

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF LAW

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

September 28, 2009

Honorable President and Members
of the City Council of Baltimore
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

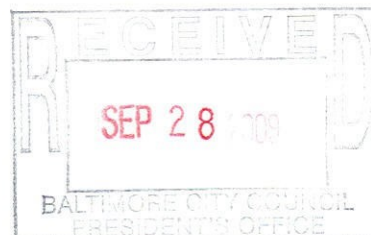
Attn: Karen Randle
Executive Secretary

Re: City Council Bill No. 09-0311-
Transit and Marine Services Advisory Board

Dear Madam President and City Council Members:

You have requested the advice of the Law Department regarding City Council Bill 09-0311 for form and legal sufficiency. The bill seeks to establish an advisory board titled Transit and Marine Services Advisory Board. This board is to consist of a total of 9 members, 8 of whom are appointed for a two year term chosen half by the Mayor and half by the City Council President. Five of the appointed members are chosen from residents of a Council District in which the City's Transit and Marine Services operates a mode of transportation and three are representatives of businesses or institutions located on a Transit and Marines Service Route whose employees or customers are users of the services. The Director of Transportation or its designee fills the remaining position for the same two year term. The Board is solely an advisory board to assure "effective and responsive" Transit and Marine Services.

City Council Bill 09-0311 is consistent with the interest of the Mayor and City Council in ensuring the efficient operation of the marine and transit services. It is clear that the City Council has the power to establish advisory boards by ordinance. Under Baltimore City Charter, Art. IV, Sec. 6, however, the Mayor has the sole power of appointment of municipal officers, subject to confirmation by the City Council. Art. 1, Sec. 2(f) defines "municipal officer" as including members of boards and commissions." In addition, under the Charter, the terms of all municipal officers, including members of boards and commissions shall be four (4) years or the end of the Mayor's term whichever occurs first. Baltimore City Charter, Art. IV, Sec. 6 (b).

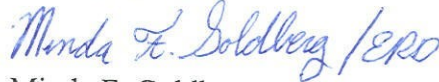


There are several problems with City Council Bill 09-0311. First, the bill as drafted, permitting four of the members to be appointed by the City Council President, conflicts with Art. IV, Sec. 6(a) of the Charter which requires that all municipal officers shall be appointed by the Mayor. Although several existing boards and commissions have been created that allow for appointments by the City Council President, that does not negate mandate of the Charter. This could be grounds to disapprove the bill. In this case, the Board is merely advisory and the City Council President's input with regard to stakeholders in the community who would have the experience to add to the work of this Board would be valuable. The Law Department does recommends, however, that the bill be amended to require all members be confirmed by the City Council as required by Art. IV, Sec 6(a) of the Charter.

Second, the bill's two year term for its members also conflicts with the Sec. 6(b) of the Charter which provides that all terms of municipal officers shall expire at the end of four years or at the end of the Mayor's term of office, whichever first occurs. The bill provides for a two year terms for the members of the Board. This is inconsistent with the Charter and should be amended to provide for terms that end in four years or at the end of the Mayor's term whichever occurs first. Finally, the bill appoints the Director of Transportation or its designee to the Board subject to the same two year term. The Director of Transportation should serve by virtue of the office subject to his/her term as Director of Transportation.

In its present form, City Council Bill 09-0311 can not be approved for form and legal sufficiency. The bill, however, could be amended to conform with the Charter provisions and could then be approved for form and legal sufficiency.

Sincerely yours,



Minda F. Goldberg
Chief Solicitor

cc: Honorable William H. Cole, IV
Angela Gibson, City Council Liaison
George Nilson, City Solicitor
Elena DiPietro, Chief Solicitor
Hilary Ruley, Assistant Solicitor
Ashlea Brown, Assistant Solicitor
Adina Amath

Proposed Amendments City Council Bill 09-0311

1. On Page 2, line 21 after “members” add who are subject to confirmation pursuant to Article IV, Section 6 of the Baltimore City Charter.
2. In Page 2, line 16, delete “2 years” and substitute 4 years or at the end of the Mayor’s term whichever first occurs.”