

**CITY OF BALTIMORE
COUNCIL BILL 18-0261
(Charter Amendment)
(Resolution)**

Introduced by: The Council President

At the request of: The Administration (Mayor's Charter Review Commission)

Introduced and read first time: June 11, 2018

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Audits

A RESOLUTION ENTITLED

1 A RESOLUTION OF THE MAYOR AND CITY COUNCIL concerning

2 **Charter Amendment – Charter Commission Recommendations for Comptroller Article**

3 FOR the purpose of clarifying the process for disposing of City property; simplifying language
4 related to the allowed uses of proceeds from the sale of City property; removing carrying out
5 the industrial and economic development powers vested in the Mayor and City Council of
6 Baltimore by the provisions of subsection (15A) of Article II as an approved use for the
7 proceeds from the sale of City property; requiring the Comptroller to appoint a Deputy City
8 Auditor who would serve as acting City Auditor under certain specified circumstances;
9 clarifying the City Auditor's responsibility to report suspected fraud, waste, or abuse to the
10 Inspector General under certain circumstances; requiring the City Auditor to adopt rules and
11 regulations to carry out the powers, functions, and duties of the Department of Audits;
12 changing the scheduling of required biennial audits of certain principal City agencies;
13 removing the Baltimore Development Corporation from the list of principal City agencies
14 required to be audited every 2 years to take into account the Baltimore Development
15 Corporation's separate auditing requirements; clarifying and conforming related provisions;
16 setting a special effective date; and submitting this amendment to the qualified voters of the
17 City for adoption or rejection.

18 BY proposing to amend

19 Article V - Comptroller
20 Section(s) 5(b), 6, 7, 8, 11
21 Baltimore City Charter
22 (1996 Edition)

23 **SECTION 1. BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE**, That the
24 City Charter is proposed to be amended to read as follows:

25 **Baltimore City Charter**

26 **Article V. Comptroller**

EXPLANATION: Underlining indicates matter added by amendment.
~~Strike out~~ indicates matter deleted by amendment.

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§ 5. Department of Real Estate – Duties.

(b) Disposition of City property.

The Department shall (unless and to the extent otherwise provided by the Board of Estimates) arrange for the disposition of any building or parcel of land (or any other real property) no longer needed by the City for public use. THE DISPOSITION SHALL BE AUTHORIZED BY ORDINANCE AND APPROVED BY THE BOARD OF ESTIMATES.

[Any such disposition shall be authorized by ordinance, shall be approved by the Board of Estimates with the approval entered in its minutes, and shall be made at public sale unless a private sale or other manner of disposition shall be expressly authorized by the Board of Estimates and entered in its minutes. The instrument of conveyance of any building or parcel of land (or any other real property) whose disposition has been so authorized and approved shall be executed on behalf of the City by the Comptroller or Deputy Comptroller and attested to by the Director of Finance or the Deputy Director of Finance.]

§ 6. Real Property Account.

PROCEEDS FROM ANY SALE OF REAL OR LEASEHOLD PROPERTY OR INTEREST THEREIN SHALL BE APPROPRIATED IN THE ORDINANCE OF ESTIMATES AND USED SOLELY TO PURCHASE LAND OR TO FUND CAPITAL IMPROVEMENTS. THE PROCEEDS FROM THESE SALES MAY NOT BE USED TO PAY FOR ITEMS IN THE CITY’S OPERATING BUDGET.

[Except as may be otherwise provided by ordinance with regard to the exercise by the City of the powers granted to it in subsection (15) and subsection (15A) of Article II, the Comptroller shall cause to be credited to an account to be known as the “Mayor and City Council Real Property Account”, the proceeds from the sale by the City of any real or leasehold property or interest therein.]

[Moneys received from such sales shall be appropriated in the Ordinance of Estimates only for the purchase of land, and the purchase or construction of buildings, and other construction work and projects, and to carry out the industrial and economic development powers vested in the Mayor and City Council of Baltimore by the provisions of subsection (15A) of Article II, it being the intent of this provision to limit the use of such moneys to the purposes specifically mentioned in this section, and otherwise to prohibit their use for current expenses of the City.]

[The annual Ordinance of Estimates shall include the appropriations which are proposed to be charged to the “Mayor and City Council Real Property Account”, and the state of the account, with the particulars as to sources of receipts, shall be reported by the Comptroller annually to the City Council.]

§ 7. Department of Audits – Established.

(a) Establishment; City Auditor.

(1) There shall be a Department of Audits, the head of which shall be the City Auditor.

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1 (2) The City Auditor shall be a certified public accountant who is licensed by the State of
2 Maryland, shall be appointed by the Comptroller in accordance with the provisions of
3 the Charter relating to the Civil Service, and shall hold office in accordance with
4 these provisions.

