

Bill No. 2722-06

No. 26-06-OR

AN ORDINANCE

An ordinance of the County of Allegheny, Commonwealth of Pennsylvania, to amend the Code of the County of Allegheny, Division 1, entitled Administrative Code, to amend existing Articles and add a new Article requiring that all County authorities, agencies, boards and commissions cooperate with the County Controller in engaging an independent auditor for the purpose of conducting the annual financial audit of the authority, agency, board or commission, and requiring that the County Controller oversee such annual financial audits.

WHEREAS, the County and Commonwealth have repeatedly expressed a desire for complete transparency in the finances of the various quasi-governmental entities created under the provisions of state and local law; and

WHEREAS, these quasi-governmental entities, which have been incorporated variously as authorities, boards, commissions, and agencies share the characteristic of having appointed governing bodies which do not have any direct accountability to the voters of the County or Commonwealth; and

WHEREAS, the state laws under which these entities are created, such as the Municipality Authorities Act, often provide that an authority, board, commission or agency must file an annual report of its fiscal affairs and have its books, accounts, and records audited annually by a certified public accountant, the procedure employed and extent of the review are not always uniform between the various entities; and

WHEREAS, although not completely uniform in application to all of the authorities, boards, commissions and agencies, the various provisions of state law under which they are created do evince a clear mandate that these entities should and must examine their finances and make those examinations available to the elected government(s) and public which they serve; and

WHEREAS, implementing a new standard requiring a uniform review by the County Controller or an agent thereof is fully consistent with this clearly mandated goal of complete transparency, is entirely appropriate in determining whether there are issues or concerns regarding the authority's operations, and will ensure equity among the various authorities, boards, commissions and agencies by creating a uniform review procedure;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1.

Article 203 of Division 1 of the Code of Allegheny County is hereby amended to include a new §5-203.07 as follows:

§5-203.07. Audit Requirement.

- A. All authorities created singularly or jointly by Allegheny County enumerated in §5-203.01 above shall provide advice to the County Controller at the conclusion of each fiscal year in the selection of an independent auditor to conduct the authority's annual financial audit.
 - 1. Such independent auditor shall be a member of the American Institute of Certified Public Accountants, and must have a minimum of five years' verifiable experience in performing audits of government funds for organizations with an annual budget comparable to or larger than that of the authority for which the auditor is being selected.
 - 2. The independent auditor shall not have been an employee or agent of the authority for which the auditor is being selected for a period of at least five years at the time at which he or she is selected.
 - 3. Final selection of the auditor shall be made by the Allegheny County Controller. The selection of the Controller need not be approved by the authority to be audited, nor shall the approval of the Chief Executive, Allegheny County Council, or other entity be required.
- B. Once selected, the independent auditor shall conduct a financial audit of the authority, and shall be given free and unfettered access to the financial records of the authority. Such audit shall be paid for in its entirety by funds from the operating budget of the authority.
 - 1. The final audited financial statement shall be consistent with the generally accepted accounting principles prescribed by the American Institute of Certified Public Accountants or its successor or by any other recognized authoritative body selected by the Allegheny County Controller and consistent with the financial reporting policies and standards promulgated by Federal Government and State government which apply to government entities.
 - 2. The audited financial statement required under Section B.1. shall, at a minimum, include:

- i. Results of the tests of the authority's accounting records and other procedures that are considered necessary to enable the independent auditor to express an opinion as to whether the authority's financial statements are fairly presented, in all material respects, consistent with the accounting principles set forth in clause 1; and
 - ii. A schedule of expenses that presents all operating and capital expenses pertaining to the authority's activities; and
3. The Allegheny County Controller shall review the audited financial statement of each authority to determine whether the public funds allocated to the authority have been expended in accordance with the accounting principles set forth in Section B.1. The Controller shall have ninety (90) days from the receipt of an audited financial statement to review the audited financial statement and notify the independent auditor and the authority of any material failure to meet the requirements of this subsection.
 - i. An authority that receives notice from the Controller under Section B.3. shall have ninety (90) days from the receipt of such notice to submit a corrective action plan to the Controller.
 - ii. The Controller shall approve, reject or alter the corrective action plan within thirty (30) days of submission. After the authority receives written notice of approval of the corrective action plan or agrees in writing to the Controller's alterations of the corrective action plan, the plan shall be implemented and binding on the authority. Implementation of the approved or agreed-upon corrective action plan shall be verified by an audit conducted by the Controller no later than the end of the fiscal year following the fiscal year during which the plan is implemented. If no agreed-upon corrective action plan is in place within one year after the date of the Controller's written notice under Section B.3. or if the agreed-upon corrective action plan has not been implemented within one year after the date of the Controller's written notice under Section B.3., then the Controller shall petition Allegheny County Council to adjust payments to the authority to collect any amounts due based upon the findings contained in the audit report.
4. The Allegheny County Controller shall promulgate final-omitted regulations pursuant as necessary to implement this section.
5. The Allegheny County Council may withhold funds appropriated to authorities as necessary to ensure that audit reports are submitted in the prescribed fashion.

