



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

RESOLUTION NO. 050478

Introduced May 19, 2005

Councilmember Cohen

**Referred to the
Committee on Law and Government**

RESOLUTION

Proposing an amendment to the Philadelphia Home Rule Charter creating and empowering a new Board of Ethics, and providing for the submission of the amendment to the electors of Philadelphia.

WHEREAS, Under Section 6 of the First Class City Home Rule Act (53 P.S. §13106), an amendment to the Philadelphia Home Rule Charter may be proposed by a resolution of the Council of the City of Philadelphia adopted with the concurrence of two-thirds of its elected members; now, therefore,

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA,

SECTION 1. That the following amendment to the Philadelphia Home Rule Charter is hereby proposed and shall be submitted to the electors of the City on an election date designated by ordinance:

ARTICLE II - LEGISLATIVE BRANCH

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CHAPTER 3 LEGISLATION

§2-300. The Annual Operating Budget Ordinance.

City of Philadelphia

RESOLUTION NO. 050478 continued

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(4) In every annual operating budget ordinance:

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(e) The amount appropriated to the Board of Ethics shall be adequate to enable the Board to perform the duties assigned to it by this charter. For the first two full fiscal years immediately following the effective date of this subsection, such amount shall be \$600,000, or such higher amount as the Council may ordain. Should the Council fail to make an appropriation to the Board of Ethics as required by this subsection, the Board may petition any Court of Common Pleas of Philadelphia County for a mandamus to the Council to perform its duty under this section.

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ARTICLE III EXECUTIVE AND ADMINISTRATIVE BRANCH - ORGANIZATION

CHAPTER 1 OFFICERS, DEPARTMENTS, BOARDS, COMMISSIONS AND OTHER AGENCIES

§3-100. Executive and Administrative Officers, Departments, Boards, Commissions and Agencies Designated.

The executive and administrative work of the City shall be performed by:

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(e) The following independent boards and commissions, which, except for the Board of Trustees of the Free Library of Philadelphia, are hereby created:

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Board of Ethics

City of Philadelphia

RESOLUTION NO. 050478 continued

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CHAPTER 8 INDEPENDENT BOARDS AND COMMISSIONS

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§3-806. Board of Ethics.

(1) *Composition.* The Board of Ethics shall be composed of five members appointed by the Mayor with the advice and consent of City Council. Members shall be chosen for their independence, integrity, civic commitment and high ethical standards; they shall be residents of, or have their primary place of business in, the City, and shall be registered to vote. The members of the Board shall elect a chair and such other officers as deemed necessary.

(2) *Initial Appointments, Term of Service.* Of the five members first appointed by the Mayor, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Thereafter, all appointments shall be for five years. Members shall serve until their successors have been appointed and confirmed. If the Mayor has not submitted to the Council a nomination for appointment of a successor at least thirty days prior to the expiration of the term of the member whose term is expiring, the term of the member in office shall be extended for an additional year and the term of the successor shall be shortened by an equal amount of time. If the City Council fails to act within sixty days of receipt of a nomination for a successor or a nomination to fill a vacancy, the nomination shall be deemed confirmed. No member of the Board shall serve for more than two consecutive five year terms.

(3) *Prohibited Activities.* No member of the Board shall hold any public office or position in this Commonwealth (other than as a member of an advisory body), and no member of the Board shall hold any office in any political party or body. No member of the Board shall make any financial contribution to any candidate for City office or to any incumbent City official; and no member or executive director of the Board shall seek any elective City office until two years after the termination of his or her service to the Board. Members of the Board shall be subject to all the political activities restrictions set forth in Section 10-107 that apply to appointed City officers and employees.

City of Philadelphia

RESOLUTION NO. 050478 continued

(4) Removal for cause. Members may only be removed for cause, and only with the concurrence of two-thirds of all the members of Council, after notice to the member and an opportunity to be heard at a public hearing before a committee of Council.

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ARTICLE IV EXECUTIVE AND ADMINISTRATIVE BRANCH POWERS AND DUTIES

The Mayor, The City Representative and Departments, Boards and Commissions under the Mayor

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CHAPTER 10 BOARD OF ETHICS

§ 4-1000. Powers and Duties.

The Board of Ethics shall be responsible for:

(1) Education and training of all City officers and employees with regard to matters of ethics.

(2) Prevention of ethical violations by City officers and employees.

(3) Investigating suspected ethical violations.

(4) Issuance of advisory opinions regarding matters of ethics.

(5) Enforcement of the Ethics Code.

For purposes of this Chapter, matters of ethics include conflicts-of-interest; financial disclosure; prohibited political activities; standards of governmental conduct; campaign finance matters; and such additional related matters as the Council may from time to

City of Philadelphia

RESOLUTION NO. 050478 continued

time assign to the Board. The Ethics Code shall be the ordinance designated as such by City Council, and any related legislation the Council may from time to time designate.

§ 4-1001. Departmental Cooperation.

All departments, offices, boards, commissions and their respective heads shall cooperate with any request by, and provide appropriate assistance to, the Board of Ethics with regard to education and training, any prevention tools proposed by the Board, any investigations performed by the Board, and any other duties assigned to the Board.

§ 4-1002. Advisory Opinions and Legal Services.

Notwithstanding Sections 4-400 and 8-410 of this Charter:

(1) Whenever any officer or employee, department, board or commission shall require advice concerning any matter of ethics, it shall be the duty of such officer, department, board or commission, to refer the same to the Board of Ethics; provided that, with respect to advice regarding State law, the Law Department, at the option of an officer or employee requesting advice, shall have concurrent authority to render advisory opinions.

(2) The Board shall furnish advice to the Mayor, to the Council and to all officers and employees, departments, boards and commissions concerning any matter of ethics.

(3) The Board shall use the services of the Law Department whenever it needs legal advice or is engaged in litigation, except that the Board need not use the services of the Law Department and may rely solely upon counsel of its choosing and other Board staff whenever the Board determines, after consultation with the City Solicitor, that representation by the Law Department in an investigation by the Board of suspected ethical violations or in enforcement activities of the Board would be inconsistent with the independence necessary for the particular matter. The Board shall be bound by any opinion of the Law Department interpreting applicable law, but the Board shall not be bound by the opinion of the Law Department in applying law to any particular facts.

City of Philadelphia

RESOLUTION NO. 050478 continued

§ 4-1003. Enforcement Powers.

The Board shall have the power and duty to enforce the Ethics Code in the Court of Common Pleas or, if authorized by Council by ordinance, to administratively adjudicate alleged violations of the Ethics Code and to impose civil penalties and other remedies for violations. Prior to bringing an enforcement action, the Board may conduct internal conciliation, mediation, hearings, or such other processes as it deems appropriate. The Board may also recommend appropriate disciplinary measures to the appropriate appointing authority, and shall refer any matter it deems appropriate to another administrative or enforcement agency.

§4-1004. Meetings and Reports.

(1) The Board shall meet at least quarterly and at such other times as the chair may deem necessary. The Board shall convene its first meeting within thirty (30) days after all initial appointments are made and confirmed.

(2) Not later than three months after the end of each fiscal year, the Board shall submit to the Mayor, the President of City Council, the Chief Clerk of City Council and the Department of Records a detailed accounting of all of its expenditures during the previous fiscal year.

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SECTION 2. That the foregoing amendment to the Philadelphia Home Rule Charter shall be effective on the first day of January or the first day of July immediately following the adoption thereof by the voters, whichever shall occur first.

Explanation:

Italics indicate new matter added.