



# City of Philadelphia

Philadelphia, PA 19107

**BILL NO. 050188**

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**Introduced March 3, 2005**

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**Councilmembers Kenney and DiCicco**

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**Referred to the  
Committee on Finance**

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## **AN ORDINANCE**

Amending Title 19 of The Philadelphia Code, entitled "Finance, Taxes and Collections," by creating a Rainy Day Fund to cushion the impact of unanticipated declines in City revenues; providing for the circumstances under which City monies must be deposited into the Rainy Day Fund and the circumstances under which expenditures may be made from the Rainy Day Fund; and providing for the custody and management of the Rainy Day Fund; all under certain terms and conditions.

WHEREAS, Economic uncertainty arising from events over which the City has no control impairs the ability of the City to accurately predict revenues and expenditures; and

WHEREAS, Overestimates of revenues and underestimates of expenditures can create serious short-term deficits which could force the City into choosing between raising taxes and cutting services, further impairing the City's ability to attract and retain businesses and jobs, damaging the City's creditworthiness, and increasing the cost of borrowing for essential capital projects; and

WHEREAS, In response to similar concerns, forty-four states and numerous cities have created "rainy day" or "stabilization reserve" funds; and

WHEREAS, The Pennsylvania Intergovernmental Cooperation Authority, the state oversight board charged with overseeing the City's finances, in November 2000 published its "White Paper No. 9," entitled "Philadelphia's Fiscal Challenge: Finding A Way To Save," which recommended the City create a rainy day fund; and

WHEREAS, City Council's Legislative Oversight Committee held a hearing on January 31, 2001 to receive testimony as to the establishment of a rainy day fund, and all

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witnesses, including a representative of the Administration and several representatives from bond rating firms, testified as to the benefits of the creation of such a fund; and

WHEREAS, City Council agrees with the finding of the Pennsylvania General Assembly when it created the Commonwealth's Tax Stabilization Reserve Fund that "it is a valid and proper public function to set aside a portion of . . . revenues . . . in order to minimize future revenue shortfalls and deficits, provide greater continuity and predictability in the funding of vital government services and minimize the need to increase taxes to balance the budget . . . during periods of economic distress"; and

WHEREAS, For these reasons, City Council has concluded that it is appropriate to create a Rainy Day Fund for the City; now, therefore,

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 19 of The Philadelphia Code is hereby amended to read as follows:

## TITLE 19. FINANCE, TAXES AND COLLECTIONS.

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### *CHAPTER 19-3400. RAINY DAY FUND.*

#### *§19-3401. Definitions.*

- (1) *PICA. The Pennsylvania Intergovernmental Cooperation Authority.*
- (2) *Unanticipated Revenues. All locally generated tax and non-tax revenues received in a fiscal year in excess of the amounts anticipated for such fiscal year as set forth in the same fiscal year's Five Year Financial Plan for the City of Philadelphia as approved by PICA.*

#### *§19-3402. Creation of the Rainy Day Fund.*

- (1) *A Rainy Day Fund shall be created and maintained by the Director of Finance.*
- (2) *Monies shall be deposited in the Rainy Day Fund under the terms and conditions of this Chapter. Monies deposited in the Rainy Day Fund shall be separately accounted for, and shall not be commingled with any other monies of the City.*

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(3) *Expenditures from the Rainy Day Fund shall be made only under the terms and conditions set forth in this Chapter.*

§19-3403. *Deposits into the Rainy Day Fund; Cap.*

(1) *The Director of Finance shall, thirty days after this Ordinance take effect, deposit into the Rainy Day Fund the following amounts:*

(a) *Twenty-five percent (25%) of Unanticipated Revenues for the fiscal year ending the previous June 30.*

(b) *Twenty-five percent (25%) of the General Fund Balance existing on the previous June 30.*

(2) *In each subsequent fiscal year, except as provided in subsection (3), the Director of Finance shall, on November 15 of that year, deposit into the Rainy Day Fund whichever is greater of the following amounts:*

(a) *Twenty-five percent (25%) of Unanticipated Revenues for the fiscal year ending the previous June 30.*

(b) *Twenty-five percent (25%) of the General Fund Balance existing on the previous June 30.*

(c) *If the General Fund Balance existing on the previous June 30 increased from the prior fiscal year's General Fund Balance, fifty percent (50%) of that General Fund Balance increase.*

