

City of Philadelphia



Council of the City of Philadelphia
Office of the Chief Clerk
Room 402, City Hall
Philadelphia

(Resolution No. 040817)

RESOLUTION

Proposing an amendment to the Philadelphia Home Rule Charter to provide for the creation, appointment, powers and duties of an independent Board of Ethics, to provide for annual appropriations for the Board of Ethics, and providing for the submission of the amendment to the electors of Philadelphia.

WHEREAS, Under Section 6 of the First Class City Home Rule Act (53 P.S. §13106), an amendment to the Philadelphia Home Rule Charter may be proposed by a resolution of the Council of the City of Philadelphia adopted with the concurrence of two-thirds of its elected members; now therefore

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That the following amendment to the Philadelphia Home Rule Charter is hereby proposed and shall be submitted to the electors of the City on an election date designated by ordinance:

ARTICLE II - LEGISLATIVE BRANCH

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CHAPTER 2 COUNCILMANIC PROCEDURE

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SECTION 2-202. Submission of Ordinances to the Mayor.

Every ordinance shall, before it takes effect, be certified to the Mayor for his approval. The Mayor shall sign the ordinance if he approves it, whereupon it shall become law. If he disapproves it, he shall return it to the Council with the reason for his disapproval at the first meeting thereof held not less than ten days after he receives it. If the Council shall pass the bill by a vote of two-thirds of all of its members within seven days after the bill has been returned with the Mayor's disapproval, it shall become law without his

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approval. If the Mayor does not return the ordinance within the time required, it shall become law without his approval. The Mayor may disapprove or reduce any item or items of any ordinance making appropriations, except the items in the annual operating budget ordinance making appropriations (a) to the Auditing Department for the compensation of auditors regularly employed by it [and] , (b) for the work of the Personnel Director and the Civil Service Commission, and (c) for the work of the Board of Ethics, which shall become law if any part of the ordinance is approved. Subject only to the foregoing exceptions, the approved part or parts of any ordinance making an appropriation shall become law, and the part or parts disapproved shall not become law unless passed by the Council over the Mayor's veto as provided herein.

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CHAPTER 3 LEGISLATION

SECTION 2-300. The Annual Operating Budget Ordinance.

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(4) In every annual operating budget ordinance:

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(e) *For the first two fiscal years immediately following the effective date of this subsection, at least \$1,000,000; and for all subsequent fiscal years, an amount adequate to enable the Board to perform the functions assigned to it by this charter, shall be appropriated for the work of the Board of Ethics. Should the Council fail to make an adequate appropriation to the Board of Ethics, the Board may petition any court of Common Pleas of Philadelphia County for a mandamus to the Council to perform its duty under this section.*

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ARTICLE III - EXECUTIVE AND ADMINISTRATIVE BRANCH - ORGANIZATION

CHAPTER 1

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OFFICERS, DEPARTMENTS, BOARDS, COMMISSIONS AND OTHER AGENCIES

SECTION 3-100. Executive and Administrative Officers, Departments, Boards, Commissions and Agencies Designated. The executive and administrative work of the City shall be performed by:

* * *

(e) The following independent boards and commissions, which, except for the Board of Trustees of the Free Library of Philadelphia, are hereby created:

City Planning Commission;

Commission on Human Relations;

Board of Trustees of the Free Library of Philadelphia;

Board of Pensions and Retirement;

Civil Service Commission;

Philadelphia Tax Reform Commission and its Advisory Committee [.];

Board of Ethics.

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CHAPTER 8 INDEPENDENT BOARDS AND COMMISSIONS

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SECTION 3-806. *Board of Ethics.*

(a) *Composition.*

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There shall be a Board of Ethics consisting of five members appointed by the Mayor with the advice and consent of a majority of the members of City Council. Members shall be chosen for their independence, integrity, civic commitment and high ethical standards; they shall be residents of, or have their primary place of business in, the City of Philadelphia and registered to vote. The members of the Board shall elect a chair and such other officers as deemed necessary.

(b) *Initial Appointments, Term of Service, and Successors.*

All appointments to the Board shall be made within ninety days after the Board is first created. The terms of the initial appointments to the Board shall be as follows: one member shall serve for a term of one year; one member shall serve for a term of two years; one member shall serve for a term of three years; one member shall serve for a term of four years; and, one member shall serve for a term of five years. Thereafter, all members shall serve for a term of five years. Members shall serve until their successors have been appointed and confirmed. If the Mayor has not submitted to the Council a nomination for appointment of a successor at least thirty days prior to the expiration of the term of the member whose term is expiring, the term of the member in office shall be extended for an additional year and the term of the successor shall be shortened by an equal amount of time. If the City Council fails to act within ninety days of receipt of a nomination for a successor from the Mayor, the nomination shall be deemed confirmed.

