

City of Philadelphia



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

(Resolution No. 110356)

RESOLUTION

Urging the Mayor to again invoke the “Extraordinary Extension” clause of the City’s DROP ordinance, in order to authorize and encourage firefighters who are, or in 2012 will be, in the fourth year of the DROP program to remain employees for up to one additional year, in light of the fact that absent such extraordinary relief, the Fire Department, which is currently unable to hire entry-level firefighters until a new, valid civil service test is in place, will experience a shortage of approximately 98 firefighters in all of FY2012 and part of FY2013.

WHEREAS, The most recent firefighter Examination for entry-level firefighters was given on November 19, 2005, generating a list of eligible candidates that expired on January 31, 2010; and

WHEREAS, There is no current list from which additional entry-level firefighters can be hired; and

WHEREAS, Given recent federal court decisions calling into question the constitutionality of firefighter examinations (including the U.S. Supreme Court’s 2009 decision in *Ricci v. DeStefano*), the City’s Office of Human Resources, seeking to ensure that the next test will survive a judicial challenge, recently issued an RFP, which has not yet been awarded, to select a professional firm to prepare a new civil service examination for entry-level firefighters that is “legally defensible, valid and job-related”; and

WHEREAS, Until the new test is designed and given and a list of qualified applicants is prepared, no new entry-level firefighters can be hired to replace those who leave the Fire Department; and

WHEREAS, In testimony before Council’s Committee of the Whole on April 11, 2011, Fire Commissioner Ayers stated that he anticipates hiring the next firefighter class in early Fiscal Year 2013 – which means that no new entry-level firefighters will be hired in all of calendar year 2011 and at least the first six months of calendar year 2012; and

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WHEREAS, Because of anticipated attrition and the inability to hire replacements, the Fire Department is proposing to budget for 98 fewer positions in Fiscal Year 2012 compared to Fiscal Year 2011 and Fiscal Years 2013 through 2016, and is planning to use increased overtime to maintain staffing levels until the new class is appointed and trained; and

WHEREAS, Commissioner Ayers testified further that, under this plan, “we expect the brownouts to stay where they are right now,” a state of affairs that remains a matter of grave and continuing concern to City Council, and that indicates that the Fire Department remains short-staffed, even without the projected 98 vacancies; and

WHEREAS, The use of overtime to cover staff shortages is an extremely poor substitute for having a full complement of rested firefighters with appropriate time away from work; moreover, the projection of 98 fewer positions is just an estimate, and the true shortfall could exceed that number; and

WHEREAS, Approximately 70 firefighters who are currently in the DROP are scheduled to separate from City service in either the remaining months of 2011 or in 2012; and

WHEREAS, The City’s DROP ordinance includes the following provision authorizing the Mayor to extend the four-year DROP period by up to one additional year:

“Extraordinary Extension. The Mayor may determine that an extraordinary circumstance exists which threatens public health, safety and welfare, and where it would be in the City's best overall interests to extend participation, participants in the DROP who are in their fourth year in the program may remain employees of the City for up to one additional year beyond the four (4) year limit under the same terms and conditions of the DROP.” Phila. Code § 22-310(2)(a); and

WHEREAS, Mayor Nutter has already invoked this provision: On May 1, 2008, responding to a shortage in existing and projected staffing levels at certain ranks in the Police Department and to the Crime Emergency that he had declared, Mayor Nutter issued a “Declaration of Extraordinary Circumstances” authorizing officers at certain specified ranks within the Police Department to extend their participation in the DROP. According to the May 8, 2008 edition of the Northeast Times, Mayor Nutter said, “We’re asking police officers, ‘Please think about the city you’ve served and you’ve loved and think about staying a little longer’”; and

WHEREAS, Extending the DROP period for up to one additional year would impose no additional pension costs on the City’s retirement system inasmuch as the affected firefighters will receive the identical pension payments whether they are in the DROP or have left City service. The required 4.5% interest payment for an additional year would impose at most a minimal cost on the pension system – and none at all if the system earns in excess of that percentage during the relevant period; and

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WHEREAS, Just as Mayor Nutter was concerned with maintaining an adequate, effective complement of Police Officers to preserve the peace and protect the citizens, this Council is equally concerning with maintaining an adequate, effective, complement of firefighters to staff Philadelphia's fire stations and save lives at this extraordinary time when the City lacks the capacity to hire new entry-level firefighters; now, therefore,

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA,

THAT the Council respectfully urges the Mayor to again invoke the "Extraordinary Extension" clause of the City's DROP ordinance, in order to authorize and encourage those firefighters who are, or in 2012 will be, in the fourth year of the DROP program to remain employees for up to one additional year, in light of the fact that the Fire Department, which is currently unable to hire entry-level firefighters until a new, valid civil service test is in place, will, absent such extraordinary relief, experience a shortage of approximately 98 firefighters in all of FY2012 and part of FY2013.

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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 twelfth of May, 2011.

Anna C. Verna
PRESIDENT OF THE COUNCIL

Michael A. Decker
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmember O'Neill

Sponsored by: Councilmembers O'Neill, Rizzo, Blackwell, Jones, Goode, Krajewski, Kenney, Tasco, Greenlee, Sanchez, Clarke, Green, DiCicco and Reynolds Brown