

MOTION OF THE COUNCIL OF ALLEGHENY COUNTY

Overriding Chief Executive Dan Onorato's veto of Council Bill No. 1685-04, entitled, "An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, providing that when the commencement, prosecution, or defense of litigation, between the Executive Branch and Legislative Branch causes a conflict of interest for the Allegheny County Solicitor, legal fees incurred by the Legislative Branch shall be borne by the Executive Branch and/or paid from the General Fund of Allegheny County." which was submitted to Council on October 1, 2004.

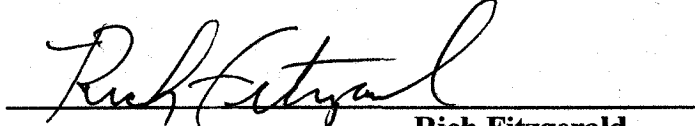
NOW THEREFORE, IT IS MOVED, BY THE COUNCIL OF ALLEGHENY COUNTY,

That the Council of Allegheny County hereby overrides Dan Onorato's veto of Council Bill No. 1685-04, entitled, "An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, providing that when the commencement, prosecution, or defense of litigation, between the Executive Branch and Legislative Branch causes a conflict of interest for the Allegheny County Solicitor, legal fees incurred by the Legislative Branch shall be borne by the Executive Branch and/or paid from the General Fund of Allegheny County." which was submitted to Council on October 1, 2004.

SPONSORED BY COUNCIL MEMBER WAYNE FONTANA

In Council October 19, 2004.

Read and Approved.



**Rich Fitzgerald
President of Council**

Attest: John Mascio
**John Mascio
Clerk of Council**

1721-04

OFFICE OF THE CHIEF EXECUTIVE



County of Allegheny

DAN ONORATO
CHIEF EXECUTIVE

101 COURTHOUSE ♦ 436 GRANT STREET
PITTSBURGH, PA 15219
PHONE (412) 350-6500 ♦ FAX (412) 350-6512
October 1, 2004

2004 SEP 31 PM 3: 23
OFFICE OF THE
COUNTY COUNCIL

Honorable President and Members
Allegheny County Council
119 Courthouse
436 Grant Street
Pittsburgh, PA 15219

President and Members of Council:

I hereby return, with my veto, Council Bill 1685-04 that you forwarded to my office for consideration on September 24, 2004. **I have vetoed this Bill because it violates the plain text of the Home Rule Charter of Allegheny County and, therefore, is illegal.**

The Charter gives County Council the right, under appropriate circumstances, to procure professional services, including the services of an independent attorney. In particular, the Charter provides, "County Council, *on a case-by-case basis*, may contract for professional services." Charter, Art. IV, § 2(n)(emphasis added). There is little doubt that a legal dispute with the Chief Executive would constitute the proper "case" for Council to invoke its right under the Charter to obtain the services of an independent counsel.

The Charter, however, is clear that Council's authority to retain professional services, including legal counsel, must be exercised within certain restraints. Specifically, the Charter states that Council's ability to contract for professional services must be exercised "*within the limitations of its annual appropriation as provided in Article III, Section 7(f)*." Charter, Art. IV, § 2(n)(emphasis added). Thus, the clear text of the Charter places the obligation to pay for any professional services sought by and provided to County Council squarely upon Council itself. Council simply cannot shift this Charter-mandated obligation to the Chief Executive by passing an Ordinance so dictating such a shift.

Sincerely,

Dan Onorato
Allegheny County Chief Executive

cc: James M. Flynn, Jr.
Michael H. Wojcik, Esquire



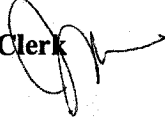
OFFICE OF THE COUNTY COUNCIL

County of Allegheny

ROOM 119 • 436 GRANT STREET • PITTSBURGH, PA 15219
PHONE (412) 350-6490 • FAX (412) 350-6499

MEMORANDUM

TO: Dan Onorato, Chief Executive
Jim Flynn, County Manager
Mike Wojcik, County Solicitor
Mark Flaherty, County Controller

FROM: John Mascio, Chief Clerk 

DATE: October 22, 2004

SUBJECT: Approved Legislation & Motion

I transmit herewith a copy of Ordinance No. 34-04-OR, passed in Council on September 21, 2004, which was vetoed by the Chief Executive on October 1, 2004 and overridden by a unanimous vote of County Council at the Regular Meeting of Council held on October 19, 2004.

Also transmitted is a copy of Bill No. 1722-04, a Motion overriding said veto, which was unanimously approved by Council at the Regular Meeting of Council held on October 19, 2004.