
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

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September 21, 2022

Honorable President
Members of the City Council
c/o Natawna Austin, Executive Secretary
409 City Hall
Baltimore, MD 21202

RE: City Council Bill 22-0121R – Informational Hearing – Primary Election
Irregularities

Dear President and Members:

The Law Department has reviewed City Council Bill 22-0121R for form and legal sufficiency. City Council Bill 22-0121R is for the purpose of inviting the Director of the Baltimore City Board of Elections and the Director of the State Board of Elections to come before the City Council to detail the cause of voting irregularities during the 2022 primary election, the potential impacts the irregularities had on election results, and proposed solutions to prevent the errors from recurring in the future.

While a resolution is the appropriate vehicle for the City Council to hold an informational hearing, see, e.g., *Inlet Assocs. v. Assateague House Condominium*, 313 Md. 413, 428 (1988) and *Kendall v. Howard County*, 431 Md. 590, 596 (2013), the Council has no authority to compel either the Director of the Baltimore City Board of Elections or the Director of the State Board of Elections to attend a Council meeting. Both the State and local Election Boards are created by state law. See MD Code, Election Law, §§ 2-101 and 2-201. In *County Council for Montgomery County v. Montgomery Ass'n, Inc.*, 274 Md. 52, 62 (1975), the Court of Appeals noted,

For each county and Baltimore City, the State Legislature has created a local board of supervisors of elections to conduct elections. Members of these boards are appointed by the Governor, subject to confirmation by the Senate. Each board ‘shall have charge of and make provisions for all elections to be held in its county or city, or any part thereof at any time’ and ‘shall have power to make all necessary rules and regulations, not inconsistent with this article, with reference to the registration of voters and the conduct of elections.’ Art. 33, s 2-9(a), (b). This pervasive state administrative control of the election process, on both the statewide and local levels, is a compelling indication that the

General Assembly did not intend that local governments should enact election laws, but rather intended that the conduct and regulation of elections be strictly a state function.

See also *State Administrative Bd. Of Election Laws v. Board of Sup'rs of Elections of Baltimore City*, 342 Md. 586, 597 (1996) (The Court noted “the supervisory authority of the State Board over the local boards is pervasive.”). The local and State Election Board Directors may, however, choose to voluntarily appear.

The Law Department approves Council Bill 22-0121R for form and legal sufficiency as it is a valid method of conducting an informational hearing; however, the attendance of the State and local Election Board Directors is voluntary.

Sincerely yours,



Michele M. Toth
Special Solicitor

cc: James L. Shea, City Solicitor
Ebony Thompson, Deputy Solicitor
Stephen Salsbury, Chief of Staff
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