

Office of Equity and Civil Rights
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Bill Report
Bill Version: First Reader

Council Bill 23-0380
Economic and Community Development

Charter Amendment - Community Reinvestment and Reparations Fund

Recommendation

The Office of Equity and Civil Rights (OECR) has reviewed Council Bill 23-0380 and **urges an unfavorable committee report.**

Bill Synopsis

Council Bill 23-0380, introduced on May 1, 2023, seeks to create the Community Reinvestment and Reparations Fund; establishes a continuing, non-lapsing Community Reinvestment and Reparations Fund, to be used exclusively to support the work of the Community Reinvestment and Reparations Commission; authorizes the Mayor and City Council, by ordinance, to provide for the oversight, governance, and administration of this Fund; and submits this amendment to the qualified voters of the City for adoption or rejection.

Position

It is the belief of the OECR that City Council Bill 23-0380 is an inappropriate use of Baltimore City's charter amendment process. Accordingly, we **oppose City Council Bill 23-0380.**

Background

The basic function of the City Charter is to provide for the operation of the City of Baltimore. The Charter accomplishes this by distributing power amongst the various agencies of City government, as well as between City government and the voters of Baltimore City. Together, with various provisions of Maryland State law, the City Charter guides the perpetual existence of the City of Baltimore. Due to its function and stature as the supreme governing document of the City of Baltimore, the City Charter is analogous to the Constitution of a state or nation and should be treated as such.

Perpetuity is understood to be the most basic tenet of any viable government enterprise. That is, if it wishes to remain a viable domicile for its residents and constituents, it must continuously provide basic services and functions. This is evidenced by Article VII of the City Charter, which calls for the perpetual existence of some of the most crucial City agencies – the Fire Department; Department of Public Works; Department of Health; Department of Transportation; Department of Recreation and Parks; Department of Housing and Community Development; and other city agencies, boards, and commissions that are crucial to the perpetual existence of the City of Baltimore.

In essence, the report highlights that the City Charter should serve two main purposes: first, to ensure the perpetual existence of the City of Baltimore, and second, to establish a framework for the City's operations that are under the control of its government.

Rationale

City Council Bill 23-0380 seeks to add the Community Reinvestment and Reparations Fund to the City Charter. However, it should be noted that the City of Baltimore has no control over the flow of state monies into this fund. The viability of this fund is dependent on the State Community Reinvestment and Repair Fund, which is not intended to exist in perpetuity. Indeed, per the enabling state legislation, the Community Reinvestment and Repair Fund is only to be funded for “FISCAL YEARS 2024 THROUGH 2033.”¹ Therefore, without an extension by the Maryland General Assembly, the fund will cease to exist in ten years. This poses a significant challenge as it will leave the City Charter with an unfunded mandate, which is the antithesis of the perpetual nature of the City Charter.

Additionally, if the goal is to create the Community Reinvestment and Reparations Fund before the state distributes funds to Baltimore City from the Community Reinvestment and Repair Fund, a charter amendment may not be the most efficient approach to achieve this objective. There is a risk that the proposed charter amendment may not be approved by the voters of Baltimore City, which could leave the City unprepared to receive funds from the Community Reinvestment and Repair Fund. This could result in a chaotic situation where there is uncertainty about where to deposit the funds, which would not be beneficial for anyone. Considering the substantial amount of money that may come into the City through this fund, it may not be suitable to subject this decision to a popular vote. Therefore, the City Council should use its recently granted budgetary authority to make a well-informed decision on the most appropriate course of action.

Alternatives

The City of Baltimore received \$641 million from the American Rescue Plan Act (ARPA) through the State and Local Fiscal Recovery Fund to address the adverse economic impacts of the COVID-19 pandemic.² As of March 30, 2023, the City has committed \$563,333,095 and spent \$90,097,228 of that amount.³ Despite the absence of a specific fund in the City Charter to manage the federal funds, the City has successfully managed and allocated the funds in accordance with the explicit uses and prohibited uses outlined by the federal government. Similarly, the state Community Reinvestment and Repair Fund should be treated no differently, as it also has clear guidelines regarding its allocation. The City has demonstrated its ability to adhere to such guidelines and ensure that funds are used for their intended purpose.⁴

One immediately available alternative is the Equity Assistance Fund. The Equity Assistance Fund was created to fund programs that are designed to provide equity in housing; provide equitable access to education; efforts to redress past inequities in City Capital budget spending; and eliminate structural and institutional racism and other forms of discrimination based on immutable characteristics.

The Community Reinvestment and Repair Fund's purpose is to provide financial support to community-based organizations that serve communities identified by the Maryland Office of the Attorney General as

¹ <https://mgaleg.maryland.gov/2023RS/bills/hb/hb0556E.pdf>

² <https://arp.baltimorecity.gov/about-3>

³ <https://arp.baltimorecity.gov/sites/default/files/April%202023%20Council%20Report.pdf>

⁴ <https://baltopi.shinyapps.io/ARPA-dashboard/>

having been most impacted by the disproportionate enforcement of marijuana prohibition prior to July 1, 2002.

The State's Community Reinvestment and Repair Fund and the City's Equity Assistance Fund share a common purpose, making the City's Equity Fund a suitable fund for housing the allocated funds meant to address the negative impacts resulting from the prohibition of marijuana within the City. By aligning these two funds, the City can effectively utilize the resources to rectify the damages caused by the prohibition and promote equity within the community. This approach ensures that the allocated monies are efficiently utilized and maximizes the potential for positive outcomes in redressing the harms associated with the marijuana ban.

Rather than establishing new funds unnecessarily, it is more prudent to utilize existing unfunded funds. Doing so reflects responsible fiscal stewardship.

Conclusion

We acknowledge the purpose of this legislation, which seeks to ensure that funds earmarked for restoring underprivileged communities are utilized solely for their intended purpose and not misused or mixed with other funds. Nevertheless, we should not proceed with a lack of confidence in our city's capacity to manage state funds effectively. Along with promoting equity and civil rights, we must also promote responsible governance, and therefore, we do not believe this is the most efficient approach.

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