

CITY OF BALTIMORE

STEPHANIE RAWLINGS BLAKE, Mayor

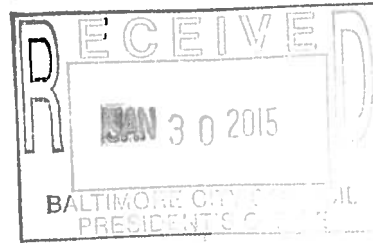


DEPARTMENT OF LAW

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

January 30, 2015

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



Attn: Natawna Austin
Executive Secretary

Re: City Council Bill 12-0114 -- Charter Amendment -- Term Limits

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 12-0114 for form and legal sufficiency. The bill is in the form of a resolution of the Mayor and City Council of Baltimore. It proposes to amend the City Charter to provide that a person who has served two consecutive popular elective terms as either the Mayor, the President of the City Council or the Comptroller, or three consecutive popular elective terms as a member of the City Council, is ineligible to serve the immediately following term. In all cases the term limits would commence for persons in office after December 7, 2016. The bill provides for the proposed amendment to be submitted to the voters.

The Law Department anticipates that the meaning of the phrase "popular elective terms" may not be clear to readers. Our interpretation is that the phrase conveys the distinction between someone who is elected and serves an entire term versus someone who is appointed to fill a vacancy and serves the remainder of a term. For example, suppose a council member is appointed to fill a vacancy and serves for the remainder of the term. Under the proposed bill, is that person eligible to be elected to council office for the next three terms or only for the next two terms? In other words, does the term for which the council member is appointed count toward the three-consecutive-term limit? The Law Department concludes that the use of the phrase "popular elective office" means that that the appointed term would not count toward the three-term limit. In the above example, the councilmember could serve out the remainder of the appointed term and then be eligible to serve the next three terms (or 12 years) before the term limitation is triggered.

If the City Council wishes to abandon the phrase "popular elective office" but retain the concept embedded in the phrase, the Law Department would recommend amending the bill in a

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manner that is similar to the following (for the City Council, for example): *No person after December 7, 2016 may serve more than three consecutive terms. For the purpose of this restriction, a council member who has been appointed to fill a vacancy is not considered to have served a term.*

Section 3 and Section 6, Article XI-A of the Maryland Constitution, provides that the term of office for local elected officials must be provided in the charter. Section 5 of Article XI-A establishes that amendments to the City Charter are proposed by a resolution of the Mayor and City Council of Baltimore, which must be submitted and approved by City voters. Since Council Bill 12-0114 proposes an amendment to the City Charter in the correct legal form and since there is no legal impediment to its adoption of term limits, the Law Department approves it for form and legal sufficiency.

Sincerely yours,

A handwritten signature in black ink that reads "Victor K. Tervala". The signature is written in a cursive style with a large initial "V" and "T".

Victor K. Tervala
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, Opinions & Advice
Hilary Ruley, Chief Solicitor
Jennifer Landis, Assistant Solicitor