- C. In addition to the annual financial audit of each authority, additional single audits may be performed in accordance with the above-listed procedures on an as-needed basis at any time. The final determination of the need for such an audit shall be made by the Allegheny County Controller.
1. If the governing body of the authority provides a written statement of agreement with the Controller as to the need for the single audit, such audit shall be paid for entirely by funds from the operating budget of the authority.
 2. If the governing body of the authority does not provide a written statement of agreement with the Controller's determination of need, such audit shall be paid for by the Office of the Controller.

SECTION 2.

Article 205 of Division 1 of the Code of Allegheny County is hereby created as follows:

§5-205.01. Authorities, Boards and Commissions Operating Within Allegheny County.

- A. All entities having the word "authority," "board," or "commission" in their title and meeting the following conditions shall be deemed to be subject to the terms of this article:
1. The entity was formed under the provisions of the Municipality Authorities Act (56 P.S. §5601 *et. seq.*) or any other enabling legislation; and
 2. The entity conducts its activities in whole or in part within Allegheny County; and
 3. The entity is funded, in whole or in part, by public funds; and
 4. The entity is defined as a body politic and corporate or as a quasi-governmental entity by either any statute(s) under which it was created or applicable case law; and
 4. The entity is not enumerated in §5-203.01 of this Administrative Code.
- B. Entities meeting the criteria established in Section A shall be deemed exempt from the provisions of this Article only to the extent that such exemption is specifically provided for by applicable federal or state law.

§5-205.02. Audit Requirement.

- A. All authorities, boards or commissions as delineated in §5-205.01 above shall provide advice to the County Controller at the conclusion of each fiscal year in the selection of an independent auditor to conduct the annual financial audit of the authority, board or commission.
1. Such independent auditor shall be a member of the American Institute of Certified Public Accountants, and must have a minimum of five years' verifiable experience in performing audits of government funds for organizations with an annual budget comparable to or larger than that of the authority, board or commission for which the auditor is being selected.
 2. The independent auditor shall not have been an employee or agent of the authority, board or commission for which the auditor is being selected for a period of at least five years at the time at which he or she is selected.
 3. Final selection of the auditor shall be made by the Allegheny County Controller. The selection of the Controller need not be approved by the authority, board or commission to be audited, nor shall the approval of the Chief Executive, Allegheny County Council, or other entity be required.
- B. Once selected, the independent auditor shall conduct a financial audit of the authority, board or commission, and shall be given free and unfettered access to the financial records of the authority, board or commission. Such audit shall be paid for in its entirety by funds from the operating budget of the authority, board or commission.
1. The final audited financial statement shall be consistent with the generally accepted accounting principles prescribed by the American Institute of Certified Public Accountants or its successor or by any other recognized authoritative body selected by the Allegheny County Controller and consistent with the financial reporting policies and standards promulgated by Federal Government and State government which apply to government entities.
 2. The audited financial statement required under Section B.1. shall, at a minimum, include:
 - i. Results of the tests of the accounting records and other procedures of the authority, board or commission that are considered necessary to enable the independent auditor to express an opinion as to whether the entity's financial statements are fairly presented, in all material respects, consistent with the accounting principles set forth in Section B.1.;and

