

Legislation Details (With Text)

File #: 210005 **Version:** 0 **Name:**

Type: Bill **Status:** IN COMMITTEE

File created: 1/28/2021 **In control:** Committee on Finance

On agenda: **Final action:**

Title: Signifying the intention of the City of Philadelphia to organize the Philadelphia Public Banking Authority pursuant to authority established under state law, under certain terms and conditions.

Sponsors: Councilmember Green, Councilmember Squilla, Councilmember Gym, Councilmember Parker, Councilmember Bass, Councilmember Gauthier, Councilmember Gilmore Richardson, Councilmember Johnson, Councilmember Brooks, Councilmember Henon, Councilmember Quiñones Sánchez, Councilmember Thomas

Indexes: PUBLIC BANKING

Code sections:

Attachments: 1. Bill No. 21000500.pdf

Date	Ver.	Action By	Action	Result	Tally
1/28/2021	0	CITY COUNCIL			

Signifying the intention of the City of Philadelphia to organize the Philadelphia Public Banking Authority pursuant to authority established under state law, under certain terms and conditions.

WHEREAS, a public bank can help to achieve multiple policy objectives that include facilitating municipal infrastructure development for our City government, supporting a local financial ecosystem that assures equitable access to credit from our community banks, and stimulating economic development that spurs job creation and expands the tax base of our local businesses; and

WHEREAS, a public bank can help support the investment of City revenues for local benefit in ways that are consistent with the City’s values and policy goals; and

WHEREAS, a public bank can help identify, develop, and implement best practices for local financial institutions and their clients to eliminate de facto redlining, to promote meaningful citizen involvement in private decision making that affects public welfare, to assist cooperative business startups and conversions, and to facilitate achievement of additional public policy goals within the private sector; and

WHEREAS, Philadelphia has a history with banking innovation, starting with the establishment of financial institutions here before and during the funding of the American Revolution and the formation of the United States under the visionary leadership of Benjamin Franklin, Robert Morris, and Alexander Hamilton; and

WHEREAS, successful public banks currently operate throughout the world and in the United States, notably The Bank of North Dakota since 1919 and the Territorial Bank of American Samoa since 2016; and

WHEREAS, a public bank can provide financial tools and resources, including those available to members of the Federal Reserve System, that are in productive use by private banking institutions but are not currently available to the City directly; and

WHEREAS, a public bank can enhance the financial resiliency, stability, and capacity of the City in preparation for, response to and recovery from crises such as the COVID-19 pandemic, civil unrest, and climate disruption; and

WHEREAS, Philadelphia experiences a persistent small-business lending gap that inhibits the ability of local entrepreneurs and their business ventures from realizing their full potential - in particular within Black and Latinx communities that have historically been denied fair and equal access to credit, thereby having been prevented from building intergenerational capital resources - and a public bank can address such inequities; and

WHEREAS, a public bank can partner, rather than compete, with community banks to extend reliable, affordable credit to small businesses and other community stakeholders; and

WHEREAS, a public bank can enhance the efficiency and efficacy of financial institutions in Philadelphia through such measures as investing in Community Development Financial Institutions (CDFIs) and organizing a collaborative venture under the Bank Service Company Act (12 USC §1861-1867); and

WHEREAS, a public bank can develop and implement programs to provide funding for purposes of improving education, affordable housing, commercial corridors, and quality of life for citizens citywide and focused in specific neighborhoods with particular needs, and can do so without necessarily incurring the expenses associated with operating branch locations; and

WHEREAS, net revenue derived from operations of the public bank can be retained as reserves or used for civic purposes; and

WHEREAS, creation of a public bank offers an opportunity for our engaged citizens, financial institutions, the Administration, City Council, and civic organizations to work together in imagining and promoting programs and policies that can assure credit availability for Philadelphia and its underserved neighborhoods and residents; and

WHEREAS, Act No. 102 of the Commonwealth of Pennsylvania, approved August 23, 1967, authorizes municipalities to create economic development financing authorities; and

WHEREAS, an authority under the laws of Pennsylvania possesses all of the powers needed to form and operate a public bank; and

WHEREAS, The City intends to organize an authority under Act 102 to operate a public bank in a manner that is transparent, accountable, democratically representative, professionally managed, efficiently operated, and sufficiently funded to serve the needs and interests of the people and government of the City of Philadelphia; therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The City of Philadelphia hereby signifies its intention to organize the Philadelphia Public Banking Authority (“PPBA”) under Act No. 102 of the Commonwealth of Pennsylvania, approved August 23, 1967, (73 P.S. § 371 et seq.), known as the Economic Development Financing Law as amended.

