

Legislation Text

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**TO THE PRESIDENT AND MEMBERS OF THE
COUNCIL OF THE CITY OF PHILADELPHIA:**

For the reasons set forth below, I hereby return to your Honorable Body without signature Bill No. 130852, which passed on February 20, 2014.

This Bill would purport to require that in general, contracts for provision of conflict counsel services be subject to a financial audit to be submitted to Council by the Director of Finance, a “quality control audit” by an experienced attorney in the field, and reporting of certain other information.

As my Administration has made clear, it is crucial to ensure the quality of conflict counsel services secured by the City for indigent defendants. I welcome Council’s shared commitment in this area.

While I am open to finding means of providing robust oversight of the provision of conflict counsel services, I do not believe that this Bill, on its own, will accomplish this end. The Bill would require an annual financial audit of conflict counsel contracts. Financial audits are a means of determining whether financial statements are prepared in accordance with Generally Accepted Accounting Principles, and to identify other issues. I do not question the need for information about City contracts, or the necessity of financial auditing (indeed, City contracts already include provisions requiring that the contractor agree to submit to any audit the City deems necessary). I do question whether this particular requirement really gets to the heart of the present issue—the quality of the actual legal services provided by conflict counsel.

In contrast, the Quality Control Auditor requirement is, superficially, more oriented to the substance of the issue. But I do not believe that this requirement represents the best policy endpoint for ensuring quality. The report of the Quality Control Auditor is simply the opinion of one person who, though an “expert,” will bring only a single point of view to the oversight process. As an example, it would be more effective to secure the report of a panel whose membership is comprised of individuals able to provide an array of expert views on the functioning of the system. Such a panel could combine the best features of firsthand involvement in the system (for instance, by including judges, attorneys, or social workers), with policy insight (for instance, by including scholars or advocates).

While this Bill is not harmful, I am returning it unsigned because I believe it does not accomplish its stated end. My Administration will take every step necessary to ensure the quality of conflict counsel services funded by the City, and remains open to partnering with Council on this important issue.

Respectfully,
MICHAEL A. NUTTER