

May 23, 2019

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

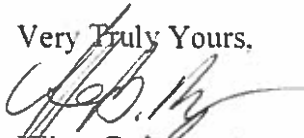
Re: City Council Bill 19-0376 – Financial Disclosures

Dear President and City Council Members:

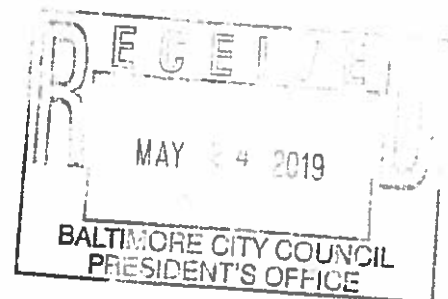
The Law Department has reviewed City Council Bill 19-0376 for form and legal sufficiency. It would make changes to the Ethics Article of the Baltimore City Code. Currently, someone appointed to fill a vacancy is given a notice of ethics requirements. City Code, Art. 8, §3-24. This bill would require the appointee to sign the notice and for that notice to be in the appointee's personnel file. The bill would also require that, in addition to the existing requirement of agency heads to identify those individuals who must file certain yearly ethics forms, the agency head must identify which newly created positions also require ethics filings. The bill would also require any public servant earning over \$60,000 to file financial disclosure statements, and require all those filing the disclosure statements to identify any directorships the public servant holds. Finally, the bill would increase late fees for failing to file certain statements, require that the Ethics Board send certain notices when those statements are overdue, and require agency heads to place those notices in the public servant's personnel file and/or contemplate disciplinary action.

In general, the Maryland Public Ethics Law requires that the City have an Ethics Code that is similar to the provisions of the State Ethics Law but allows for modifications to make those laws relevant to the issues of the jurisdiction. Md. Code, Gen. Prov., § 5-804, *et. seq.* These changes would comport with that mandate. However, the requirement that certain documents be placed in a personnel file at certain times may not be immediately enforceable if a union has negotiated a different discipline or personnel practice in a current contract. U.S. Const., Art. I, §10.; *see, e.g., Board of Trustees of the Employee Retirement System of Baltimore v. Mayor and City Council of Baltimore, et. al.*, 317 Md. 72, 100 (1989). In addition, unions may claim that they have the right to bargain about these terms. Charter, Art. II, §(55)(a)(6). For these reasons, the provisions may be deemed unenforceable or inapplicable to certain employees who are union members. Nevertheless, the Law Department can approve the bill for form and legal sufficiency.

Very Truly Yours,


Hilary Ruley
Chief Solicitor

Cc: Andre M. Davis, City Solicitor
Jeffrey Amoros, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalo, Chief Solicitor
Ashlea Brown, Assistant Solicitor



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