



**BRANDON M. SCOTT**  
MAYOR

*Office of Government Relations  
88 State Circle  
Annapolis, Maryland 21401*

**SB894**

March 26, 2024

**TO:** Members of the House Judiciary Committee  
**FROM:** Baltimore City Government Relations  
**RE:** Senate Bill 894 Baltimore City – Control Over Powers the Police Commissioner  
**POSITION:** **Supports**

Chair Clippinger, Vice-Chair Bartlett, and Members of the Committee, please be advised that the Baltimore City Administration **supports** Senate Bill 894.

The bill amends the Baltimore City Charter to repeal a prohibition on enactment of certain City ordinances and acts of certain municipal officers that conflict, impede, obstruct, hinder, or interfere with the powers of the Baltimore City Police Commissioner. Repeal of this language is needed because the Baltimore City Police Department is now established as a City agency as opposed to state agency.

Article II of the Charter specifically authorizes the City to act on BPD-related subjects, such as Art. II, Sec. (26) (BPD pensions). The broader authority to exercise legislative power with respect to the BPD is found in Article II, Section (27), entitled “Police power,” and Article II Section (47), “General welfare.” The police power provision authorizes the Mayor and City Council [t]o have and exercise within the limits of Baltimore City all the power commonly known as the Police Power to the same extent as the State has or could exercise that power within the limits of Baltimore City; provided, however, that no ordinance of the City or act of any municipal officer, other than an act of the Mayor pursuant to Article IV of this Charter, shall conflict, impede, obstruct, hinder or interfere with the powers of the Police Commissioner.

Article II, § (27). The general welfare provision authorizes the Mayor and City Council

[t]o pass any ordinance, not inconsistent with the provisions of this Charter or the laws of the State, which it may deem proper in the exercise of any of the powers, either express or implied, enumerated in this Charter, as well as any ordinance as it may deem proper in maintaining the peace, good government, health and welfare of Baltimore City and to promote the welfare and temperance of minors exposed to advertisements for alcoholic beverages placed in publicly visible locations. Art. II, § (47).

There has been no case interpreting the meaning of the language in these two sections of the City’s express powers as they apply to the BPD since 2021 when the General Assembly enacted Senate Bill 786 to give the City local control of its police department. See 2021 Laws of Maryland, Chapter 133. This is because no other jurisdiction has a police

department that was shaped by the PLL and was once a State agency, and thus no other jurisdiction has similar limiting language in its express powers pertaining to interference with the police commissioner

The problematic language is found in Article II, Section (27) of the Charter (“Police powers”). That section ends with a clause limiting the preceding broad grant of police power: “provided, however, that no ordinance of the City or act of any municipal officer, other than an act of the Mayor pursuant to Article IV of this Charter, shall conflict, impede, obstruct, hinder or interfere with the powers of the Police Commissioner.” This express limitation exists because the BPD was not a City agency when the express powers in Section (27) were granted to the City under Maryland’s current Constitution. Because the City may only repeal or amend PLLs upon matters “covered by the express powers,” Md. Const., Art. XI, this clause prevents the Mayor and City Council from legislating in ways that would interfere with the powers of the Police Commissioner, including by repealing or amending BPD-related PLLs that would have that effect.

In an effort to clarify the impact of this Art (27) language, Senator Jill Carter requested that the Attorney General’s Office provide its opinion. In the opinion that was issued, the Chief Counsel to the General Assembly wrote that “the Maryland Supreme Court acknowledged in 2008 that the foregoing limitation in Sec. 27 is reflective of the fact that the BPD is not an agency of the City of Baltimore. See *Mayor and City Council of Baltimore v. Clark*, 404 Md. 13 (2008). Now that the BPD is a City agency, however, the question is raised as to its relevance. Arguably, Chap. 133 [of 2021 Maryland Laws] was a grant of express power to the City. See Letter from Sandra Benson Brantley, Counsel to the General Assembly to Senator Jill Carter, March 9, 2023.

This opinion, however, was, in the final analysis, equivocal on the outcome, stating that “a risk exists that someone will challenge a future local ordinance as conflicting, impeding, obstructing hindering or interfering with the powers of the police commissioner” and removing the language would reduce any litigation risk and “aligns Sec. 27 with the legislative intent Chapter 133,” the law that authorizes the transfer of the operation of the BPD to City control.”

Because the express powers in the City’s Charter have never been used to operate a police department, and, indeed, reflect the fact that the BPD was not a City agency at the time they were granted, a court could conclude that the PLL in Subtitle 16 concerning the BPD are not able to be repealed by local law without a change in the City’s express powers. See *Baltimore v. State*, supra. This would leave the city in the position of not being able to legislate on matters involving the police department. This would be an illogical result. *london v. State*, 304 Md. 316 (1985) (holding that rules of statutory construction require us to avoid construing a statute in a way that would lead to absurd results.)

In conclusion, since there are no definitive rulings on this issue, the General Assembly should pass legislation deleting the limiting clause from Section (27) in order to fully accomplish local legislative control of the BPD.

We respectfully request a **favorable** report on Senate Bill 894.