- ii. A schedule of expenses that presents all operating and capital expenses pertaining to the entity's activities; and
 - 3. The Allegheny County Controller shall review the audited financial statement of each authority, board and commission to determine whether the public funds allocated to the entity have been expended in accordance with the accounting principles set forth in Section B.1. The Controller shall have ninety (90) days from the receipt of an audited financial statement to review the audited financial statement and notify the independent auditor and the authority, board or commission of any material failure to meet the requirements of this subsection.
 - i. An entity that receives notice from the Controller under Section B.3. shall have ninety (90) days from the receipt of such notice to submit a corrective action plan to the Controller.
 - ii. The Controller shall approve, reject or alter the corrective action plan within thirty (30) days of submission. After the authority, board or commission receives written notice of approval of the corrective action plan or agrees in writing to the Controller's alterations of the corrective action plan, the plan shall be implemented and binding on the entity. Implementation of the approved or agreed-upon corrective action plan shall be verified by an audit conducted by the Controller no later than the end of the fiscal year following the fiscal year during which the plan is implemented. If no agreed-upon corrective action plan is in place within one year after the date of the Controller's written notice under Section B.3. or if the agreed-upon corrective action plan has not been implemented within one year after the date of the Controller's written notice under Section B.3., then the Controller shall petition Allegheny County Council to adjust payments to the entity to collect any amounts due based upon the findings contained in the audit report.
 - 4. The Allegheny County Controller shall promulgate final-omitted regulations pursuant as necessary to implement this section.
 - 5. The Allegheny County Council may withhold funds appropriated to authorities, boards or commissions as necessary to ensure that audit reports are submitted in the prescribed fashion.
- C. In addition to the annual financial audit of each authority, board and commission, additional single audits may be performed in accordance with the above-listed procedures on an as-needed basis at any time. The final determination of the need for such an audit shall be made by the Allegheny County Controller.

1. If the governing body of the authority, board or commission provides a written statement of agreement with the Controller as to the need for the single audit, such audit shall be paid for entirely by funds from the operating budget of the authority.
2. If the authority, board or commission does not provide a written statement of agreement with the Controller's determination of need, such audit shall be paid for by the Office of the Controller.

SECTION 3.

Article 215 of Division 1 of the Code of Allegheny County is hereby amended to include a new §5-215.04, as follows:

§5-215.04. Audit Requirement.

- A. All County agencies delineated in §5-215.01 above and all County and non-County nonprofit corporations and associations delineated in §5-215.03 above shall provide advice to the County Controller at the conclusion of each fiscal year in the selection of an independent auditor to conduct the annual financial audit of the agency or nonprofit entity.
 1. Such independent auditor shall be a member of the American Institute of Certified Public Accountants, and must have a minimum of five years' verifiable experience in performing audits of government funds for organizations with an annual budget comparable to or larger than that of the agency or nonprofit entity for which the auditor is being selected.
 2. The independent auditor shall not have been an employee or agent of the agency or nonprofit entity for which the auditor is being selected for a period of at least five years at the time at which he or she is selected.
 3. Final selection of the auditor shall be made by the Allegheny County Controller. The selection of the Controller need not be approved by the agency or nonprofit entity to be audited, nor shall the approval of the Chief Executive, Allegheny County Council, or other entity be required.
- B. Once selected, the independent auditor shall conduct a financial audit of the agency or nonprofit entity, and shall be given free and unfettered access to the financial records of the agency or nonprofit entity. Such audit shall be paid for in its entirety by funds from the operating budget of the agency or nonprofit entity.
 1. The final audited financial statement shall be consistent with the generally accepted accounting principles prescribed by the American Institute of Certified Public Accountants or its successor or by any other recognized

authoritative body selected by the Allegheny County Controller and consistent with the financial reporting policies and standards promulgated by Federal Government and State government which apply to government entities.

2. The audited financial statement required under Section B.1. shall, at a minimum, include:
 - i. Results of the tests of the accounting records and other procedures of the agency or nonprofit entity that are considered necessary to enable the independent auditor to express an opinion as to whether the entity's financial statements are fairly presented, in all material respects, consistent with the accounting principles set forth in Section B.1.;and
 - ii. A schedule of expenses that presents all operating and capital expenses pertaining to the entity's activities; and
3. The Allegheny County Controller shall review the audited financial statement of each agency or nonprofit entity to determine whether the public funds allocated to the entity have been expended in accordance with the accounting principles set forth in Section B.1. The Controller shall have ninety (90) days from the receipt of an audited financial statement to review the audited financial statement and notify the independent auditor and the agency or nonprofit entity of any material failure to meet the requirements of this subsection.
 - i. An entity that receives notice from the Controller under Section B.3. shall have ninety (90) days from the receipt of such notice to submit a corrective action plan to the Controller.
 - ii. The Controller shall approve, reject or alter the corrective action plan within thirty (30) days of submission. After the agency or nonprofit entity receives written notice of approval of the corrective action plan or agrees in writing to the Controller's alterations of the corrective action plan, the plan shall be implemented and binding on the entity. Implementation of the approved or agreed-upon corrective action plan shall be verified by an audit conducted by the Controller no later than the end of the fiscal year following the fiscal year during which the plan is implemented. If no agreed-upon corrective action plan is in place within one year after the date of the Controller's written notice under Section B.3. or if the agreed-upon corrective action plan has not been implemented within one year after the date of the Controller's written notice under Section B.3., then the Controller shall petition Allegheny County Council to adjust payments to the