(c) *Vacancies.*

Any vacancy occurring other than by expiration of a term shall be filled by nomination by the Mayor made to the City Council within thirty days of the creation of the vacancy for the unexpired portion of the term of the member succeeded. If the City Council fails to act within sixty days of receipt of such nomination from the Mayor, the nomination shall be deemed confirmed.

(d) *Term Limits.*

No member of the Board shall serve for more than two consecutive five-year terms.

(e) *Prohibited Activities.*

No person while serving as a member of the Board of Ethics shall: seek or hold a position as an elected or appointed public official or employee within the Commonwealth (other than as a member of an advisory body that has no authority to expend public funds other than reimbursement for personal expenses or to otherwise exercise the power of the State or any political subdivision thereof), or as an officer of a political party; or, make financial contributions to any candidate for any City office or to any incumbent City official.

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Members of the Board of Ethics shall be subject to all of the political activities restrictions set forth in Section 10-107 that apply to appointed City officers and employees.

(f) *Removal for Cause.*

Members may only be removed for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this Section, or of ordinances or laws relating to ethical matters after written notice and opportunity for reply. The Mayor shall provide a written notice to the member stating the reasons for removal and file a copy of said notice at the same time with the President of City Council and the Chief Clerk of City Council. An opportunity for the member to reply will be provided at a public hearing of the City Council Committee of the Whole at which the Mayor, or the Managing Director if directed by the Mayor, will also present and explain the reasons for removal. A vote of two-thirds of all the members of Council at a meeting of Council shall be required before such member can be removed.

(g) *Executive Director, Counsel and Staff.*

The Board, subject to the availability of appropriations, shall appoint and fix the compensation of an executive director and such other staff and consultants as may be required to exercise its powers and fulfill its obligations. The appointment of an executive director shall require a vote of three of the members of the Board. The Board shall also appoint, by a vote of three members, a counsel to serve at its pleasure subject to the availability of appropriations. The authority of the executive director, counsel and other staff shall be defined in writing by the Board. The Board shall use the services of the Law Department whenever it needs legal advice or is engaged in litigation, except that the Board need not use the services of the Law Department and may rely solely upon the Board's counsel and staff when the Board is investigating suspected ethical violations or is engaged in enforcement activities, and the Board shall not be bound by any opinion of the Law Department in interpreting ordinances relating to ethical matters.

(h) *Post Service and Employment Restrictions.*

No member of the Board, its executive director or counsel shall seek any elective City office until two years after the expiration of a term of service or termination of employment.

(i) *Meetings.*

The Board shall meet at least quarterly and at such other times as the chair may deem necessary. Three members of the Board shall constitute a quorum. The Board shall convene its first meeting within thirty (30) days after all initial appointments are made and confirmed.

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(j) *Compensation.*

Members of the Board shall receive compensation in such amount as ordained by Council.

(k) *Annual Fiscal Report.*

Not later than three months after the end of each fiscal year, the Board shall submit to the Mayor, the President of City Council, the Chief Clerk of City Council and the Department of Records a detailed accounting of all of its expenditures during the previous fiscal year.

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ARTICLE IV EXECUTIVE AND ADMINISTRATIVE BRANCH POWERS AND DUTIES

The Mayor, the City Representative and
Departments, Boards and Commissions under the Mayor

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Chapter 10 Board of Ethics

SECTION 4-1000. Powers and Duties.

The Board of Ethics shall administer and enforce all provisions of this Charter and ordinances pertaining to ethical matters, which for purposes of this Chapter shall include conflicts of interest, financial disclosure, standards of governmental conduct, campaign

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finance matters, prohibited political activities, and such additional related matters as the Council may from time to time assign to the Board. The Board shall handle all inquiries and complaints surrounding ethical matters and, notwithstanding the provisions of Section 4-400(a) and Section 8-410 of this charter, the Board shall render advisory opinions; provided that, with respect to opinions regarding State law, the Law Department, at the option of an employee requesting advice, shall have concurrent authority to render advisory opinions. The Board shall have the power to conduct investigations and convene hearings. The Board shall conduct its enforcement activities either by bringing enforcement actions in the Court of Common Pleas or, if authorized by Council by ordinance, administratively adjudicating alleged violations and imposing civil penalties and other remedies for violations. The Board shall prepare and disseminate a Code of Ethics Manual for use by all City officers and employees and conduct educational and training programs for all City officers and employees.

In addition, and subject to the provisions of this charter, the Board of Ethics shall exercise such other powers and duties vested in and imposed upon it by ordinance.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the first of December, 2005.

Anna C. Verna
PRESIDENT OF THE COUNCIL

Patricia Rafferty
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmembers Nutter and Goode

Sponsored by: Councilmembers Nutter, Goode, Kenney and DiCicco