordinances of Estimates; and".

If the bill is amended to clarify Sec. 13(B) and (C)(1) as discussed above, the Law Department could approve the City Council Bill 15-0567 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: George A. Nilson, City Solicitor
Angela Gibson
Hilary B. Ruley, Chief Solicitor
Victor Tervalá, Chief Solicitor
Jennifer Landis, Assistant Solicitor