

# City of Philadelphia



Council of the City of Philadelphia  
Office of the Chief Clerk  
Room 402, City Hall  
Philadelphia

(Resolution No. 090605)

## RESOLUTION

Calling upon the Administration to submit to Council immediately a further revised Five-Year Plan that does not include an assumption about the state providing additional court funding and to provide all requested detail regarding such plan.

WHEREAS, Pursuant to the Pennsylvania Intergovernmental Cooperation Authority (“PICA”) Act, 52 P.S. § 12720.101, et seq., each year Philadelphia is required to submit a financial plan that contains “[p]rojected revenues and expenditures” for the current fiscal year and the next four fiscal years (the “Five-Year Plan”); and

WHEREAS, “All projections of revenue and expenditures” in the Five-Year Plan “shall be based upon reasonable and appropriate assumptions and methods of estimation, all such assumptions and methods to be consistently applied;” and

WHEREAS, Regarding revenue from the state, the PICA Act provides in Section 209(c)(2): “Estimates of revenues to be received from the State government shall be based on historical patterns, currently available levels or on levels proposed in a budget by the Governor;” and

WHEREAS, Pursuant to the 1992 City Council ordinance approving the intergovernmental cooperation agreement between the City and PICA (Bill No. 1563-A), to constitute an “official filing of the City” any revised Five-Year Plan that “will require the adoption of an ordinance by City Council for its implementation” must first be submitted to City Council for preliminary approval by resolution; and

WHEREAS, Pursuant to a July 21, 2009 resolution of PICA, the City was required to submit a revised Five-Year Plan to PICA by August 30, 2009 because the State Legislature had not granted the City the requested authority to increase the sales tax and make pension fund modifications; and

WHEREAS, The revised Five-Year Plan developed by the Administration – known as “Plan C” – required legislative action in the form of transfer ordinances to

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increase appropriations to the pension fund; accordingly, Mayor Nutter submitted Plan C, and a related resolution, to City Council on August 20, 2009; and

WHEREAS, In the transmittal letter accompanying the resolution, Mayor Nutter requested that the Council President waive the requirement for Council approval of the resolution because time was of the essence; and

WHEREAS, The Council President granted the Mayor's request for a waiver on August 24, 2009, noting that "[t]his waiver is intended to reflect in the strongest possible way my support for the sales tax and pension fund legislation currently sought in Harrisburg" and the need for the City to speak with "one strong, clear voice" on this matter; and

WHEREAS, The Administration submitted Plan C to PICA on August 28, 2009 and submitted the so-called "Plan B" (i.e., the original plan with spending reductions to reflect the loss of approximately \$20 million in anticipated sales tax revenue due to the delay in passage of the sales tax increase) to PICA on September 1, 2009; and

WHEREAS, Plan C fails to meet the foundational standard of reasonableness set forth in the PICA Act because it is built upon the unreasonable assumption that the state will take over funding for the First Judicial District – of the \$905 million in spending reductions under Plan C, fully \$475 million, or over 52%, results from de-funding the First Judicial District; and

WHEREAS, This revenue assumption is not supported by "historical patterns, currently available levels or on levels proposed in a budget by the Governor" and, therefore, does not meet the requirements of the PICA Act set forth in Section 209(c)(2); and

WHEREAS, The "historical pattern" demonstrates continued unwillingness by the state to assume court costs despite Pennsylvania Supreme Court case law dating back two decades requiring it to do so; and

WHEREAS, The "currently available levels" of funding for the First Judicial District from the state, as well as those "proposed in a budget by the Governor," are orders of magnitude less than those assumed under Plan C; furthermore, given the ongoing budget crisis in Harrisburg, there is no reasonable basis to assume that the state will increase funding for the courts in FY10 or thereafter; and

WHEREAS, The PICA Board met to consider Plans B and C on September 11, 2009, at which meeting it granted approval of Plan B, but resolved that "[s]hould the State fail to grant [the requested sales tax and pension fund] authorities by September 18, 2009, Plan B will be deemed disapproved and the City [] will be required to submit to the PICA Board a modification of Plan C . . . which is consistent with the requirements of the

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PICA Act, including Section 209(c)(2). The modified Plan C must be submitted to PICA by September 25, 2009”; and

WHEREAS; At the September 11, 2009 meeting, PICA Board members expressed the view that Plan C as submitted was “untenable” due to its underlying assumption regarding increased court funding by the state; and

WHEREAS, As of September 17, 2009, the state has not yet granted the City the requested authorities; and

WHEREAS, The “modified Plan C” the Administration must submit to PICA on September 25, 2009, should the state not grant the requested authorities by September 18, 2009, will require legislative action in the form of transfer ordinances to the pension fund; and

WHEREAS, Accordingly, to be an “official filing of the City” the “modified Plan C” must be submitted to and approved by Council prior to submission to PICA; and

WHEREAS, Given the short time frame available before the “modified Plan C” is due to PICA, Council calls upon the Administration immediately to submit such further revised plan, and all supporting detail (including, without limitation, all available revenue-increasing options and supporting detail demonstrating how any proposed spending cuts would be spread throughout the City), so Council may have a reasonable opportunity to consider the plan prior to the September 25, 2009 deadline for submission to PICA; now, therefore be it

*RESOLVED BY THE COUNCIL OF THE CITY OF PHILADELPHIA*, That Council calls upon the Administration to submit to Council immediately a further revised Five-Year Plan that does not include an assumption about the state providing additional court funding and to provide all requested detail regarding such plan.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the seventeenth of September, 2009.

Anna C. Verna  
PRESIDENT OF THE COUNCIL

Michael A. Decker  
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmembers Green, Jones and Sanchez

Sponsored by: Councilmembers Green, Jones, Sanchez DiCicco, Blackwell, Goode, Reynolds Brown, Miller, Council President Verna and Councilmember O'Neill