5 (b) *DEPUTY CITY AUDITOR.*

6 (1) THE COMPTROLLER SHALL APPOINT A DEPUTY CITY AUDITOR WHO SHALL BE A
7 CERTIFIED PUBLIC ACCOUNTANT LICENSED BY THE STATE OF MARYLAND.

8 (2) WHENEVER A VACANCY SHALL OCCUR IN THE OFFICE OF THE CITY AUDITOR, OR
9 WHENEVER THE CITY AUDITOR IS INCAPACITATED OR OTHERWISE UNAVAILABLE FOR
10 DUTY FOR ANY CAUSE, THE DEPUTY CITY AUDITOR SHALL BE THE ACTING CITY
11 AUDITOR UNTIL THE CITY AUDITOR IS AVAILABLE FOR DUTY OR THE VACANCY IS
12 FILLED.

13 (c) *Staff; Budget.*

14 (1) The City Auditor shall appoint such employees as may be provided in the Ordinance
15 of Estimates.

16 (2) Sufficient funds shall be included in the Ordinance of Estimates for the Department of
17 Audits to enable the City Auditor to perform the duties prescribed herein.

18 **§ 8. Department of Audits – General powers and duties.**

19 (a) *In general.*

20 In accordance with generally accepted government auditing standards and State and
21 federal law, the City Auditor:

22 (1) shall at appropriate intervals conduct an audit of the financial transactions of
23 every municipal agency, except the Department of Audits;

24 (2) shall conduct an annual audit of all [accounts, revenues, and receipts] FINANCIAL
25 STATEMENTS of the City;

26 (3) shall conduct biennial audits of principal agencies, as provided in § 11 of this
27 article;

28 (4) may audit the expenditure of City-granted funds by any public or private agency
29 that receives such funds;

30 (5) may audit City contracts, grants, subgrants and other agreements as required by
31 the terms and conditions of these instruments and, when the contracts, grants,
32 subgrants and other agreements require that audits be conducted by other auditors,
33 review such audits; [and]

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1 (6) shall make such other audits as the Comptroller or the Board of Estimates may
2 request, provided that those requested audits do not, in the judgment of the City
3 Auditor, unduly hinder the performance of regular audits;

4 (7) SHALL REFER TO THE OFFICE OF THE INSPECTOR GENERAL ANY REASONABLE
5 SUSPICION OF FRAUD, WASTE, OR ABUSE THAT ARISES FROM AUDITS PERFORMED
6 BY THE CITY AUDITOR OR FROM REPORTS RECEIVED FROM CREDIBLE SOURCES;
7 AND

8 (8) SHALL ADOPT RULES AND REGULATIONS, SUBJECT TO THE APPROVAL OF THE
9 COMPTROLLER, TO CARRY OUT THE POWERS, FUNCTIONS ,AND DUTIES OF THE
10 DEPARTMENT, WHICH MUST INCLUDE:

11 (I) THE SCHEDULING OF AUDITS; AND

12 (II) REQUIREMENTS TO PROVIDE CITY AGENCIES WRITTEN REPORTS OF AGENCY
13 AUDITS AND AN OPPORTUNITY TO RESPOND TO THE FINDINGS OF AN AUDIT.

14 (b) *Reports.*

15 The City Auditor shall make reports of all such audits to the Comptroller and, at the same
16 time, to each of the other members of the Board of Estimates.

17 § 11. Department of Audits – Biennial audits of principal agencies.

18 (a) *Definitions.*

19 (1) *In general.*

20 In this section, the following terms have the meanings indicated.

21 (2) *Audit.*

22 (i) “Audit” means an audit undertaken in accordance with generally accepted
23 government auditing standards and federal and state law.

24 (ii) “Audit” includes both:

25 (A) a financial audit of a principal agency’s financial transactions, including
26 all revenues and receipts; and

27 (B) a performance audit that assesses a principal agency’s practices to
28 determine whether the agency is operating economically and efficiently
29 and whether corrective actions for improving its performance are
30 appropriate.

31 (3) *Principal agency.*

32 “Principal agency” means any of the following executive departments:

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1 [(i) *Group A* –]

2 (I)[1.] Department of Finance.

3 (II)[2.] Department of Public Works.

4 (III)[3.] Fire Department.

5 (IV)[4.] Department of Housing and Community Development.

6 (V)[5.] Department of General Services.

7 [6. Baltimore Development Corporation.]

8 (VI)[7.] Mayor’s Office of Information Technology (or successor entity to this
9 Office).

10 (VII)[8.] Mayor’s Office of Human Services (or successor entity to this Office).

