

AN ORDINANCE

Ordinance of the County of Allegheny, Commonwealth of Pennsylvania amending Article VIII, Section 1 of County Ordinance No. 32066 adopted March 31, 1994 and County Resolutions at No. 1748-92 and No. 1658-93, authorizing the County to implement the remedies as required by the Pennsylvania supreme court's decision in Annenberg V. County of Montgomery, and authorizing the County to enter into intergovernmental cooperation agreement(s) with the City of Pittsburgh and the School District of the City of Pittsburgh for joint administration of a program of mutual releases and other remedies with respect to personal property tax matters for the years 1993 and 1994

WHEREAS, in 1996, a taxpayer in Montgomery County, Pennsylvania, challenged the constitutionality of the personal property tax levied pursuant to Section 4821 of the Act of June 17, 1913, P.L. 507, as amended, Pa. Stat. Ann. tit. 53, Section 4821; and

WHEREAS, at the time the Montgomery County action was filed, Allegheny County, along with the City of Pittsburgh (City) and the School District of the City of Pittsburgh (School District) had repealed its personal property tax effective January 1, 1995, as required by Act 77 of 1993, Pa. Stat. Ann. tit. 16, §6171-B (a) (2); and

WHEREAS, by a decision dated June 1, 2000, in the case of Annenberg v. Commonwealth, 562 Pa. 581, 757 A.2d 338 (2000), the Supreme Court of Pennsylvania upheld the constitutionality of the personal property tax levied pursuant to Section 4821 of the Act of June 17, 1913; and

WHEREAS, as part of the Annenberg decision, the Pennsylvania Supreme Court also held that a provision of the personal property tax exempting from taxation stocks and bonds of companies doing business in Pennsylvania was unconstitutional; and

WHEREAS, the Pennsylvania Supreme Court ordered all counties which had collected a personal property tax with the unconstitutional exemption to devise a remedy that would eliminate what the Court termed to be illegal discrimination under the law in favor of stocks and bonds issued by companies doing business in Pennsylvania; and

WHEREAS, pursuant to the Pennsylvania Supreme Court directives in Annenberg, possible remedies could include the re-imposition of the personal property tax for the years 1993-1994 to collect taxes on the previous exempt stocks and bonds, or the refund of all personal property taxes for those years, and

WHEREAS, re-imposing and collecting the personal property tax for the years 1993-1994, without the unconstitutional exemption for certain stocks and bonds, would impose an administrative and financial burden on both taxpayers and the County; and

WHEREAS, the County, upon advice of the County Solicitor and after careful consultations with other taxing bodies throughout the Commonwealth of Pennsylvania, has determined that, considering the restrictions imposed by the Pennsylvania's Supreme Court's decision in Annenberg and the best interests of the County and its taxpayers, neither re-imposition of the personal property tax alone for the years 1993 and 1994 nor refunds of monies collected seven to eight years ago are satisfactory solutions; and

WHEREAS, the County Solicitor, has proposed the adoption of a joint tax action plan with the City and the School District, similar to the ones utilized in other counties throughout the Commonwealth of Pennsylvania, which has the goal of maintaining a revenue neutral, status quo for the County and affected taxpayers by proposing a program of mutual releases whereby the County would not require payment of additional personal property taxes for the years 1993 and 1994 in exchange for an agreement not to seek refunds or otherwise challenge the personal property tax for the years 1993 and 1994; and

WHEREAS, the Pennsylvania Intergovernmental Cooperation Act, Pa. Cons. Stat. Ann. tit. 53, §2301 et seq., authorizes units of local government to jointly cooperate in the exercise or performance of respective governmental functions, powers or responsibilities; and

WHEREAS, the Section 2305 of the Pennsylvania Intergovernmental Cooperation Act requires that cooperation agreements between units of local government be approved by ordinance; and

WHEREAS, the implementation of joint tax action plan as required by the Pennsylvania Supreme Court's decision in Annenberg is in the best interests of the County.

NOW, THEREFORE, THE COUNCIL OF ALLEGHENY COUNTY HEREBY ENACTS

AS FOLLOWS:

SECTION 1. AMENDMENT OF COUNTY ORDINANCE NO. 32066 AND RESOLUTIONS AT 1748-92 AND 1658-93

A. Section 1 of Article VIII of County Ordinance No. 32066 is deleted in its entirety and the following is substituted in its place:

Section 1 – Repeal of County Personal Property Tax

A. Effective January 1, 1995, the first full year in which disbursements are received from the Treasurer from the collection of the taxes levied, assessed and imposed under Article IV of this Ordinance, the County's personal property tax is repealed.

B. Notwithstanding the provisions of Paragraph A above, the County hereby does reaffirm its imposition of the personal property tax for the years 1993 and 1994 and, pursuant to the Pennsylvania Supreme Court's decision in Annenberg v. County of Montgomery, does declare that its imposition of the personal property tax for said tax years shall include all personal property subject to such tax including all personal property previously considered as exempt from taxation under the Act of June 17, 1913, P.L. 507, as amended, Pa. Stat. Ann. tit. 72, §4821.

