



Allegheny County Council

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Legislation Details (With Text)

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Title: An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending the Administrative Code of Allegheny County, Article 203, entitled "County Authorities," §5-203.02, entitled "Appointments to County authorities," in order to render the procedure to be followed when appointing individuals to serve on the governing boards of the enumerated County authorities consistent with applicable law.

Sponsors: Heather Heidelbaugh

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Date	Ver.	Action By	Action	Result
4/22/2014	1	County Council	Referred by Chair	

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending the Administrative Code of Allegheny County, Article 203, entitled "County Authorities," §5-203.02, entitled "Appointments to County authorities," in order to render the procedure to be followed when appointing individuals to serve on the governing boards of the enumerated County authorities consistent with applicable law.

WHEREAS, §5-203.01 of the Administrative Code of Allegheny County establishes a list of "independent authorities singularly or jointly created by Allegheny County for the performance of important governmental functions," including but not limited to the Sports and Exhibition Authority of Pittsburgh and Allegheny County, the Allegheny County Sanitary Authority, and the Allegheny County Airport Authority;

WHEREAS, §5-203.02 of the Administrative Code establishes the process by which individuals are to be appointed to seats on the governing boards of the various authorities delineated in §5-203.01; and

WHEREAS, under the existing Administrative Code provisions, the Chief Executive is vested with the power and duty to make appointments to the enumerated authorities' governing boards; and

WHEREAS, the Home Rule Charter of Allegheny County, however, empowers both the Chief Executive and Council to make appointments to authorities' governing boards, as permitted or required by the terms of applicable state or other law, at Article V, §2(h) and Article IV, §2(l), respectively; and

WHEREAS, several of the authorities delineated within §5-203.01 of the Administrative Code were created pursuant to the terms of the Municipality Authorities Act, 53 Pa.C.S.A. §5601, *et. seq.*; and

WHEREAS, the Municipality Authorities Act establishes the means by which the members of boards for the authorities created pursuant to the terms of the Act are to be appointed: "[t]he governing body of the municipality shall appoint the members of the board, whose terms of office shall commence on the effective date of their appointment." 53 Pa.C.S.A. §5610(a)(1); and

WHEREAS, the “governing body” language contained within the Act applies whether the authority in question was created by a single municipality or jointly by a number of municipalities, *see*, 53 Pa.C.S.A. §5610 (a)(2); and

WHEREAS, it is the judgment of Council that the plain language of §5610 is both clear and unambiguous in establishing that the Council, as the governing body of Allegheny County, is to be the sole appointing agency for the governing boards of any authority created pursuant to the terms of the Municipality Authorities Act; and

WHEREAS, the remaining authorities delineated within §5-203.01 of the Administrative Code were created pursuant to other statutes specifically applicable to the authorities in question, all but two of which designate the former County Commissioners or legislative body of the County as the appointing agency; and

WHEREAS, among the other statutes designating the former commissioners or legislative body of the County as the appointing agency are:

- The Urban Redevelopment Law (governing the Redevelopment Authority of Allegheny County; 35 Pa.C.S.A. §1705 designates appointment by the former commissioners, while 35 Pa.C.S.A. §1703 designates the former commissioners or other legislative body as the “governing body” of the County);
- The Economic Development Financing Law (governing the Allegheny County Industrial Development Authority; 73 Pa.C.S.A. §379 designates appointment by the governmental body of the municipality, while 73 Pa.C.S.A. §373 defines “governmental body” as the body empowered by law to enact ordinances or resolutions for the municipality);
- The Second Class County Code (governing the Allegheny County Residential Finance Authority; 16 P.S. §5203-A(a) designates the former commissioners as the appointing agency, although §5203-A(b) incorporates by reference the provisions of the Municipality Authorities Act relating to appointment); and
- The Housing Authorities Law (governing the Allegheny County Housing Authority; 35 P.S. §1545(a) designates the former commissioners as the appointing agency, while 35 P.S. §1543(h) defines the governing body of the County as the commissioners or other legislative body).

