

Mr. Philip Wagner, Executive Secretary, Employees Retirement System
of the City of Baltimore (continued)

In our opinion, the provisions of Article 65, Section 88, are binding on your Board, and are determinative of Mr. Kastner's rights. While under the Home Rule Amendment found in Article 11 (A) of the Maryland Constitution, and Section 6 (22) of the City Charter, the Mayor and City Council of Baltimore is given express power to establish and maintain a pension system, and the General Assembly is prohibited from passing any public local law on any subject covered by such express powers, this section of the Code in question is a Public General Law of the State and, therefore, not within the prohibition of the Constitution.

The Constitution (Article 11 (A), Section (4) specifically states that any law which applies to two or more geographical subdivisions of the State is not a local law. Article 65, Section 88, applies to the "City of Baltimore, or any other political subdivision of this State."

A similar question was presented to this office previously and in 49 Opinions of the City Solicitor 118, we held that a law enacted by the General Assembly providing for reemployment, after military service, of employees of the State, "any of the counties therein, the City of Baltimore, or any other governmental subdivision of the State" was a Public General Law of the State, not in conflict with the Home Rule Amendment found in Article 11 (A) of the Maryland Constitution, and, therefore, took precedent over any rules and regulations promulgated by the City Service Commission of Baltimore.

If you have any further questions, please do not hesitate to call upon us.

Very truly yours,

/s/

HUGO A. RICCIUTI
City Solicitor

/s/

BLANCHE G. WAHL
Assistant City Solicitor

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