B. County Resolutions adopted at Agenda Nos. 1748-92 and 1658-93 are hereby amended to include the following:

Pursuant to the Pennsylvania Supreme Court's decision in Annenburg v. County of Montgomery, 562 Pa. 581, 757 A.2d 338 (2000), the levy of the County personal property tax for the applicable tax year shall include all

personal property subject to the tax as stated in the Act of June 17, 1913, P. L. 507, as amended, Pa. Stat. Ann. tit. 72, §4821 (the Personal Property Tax Act) and all personal property stated as being exempt from tax under the Personal Property Tax Act.

**SECTION 2 APPROVAL OF REVENUE NEUTRAL TAX
ACTION PLAN TO IMPLEMENT THE
ANNENBERG DECISION**

A. The revenue neutral tax action plan regarding the imposition and collection of County personal property taxes consistent with the Annenberg decision, as proposed by the County Solicitor, whereby all affected taxpayers will be given an opportunity to enter into a mutual release agreements with the County under which the County will not require payment of additional personal property taxes for the years 1993-1994 in exchange for the taxpayers agreement not to seek a refund or otherwise challenge the personal property tax for the years 1993-1994, is approved.

B. The County Solicitor, the County Manager and all other appropriate County officials and officers are hereby authorized to take any and all actions deemed necessary and prudent to carry out the tax action plan described above.

SECTION 3 COOPERATION WITH CITY AND SCHOOL DISTRICT

A. The County is hereby authorized to enter into intergovernmental cooperation agreement(s) with the City and School District to jointly administer the tax action program and to share costs and expenses incurred in the course of the joint administration.

B. As required by the Intergovernmental Cooperation Act, the intergovernmental cooperation agreement(s) between the County, the City and the School District (the Cooperating Governments) authorized by this Ordinance and generally described in Paragraph A above shall include, but not be limited to, the following:

1. There are no specific conditions to the intergovernmental cooperation agreement(s) between the Cooperating Governments; and

2. The duration of the intergovernmental cooperation agreement(s) between the Cooperating Governments shall not exceed ten (10) years; and

3. The Cooperating Governments enter into the intergovernmental cooperation agreement(s) for the purposes of implementing the Pennsylvania Supreme Court's decision in the case of Annenberg v. County of Montgomery with the goal of maintaining a revenue neutral, status quo for the Cooperating Governments and affected taxpayers by proposing a program of mutual releases whereby the Cooperating Governments would not require payment of additional personal property taxes for the years 1993 and 1994 in exchange for an agreement not to seek refunds or otherwise challenge the personal property tax for the years 1993 and 1994; and

4. All costs and expenses incurred in administering the joint tax program shall be shared by the Cooperating Governments as they shall determine; and

5. The Cooperating Governments shall, to the greatest extent possible, utilize existing resources to implement the purposes and goals of the intergovernmental cooperation agreement(s).

SECTION 4 SEVERABILITY

A. All other provisions of County Ordinance No. 32066, as amended, shall remain in full force and effect is originally set forth in that Ordinance.

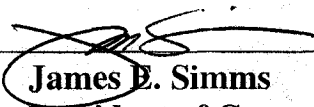
B. If any provisions of this Ordinance are determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance.

SECTION *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 Ordinance which shall be in full force and effect.*

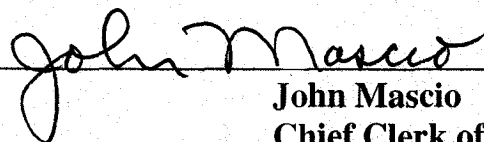
SECTION *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

Enacted in Council, this 22nd day of JANUARY, 2003


Council Agenda No. 1059-03


James E. Simms
President of Council

Attest:


John Mascio
Chief Clerk of Council

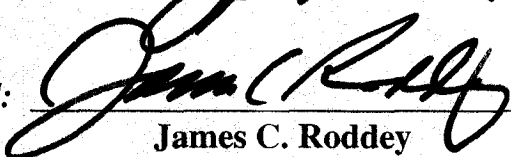
Approved as to form:


Charles P. McCullough
County Solicitor

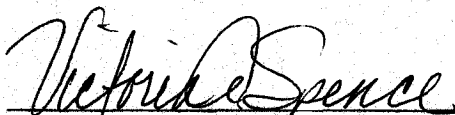
Chief Executive Office

9-1-28-, 2003

Approved:


James C. Roddey
Chief Executive

Attest:



Victoria Spence
Executive's Secretary

03 JAN 16 AM 11:21

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: John Mascio
Chief Clerk

FROM: Robert B. Webb *RBW*
County Manager

DATE: January 16, 2003

RE: Requesting County Council Approval

Attached is a Ordinance of the County of Allegheny, Commonwealth of Pennsylvania amending Article VIII, Section 1 of County Ordinance No. 32066 adopted March 31, 1994 and County Resolutions at No. 1748-92 and No. 1658-93, authorizing the County to implement the remedies as required by the Pennsylvania supreme court's decision in Annenberg V. County of Montgomery, and authorizing the County to enter into intergovernmental cooperation agreement(s) with the City of Pittsburgh and the School District of the City of Pittsburgh for joint administration of a program of mutual releases and other remedies with respect to personal property tax matters for the years 1993 and 1994. This request is submitted by the Law Department.

Please put on the next agenda for County Council approval.

Thank you.