

Bill No. 1600-04

No. 23-04-OR

AN ORDINANCE

Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, establishing a process by which modification or elimination of County departments, agencies, or functions are conducted, in accordance with Article IV, § 2m of the Home Rule Charter of Allegheny County.

WHEREAS, Article IV, § 2m of the Home Rule Charter of Allegheny County provides that County Council shall have the power to "By ordinance or resolution, modify or eliminate any department, agency, or function that no longer meets the needs of the County's taxpayers;" and

WHEREAS, "modify" can mean a variety of things, from making minor changes to making basic or fundamental changes that give a new orientation or serve a new end; and

WHEREAS, since the modification or elimination of any County department, agency, or function would have budgetary implications, the authorizing power of Council to any changes by ordinance or resolution is even more appropriate; and

WHEREAS, recent discussions between the City and County have included the possibility of merging the functions of the City and County economic development agencies into one entity; such action which would result in the modification of the existing County department; and

WHEREAS, it is appropriate that County Council, created to represent the diversity of the County's citizens and to provide better access to County government, and vested with the budgetary authority of the County, consider such modification and authorize such changes pursuant to the Home Rule Charter as part of its legislative function;

WHEREAS, such change should not be made without information relating to the financial condition of any non-County department, agency, or function that would be involved in such a modification; and

WHEREAS, such discussions provide opportunity to establish a process by which modifications or eliminations are considered and approved by Council.

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

SECTION 1.

Any merger, modification or elimination of a County department, agency, or function with a non-County department, agency, or function, which County department, agency, or function no longer meets the needs of the County's taxpayers shall be accomplished through an ordinance of the County Council.

SECTION 2.

Any modification of a County department, agency, or function that contemplates merger or consolidation of said department, agency, or function with a non-County department, agency, or function shall require that an independent audit of such non-County department, agency, or function be completed prior to any authorization of modification.

- A.** Such audit shall include:
 - 1. Practices and fiscal policies of the department, agency, or function;
 - 2. A review of financial data relating to the past and current administration and operation of the department, agency, or function;
 - 3. An identification of any leases, subleases, contracts, sales, and purchases currently in existence for the department, agency, or function; and
 - 4. An analysis of past and current use of funds, past and current bond obligations, and past and current programs and program requirements.
- B.** In addition to the components listed in §2A, the audit shall report on the existing fiscal status of the department, agency, or function and make recommendations as to items that should be altered or addressed prior to any modification.
- C.** Said audit shall be provided to the Chief Executive and County Council prior to any action being taken on legislation authorizing modification of a department, agency, or function.

SECTION 3.

Any modification of a County department, agency, or function that contemplates merger or consolidation of said department, agency, or function with a non-County department, agency, or function shall take into consideration any debt that would be carried over with the department, agency, or function and provide that any funding stream to pay for the debt is also transferred to the County department, agency, or function.

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 Ordinance which shall be in full force and effect.*

SECTION 5. *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.*

SPONSORED BY COUNCIL MEMBER REA, COUNCIL PRESIDENT FITZGERALD, COUNCILMEMBERS ROBINSON, DEFAZIO, FONTANA, CLEARY, JABBOUR, MARTONI, FRAZIER, WATT & GASTGEB

Enacted in Council, this 13th day of July, 2004

Council Agenda No. 1600-04



Rich Fitzgerald
President of Council

Attest: John Mascio
John Mascio
Chief Clerk of Council

Chief Executive Office _____, 2004

Approved: _____
Dan Onorato
Chief Executive

Attest: _____
Donna Beltz
Executive's Secretary

I do hereby certify that the foregoing Ordinance which was vetoed by the Chief Executive on July 23, 2004 was overridden by a two-thirds vote of said Council this 17th day of August, 2004.

John Mascio
John Mascio
Chief Clerk of Council



County of Allegheny

DAN ONORATO
CHIEF EXECUTIVE

101 COURTHOUSE ♦ 436 GRANT STREET
PITTSBURGH, PA 15219
PHONE (412) 350-6500 ♦ FAX (412) 350-6512
July 23, 2004

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 1600-04 that you forwarded to my office for consideration on July 16, 2004. I have vetoed this Bill, along with Council Bills 1598-04 and 1649-04, because they illegally infringe upon the powers of the Chief Executive as granted by the Allegheny County Home Rule Charter. Under the Charter, the power to negotiate, award and execute contracts is vested with the office of Chief Executive.

