

CITY OF BALTIMORE
STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF AUDITS
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December 9, 2013

The Honorable President and Members
Of the Baltimore City Council
Attn: Karen Randle, Executive Secretary
Room 419, City Hall
100 North Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill Number 12-0151 – City Audits Commission

The City Council Bill Number 12-0151, entitled *City Audits Commission*, is for the purpose of establishing a Baltimore City Audits Commission; defining certain terms; providing for the composition of the Commission; specifying the functions, powers, and duties of the Commission; and generally relating to oversight of the City's external and internal audit activities. The Audits Commission consists of five voting members appointed by the Mayor and three non-voting members, the Comptroller, Inspector General (IG) and member of the City Council appointed by the Council President. The primary function of the Audits Commission is to provide oversight of the City's external and internal audit activities.

The Department of Audits is established by City Charter under the Office of the Comptroller, and the City Charter clearly delineates the Comptroller's oversight duties and responsibilities. This bill, as proposed, will be placed under the Article I, Subtitle 9, Mayor, City Council and Municipal Agencies, which will be in direct conflict of the mandated duties of the Office of the Comptroller, in Article V. The general powers of the Mayor and City Council, which are enumerated in the Charter, do not permit the Mayor or City Council to assume or take away the Charter mandated duties and responsibilities of the Office of the Comptroller. The Audit function, by Charter, is under the supervision of the Comptroller and not the Mayor nor the City Council. Article V places the power of appointment and supervision of the Department of Audits solely with the Comptroller. This bill will allow the Mayor, with the appointment of five voting members (the majority), to not only violate Article V, but usurps the duties and responsibilities of the Comptroller to provide general oversight to the Department of Audits.

The City's Board of Estimates, in its capacity of receiving and reviewing audit reports, serves as the City's Audit Commission, providing oversight of the City's audits activities. This function has been performed by the Board of Estimates since the establishment of the Department of Audits. Under the City Charter, the Department of Audits presents its audit reports to the Board of Estimates.

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In this bill, the Audits Commission would be able to unduly influence the audit plan, scope of the audit work to be performed, and the reported results of the audit, at least in appearance. This represents a serious conflict, limits the scope, and compromises the effectiveness of the City's audit function. It is essential that the auditor and audit function be independent and continue to remain free from any influences, both real and perceived, by those charged with governance. The structure and composition of the Commission, functions, powers and duties of the Commission, and general oversight of the City's external and internal audit activities as they relate to the Department of Audits, would cause the Department to lose its independence. Impairments to organizational independence result when the audit function or activity is organizationally located within the reporting lines of the areas under audit or when the auditor is assigned or takes on responsibilities that affect operations of the area under audit. The Department of Audits would be organizationally located by this Commission within the executive branch of the City (the Mayor), the same reporting lines of the areas under audit of which the Mayor has control. External audit organizations, like the Department of Audits, can only be free from organizational impairments to independence when the audit function is organizationally placed outside the reporting line of the entity under audit and the auditor is not responsible for entity operations. Because the Comptroller, City Auditor and the Department of Audits are established by the City Charter to be organizationally outside the reporting line of the audited entities (City agencies controlled by the Mayor), the City Auditor and the Department of Audits are considered to be free both in fact and appearance of personal, external and organizational impairments to independence.

Audit organizations must be free from external impairments to independence. Factors external to the audit organization may restrict the work or interfere with the auditors' ability to form independent and objective opinions, findings, and conclusions. External impairments to independence occur when auditors are deterred from acting objectively and exercising professional skepticism by pressures, actual or perceived, from management and employees of the audited entity or oversight organizations. This bill to establish a Baltimore City Audits Commission represents a serious external impairment to independence for the Department of Audits. With the passage of this Bill, the Department of Audits will not be considered independent and therefore, could no longer perform financial, performance and compliance audits, or perform internal control reviews or investigations, in violation of the City Charter.

Respectfully submitted,


Robert L. McCarty, Jr., CPA
City Auditor

cc: Honorable Joan M. Pratt, Comptroller
Angela C. Gibson, Mayor's Legislative Liaison
Gail F. Adams, Deputy City Auditor
Sheila Wyche