



February 3, 2014

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 14-0316 – Special Fund for Preserving the City's
Natural Environment – Establishment

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 14-0316. The bill would establish a special fund for Preserving the City's Natural Environment and provides for the purpose of the fund, the uses of the fund and the source of funding for the fund. The bill cites the Baltimore City Charter Art. I, §11 as the source of authority for the creation of the fund. That Charter provision, enacted by Resolution 10-021, which was ratified by voters on November 2010, allows the City to create, by ordinance, one or more continuing, non-lapsing funds to be used for promoting sustainability and a clean and safe environment in the City. This is the necessary ordinance to create such a fund.

The Law Department has one concern regarding this bill. In §8-2(D)(1), the bill states that the special fund consist of "proceeds from fines, taxes, surcharges, and other revenues that have been dedicated to the special fund by ordinance." The existing Charter provision, Art. 1, §11, however, only authorizes funding through (1) money appropriated to the fund in the annual Ordinances of Estimates; and (2) grants or donations made to the fund. Although there is a proposed Charter amendment (City Council Bill 14-0315) that was introduced concurrently with this bill that would authorize such funding, it has not passed the City Council or been approved by the voters. Under these circumstances, the language of §8-2(D)(1) conflicts with the Charter authority 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. Page 2, lines 14-15 should therefore be stricken from the bill or passage of the bill should be postponed until such time as a Charter amendment authorizing the use of fines, fees etc. dedicated to the fund by ordinance is approved. Another alternative is to amend the bill to provide for an uncodified section that states that the bill is not effective unless a Charter amendment authorizing it is approved by the voters. This approach is somewhat problematic as the Law Department's report on the Charter amendment bill recommends an amendment to the language of the Charter amendment that is directly related to the language of this bill. The language of this bill will need to be consistent with the language of City Council Bill 14-0315.

F/A

Provided that the bill is amended as recommended above, the Law Department can approve City Council Bill 14-0316 for form and legal sufficiency.

Sincerely yours,

Elena R. DiPietro

Elena R. DiPietro
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Hilary Ruley, Chief Solicitor
Victor Tervalo, Assistant Solicitor
Jennifer Landis, Assistant Solicitor