Bill 1600-04 would require that an audit be performed prior to any modification of a County department, agency, or function that contemplates a merger or consolidation with a non-County department, agency, or function. This Bill would inject County Council into the process of negotiating, awarding and executing contracts that, under the Home Rule Charter, is vested within the Executive Branch. The State Legislature, in passing the Intergovernmental Cooperation Act, 53 Pa.Con.Stat. § 2301, *et. seq.*, has provided County Council with a clearly defined role in the area of cooperation with other political subdivisions. This Bill exceeds the clear authority that the Legislature has granted County Council in this regard.

Under the controlling statutory authority, County Council's role is to provide the Executive Branch with the initial authority to commence the process of intergovernmental cooperation. Once County Council grants that authority, the Home Rule Charter would control the progress of any such cooperation. Because Bill 1600-04 purports to grant County Council significantly more authority than that which the Home Rule Charter vests, I cannot allow Bill 1600-04 to become law.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Onorato", written over a horizontal line.

Dan Onorato
Chief Executive

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





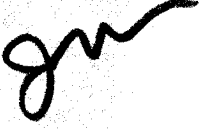
OFFICE OF THE COUNTY COUNCIL

County of Allegheny

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

MEMORANDUM

TO: All Members of Council

FROM: John Mascio, Chief Clerk 

DATE: July 23, 2004

SUBJECT: Chief Executive Dan Onorato's Veto of Council Bills:

No. 1598-04 - Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, rescinding Ordinance No. 32125, enacted March 31, 1994, entitled "An Ordinance of the County of Allegheny authorizing the County to enter into cooperation agreements with the City of Pittsburgh under the Pennsylvania Intergovernmental Cooperation Act for the purpose of jointly cooperating in the performance and exercise of certain governmental functions."

No. 1600-04 - Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, establishing a process by which modification or elimination of County departments, agencies, or functions are conducted, in accordance with Article IV, § 2m of the Home Rule Charter of Allegheny County.

No. 1649-04 - Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, authorizing the County administration to enter into discussions regarding the joint cooperation of the City of Pittsburgh and Allegheny County in the performance and exercise of certain governmental functions, and providing for the adoption of an ordinance to enter into an intergovernmental cooperation agreement pursuant to the Intergovernmental Cooperation Act, 53 P.S. § 2301 et. seq. (hereinafter the "Act").

This is to inform you that on Friday, July 23, 2004, Chief Executive Dan Onorato returned to me, with his veto, Council Bills 1598-04, 1600-04 and 1649-04.

Attached are copies of Mr. Onorato's written objections to the Bills.

Article IV, Section 5(b) of the Home Rule Charter provides that County Council may override a Chief Executive veto by an affirmative vote of at least two-thirds of the Seated Members of Council and that the override vote must occur within 30 days of the veto, which means that Sunday, August 22, 2004 would be the last day you could vote to override the veto, otherwise, the veto would be sustained.

cc: Joe Catanese



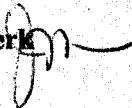
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MEMORANDUM

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

FROM: John Mascio, Chief Clerk 

DATE: August 20, 2004

SUBJECT: Approved Legislation

I transmit herewith copies of the following Ordinances passed in Council on July 13, 2004, which were vetoed by the Chief Executive on July 23, 2004 and overridden by a unanimous vote of County Council at the Regular Meeting of Council held on August 17, 2004.



Allegheny County Council

Matter Summary

County of Allegheny
436 Grant Street
Pittsburgh, PA 15219
Phone (412) 350-6495
Fax (412) 360-6499

File Number	Title	Status
02-1183	Ordinance Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending the county's Administrative Code to provide for the applicability of a Merit Personnel System to the employees of the County Officers and the County Officials. Introduced: 11/6/2002 Controlling Body: County Council Approved by Council: 11/6/2002	Vetoed
1227-03	Ordinance An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending the Administrative Code by providing for improvements in the administration and operation of the Office of Property Assessments. Introduced: 7/1/2003 Controlling Body: County Council Approved by Council: 7/8/2003	Vetoed
1527-04	Resolution Resolution of the Council of Allegheny County adopting a policy to avoid the use of tax increment financing for retail developments located on unimproved areas and green spaces, except those tracts of land immediately adjacent to the Greater Pittsburgh International Airport. Introduced: 4/20/2004 Controlling Body: Committee on Economic Development Approved by Council: 5/4/2004	Vetoed