



Allegheny County Council

County of Allegheny
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Legislation Text

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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 limit the appointment of County employees and County Council Members to the governing boards of authorities.

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 governing boards “of all authorities created singularly or jointly by the County”; and

WHEREAS, the statutes governing the creation of many of the municipal authorities currently existing within Allegheny County, most notably the Municipality Authorities Act and Second Class County Port Authority Law govern the operations of the authorities created pursuant to their respective provisions; and

WHEREAS, it is well established under Pennsylvania law that agencies created under the terms of the Municipality Authorities Act are agencies of the Commonwealth, rather than the municipality that created the authority in question, *see, e.g., Norwegian Twp. v. Schuylkill County Board of Assessment Appeals*, 74 A.3d 1124, 1131 (Pa.Cmwlth. 2013); and

WHEREAS, the Second Class County Port Authority Law clearly and unambiguously states on its face that the Port Authority of Allegheny County is an agency of the Commonwealth, and not of Allegheny County, 55 Pa.C.S.A. §553(a); and

WHEREAS, at the Council’s October 29, 2014 budget public hearing, the Allegheny County Manager correctly indicated that the various authorities operating within Allegheny County have an “arms’ length relationship” with the County; and

WHEREAS, despite these factors, past and present Chief Executives have frequently appointed individuals who are at-will employees of the County, and thus subject to the authority and direction of the Chief Executive, to various authorities that are conclusively Commonwealth agencies; and

WHEREAS, among the authorities whose governing boards currently include at-will County employees are the Allegheny County Airport Authority, the Allegheny County Housing Authority, and the Port Authority of Allegheny County; and

WHEREAS, it is not possible at present to determine which authorities' governing boards may include members who are principals in business entities having a pecuniary interest in contractual relationships with Allegheny County; and

WHEREAS, it is the judgment of Council that the continuation of the practice of appointing at-will County employees or other individuals whose business interests are dependent upon one or more contracts to which the County is a party to the governing boards of authorities that are specifically designated as agencies of the Commonwealth inevitably renders those authorities more subject to the will of the Allegheny County Chief Executive, and inevitably both reduces the independence of those authorities and erodes public confidence in their ability to function as agencies of the Commonwealth; and

WHEREAS, it is accordingly the judgment of Council that the practice of appointing at-will County employees to the governing boards of authorities that are designated as agencies of the Commonwealth by statute, regulation, or other legal authority should be prohibited unless specifically required under applicable law;

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.

Unless otherwise provided by law, or the Charter, the Chief Executive shall make all appointments to the governing board of all authorities created singularly or jointly by the County. 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. Unless specifically required by applicable Commonwealth or Federal law, under no circumstances shall a current at-will employee or principal in a business entity that is a party to any contract, agreement, or memorandum of understanding with Allegheny County under which the business entity will receive any current or future payment be appointed or reappointed to the governing board of any authority by the Allegheny County Chief Executive or County Council. Any individual who becomes an at-will employee of Allegheny County or a principal in a business entity having such a contractual relationship with Allegheny County shall

immediately resign his or her seat on the governing board(s) of any authority.

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: