


FROM	NAME & TITLE	Elena R. DiPietro, Chief Solicitor <i>ERD</i>	CITY OF BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Baltimore City Law Department Room 175, City Hall		
	SUBJECT	City Council Bill 09-0295 – Fire and Police Employees Retirement System – Benefits		

TO

DATE:

August 21, 2009

The Honorable Sheila Dixon, Mayor

The Law Department has received the above captioned bill for final review for form and legal sufficiency prior to signature by the Mayor. During the course of our review, it was discovered that one of the amendments that was approved by Taxation and Finance Committee and adopted by the City Council upon its passage of the bill was not include in the Third Reader version of the bill due to a drafting error. The error occurred on Page 26, line 17 where “2010” should have been changed to “2011”.

The Law Department has signed the bill for form and legal sufficiency and believes that this is appropriate under the circumstances. All of the amendments that were incorporated in the Third Reader copy of the bill indicate that it was the intent of the legislature to change the effective date of the bill which necessitated the change in all the other dates in the bill. The intent of the legislature with respect to the omitted date change on page 26 can be easily determined by reference to all the other amendments. In fact, the amendment to the language in parenthesis following the omitted amendment indicates that the fiscal year being referenced is FY2012. FY 2012 would begin on July 1, 2011 so it is obvious that the reference to July 1 2010 on page 26, line 17 should be July 1, 2011. This is supported by the official copy of the approved amendments that is contained in the bill file which includes the omitted amendment.

“When construing the statute, the court may, and often must, consider external manifestations or persuasive evidence, including the bill’s title and function paragraphs, amendments that occurred as it passed through the legislature, its relationship to earlier and subsequent legislation, and other material that fairly bears on the fundamental issue of the legislative purpose or goal, which becomes the context within which the court reads the particular language before it in a given case. The statutory language is not read in isolation, but in light of the full context in which it appears, and in the light of external manifestations of intent or general purpose available through other evidence.” Md. Law Enc., Statutes, Sec 64.

“Words and phrases may be supplied by the court and inserted in a statute, where it is necessary to prevent an act from being absurd, to obviate repugnancy and inconsistency in the statute, complete the sense thereof, and give effect to the intention of the legislature manifested therein. This rule prevails where words have been omitted from a statute through clerical error, or by accident or inadvertence. The rule is especially applicable where such application is necessary to prevent the law from becoming a nullity. Courts proceed with great caution in supplying alleged omissions in statutes. They will supply an omission only where such omission is palpable, and the omitted words are plainly indicated by the context or verifiable from other parts of the statute.” Am.Jur.2d Statutes Sec. 123.

Given the law regarding statutory interpretation and the circumstances surrounding the
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omission in the Third Reader copy of the bill, it is clear that the ordinance would have to be interpreted to enforce the intent of the legislature and read Page 26, line 17 as referring to July 1, 2011 the beginning of Fiscal Year 2012. The bill file contains an official copy of the amendments, which includes the omitted amendment, that were adopted by the committee. The bill was reported out of committee with those amendments approved and the Committee Report was adopted by the City Council upon passage of the bill. In addition, failure to interpret the law as including the omitted language would be absurd as the date would not make sense in relation to all the other dates in the bill. It is for these reasons that the Law Department is approving the bill for form and legal sufficiency.

cc: Honorable Stephanie Rawlings-Blake
Demaune Millard
Chris Thomaskutty
George A. Nilson
Diane Hutchins
Angela Gibson ✓