11 [(ii) *Group B* –]

12 (VIII)[1.] Department of Law.

13 (IX)[2.] Department of Human Resources.

14 (X)[3.] Department of Transportation.

15 (XI)[4.] Police Department.

16 (XII)[5.] Department of Recreation and Parks.

17 (XIII)[6.] Department of Planning.

18 (XIV)[7.] Department of Health.

19 (XV)[8.] Mayor’s Office of Employment Development (or successor entity to this
20 Office).

21 (b) *Biennial audit required.*

22 [(1) *In general.*]

23 At least [twice during every 4-year term of the Mayor and City Council,] ONCE EVERY 2
24 YEARS, AND IN ACCORDANCE WITH THE SCHEDULES AND PROCEDURES ESTABLISHED BY
25 THE DEPARTMENT IN CONSULTATION WITH THE BIENNIAL AUDITS OVERSIGHT
26 COMMISSION, the City Auditor shall conduct an audit of each principal agency’s
27 operations for the preceding 2 fiscal years.

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1 [(2) *Staggered schedule.*]

2 [These audits shall be staggered so that:]

3 [(i) audits of the principal agencies listed in subsection (a)(3)(i) as “Group A” are
4 initiated in odd-numbered calendar years; and]

5 [(ii) audits of the principal agencies listed in subsection (a)(3)(ii) as “Group B”
6 are initiated in even-numbered calendar years.]

7 (c) *Costs of audit.*

8 In each fiscal year preceding the fiscal year in which audits are to be conducted under this
9 section, the Comptroller shall include the costs of those audits in the estimates that the
10 Comptroller submits for the next year’s Ordinance of Estimates.

11 (d) *Status of prior recommendations.*

12 (1) *In general.*

13 Each report of an agency audit conducted under this section shall include an ancillary
14 report on the status of all recommendations for executive action that resulted from
15 that agency’s immediately preceding audit under this section.

16 (2) *Content of report.*

17 The ancillary report shall:

18 (i) designate each recommendation’s status either as “implemented”, “partially
19 implemented”, or “not implemented”; and

20 (ii) provide justification AS DETAILED BY THE AUDITED AGENCY for the status
21 designation assigned.

22 (e) *Publication of reports.*

23 Reports of all audits conducted under this section shall be:

24 (1) posted on a public website maintained by the City Comptroller;

25 (2) filed with the Department of Legislative Reference; and

26 (3) submitted to each member of:

27 (i) the Board of Estimates;

28 (ii) the City Council; and

29 (iii) the Biennial Audits Oversight Commission.

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1 (f) *Biennial Audits Oversight Commission.*

2 (1) *Commission established.*

3 There is a Biennial Audits Oversight Commission.

4 (2) *Composition.*

5 The Commission comprises the following 7 members:

6 (i) the Director of Finance;

7 (ii) the Inspector General;

8 (iii) the Comptroller;

9 (iv) the City Council President; and

10 (v) 3 members of the City Council, appointed by the City Council President.

11 (3) *Officers.*

12 (i) The City Council President shall designate 1 of the members to serve as Chair of
13 the Commission.

14 (ii) The members of the Commission, by majority vote, may elect any other officers
15 that they consider necessary or appropriate.

16 (4) *Meetings; voting.*

17 (i) The Commission shall meet at the call of the Chair as frequently as required to
18 perform its duties.

19 (ii) 4 members of the Commission constitute a quorum for the transaction of business.

20 (iii) An affirmative vote of at least 4 members is needed for any official action.

21 (5) *Procedures.*

22 The Commission may adopt rules of procedure to govern its meetings and operations.

23 (6) *Powers and duties.*

24 The Commission:

25 (i) shall provide guidance and advice to the City Auditor in determining the scope
26 of a principal agency's performance audit AS WELL AS THE SCHEDULE OF
27 BIENNIAL AUDITS; AND

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1 (ii) shall hold at least 2 publicly advertised meetings a year, at which meetings the
2 City Auditor shall appear and report on the status of the audits and
3 recommendations under this section.[; and]

4 [(iii) for good cause shown by a principal agency, may waive the requirement for
5 a financial audit to be conducted under this section.]

6 **SECTION 2. AND BE IT FURTHER RESOLVED**, that these amendments to the City Charter shall
7 become effective on January 1, 2020.

8 **SECTION 3. AND BE IT FURTHER RESOLVED**, That this proposed amendment to the City
9 Charter be submitted to the legal and qualified voters of Baltimore City, for adoption or rejection,
10 in accordance with Article XI-A, § 5 of the Maryland Constitution, in the form specified by the
11 City Solicitor.