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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



DEPARTMENT OF LAW  
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November 1, 2021

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

Re: City Council Bill 21-0164 – Decennial Fire and Emergency Medical Services  
Redistricting Plan

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0164 for form and legal sufficiency. The bill would require the Fire Chief to create a redistricting plan every 10 years after reviewing the federal census data, call volumes and response times and any other necessary information (“the Plan”). The Plan would be presented to the Mayor and City Council within a year of the issuance of the federal census data. The Mayor and City Council would have 180 days from presentment to approve the Plan by resolution. Failure to approve within 180 days would result in the Plan’s adoption.

The bill also provides that the “Mayor and City Council Members may propose amendments to the Plan” so long as they are done before passage of the resolution and within 180 days of the Plan’s presentment to the Mayor and City Council. These amendments “become effective on approval by a majority vote of the City Council.” The way that this requirement is phrased is problematic because it makes it seem as if any amendments that the Mayor or the City Council Members propose are adopted when approved by a majority of Council members without going through the full legislative process. This would mean that amendments proposed by the Committee and placed before the City Council on Second Reader would be adopted if a majority of the Councilmembers voted in favor, even if the whole Plan does not receive similar approval. This is not possible under the City Charter, which requires “every legislative act of the City shall be by ordinance or resolution.” City Charter, Art. III, § 14(a). Thus, any amendments to the Plan must be made by amending the legislation that adopts plan; it is not enough to have the City Council take one vote on amendments only.

Additionally, this bill calls for approval of the Plan by resolution. However, it is best to have the approval by ordinance. This is keeping in line with Maryland law, which recognizes that a resolution is an expression of opinion by the City Council on a matter of general concern and does not carry the force of law. *See, e.g., Inlet Assocs. v. Assateague House Condominium*, 313 Md. 413, 428 (1988) (citing 5 McQuillin Mun. Corp. § 15.02 (3d ed.) (“resolution passed by a

legislative body ‘deals with matters of a special or temporary character ... [and] generally speaking, is simply an expression of opinion or mind concerning some particular item of business coming within the legislative body’s official cognizance’” where an “ordinance is distinctly a legislative act; it prescribes ‘some permanent rule of conduct or government, to continue in force until the ordinance is repealed.’”). Maryland Courts have consistently held that “‘if a municipal action is one of general application prescribing a new plan or policy, it is considered legislative and therefore must be accomplished by ordinance.’” *K. Hovnanian Homes of Maryland, LLC v. Mayor of Havre de Grace*, 472 Md. 267 (2021) (citations omitted). As decennial fire redistricting would result in a “new plan,” it (and any amendments) ought to be adopted by ordinance. A suggested amendment to effectuate these changes is attached.

Assuming the bill is amended, the Law Department can approve it for form and legal sufficiency.

Very truly yours,



Hilary Ruley  
Chief Solicitor

cc: James L. Shea, City Solicitor  
Nina Themelis, Mayor’s Office of Government Relations  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Ashlea Brown, Chief Solicitor  
Victor Tervalá, Chief Solicitor

AMENDMENTS TO COUNCIL BILL 21-0164  
(1<sup>st</sup> Reader Copy)

Proposed by: Law Dep't

On page 1 in line 6, and on page 3 in line 4, delete "resolution" and substitute "ordinance"

On page 3, in line 7, delete from "Members" through line 13 and replace with "MAY AMEND THE PLAN BY ENUMERATING ANY AMENDMENTS IN THE ORDINANCE ADOPTING THE PLAN."