

No. _____

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending and supplementing the Administrative Code of Allegheny County, Article 909, entitled "Revenue-Producing Contracts," through the creation of a new §5-909.05, entitled "Revenue-Producing Contracts Relating to the Allegheny County Jail," in order to prohibit contracts that generate County revenues derived in whole or in part from inmates housed at the Allegheny County Jail.

WHEREAS, pursuant to the Administrative Code of Allegheny County, §5-909.01, "[c]ontracts involving the payment of money or monies to the County shall be awarded and made in accordance with the procedures set forth in this Administrative Code unless otherwise provided for by the Charter."; and

WHEREAS, although the Home Rule Charter of Allegheny County, Article V, §2(i) vests the Chief Executive with the power and duty to "[n]egotiate, award and sign, or cause to be negotiated, awarded and signed on behalf of the County, all contracts, agreements, and other instruments, except as provided in Article IV, Section 2(j) and (k) [relating to transactions involving property conveyances]," no provision of the Charter vests the Chief Executive with the authority to establish the legal requirements pertaining to County contracting procedures, which are established by ordinance within the Administrative Code of Allegheny County (*see, e.g.*, Articles 905, 907, 909, 911, 912, 913, and 915); and

WHEREAS, the provisions of Article V, §2(a) of the Charter expressly and specifically mandate that the Chief Executive follow the law of the County, insofar as those provisions require the Chief Executive to "[e]nforce the ordinances and resolutions of the County, the provisions of this Charter, and the laws of the United States of America and the Commonwealth of Pennsylvania pertaining to the government of the County."; and

WHEREAS, the law of the Commonwealth of Pennsylvania, specifically the Home Rule Charter and Optional Plans Law, at 53 Pa.C.S.A. §2962(c)(1), expressly and specifically mandate that home rule municipalities shall not "[e]ngage in any proprietary or private business except as authorized by statute."; and

WHEREAS, it is the judgment of Council that the prohibition contained within §2962(c)(1) must be applied particularly strictly in any instance in which the County may or will derive income from individuals who are involuntarily placed in the County's custody and who, as a result, have stringently limited or nonexistent means by which to pay money that will ultimately result in revenues paid to the County via revenue-producing contracts; and

WHEREAS, it is further the judgment of Council that the existing procedures governing the negotiation and execution of revenue-producing contracts are not sufficiently transparent to

fully apprise the public of the impact of contracts that result in County revenues derived from individuals who are involuntarily placed in the County's custody; and

WHEREAS, it is further the judgment of Council that contracts which produce revenue from this population create financial burdens in a fashion that is tantamount to imposing additional punishments upon individuals, beyond those that may have been imposed by the court or other entity that committed them to the County's custody;

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

SECTION 1.

The preamble to this Ordinance is hereby entirely incorporated by reference herein.

SECTION 2.

The Administrative Code of Allegheny County, Article 909, entitled "Revenue-Producing Contracts," is hereby amended through the creation of a new §5-909.05, and comprised as follows:

§5-909.05. Revenue-producing contracts relating to the Allegheny County Jail.

Notwithstanding any other provision of this Article, under no circumstance shall the units of the Executive Branch, County officers, or independently elected County officials negotiate or execute any contract containing any term or terms pursuant to which the County would receive payments or revenues of any kind, if such revenues are generated, in whole or in any part, from payments imposed upon any individual(s) incarcerated at the Allegheny County Jail. No portion of this Section shall be read, interpreted, or otherwise deemed to forbid any action ordered by a court of competent jurisdiction that results in revenues payable to the County.

SECTION 2. 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 3. 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.

PRIMARY SPONSOR: COUNCIL MEMBER HALLAM

CO-SPONSORS: COUNCIL MEMBER BENNETT

Enacted in Council, this _____ day of _____, 2020

Council Agenda No. _____

Patrick Catena
President of Council

Attest: _____
Jared E. Barker, Chief Clerk
Allegheny County Council

Chief Executive Office _____, 2020

Approved: _____
Rich Fitzgerald
Chief Executive

Attest: _____
Jennifer Liptak, Chief of Staff