



**OFFICE OF THE
CHIEF FINANCIAL OFFICER**

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March 25, 2022

Honorable Detroit City Council
Coleman A. Young Municipal Center
2 Woodward Avenue
Detroit, MI 48226

Re: Fiscal Impact of Proposed “Right to Counsel” Ordinance

Dear Honorable Council Members:

Please see attached Fiscal Impact Statement prepared by the Office of Budget for the above referenced item, pursuant to [CFO Directive 2018-101-029: Fiscal Impact Statements](#).

As the fiscal statement reports, the proposed “right to counsel” ordinance would have a negative fiscal impact on the City budget because it creates unlimited City obligation to provide legal services against any and all permitted funding sources, rather than being subject to routine annual budget and appropriations procedures and limitations. That would impact any and all permitted funding sources routinely used for various programs in the City’s annual budget and four-year financial plan.

This would impair the City’s ability to adopt and adhere to a balanced annual budget and four-year financial plan. In turn, that would put the City at risk of losing its waiver of Financial Review Commission active oversight. Among other conditions, Section 8 of the Michigan Financial Review Commission Act (PA 181 of 2014) conditions the City’s oversight waiver on the following:

“the qualified city’s financial plan projects a balanced budget for the current and succeeding 3 fiscal years using generally accepted accounting principles and in accordance with the uniform budgeting and accounting act” (Sec. 8(2)(c))

Based on the attached Fiscal Impact Statement, the proposed “right to counsel” ordinance would impair my ability to certify a balanced budget (pursuant to Sec. 4s(c) of the Home Rule City Act) and would put the City at imminent risk of losing its waiver of Financial Review Commission active oversight.

Moreover, City Council’s action to create a “right to counsel” could itself be considered the creation of a debt and, through such action, be in violation of the Uniform Budget and Accounting Act, PA 2 of 1968, and the Revised Municipal Finance Act, PA 34 of 2001. When construed as having created a debt, the action is without the requisite State Treasurer approval. That, also, would put the City at risk of losing its waiver under Section 8(2)(f) and (g) and Section 8(3)(c) of the Michigan Financial Review Commission Act.

Upon review, please do not hesitate to contact me to discuss further. These comments are offered to assist City Council in fulfilling shared policy objectives without forfeiting the City’s Financial Review Commission waiver.

Sincerely,

Jay B. Rising
Chief Financial Officer

Att: CFO Fiscal Impact Statement No. 2022-110-003

Cc: Mayor Michael Duggan
Rachel Eubanks, State Treasurer
Financial Review Commissions
Tanya Stoudemire, Chief Deputy CFO/Policy and Administration Director
John Naglick, Chief Deputy CFO/Finance Director
Steven Watson, Deputy CFO/Budget Director
Gail Fulton, City Council Liaison
David Whitaker, Director, Legislative Policy Division