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| **CITY OF BALTIMORE****BRANDON M. SCOTT,****Mayor** |  | **DEPARTMENT OF LAW****Ebony M. Thompson,** **Acting City Solicitor100 N. Holliday Street** **Suite 101, City HallBaltimore, MD 21202** |

March 21, 2023

Honorable President

Members of the City Council

c/o Natawna Austin, Executive Secretary

409 City Hall

Baltimore, MD 21202

Re: City Council Bill 23-353 Community Reinvestment and Reparations Commission

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 23-0353 for form and legal sufficiency. The bill proposes the creation of the Community Reinvestment and Reparations Commission which will distribute certain funds in accordance with State law; The bill establishes the purpose and duties of the Commission and for its composition.

City Council Bill 23-0353 exercises the authority granted in in the Md. Ann.Code,Health -General Art., Title 13, Subtitle 46. Subtitle 46 creates the State Community Reinvestment Fund and provides for administration of the fund and for the uses that can be funded by the money in the Fund. The Fund can be used only for specific purpose as set forth in Sec. 13-4601. These uses are (1) funding community-based initiatives intended to benefit low-income communities, (2) funding community-based initiatives that serve communities disproportionately harmed by the cannabis prohibition and enforcement; and (3) any related administrative expenses. Id. It cannot be used for law enforcement activities and can only be used to supplement but not supplant funding that otherwise would be appropriated for preexisting local governmental programs. The State Comptroller is charged with disbursing money from the Fund. There is no provision for the funds to be directed to a Commission. The funds must, therefore, go to the General Fund. The State law only provides for each county to enact a law establishing the purpose for which the funds can be used.

The State law also directs that the State Comptroller distribute funds from the Fund to each county in an amount that, for the period from July 1, 2002, to June 30, 2022, both inclusive, is proportionate to the total number of cannabis arrests in the county compared to the total number of cannabis arrests in the State. The State law mandates that each county shall adopt a law establishing the purpose for which the money can be used. The State law requires that the uses of funds in the hands of local governments be limited to those set forth in Sec. 13-4601(a)(6). Local governments are also required to report every 2 years on how the proceeds from the Fund were spent in the preceding 2 years.

City Council Bill 23-0353 provides in Sec. 59-2(A)that “there is a Community Reinvestment and Reparations Commission” as established by State Health General Art. Sec. 13-4601.” This language is misleading because Sec. 13-4601(A)(6) does not mention the establishment of a Commission, only a “Fund.” Sec. 59-2. Furthermore, Sec. 59-2 (B) states that the purpose of the Commission is to distribute funds disbursed to Baltimore City from the CRRF in

 accordance with Title 13, Subtitle 14 and (C) states that in accordance with Title 13 Subtitle 14, the commission shall have the following duties, The problem is that Title 13 Subtitle 46 does not authorize either of these functions as powers of a commission. In fact, it does not does not mention any local Commission at all.

The State law specifically provides that “THE PURPOSE OF THE FUND IS TO PROVIDE FUNDS TO COMMUNITY–BASED ORGANIZATIONS THAT SERVE COMMUNITIES DETERMINED BY THE OFFICE OF THE ATTORNEY GENERAL TO HAVE BEEN THE MOST IMPACTED BY DISPROPORTIONATE ENFORCEMENT OF THE CANNABIS PROHIBITION BEFORE JULY.” The State Law leaves little opportunity for local legislation to regulate use of the Fund by local governments. When this bill is corrected to solve the problems described above, there is not much left of the proposal in Bill 23-0353.

 Accordingly, the Law Department does not approve this bill for form and legal sufficiency

 Sincerely yours,

 

 Elena R. DiPietro

 Chief Solicitor

cc: Ebony Thompson, Acting City Solicitor

 Stephen Salsbury, Deputy Solicitor

 Matthew Bradford, Chief of Staff

 Tiffany Maclin, President’s Office

 Nina Themelis, MOGR

 Hilary Ruley

 Jeff Hochstetler,

 Ashlea Brown

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 Michele Toth

 Teresa Cummings

 Ahleah Knapp