WHEREAS, it is the judgment of Council that other statutes’ designations of the former County Commissioners or legislative body of the County as the appointing agency for members of certain authorities’ governing bodies are designations of the Council; and

WHEREAS, it is further the judgment of Council that the appointment process contained within §5-203.02 of the Administrative Code of Allegheny County is therefore both misleading and flawed, insofar as it does not clearly establish or apply the required appointment process created by the Municipality Authorities Act and/or other statutes specifically applicable to individual authorities; and

WHEREAS, because the existing process violates the appointment provisions of the Municipality Authorities Act and other applicable statutes, it is the desire of Council to render the applicable provisions of County law clearly consistent with the mandate contained within the those statutes; and

WHEREAS, it is also the desire of Council to eliminate existing provisions of §5-203.02 of the Administrative Code that potentially allow for appointments to authorities' governing boards to become effective without the approval of Council, as these provisions clearly establish the possibility of one or more appointments becoming effective without any action by the governing body of the County and in the absence of meaningful transparency to the public;

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

Section 1.

The preamble to this ordinance is hereby incorporated by reference herein.

Section 2.

The Administrative Code of Allegheny County, Article 203, entitled "County Authorities," §5-203.02, entitled "Appointments to County authorities," is hereby amended as follows:

§5-203.02. Appointments to County authorities.

A. For any authority enumerated in §5-203.01 and created singularly or jointly by Allegheny County pursuant to the terms of the Municipality Authorities Act, 53 Pa.C.S.A. §5601, et. seq., Allegheny County Council shall make all appointments to the governing board of such authorities. Such appointments shall become effective upon the date upon which they are authorized by a majority of the seated Members of Council, with terms as specified at the time of appointment and consistent with the provisions of applicable law. Appointments made pursuant to the terms of this Section shall expire at the end of the appointee's term unless otherwise provided by law. Any appointment subject to the term expiration provisions of this section may be extended by the Chief Executive for a maximum of 90 days beyond the date on which the appointment expires, should such extension be necessary for the orderly conduct of the authority's business. The provisions of this Subsection shall apply to:

1. The Allegheny County Hospital Development Authority;
2. The Allegheny County Higher Education Building Authority;
3. The Allegheny County Sanitary Authority; and
4. The Allegheny County Airport Authority.

B. In the event that the former County Commissioners are designated as the appointing agency for a given authority's governing board, County Council shall be deemed to be the appointing agency, with such appointments to be made consistent with the provisions of Subsection A. The provisions of this Subsection shall apply to:

1. The Redevelopment Authority of Allegheny County;
2. The Allegheny County Industrial Development Authority;

3. The Allegheny County Residential Finance Authority;
4. The Authority for Improvements in Municipalities; and
5. The Allegheny County Housing Authority.

C. ~~Unless otherwise provided by law, or the Charter, the~~ The Chief Executive shall make all appointments to the governing boards of ~~all authorities created singularly or jointly by the County~~ the Port Authority of Allegheny County and the Sports and Exhibition Authority of Pittsburgh and Allegheny County, to the extent that such appointments are made pursuant to the terms of applicable law that expressly requires that the Executive make such appointments. Such appointments shall expire at the end of the appointee's term unless otherwise provided by law. All appointments to the governing board of such authorities made by the Chief Executive shall be made with the consent of a majority of the seated members of County Council. ~~In the event that County Council does not confirm or reject an appointment within 45 days of receipt at the first regularly scheduled meeting of County Council, the appointment shall be effective as though County Council confirmed it.~~ Any appointment subject to the term expiration provisions of this section may be extended by the Chief Executive for a maximum of 90 days beyond the date on which the appointment expires, should such extension be necessary for the orderly conduct of the authority's business.

Section 3.

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 4.

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 HEIDELBAUGH

CO-SPONSORS: