



February 3, 2014

The Honorable President and  
Members of the Baltimore  
City Council  
c/o Karen Randle, Executive Secretary  
409 City Hall  
Baltimore, MD 21202

Re: City Council Bill 14-0315 - Charter Amendment –  
Sustainability and Related Funds

Dear President and Members

You have requested the advice of the Law Department regarding City Council Bill 14-0315. City Council Bill 315 proposes to amend Article I, §11(b) of the Baltimore City Charter to modify the revenue sources that may be dedicated to special funds established for promoting sustainability, maintaining and establishing parks and other open spaces, and cleaning and preserving the natural environment within the City of Baltimore. The current revenue sources that provide funds are money appropriated to the fund in the annual Ordinance of Estimate, and grants and donations. The bill would add “proceeds from fines, fees, surcharges or other revenues dedicated to the fund by ordinance.

The Law Department’ is concerned about the proposed funding source language. The bill appears to authorize the City Council to, by ordinance, dedicate the proceeds from fines, fees and programs to a sustainability fund to be created under existing Charter provisions by ordinance. The language can be interpreted as giving the City Council the authority to designate the proceeds from any fines, fees or programs collected by the City to such a fund even if already appropriated. This authority would conflict with the power of the Board of Estimates to prepare the Ordinance of Estimates which provides for the financial needs of City agencies and programs for the fiscal year and for the source of funds to meet those needs. This language will also conflict with Art. VI, §9 of the Charter which provides that “no appropriation provided for in the Ordinance of Estimates shall be used for any purpose other than that named in that ordinance” and that transfers of appropriated funds between agencies may only occur if recommended by the Board of Estimates and approved by an ordinance.

In addition, enacting an ordinance diverting funds which are already dedicated to another City agency or program under the Ordinance of Estimates to a sustainability fund would create a deficit in the account to which the money was originally appropriated. Depending on the availability of surplus funds, the City may or may not be able to remedy such a deficit. If surplus

F/A

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funds become available after the enactment of the Ordinance of Estimates, a supplemental appropriation of such funds could be made available to a sustainability fund under Art. VI, Section 8 of the Charter.

Based on the foregoing analysis, the Law Department recommends amendment of the bill to harmonize it with existing Charter provisions regarding appropriations. If such an amendment is made, the Law Department could approve the City Council Bill 14-0315 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro  
Chief Solicitor

cc: Angela Gibson, City Council Liaison  
George A. Nilson, City Solicitor  
Hilary Ruley, Chief Solicitor  
Victor Tervalá, Chief Solicitor  
Jennifer Landis, Assistant Solicitor