

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 92

(Delegate Anderson)(By Request - Baltimore City
Administration)

Environmental Matters

Education, Health, and Environmental Affairs

Baltimore City - Authority of Mayor to Remove Police Commissioner

This bill gives the Mayor of Baltimore City authority to remove at pleasure the city police commissioner, and specifies that this authority is an exception to the prohibition against a city ordinance or act of any municipal officer interfering with the powers of the police commissioner.

The bill takes effect June 1, 2009.

Fiscal Summary

State Effect: None.

Local Effect: The bill has no direct fiscal effect on Baltimore City; however future legal costs associated with disputes over the removal of a police commissioner from office and monetary damages associated with future lawsuits may be avoided.

Small Business Effect: None.

Analysis

Current Law: According to the Public Local Laws of Baltimore City, the mayor may remove the city's police commissioner for official misconduct, malfeasance, inefficiency or incompetency, including prolonged illness. The language of this section of law is silent as to whether there is any other legitimate cause for removal of the police commissioner, nor is removal without cause specifically prohibited.

Article II, Section 27, of the Baltimore City Charter gives the mayor and city council what is commonly known as the police power within the city limits; provided that no city ordinance or act of any municipal officer conflicts, impedes, obstructs, hinders, or interferes with the powers of the police commissioner. Article IV, Section 6(c), of the charter grants the mayor authority to remove at pleasure municipal officers, with the exception of appointed board and commission members (whose removal is subject either to city council approval or civil service provisions).

Background: In November 2004, the police commissioner was relieved from command by the mayor and was sent 45-day notice that his contract of employment, which provided for removal of the commissioner without cause, was to be terminated. The commissioner then filed a complaint in the Circuit Court for Baltimore City against the mayor and city council seeking an injunction, declaratory relief, and reinstatement as police commissioner, as well as monetary damages.

After a lengthy legal dispute involving various rulings in the circuit court and the Maryland Court of Special Appeals, the Maryland Court of Appeals found in March 2008 that the removal power described in the Public Local Laws of Baltimore City enables the mayor to remove the police commissioner for cause, but does not validate any cause beyond those listed, and that a contract conflicting with public policy set forth in statute is invalid to the extent the contract conflicts with that policy.

However, in June 2008 the Circuit Court for Baltimore City denied the former police commissioner's motion for reinstatement to his position. In July 2008 a multi-million dollar lawsuit against the city and the former mayor was dismissed, with the Baltimore City Circuit Court judge ruling that the former commissioner was entitled only to the severance package the city had already provided. Also in July, the U.S. District Court in Baltimore City dismissed the claim that the former commissioner's constitutional rights were violated as a result of being relieved of command and terminated from his position.

Additional Information

Prior Introductions: None.

Cross File: SB 180 (Senator McFadden)(By Request - Baltimore City Administration) - Education, Health, and Environmental Affairs.

Information Source(s): Baltimore City, Department of Legislative Services

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