(3) *The deposits required by subsection (2) shall be made only to the extent the balance of the Rainy Day Fund on November 1 of any year is less than five percent (5%) of the average of General Fund expenditures during the previous three fiscal years, unless otherwise approved by a resolution adopted by a two-thirds vote of all the members of the Council.*

§19-3404. *Expenditures from the Rainy Day Fund.*

(1) *Expenditures from the Rainy Day Fund may be made at any time during the fiscal year by councilmanic ordinance.*

(2) *The ordinance may include appropriations from the Rainy Day Fund only if approved by a two-thirds vote of all the members of the Council, and only if:*

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(a) *PICA certifies in writing that:*

(i) *during the prior fiscal year there were two consecutive quarters of job loss in the City, as measured by the Bureau of Labor Statistics; or*

(ii) *revenues actually received by the City during the prior fiscal year were at least 1% less than the revenues anticipated for such fiscal year as set forth in the Five Year Financial Plan for the City of Philadelphia as approved by PICA; or*

(iii) *PICA concurs with City Council and the Administration that the City has experienced an emergency which could not be anticipated; and*

(b) *A copy of PICA's certificate is filed with the Chief Clerk of Council prior to adoption of the annual operating budget ordinance.*

*§19-3405. Custody of the Rainy Day Fund; Investments.*

(1) *Monies contained in the Rainy Day Fund shall be kept in the custody of the City Treasurer.*

(2) *The City Treasurer shall invest the monies in the Rainy Day Fund in accordance with §19-202, except that the City Treasurer may invest twenty-five percent (25%) of the deposits into the Rainy Day Fund under the standards for investments set forth in §22-1001.*

*§19-3406. Reporting.*

(1) *On December 1 of each year, the Director of Finance shall file with the Chief Clerk of Council a report setting forth:*

(a) *The amount of Unanticipated Revenues and the General Fund Balance for the prior fiscal year;*

(b) *The date and amount of any deposits made into the Rainy Day Fund since the date of the last report;*

(c) *The amount of expenditures made from the Rainy Day Fund since the date of the last report and any expenditures anticipated to be made after the date of*

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*the report and during the remainder of the fiscal year, and the appropriations against which such expenditures were or are anticipated to be made;*

(d) *The balance in the Rainy Day Fund;*

(e) *The manner in which the Rainy Day Fund is invested as of the date of the report, and the performance of the investments in the Rainy Day Fund during the previous year; and*

(f) *Any recommended changes in the manner in which the Rainy Day Fund is administered.*

## *§19-3407. Fail Safe Provisions.*

(1) *If the Director of Finance fails to make deposits into the Rainy Day Fund as required by this Chapter, City Council shall, notwithstanding such failure, adopt annual operating budget ordinances as if the Rainy Day Fund were fully funded pursuant to the provisions of this Chapter and as if the limitations of §19-3404 applied to the expenditure of such funds.*

(2) *To carry out its duties under this Section, City Council shall ensure that every annual operating budget is balanced without taking into consideration as a source of revenue any revenues or fund balances that would have been deposited into the Rainy Day Fund if the Director of Finance had complied in full with the provisions of this Chapter, unless PICA has filed a certificate with City Council making the findings required under §19-3404(2)(a).*

SECTION 2. Severability. It is Council's intent that the provisions of Chapter 19-3400 of The Philadelphia Code, as added by Section 1 of this Ordinance, are severable, and if any provision thereof shall be held illegal, invalid, unconstitutional or inapplicable to any circumstances, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions of that Chapter or their application to such circumstances. It is hereby declared to be the legislative intent of Council that Chapter 19-3400, and, in particular, the "fail safe" provisions of Section 19-3407, would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, subsection or part had not been included therein, and if the circumstances to which the Chapter or any part thereof is inapplicable had specifically been exempted therefrom.

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SECTION 3. Effective Date. This Ordinance shall take effect immediately. The duty of the Director of Finance to make deposits into the Rainy Day Fund under the provisions of Chapter 19-3400 of The Philadelphia Code, as added by Section 1 of this Ordinance, shall begin thirty days after this Ordinance takes effect, and the first annual operating budget ordinance to which the provisions of that Chapter shall apply shall be the operating budget ordinance for Fiscal Year 2007.

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**Explanation:**

[Brackets] indicate matter deleted.  
*Italics* indicate new matter added.