entity to collect any amounts due based upon the findings contained in the audit report.

4. The Allegheny County Controller shall promulgate final-omitted regulations pursuant as necessary to implement this section.
 5. The Allegheny County Council may withhold funds appropriated to agency or nonprofit entity as necessary to ensure that audit reports are submitted in the prescribed fashion.
- C. In addition to the annual financial audit of each agency or nonprofit entity, additional single audits may be performed in accordance with the above-listed procedures on an as-needed basis at any time. The final determination of the need for such an audit shall be made by the Allegheny County Controller.
1. If the governing body of the agency or nonprofit entity provides a written statement of agreement with the Controller as to the need for the single audit, such audit shall be paid for entirely by funds from the operating budget of the entity.
 2. If the agency or nonprofit entity does not provide a written statement of agreement with the Controller's determination of need, such audit shall be paid for by the Office of the Controller.

SECTION 4. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Resolution which shall be in full force and effect.

PRIMARY SPONSORS: COUNCIL MEMBERS REA and BURN

CO-SPONSORS: COUNCIL MEMBERS CALDWELL, NERONE, FAWCETT, DROZD, MACEY, FITZGERALD, FINNERTY, AND CLEARY

Enacted in Council, this 10th day of October, 2006

Council Agenda No. 2722-06


Rich Fitzgerald
President of Council

Attest: 
John Mascio
Chief Clerk of Council

Chief Executive Office October 17, 2006

Approved: _____
Dan Onorato
Chief Executive

Attest: _____
Donna Beltz
Executive's Secretary

I do hereby certify that the foregoing Ordinance, duly engrossed and certified, was delivered by me to the Chief Executive for his approval or disapproval and that the Chief Executive failed to approve or disapprove the same, whereupon, it became law without his approval under the provisions of Section 311.07(E) of the Administrative Code of Allegheny County.


John Mascio
Chief Clerk of Council

Mascio, John

From: Mascio, John
Sent: Tuesday, October 17, 2006 2:07 PM
To: Bob Macey; Brenda Frazier; Burn, Jr., James; Caldwell, Susan; Charles Martoni; Cleary, Joan; Dave Fawcett; david.fawcett@bipc.com; Drozd, Matt; Fawcett, Dave; Finnerty, Michael J.; Jan Rea; Jim Burn; Joan Cleary; John DeFazio; John Defazio; Macey, Robert J.; Martoni, Charles; Matt Drozd; Mike Finnerty; Nerone, Rich; Rich Fitzgerald; Susan Caldwell; Vince Gastgeb; Vince Gastgeb; William Robinson
Cc: Barker, Jared; Catanese, Joe; Liptak, Jennifer M
Subject: Bill No. 2722-06 - Returned Unsigned by the Chief Executive

Dear Members of Council,

This is to inform you that Bill No. 2722-06, entitled, "*An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, to amend the Code of the County of Allegheny, Division 1, entitled Administrative Code, to amend existing Articles and add a new Article requiring that all County authorities, agencies, boards and commissions cooperate with the County Controller in engaging an independent auditor for the purpose of conducting the annual financial audit of the authority, agency, board or commission, and requiring that the County Controller oversee such annual financial audits.*", which was passed in Council on October 10, 2006, was delivered by me to the Chief Executive for his approval or disapproval, and having failed to approve or disapprove of the legislation, it became law under the provisions of Section 311.07(E) of the Administrative Code.

Mr. Onorato did not provide a letter explaining his reasons for not signing the bill.

I will place a hard copy of this e-mail in your mail slots.

John Mascio