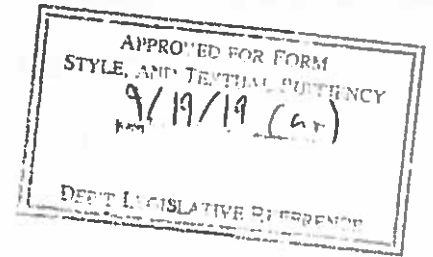


AMENDMENTS TO COUNCIL BILL 19-0377
(1st Reader Copy)



By: Judiciary and Legislative Investigations Committee

Amendment No. 1

On page 1, strike beginning with “establishing” in line 4 down through the semicolon in line 6; and on the same page, strike beginning with “detailing” in line 8 down through the first semicolon in line 9; and on the same page, in line 10, strike “and”; and on the same page, in line 12, before the period, insert “; and providing for a special effective date”.

Amendment No. 2

On pages 2 through 10, strike beginning with “§ 8-1” in line 21, on page 2, down through the period in line 4, on page 10, and substitute:

“§ 8-1. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) AFFILIATED ENTITY.

“AFFILIATED ENTITY” REFERS TO THE FOLLOWING ENTITIES:

(1) BALTIMORE CITY PARKING AUTHORITY;

(2) BALTIMORE DEVELOPMENT CORPORATION; AND

**(3) SOUTH BALTIMORE GATEWAY COMMUNITY IMPACT DISTRICT
MANAGEMENT AUTHORITY.**

(C) AGENCY.

**“AGENCY” MEANS ANY DEPARTMENT, BOARD, COMMISSION, COUNCIL,
AUTHORITY, COMMITTEE, OFFICE, OR OTHER UNIT OF CITY GOVERNMENT OR OF
ANY AFFILIATED ENTITY.**

ADOPTED

(D) COVERED DISCLOSURE.

(1) IN GENERAL.

“COVERED DISCLOSURE” MEANS A DISCLOSURE;

(I) MADE BY AN EMPLOYEE;

(II) CONCERNING ACTIONS ARISING WITHIN THE BALTIMORE CITY GOVERNMENT;

(III) INITIALLY MADE TO ONE OR ANOTHER OF AN EMPLOYEE’S SUPERVISORS OR TO THE INSPECTOR GENERAL; AND

(IV) THAT THE EMPLOYEE REASONABLY BELIEVES TO BE EVIDENCE OF:

(A) FRAUD;

(B) GROSS MISUSE OR WASTE OF PUBLIC RESOURCES;

(C) A VIOLATION OF LAW; OR

(D) A SUBSTANTIAL AND SPECIFIC THREAT TO HEALTH, SAFETY, OR SECURITY.

(2) INCLUSIONS.

“COVERED DISCLOSURE” INCLUDES A DISCLOSURE MADE DURING PARTICIPATION IN AN INVESTIGATION BY THE OFFICE OF THE INSPECTOR GENERAL.

(3) EXCLUSIONS.

“COVERED DISCLOSURE” DOES NOT INCLUDE A DISCLOSURE THAT IS PROHIBITED BY LAW.

(E) EMPLOYEE.

“EMPLOYEE” MEANS AN EMPLOYEE OF A CITY AGENCY, WHETHER EMPLOYED FULL-TIME, PART-TIME, SEASONAL, CONTRACTUAL, OR OTHERWISE, INCLUDING ANY MEMBER OF A CITY BOARD OR COMMISSION, REGARDLESS OF WHETHER THE MEMBER IS COMPENSATED.

(F) PERSONNEL ACTION.

“PERSONNEL ACTION” MEANS AN ACT OR OMISSION BY A SUPERVISOR THAT HAS A SIGNIFICANT ADVERSE IMPACT ON AN EMPLOYEE, INCLUDING DISMISSAL, DEMOTION, SUSPENSION, PUNITIVE TRANSFER OR ASSIGNMENT, DISCIPLINARY ACTION, NEGATIVE PERFORMANCE EVALUATION, FAILURE TO APPOINT, FAILURE TO PROMOTE, FAILURE TO TRANSFER, OR FAILURE TO ASSIGN.

