

CITY OF BALTIMORE
STEPHANIE RAWLINGS-BLAKE, Mayor



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

April 16, 2012

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

Re: City Council Bill 12-0053 – Biennial Agency Audits

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 12-0053 for form and legal sufficiency. The bill would require that both a fiscal audit and a performance audit of every City agency, board, commission or other unit of City government be conducted every two years in staggered cycles. A copy of each audit would be given to the Mayor, the Comptroller and the City Council President. The audits would be performed by the City Auditor or an independent certified public accountant or accounting firm. The bill would also require that each agency budget for the costs of these audits.

The fiscal auditing functions of the City have already been vested in the City Auditor pursuant to Sections 7 through 10 of Article V of the City Charter. These sections give the City Auditor the power to determine at what intervals financial audits will be conducted of City agencies and to perform them. Charter, Art. V, § 8(a)(1)-(4). The Charter also provides that the City Auditor may undertake additional audits at the request of the Comptroller or the Board of Estimates. Charter, Art. V, § 8(a)(5). The City Council may not by legislation modify the power created by Charter. Charter, Art. III, § 11. Therefore, this bill must be amended to exclude financial audits from the definition of audit in 9-1. The bill may still request the second type of audit, the performance audit, as this does not conflict with the powers vested in the City Auditor by the Charter.

Additionally, while Section 9-4 requires City agencies to provide for the cost of any audit in any yearly budget estimate, the Director of Finance would not be obligated to recommend any particular expenditure and the Board of Estimates, which sets City fiscal policy, cannot be mandated by ordinance to fund any particular expenditure. See Charter, Art VI, §§ 2, *et. seq.*

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Subject to the foregoing amendment, Law Department could approve City Council Bill 12-0053 for form and legal sufficiency.

Very truly yours,



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Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Ashlea Brown, Assistant Solicitor
Victor Tervalá, Assistant Solicitor