



Allegheny County Council

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Legislation Text

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Motion of the Council of Allegheny County expressing the opinion of Allegheny County Council regarding the Retirement Board of Allegheny County's ongoing review of potential alterations to the Board's ethical standards and/or best practices.

WHEREAS, the Retirement Board of Allegheny County (RBAC) provides direction for the retirement system in accordance with Commonwealth law, specifically the Second Class County Code, Article XVII ("the Code"); and

WHEREAS, pursuant to the Code, 16 P.S. §4703 vests full control over Allegheny County's retirement system solely with the Retirement Board of Allegheny County ("RBAC"), as follows: "[t]he retirement system shall be under the sole direction of a board, which shall consist of the county chief executive; one member, who shall be a member of the retirement system, appointed by the chief executive with the consent of county council; one member, who shall be a member of the retirement system, appointed by county council; the controller; the treasurer; and two persons elected by ballot from among the members of the retirement system."; and

WHEREAS, the role of RBAC is further described at 16 P.S. §4706(a): "[t]he board shall be the trustees of the retirement fund, and shall have exclusive control and management of the said fund with full power to invest the money or any part thereof, subject to the terms, conditions, limitations and restrictions that are provided by law for investments of trust funds by fiduciaries or the retention or sale of certain investments in the hands of fiduciaries. Subject to like terms, conditions, limitations and restrictions, the board shall have power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in the retirement fund, as well as the proceeds of said investments and of the money belonging to said fund, or it may deposit such moneys or any part thereof in one or more banks or banking institutions selected by the board. The board shall decide upon the number of banks and banking institutions of the county as depositories of retirement funds and the rate of interest to be paid by them to the board. A contract with a depository shall be for a period covering the term of the county treasurer. No moneys shall be deposited in a depository until it shall furnish to the board collateral to secure payments of deposits and interest to the board, by depositing in escrow securities to be approved by the board. Such securities to be of the kind and in the amount to be fixed by the board."; and

WHEREAS, in describing the fiduciary responsibilities of RBAC members, §4706(e) of the Code establishes that "[a]bsent breach of a fiduciary duty, lack of good faith or self-dealing, actions taken as a member of the board by any member of the board, or any failure to take any action, shall be presumed to be in the best interest of the retirement system."; and

WHEREAS, while the provisions of Article XVII provide significant detail regarding the role of RBAC members, employee payments into the retirement fund, and other administrative matters, they do not in and of themselves mandate the implementation of any particular ethical or professional responsibility standards or best practices for Board members; and

WHEREAS, Allegheny County's Ethics Code, enacted by County Council and found at Article 1013 of the Administrative Code of Allegheny County, applies to all elected and appointed County officers, County officials, and all County employees (and therefore by definition to all current and future members of RBAC); and

WHEREAS, although the County's Ethics Code does contain provisions imposing requirements relating to annual disclosures of financial interests (§5-1013.05), gifts/loans/benefits/other considerations (§5-1013.09.E.), private business/financial interests and exerting improper influence (§5-1013.09.F), fees for services/benefits (§5-1013.09.H.), offering special benefits to persons or business entities (§5-1013.09.I), contracting (§5-1013.09.K.), conflicts of interest in voting (§5-1013.09.M.), and misuse of County resources (§5-1013.09.N.), these provisions are not necessarily specifically tailored to RBAC's needs, and therefore may or may not be adequate to meet those needs; and

WHEREAS, it is the understanding of Council that RBAC is currently in the process of undertaking a due diligence review of potential other ethical standards and/or best practices that may inure to the benefit of the Board, the County retirement system, and/or County employees; and

WHEREAS, Council firmly recognizes and affirms that, pursuant to Commonwealth law, Council has no oversight with regard to RBAC's activities, that actions of the Board members are presumed to be in the best interest of the retirement system, and that every member of RBAC is entirely free to exercise his or her own discretion in the course of the Board's decision-making activities; and

WHEREAS, it is therefore the desire of Council simply to inform RBAC that, in Council's opinion, the Board's ongoing due diligence review has the potential to provide invaluable information as the Board determines whether the adoption of additional ethical standards and/or best practices is both prudent and practicable;

NOW THEREFORE, IT IS MOVED, BY THE COUNCIL OF ALLEGHENY COUNTY, THAT

The Council hereby expresses its opinion regarding the RBAC's ongoing due diligence review, as described herein.