(G) SUPERVISOR.

“SUPERVISOR” MEANS ANY INDIVIDUAL WHO DIRECTLY OR INDIRECTLY OVERSEES THE WORK OF AN EMPLOYEE WHO FILES A COMPLAINT PURSUANT TO THIS SUBTITLE.

(H) WHISTLEBLOWER.

“WHISTLEBLOWER” MEANS AN EMPLOYEE WHO MAKES A COVERED DISCLOSURE.

§ 8-2. {RESERVED}

§ 8-3. WHISTLEBLOWER PROTECTION AGAINST RETALIATORY PERSONNEL ACTION.

(A) IN GENERAL.

UNLESS A DISCLOSURE IS SPECIFICALLY PROHIBITED BY LAW, A SUPERVISOR MAY NOT TAKE RETALIATORY PERSONNEL ACTION AGAINST A WHISTLEBLOWER FOR MAKING A COVERED DISCLOSURE.

(B) EXCEPTIONS.

THIS SECTION DOES NOT PROHIBIT:

(1) A SUPERVISOR FROM TAKING ANY PERSONNEL ACTION AGAINST A WHISTLEBLOWER IF THE SUPERVISOR WOULD HAVE TAKEN THE PERSONNEL ACTION REGARDLESS OF WHETHER THE EMPLOYEE MADE THE COVERED DISCLOSURE; OR

(2) AN EMPLOYEE FROM MAKING A DISCLOSURE THAT IS OTHERWISE PROHIBITED BY LAW IF THE EMPLOYEE EXCLUSIVELY MAKES THAT DISCLOSURE TO THE:

(i) OFFICE OF THE MARYLAND ATTORNEY GENERAL;

(ii) OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY;

(iii) OFFICE OF THE MARYLAND STATE PROSECUTOR; OR

(iv) BALTIMORE CITY OFFICE OF THE INSPECTOR GENERAL.

§ 8-4. {RESERVED}

§ 8-5. SCOPE OF COMPLAINT PROCEDURES.

(A) IN GENERAL.

THIS COMPLAINT PROCEDURES PROVISIONS IN § 8-6 ET SEQ. OF THIS SUBTITLE DO NOT APPLY TO ANY NON-PROBATIONARY MEMBER OF THE CIVIL SERVICE WHO HAS BEEN DISCHARGED FROM THE CIVIL SERVICE, REDUCED IN PAY OR POSITION, OR SUSPENDED FOR LONGER THAN 30 DAYS.

(B) JURISDICTION OF CIVIL SERVICE COMMISSION.

(1) THE CIVIL SERVICE COMMISSION HAS JURISDICTION OVER PERSONNEL ACTIONS DESCRIBED IN SUBSECTION (A) OF THIS SECTION, AS PROVIDED IN CITY CHARTER ARTICLE VII §§ 94 THROUGH 104.

(2) ON THE CIVIL SERVICE COMMISSION'S REQUEST, THE OFFICE OF THE INSPECTOR GENERAL MAY INVESTIGATE ALLEGATIONS MADE TO THE CIVIL SERVICE COMMISSION REGARDING RETALIATORY PERSONNEL ACTIONS AND PROVIDE THE OFFICE'S FINDINGS TO THE COMMISSION AT OR BEFORE A COMMISSION HEARING TO THE EXTENT PERMITTED BY ARTICLE X OF THE CHARTER OF BALTIMORE CITY. THE INSPECTOR GENERAL'S FINDINGS SHALL STATE WHETHER THE INSPECTOR GENERAL BELIEVES THE PERSONNEL ACTIONS WERE IN VIOLATION OF § 8-3 OF THIS SUBTITLE.

(C) CIVIL SERVICE COMMISSION FINDINGS.

(1) DURING A CIVIL SERVICE COMMISSION HEARING, THE COMMISSION MAY FIND THAT THE PERSONNEL ACTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION VIOLATES § 8-3 OF THIS SUBTITLE.

(2) IF THE COMMISSION FINDS THAT THE PERSONNEL ACTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION VIOLATES § 8-3 OF THIS SUBTITLE, THIS FINDING MAY BE CONSIDERED BY THE COMMISSION AS PRIMA FACIE EVIDENCE OF A VIOLATION OF "THE INTENT AND SPIRIT" OF THIS CHARTER WITHIN THE MEANING OF CITY CHARTER ARTICLE VII, § 95(F) AND § 100(A)(5).

§ 8-6. COMPLAINT PROCESS.

(A) FILING COMPLAINT WITH SUPERVISOR.

- (1) A WHISTLEBLOWER WHO BELIEVES HE OR SHE HAS BEEN RETALIATED AGAINST FOR MAKING A COVERED DISCLOSURE SHALL FILE A WRITTEN COMPLAINT WITH HIS OR HER SUPERVISOR.
- (2) THE COMPLAINT MUST BE FILED WITHIN 30 DAYS FROM WHEN THE WHISTLEBLOWER KNEW OR REASONABLY SHOULD HAVE KNOWN ABOUT THE VIOLATION.

(B) SUPERVISOR RESPONSIBILITIES.

- (1) WITHIN 5 BUSINESS DAYS AFTER RECEIVING A COMPLAINT UNDER THIS SECTION, THE SUPERVISOR WHO RECEIVED THE COMPLAINT MUST GIVE THE WHISTLEBLOWER WRITTEN NOTICE OF THE COMPLAINT'S RECEIPT.
- (2) WITHIN 10 BUSINESS DAYS AFTER RECEIVING A COMPLAINT UNDER THIS SECTION, THE SUPERVISOR WHO RECEIVED THE COMPLAINT MUST NOTIFY THE AGENCY HEAD OR THE APPROPRIATE APPOINTING AUTHORITY TO THE COMPLAINT.
- (3) WITHIN 60 DAYS AFTER THE SUPERVISOR RECEIVED THE COMPLAINT, THE SUPERVISOR MUST CONDUCT AN INVESTIGATION AND PROVIDE THE WHISTLEBLOWER WITH WRITTEN FINDINGS, AS WELL AS THE AGENCY HEAD OR THE APPROPRIATE APPOINTING AUTHORITY.

(C) FILING INITIAL COMPLAINT WITH INSPECTOR GENERAL.

- (1) A WHISTLEBLOWER NEED NOT FILE THE INITIAL COMPLAINT WITH A SUPERVISOR AND, INSTEAD, MAY FILE THE COMPLAINT DIRECTLY WITH THE OFFICE OF THE INSPECTOR GENERAL. IF THE WHISTLEBLOWER REASONABLY BELIEVES THAT:
 - (i) ALL OF THE WHISTLEBLOWER'S SUPERVISORS ARE IMPLICATED BY THE COVERED DISCLOSURE; OR
 - (ii) ALL OF THE WHISTLEBLOWER'S SUPERVISORS TOOK PART IN OR WERE OTHERWISE COMPLICIT IN THE RETALIATORY PERSONNEL ACTION TAKEN AGAINST THE WHISTLEBLOWER.

(2) A COMPLAINT FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1) OF THIS SUBSECTION MUST BE FILED WITHIN 30 DAYS FROM WHEN THE WHISTLEBLOWER KNEW OR SHOULD REASONABLY HAVE KNOWN ABOUT THE RETALIATORY PERSONNEL ACTION.

(D) FILING WITH INSPECTOR GENERAL AS APPEAL FROM SUPERVISOR.

(1) IF THE WHISTLEBLOWER INITIALLY FILED A COMPLAINT WITH A SUPERVISOR, THE WHISTLEBLOWER MAY APPEAL TO THE INSPECTOR GENERAL IF:

(i) THE SUPERVISOR WHO RECEIVED THE COMPLAINT FAILED TO PROVIDE THE WHISTLEBLOWER WITH WRITTEN FINDINGS OF THE SUPERVISOR'S INVESTIGATION; OR

(ii) THE WHISTLEBLOWER DOES NOT AGREE WITH THE SUPERVISOR'S WRITTEN FINDINGS.

(2) AN APPEAL FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1)(i) OF THIS SUBSECTION MUST BE FILED WITHIN 30 DAYS FROM THE DATE BY WHICH THE SUPERVISOR HAD TO RESPOND TO THE WHISTLEBLOWER.

(3) AN APPEAL FILED WITH THE INSPECTOR GENERAL UNDER PARAGRAPH (1)(ii) OF THIS SUBSECTION MUST BE FILED WITHIN 30 DAYS FROM WHEN THE SUPERVISOR PRESENTED THE WHISTLEBLOWER WITH THE WRITTEN FINDINGS OF THE SUPERVISOR'S INVESTIGATION.

(E) CONFIDENTIALITY.

THE IDENTITY OF THE WHISTLEBLOWER MUST BE KEPT CONFIDENTIAL TO THE EXTENT PERMITTED BY LAW.

§ 8-7. COMPLAINT INVESTIGATION BY INSPECTOR GENERAL.

(A) NOTICE OF RECEIPT OF COMPLAINT.

WITHIN 5 BUSINESS DAYS AFTER RECEIVING A WRITTEN COMPLAINT OR APPEAL UNDER § 8-6(C) OR (D) OF THIS SUBTITLE, THE OFFICE OF THE INSPECTOR GENERAL MUST GIVE THE WHISTLEBLOWER WRITTEN NOTICE OF THE COMPLAINT'S OR APPEAL'S RECEIPT.

(B) COMPLETING INVESTIGATION.

THE OFFICE OF THE INSPECTOR GENERAL MUST CONDUCT AN INVESTIGATION AND, WITHIN 150 DAYS AFTER THE OFFICE RECEIVED THE COMPLAINT OR APPEAL, PRESENT ITS WRITTEN FINDINGS TO THE HEAD OF THE AGENCY FOR WHICH THE WHISTLEBLOWER WORKS OR THE APPROPRIATE APPOINTING AUTHORITY AND THE WHISTLEBLOWER INVOLVED IN THE COMPLAINT OR APPEAL.

§ 8-8. {RESERVED}

§ 8-9. RULES AND REGULATIONS.

(A) IN GENERAL.

THE INSPECTOR GENERAL MUST ADOPT RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) FILING WITH LEGISLATIVE REFERENCE.

A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

(C) POSTED TO INSPECTOR GENERAL'S WEBSITE.

A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE POSTED ON THE OFFICE OF THE INSPECTOR GENERAL'S WEBSITE.

§ 8-10. JUDICIAL AND APPELLATE REVIEW.

(A) JUDICIAL REVIEW.

ANY PERSON AGGRIEVED BY A FINAL ACTION UNDER THIS SUBTITLE MAY SEEK JUDICIAL REVIEW OF THAT ACTION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

(B) APPELLATE REVIEW.

ANY PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

§ 8-11. OTHER REMEDIES NOT AFFECTED.

NOTHING IN THIS SUBTITLE AFFECTS:

- (1) ANY ACTION FOR DEFAMATION OR INVASION OF PRIVACY;
- (2) EMPLOYEE PROTECTIONS OR EMPLOYEE GRIEVANCE PROCEDURES PROVIDED BY LAW OR CONTRACT; OR
- (3) ANY OTHER REMEDY PROVIDED BY LAW.

§ 8-12. TRAINING.

THE OFFICE OF THE INSPECTOR GENERAL, WITH ASSISTANCE FROM THE LAW DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES, MUST CONDUCT TRAININGS REGARDING THIS SUBTITLE TO INFORM EMPLOYEES AND SUPERVISORS OF THEIR RIGHTS AND RESPONSIBILITIES.

§ 8-13. ADMINISTRATIVE MANUAL.

THE OFFICE OF THE INSPECTOR GENERAL MUST CREATE AN ADMINISTRATIVE MANUAL THAT OUTLINES PROCEDURES AND OTHER INFORMATION RELATIVE TO THE HANDLING OF COMPLAINTS UNDER THIS SUBTITLE.”