SECTION 2. The City Solicitor is directed to file the following Articles of Incorporation with the Secretary of the Commonwealth of Pennsylvania in substantially the following form:

The City Solicitor, acting for the municipal authorities of the City of Philadelphia, is authorized and directed to file the necessary Articles of Incorporation on behalf of the Authority in substantially the following form:

ARTICLES OF INCORPORATION OF THE PHILADELPHIA PUBLIC BANKING AUTHORITY
TO THE SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA:

In compliance with the Economic Development Financing Law, (73 P.S. § 371 et seq.), as amended, the undersigned Mayor and President of the Council of the City of Philadelphia, pursuant to an ordinance duly adopted, desiring to organize a body corporate and politic under the aforesaid Act, do hereby certify in reference to said Authority as follows:

Section 1. Name. The name of the Authority shall be The Philadelphia Public Banking Authority. The Authority is formed by virtue of and under Act No. 102 of the Commonwealth of Pennsylvania, approved August 23, 1967, (73 P.S. § 371 et seq.), known as the Economic Development Financing Law (“EDFL”).

Section 2. Incorporating Municipality. The name of the incorporating municipality is the “City of Philadelphia.” The names and addresses of its municipal authorities are:

- 1) Mayor Jim Kenney, Room 215 City Hall Philadelphia, PA 19107
- 2) Council President Darrell L. Clarke, Room 494 City Hall, Philadelphia, PA 19107
- 3) Councilmember Derek S. Green, Room 594 City Hall, Philadelphia, PA 19107
- 4) Councilmember Mark Squilla, Room 332 City Hall, Philadelphia, PA 19107
- 5) Councilmember Kenyatta Johnson, Room 580 City Hall, Philadelphia, PA 19107
- 6) Councilmember Jamie Gauthier, Room 586 City Hall, Philadelphia, PA 19107
- 7) Councilmember Curtis Jones, Jr., Room 404 City Hall, Philadelphia, PA 19107
- 8) Councilmember Bobby Henon, Room 484 City Hall, Philadelphia, PA 19107
- 9) Councilmember Maria D. Quiñones-Sánchez, Room 508 City Hall, Philadelphia, PA 19107
- 10) Councilmember Cindy Bass, Room 312 City Hall, Philadelphia, PA 19107

- 11) Councilmember Cherelle Parker, Room 577 City Hall, Philadelphia, PA 19107
- 12) Councilmember Brian J. O'Neill Room 562 City Hall, Philadelphia, PA 19107
- 13) Councilmember Kendra Brooks, Room 408 City Hall, Philadelphia, PA 19107
- 14) Councilmember Allan Domb, Room 316 City Hall, Philadelphia, PA 19107
- 15) Councilmember Katherine Gilmore Richardson, Room 581 City Hall, Philadelphia, PA 19107
- 16) Councilmember Helen Gym, Room 592 City Hall, Philadelphia, PA 19107
- 17) Councilmember David Oh, Room 319 City Hall, Philadelphia, PA 19107
- 18) Councilmember Isaiah Thomas, Room 330 City Hall, Philadelphia, PA 19107

Section 3. Authority Board. The powers of the Authority shall be exercised by a governing body to be called "The Philadelphia Public Banking Authority Board of Directors," which shall have thirteen (13) members.

- 1) Appointment. All members shall be appointed subject to the following:
 - a. Six members shall be appointed by the Mayor from a group of nine persons recommended by the Council, upon approval by resolution;
 - b. All nominees recommended by Council shall have at least five years of experience concerning one or more of the following: environmental justice, racial justice, low-income housing, public education, public health, co-operative development, neighborhood-based small business development, gender justice, public transportation;
 - c. To be recommended, an individual must have been nominated in writing to Council by one or more Philadelphia-based community groups substantially focused on one or more of the issues listed in subsection (b);
 - d. Three members shall serve ex-officio: the Mayor, the Council President, and the Treasurer, all of whom may appoint staff members to represent them;
 - e. Three members shall be appointed by the Mayor, subject to confirmation by Council, each of whom shall have at least five years of experience in managing or regulating community-oriented financial institutions, including but not limited to credit unions, community banks, and Community Development Financial Institutions;
 - f. The chief executive officer shall be appointed by the other members of the Board and shall also be a member of the Board ex-officio.
 - g. Members of the Board shall not be removed from office during their terms, except for non-performance of duties, failure to participate in meetings, or violations of ethical standards set forth in the Philadelphia Code or applicable state law;
 - h. Any member vacancy due to resignation, removal, disqualification, death, or any other reason prior to the expiration of their term shall be filled in the same manner that the relevant member was appointed, except that Council shall recommend a group of three persons by resolution for each vacancy of any member chosen from its list, rather than nine.
- 2) Board member terms. In order that the members appointed by the Mayor shall continue to serve on a staggered basis, there shall be three (3) classes of directors: the names, addresses and classes of the first members who shall serve from the date of incorporation to a date of

termination are set forth below; future appointments to the Board shall be made by class for a term of five (5) years:

