

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

June 15, 2018

The Honorable President and Members  
of the Baltimore City Council  
Attn: Natawna B. Austin, Executive Secretary  
Room 409, City Hall, 100 N. Holliday Street  
Baltimore, Maryland 21202

Re: City Council Bill 18-0229- Charter Amendment – Fair Election Fund

Dear President and City Council Members:

The Law Department has been asked to review City Council Bill 18-0229 for form and legal sufficiency. The bill amends the City Charter to authorize the establishment of a continuing, non-lapsing Fair Election Fund, to be used exclusively to administer a public financing option for political campaigns for Baltimore City elected offices; and to authorize the Mayor and City Council to dedicate revenue to the Fair Election Fund by ordinance; and establishes a fair Election Fund Commission to administer the Fund.

Under Article XI-A, Section 5 of the Maryland Constitution, a resolution, such as City Council Bill 18-0299, is an appropriate method of initiating an amendment to the Baltimore City Charter. If passed by the Mayor and City Council, the Resolution would be placed on the ballot and would take effect thirty days after being approved by the voters. Md. Constit., Art. XI-A, §5.

The establishment of the special fund itself presents no legal impediments. The bill creates the Fair Election Fund Commission to administer the fund and establishes certain criteria for its members (each member must 1) be a resident of the City, 2) not be a candidate for public office, 3) not be a lobbyist required to register with the City, 4) not be the chair or treasurer for an open campaign account, 5) be a registered voter and 6) be confirmed by the City Council). CCB 18-0229, p. 2, lines 22-28. The bill also sets term limits for members, provides for how a vacancy will be filled on the commission and allows for the election of a Chairperson and Vice chairperson. CCB 18-0229, p. 3, lines 1-12.

The bill does not, however, provide for the methods, standards and criteria that will be used by the Commission in its funding decisions, nor should it, as the City Council, not the City electorate or an outside Commission, is granted full law-making power to legislate on the subject, within the limits of state and federal law. Md. Constit., Art. XI-A, § 3.

Therefore, the comprehensive system to administer the fund should be established by ordinance and the bill should be amended to authorize this.

Suggested language:

By ordinance, the Mayor and City Council shall provide for the oversight, governance, and administration of the Fair Elections Fund, including: 1) the qualifications of candidates eligible for the funding, 2) the methods and criteria for allocating available funds among eligible programs or recipients, and 3) the establishment of any other legislative or administrative rules, regulations or standards, consistent with this section, governing the Fund, its operations, and programs and services funded by it.

Provided that the amendment contained in this report or similar amendments are adopted, the Law Department can approve the resolution for form and legal sufficiency.

Sincerely,



Ashlea H. Brown  
Assistant Solicitor

cc: Andre M. Davis, City Solicitor  
Karen Stokes, Director, Mayor's Office of Government Relations  
Kyron Banks, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Hilary Ruley, Chief Solicitor  
Victor Tervalá, Chief Solicitor  
Avery Aisenstark