



COUNTY OF ALLEGHENY

OFFICE OF THE COUNTY EXECUTIVE

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November 6, 2009

The Honorable President & Members
Allegheny County Council
1119 Courthouse
436 Grant Street
Pittsburgh, PA 15219

I hereby return, with my veto, Council Bill 3819-08. I have vetoed this legislation because it violates several provisions of Commonwealth law and would expose the County to litigation, for which the County would have no plausible defense.

Specifically, this bill provides for the creation and imposition of a "Tax Exempt Certification and County Essential Services Fee" (the "Fee"). The Fee would be levied against certain improvements to real property that is exempt from taxation under applicable state law.

This bill violates 72 P.S. Section 5020-204, which provides that certain real property shall be absolutely exempt from all county taxes, and it also violates the uniformity clause of the Pennsylvania Constitution. While the bill ostensibly imposes a "fee" for general County services, it appears to be an attempt to circumvent Commonwealth law and impose real estate taxes on otherwise exempt real property in a non-uniform manner.

In addition, this bill violates the Home Rule Charter and Optional Plans Law (the "Charter Law"), specifically, 53 Pa.C.S.A., Section 2962(a). This section of the Charter Law prohibits a home rule county from expanding the powers granted to it by the General Assembly with respect to, among other things, the fixing of subjects of taxation. This bill attempts to fix a new subject of taxation that the General Assembly has not authorized, namely, improved, otherwise tax-exempt property larger than 1,000 square feet.

As a result, this bill, if enacted, would be successfully challenged by an aggrieved property owner in a court of competent jurisdiction. For these reasons, I have vetoed Council Bill 3819-08.

As I stated during my budget address to you on September 22, I have been working with Harrisburg on the issue of non-profit contributions, and we are making headway. I believe we will be able to arrive at an amicable solution with non-profits during 2010 that will result in voluntary contributions beginning in 2011.

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I respectfully request that you allow my veto to stand and that we create a working group that includes members of my administration and County Council to further analyze this issue and work toward a cooperative solution.

Sincerely,



Dan Onorato
Allegheny County Executive

cc: Mr. James M. Flynn Jr., County Manager
Mr. Michael H. Wojcik, Esq., County Solicitor