



City of Philadelphia

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

RESOLUTION NO. 080394

Introduced April 10, 2008

Councilmembers Green and Rizzo

**Referred to the
Committee of the Whole**

RESOLUTION

Declaring the Council of the City of Philadelphia's intention to eliminate funding to the First Judicial District of Pennsylvania within the next four-year period and urging the Pennsylvania General Assembly to carry-out its constitutionally-mandated and court-ordered responsibility to fund the First Judicial District, as mandated by the Supreme Court of Pennsylvania.

WHEREAS, The Pennsylvania Supreme Court, in *County of Allegheny v. Commonwealth of Pennsylvania*, 517 PA. 65 (1987) declared that the Pennsylvania statutory scheme which requires counties to fund Pennsylvania's unified judicial system was unconstitutional; and

WHEREAS, Despite the fact that the Supreme Court afforded the Pennsylvania General Assembly time to enact appropriate funding legislation in order to comply with the Court's decision, the Pennsylvania General Assembly failed take any action; and

WHEREAS, As a result of the General Assembly's inaction, the Pennsylvania Supreme Court, in *Pennsylvania State Association of County Commissioners v. Commonwealth of Pennsylvania*, 545 Pa. 324 (1996), ordered the General Assembly to "enact a funding scheme for the court system on or before January 1, 1998."; and

WHEREAS, Over a decade has passed since the court-ordered deadline for the General Assembly to fund the unified court system, yet the General Assembly has provided no such funding; and

WHEREAS, Since the court-ordered deadline, the City of Philadelphia has provided over \$1.1 billion to the First Judicial District. The funding request for Fiscal Year 2009 alone is \$114.5 million; and

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WHEREAS, Additionally, the City of Philadelphia has provided and continues to provide other 'in-kind' financial benefits to the First Judicial District not reflected in annual funding requests, including but not limited to rental space paid for by the Department of Public Property, maintenance of that space, technical support from the Mayor's Office of Information Services, debt service on the Criminal Justice Center and other buildings occupied by the First Judicial District, and pension and health care costs for court employees, costs estimated at tens of millions per year; and

WHEREAS, As a result of the General Assembly's constitutionally-mandated and court-ordered responsibility to fund the unified court system, Council of the City of Philadelphia hereby declares its intention to eliminate funding to the First Judicial District; and

WHEREAS, City Council currently is considering two amendments to the Fiscal Year 2009 budget, which would eliminate or reduce funding to the First Judicial District. The first proposed amendment would eliminate or 'zero-out' funding to the court system for FY09. The second proposed amendment reduces FY09 funding to the court system by 25%, with the stated intention of continuing this reduction for each subsequent fiscal year, thereby resulting in elimination of City provided funding to the First Judicial District by year 2012; and

WHEREAS, In addition to the eventual elimination of funding to the First Judicial District, City Council pledges to recoup the 'in-kind' costs of the court system. In order to facilitate this adjustment, City Council plans to allow the First Judicial District to continue occupation of City buildings rent-free for the next ten years, requiring rental compensation for any further occupation. Additionally, beginning in Fiscal Year 2013, the City will seek reimbursement for the remaining actual costs associated with the operation of the First Judicial District, including but not limited to pension, health care, and technology costs; and

WHEREAS, In striving to accomplish the goal of a unified judicial system funded by the General Assembly, City Council vows to work with the Mayor and the County Commissioners from across the Commonwealth, each of whom has been sent a copy of these proposals, in order to learn each county's position on this matter and to determine the best and most effective course of action; and

WHEREAS, The Council of the City of Philadelphia respects and appreciates the hard work, diligent efforts and effectiveness of the First Judicial District and any such reduction in funding should not be seen as a reflection of the quality of services provided by the Philadelphia court system; rather, the stark reality remains that the City has a desperate need for the monies that the General Assembly is constitutionally mandated to provide; and

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WHEREAS, Philadelphia City Councilmembers, County Commissioners, members of the Judiciary and members of the General Assembly have each sworn to “obey and defend” the Constitution of the Commonwealth and to discharge their duties with “fidelity”; and

WHEREAS, The failure of City Council and the County Commissioners to eliminate funding to the court system and the General Assembly’s failure to provide funding for that court system are violations of that oath; and

WHEREAS, Based upon this oath, as well as the Pennsylvania Supreme Court’s order, City Council contends that any *mandamus* action filed by the judicial districts to secure the provision of funding can only properly be brought against the Pennsylvania General Assembly, which has the constitutionally mandated duty to fund the unified judicial district; and

WHEREAS, In light of the foregoing, the Council of the City of Philadelphia urges the Pennsylvania General Assembly to comply with its constitutional duty and the order issued by the Supreme Court of Pennsylvania by enacting the appropriate legislation to provide funding to Pennsylvania’s unified judicial system; now, therefore, be it

DECLARED BY THE COUNCIL OF THE CITY OF PHILADELPHIA:

That the Council of the City of Philadelphia intends to eliminate funding to the First Judicial District of Pennsylvania within the next four-year period and urges the Pennsylvania General Assembly to carry-out its constitutionally-mandated and court-ordered responsibility to fund the First Judicial District, as mandated by the Supreme Court of Pennsylvania.

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