Name	Address	Class	Date of Termination
		A	January 1, 2023
		B	January 1, 2025
		C	January 1, 2027

Each class shall consist of three members appointed by the Mayor, two of whom were recommended by the Council. The chief executive officer shall not be a member of any class but shall serve at the pleasure of the other members of the Board.

Section 4. Purpose

The purpose of the PPBA shall be to take all practical and feasible measures within the scope of the powers granted to it under the EDFL to:

- 1) provide financial resources on fair terms to credit-worthy Philadelphia residents and businesses that lack equitable access to existing sources of financing, particularly in communities that have suffered historical discrimination in credit markets;
- 2) offer financing to the City of Philadelphia, other participating governmental entities, and their related agencies, including but not limited to the School District of Philadelphia, to service their infrastructure needs;
- 3) to foster growth of:
 - a. renewable energy and energy efficiency enterprises and projects;
 - b. low-income housing availability;
 - c. cooperative business development;
 - d. enterprises paying family-sustaining wages;
 - e. businesses creating new employment opportunities;
 - f. transportation projects;
 - g. other enterprises and activities filling needs of marginalized communities

Section 5. Powers.

The PPBA shall possess all powers granted to authorities under Act No. 102 of the Commonwealth of Pennsylvania, approved August 23, 1967, (73 P.S. § 371 et seq.), known as the Economic Development Financing Law, as amended. In particular, it shall have the power to:

- 1) hold deposits of funds belonging to the City of Philadelphia and other government entities as well as their related agencies, including but not limited to the School District of Philadelphia, and to invest such funds for the benefit of the City and such agencies, subject to the requirements of Chapter 19-200 of the Philadelphia Code and any other applicable federal and Commonwealth law or regulations;
- 2) obtain from either or both governmental and private sources such collateral and insurance, as may be appropriate to protect deposits placed with it;
- 3) accept contributions toward capital and operating costs from private nonprofit institutions;
- 4) issue tax-exempt municipal bonds (pursuant to Act 102, Section 7);
- 5) finance and refinance construction and rehabilitation infrastructure projects of the City, other governmental entities, and their related agencies;
- 6) provide loans, letters of credit, guarantees, and other forms of credit enhancement, loan participation, and direct or indirect financial assistance, consistent with its purposes as set forth in this ordinance;
- 7) to develop and implement programs that further its purposes in collaboration with both for-profit and nonprofit financial institutions;
- 8) enter into contracts with both private and governmental entities;
- 9) purchase and sell securities;
- 10) purchase and sell real property;
- 11) seek and obtain such state and federal approvals as may be required for it to fulfill any or all of its Purposes.

Section 6. Audits and Reports.

- 1) The financial statements of the PPBA shall be audited annually by the City Controller.
- 2) The non-financial performance of the PPBA with respect to its overall mission and the efficacy of each of its programs shall be assessed by the Controller no less frequently than biennially. The bank shall develop, implement, track, and report metrics appropriate for assessment of its performance.
- 3) The PPBA shall seek and obtain such oversight from state or federal banking regulatory agencies as may be appropriate for its operations and shall comply with auditing and reporting requirements of such agencies.
- 4) The PPBA shall assist the City Treasurer in monitoring and reporting the performance of the PPBA and all other financial institutions operating within the City of Philadelphia regarding compliance with the Community Reinvestment Act (12 UCS 30 §2901-2908).
- 5) All reports shall be publicly available.

Section 7. Ethics. All Board members, employees and agents of the PPBA shall be subject to Chapter 20-600 of the Philadelphia Code and the Public Official Employee and Ethics Act (65 Pa. C.S. §1101-1113).

SECTION 3.

The names, addresses, and classes of original Board members shall be determined in accordance with Section 3 (1) of the Articles of Incorporation as set forth above, and included in Section 3(2) of said Articles as filed by the City Solicitor pursuant to this ordinance. The Articles shall also set forth the PPBA's term of existence, not to exceed fifty (50) years absent later amendment of the Articles.

SECTION 4. The Articles of Incorporation shall be filed with the Secretary of the Commonwealth within thirty (30) days of the appointment of the Board.