
CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
JAMES L. SHEA, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

May 5, 2022

The Honorable President
Members of the City Council
c/o Natawna Austin, Executive Secretary
409 City Hall
Baltimore, MD 21202

RE: City Council Bill 22-0199– Fire Fighter Safety Act

Dear President and Members

You have requested that the Law Department review City Council Bill 22-0199 for form and legal sufficiency. The bill establishes the basic operational approaches to risk assessments and outlines emergency response rules of engagement. The bill requires all fire suppression personnel employed by the Baltimore City Fire Department to be equipped with digital audio and video recording devices by a certain date. The bill also mandates the implementation of a safety and risk management system.

Art. II, Sec.7 of the City Home Rule powers as codified in the Charter grant the Mayor and City Council the power to by ordinance provide for protection against fires, and to establish and to regulate all matters relating to a Fire Department. This seemingly gives the Mayor and City Council broad legislative authority to provide for the specific requirements for the operation of the Fire Department.

This authority has been significantly diminished by Art. VII, Sec. 47-54 of the Charter, which creates the Fire Department and the Fire Board. Sec. 48 grants the Fire Chief the authority to supervise and direct the Department. The Fire Board advises the Chief, review the disciplinary policies and practices of the Department and make recommendations. Sec. 51. The vesting of supervisory and directorial authority in the Fire Chief is a relatively recent change. This change was adopted in the 1996 Charter Revision process. The Charter Revision Commission explained the change in its Final Report as necessary because much “of the administration of the Fire Department requires technical knowledge of firefighting equipment, deployment of fire fighters, the components of an emergency medical program, the components of a fire prevention program and other matters involving similar expertise.... There is a deep public interest in firefighting and fire prevention, but we believe that the public is best protected by requiring the Chief to be directly accountable for the work of the Fire Department.

The Charter provision control over any other law or ordinance. This is acknowledged in the Charter, Art. III, Sec. 11 regarding legislative powers. “The Mayor and City Council of Baltimore shall have power to pass all ordinances, not inconsistent with the Charter, necessary to give effect and operation

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to all powers vested in the City.” In effect, because a charter “cannot become operational until it receives the imprimatur of the people through ratification at a popular election” its power “springs directly from Article XI-A [the Maryland Constitution] and thus lies beyond the competence of the General Assembly or any other branch of state government to alter or erase. Consequently, in adopting a home rule charter the people have the right to make provision therein for any form of government they deem suitable for their needs, so long as they do not in the process run afoul of the letter and spirit of the Federal and State Constitutions.” *Ritchmount Partnership v. Board of Sup'rs of Elections for Anne Arundel County*, 283 Md. 48 (1978).

City Council Bill 22-0199, is in conflict with the authority of the Fire Chief granted in the Charter. It directs the Department to adopt certain firefighting techniques and standards for operating. This authority is, by Charter, vested in the Fire Chief. It also directs the imposition of certain disciplinary actions which is also outside the scope of the City Council’s authority. Disciplinary policy discipline is subject to the union contracts negotiations. Although the City Council has the power to, by ordinance establish process, they cannot legislatively alter the negotiated agreements. .

Accordingly, the Law Department cannot approve the bill for form and legal sufficiency.

Sincerely yours,

A handwritten signature in cursive script that reads "Elena DiPietro".

Elena R. DiPietro
Chief Solicitor

Cc: James L. Shea, City Solicitor
Ebony Thompson, Deputy Solicitor
Stephen Salsbury, Chief of Staff
Natasha Mehu, Director MOGR
Matthew Stegman, President’s Office
Nikki Thompson, President’s Office
Nina Themelis, MOGR
Hilary Ruley, Chief Solicitor
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