

37

Mr. Philip Wagner, Executive Secretary
Employees Retirement System (continued)

choose is a legislative power conferred upon the City Council as such and not delegable by it. In discussing the matter, the Court said:

"The constitutional requirement of separation of powers is not applicable to local government. * * * Just how much power is granted by a particular statute is a question of statutory construction, * * * not a constitutional question. In the past municipal charters, through imitation of state and federal constitutions, often made a separation of powers similar to the constitutional separation. Such charters gave rise to questions of statutory construction similar to constitutional questions of separation of powers. * * * The new Baltimore charter and other recent charters reflect less imitation and greater recognition of functions and problems characteristic of municipal government."
(p. 879)

In this case, the vesting of authority in the Board of Estimates to establish the exemption as to any particular class of employees is predicated upon, and subject to, certain conditions, namely, (1) the recommendation of the executive head of a department or agency of the City; (2) a determination that the creation of the exemption will assist the City in filling vacant positions, and (3) in the alternative, will promote the effective and orderly administration of the public's business. The aforementioned conditions must be complied with by the Board of Estimates, and are of such a nature as to constitute sufficient standards for the guidance of the Board in connection with the exercise of the power proposed to be granted to it.

In view of the foregoing, we are of the opinion that the proposed City Council Ordinance No. 839 is valid.

However, notwithstanding the above conclusion we wish to point out that the passage of the proposed ordinance may raise some practical problems.

Generally, the right to provide for appointments to, and employment in, the Classified Civil Service is vested in the