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	AGENCY NAME & ADDRESS	Law Department		
	SUBJECT	Local Control Transition		

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TC Dana P. Moore,
Chief Equity Officer

QUESTION PRESENTED

What is the nature of the legislative mechanisms necessary for the LCAB to complete its work and implement its recommendations.

ANALYSIS

The LCAB is working on the Charter amendment to bring the Police Department under the control of the City. A question has arisen regarding the process for completing the transfer of the Police Department to local control. The process was initiated in the 2021 GA Session when the General Assembly passed legislation that amended the Public Local Law (PLL) governing the Baltimore City Police Department (BPD). An uncodified section of that bill provides that its provisions shall take effect contingent on the passage of an amendment to the charter providing for the transfer of control of the BPD to the City and its ratification by the voters of Baltimore City in either 2022 or 2024 general elections.

Senate Bill 786 charged the LCAB with studying the potential issues related to the transfer of control of the Police Department including management, transfer of personnel, consideration of various models of local control, financial impacts and details for any potential charter amendments. Among the Board's considerations will be what legislative mechanisms it will need to pursue to implement its recommendations.

The LCAB is now reached the point of considering a Charter amendment to satisfy the requirements of SB 786. The General Assembly has already secured a change to the PLL that provides that the BPD is an instrumentality of the City. See SB 786 and. Laws of Md. 2021 Chap. 133(codification on SB786.) Chap133 specifically provides for the BPD to be an agency and instrumentality of the City. The Charter amendment will complete the process and can be crafted to accomplish the immediate goals of the LCAB. Any additional work can be pursued when the LCAB has concluded its study and made its final recommendations.

One of the things that the Board will consider when making its recommendations is the nature of the legislative mechanisms needed to implement their recommendations. There are two provisions of the Md. Constitution in play. Art. XI-A, Sec. 2 requires the General Assembly to determine the basic legislative categories for local legislation; provides that those powers may not be changed except by the General Assembly. The second provision is Art. XI-A, Sec. 4 precludes the General Assembly from enacting local laws on the categories for which the local government has been granted authority to legislate. These provisions accomplish the purpose of

limiting the right of the General Assembly to consider certain local matters which are vested in Baltimore City. See *States Attorney of Baltimore City v. City of Baltimore*, 274 Md. 597(1975).. If the General Assembly wishes to diminish the powers granted to Baltimore City or a charter county, it must do so by amending the acts which granted the powers. It may not do so by enacting a separate public local law which is merely inconsistent with the acts granting the express powers to the City or to the charter counties. If the Legislature could change the grant of power by the simple expedient to passing an act in conflict with the legislation of the local authorities, it would result in the complete frustration of the object of the amendment.” Id. citing *State v. Stewart*, 152 Md. 419 (1927).

The parameters for legislation concerning the local control of the Police Department will require the consideration of the principles of the Art. XI-A. The General Assembly amended the Public Local law to change the nature of the Baltimore City Police to a City rather than State entity. The intent was to allow for the Mayor and City Council to provide by Charter amendment for the new Police Department. However, Art. II, Sec. 27 of the City’s express powers says that the grant of police powers to the City is limited so 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.” In order to have the tool of local legislation available to it to implement its recommendations, this sentence will need to be removed from Sec. 27. Since it is part of the express powers of the City, the Board will have to pursue this change with the General Assembly

CONCLUSION

The LCAB has not concluded its study of the how best to accomplish local control of the Police Department. When it has done so, the mechanisms for implementation will be determined based on the findings and recommendations of the Board. The effect of the current language of Art. II, Section 27 should be addressed in order to ensure that the necessary tools will be available that may be needed to implement future recommendations of the Board.

cc: James L. Shea
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