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Proposing an amendment to the Philadelphia Home Rule Charter so that there shall be established in the Legislative Branch of the City of Philadelphia Government the "Legislative Budget Office" by the addition of a new "Section 2-105" to "ARTICLE II LEGISLATIVE BRANCH - The Council - Its Election, Organization, Powers and Duties," "CHAPTER 1 THE COUNCIL;" renumbering current Sections 2-105 and 2-106; and providing for the submission of the amendment to the electors of Philadelphia.

WHEREAS, Philadelphia City Council will better perform its budgetary responsibilities with an appropriate support office with the authority to access information and primary records of instrumentalities using Philadelphia City public money on the same basis as the heads of those instrumentalities, and provide professional, non-partisan review, analysis, and recommendations to City Council in support of its budget process; and

WHEREAS, Under Section 6 of the First Class City Home Rule Act (53 P.S. §13106), an amendment to the Philadelphia Home Rule Charter may be proposed by a resolution of the Council of the City of Philadelphia adopted with the concurrence of two-thirds of its elected members; now, therefore

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA,

That the following amendment to the Philadelphia Home Rule Charter is hereby proposed and shall be submitted to the electors of the City on an election date designated by ordinance:

ARTICLE II

LEGISLATIVE BRANCH

The Council - Its Election, Organization, Powers and Duties

* * *

§ 2-105. Establishment of Legislative Budget Office.

(1) Definitions. In this section -

(a) "instrumentality" means all departments, agencies, boards, commissions, or other units of Philadelphia City Government or other entities that utilize Philadelphia City Government public

money.

(b) "public money" means all tax revenues, grant revenues, concession revenues, fees, and revenues received from the issuance of debt.

(c) "budget" means both operating and capital budgets.

(2) General.

(a) There is established an office of the City Council to be known as the Legislative Budget Office (hereinafter in this section referred to as the "Office"). The Office shall be headed by a Director (hereinafter in this section referred to as the "Director").

(b) The Director shall be appointed by the President of City Council, without regard to political affiliation and solely on the basis of his fitness to perform his duties, to serve at the pleasure of the President of City Council.

(c) The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay and employment benefits, rights, and privileges, all personnel of the Office shall be employees of the City Council.

(d) In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations.

(e) The Director and employees of the Office may administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this section, which oath, affirmation, or affidavit when administered or taken by or before the Director or an employee of the Office designated by the Director shall have the same force and effect as if administered or taken by or before an officer having a seal;

(f) There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions.

(3) Duties and Functions. The Office shall:

(a) investigate all matters in support of the budget process related to the receipt, disbursement, and use of public money;

(b) independently estimate the actual costs and revenues of the City of Philadelphia Government budget items;

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(c) analyze expenditures to help the City Council to decide whether public money has been used and expended effectively, economically and efficiently;

(d) keep the City Council fully and currently informed concerning fraud, waste, and other serious problems, abuses, and deficiencies relating to the administration of programs and operations;

(e) produce reports, studies, analyses, conclusions, and recommendations in support of the budget process;

(f) conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures;

(g) report expeditiously to the District Attorney, or the Pennsylvania Attorney General, or the United States Attorney General, as appropriate, whenever the Director has reasonable grounds to believe there has been a violation of criminal law.

(4) Access to Records and Information.

(a) The Director and employees of the Office are authorized to secure information and primary and other records on the same basis as the head of the instrumentality or its employees, such as, but not limited to, data, estimates, and statistics, directly from instrumentalities. All such instrumentalities shall give the Office such information and records requested by the Director and employees of the Office about the duties, powers, activities, organization, and financial transactions of the instrumentality, and the Office may inspect any instrumentality records. When instrumentality information and records are not made available to the Office, the Director may make a written request to the head of the instrumentality. The request shall state the authority for reviewing the information and records and the reason for the review. The head of the instrumentality shall have 20 days after receiving the request to respond. The response shall describe the record withheld and the reason the record is being withheld. If the Director is not given an opportunity to inspect the record within the 20-day period, the Director may file a report with the President of City Council, the head of the instrumentality, and the Mayor. Through an attorney the President designates in writing, the Director may bring a civil action in a court of competent jurisdiction to require the head of the instrumentality to produce the requested information and records. The court may punish a failure to obey an order of the court under this subsection as a contempt of court.

(b) The President of City Council may subpoena a record of a person not in an instrumentality when information and records are not made available to the Director to which the Office has access by law or by agreement of that person from whom access is sought. A subpoena shall identify the record and the authority for the inspection and may be issued by the President of City Council. The Director may have an individual serve a subpoena under this subsection by delivering a copy to the person named in the subpoena or by mailing a copy of the subpoena by certified or registered mail, return receipt requested, to the residence or principal place of business of the person. Proof of service is shown by a verified return by the individual serving

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the subpoena that states how the subpoena was served or by the return receipt signed by the person served. If a person residing, found, or doing business in a judicial district refuses to comply with a subpoena issued under this subsection, the Director, through an attorney the President of City Council designates in writing, may bring a civil action in a court of competent jurisdiction to require the person to produce the information or records. The court has jurisdiction of the action and may punish a failure to obey an order of the court under this subsection as a contempt of court.

(c) The City Council and the Office shall maintain the same level of confidentiality for a record made available under this section as is required of the head of the instrumentality from which it is obtained. Officers and employees of the Office and Councilmembers and employees of City Council are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the instrumentality.

(d) The City Council and Office shall keep information and records that the Office obtains in a way that prevents unwarranted invasions of personal privacy.

[§ 2-105.] *§ 2-106.* Employment of Counsel.

In the event the Law Department declines to advise or render legal services to the Council in any matter and whenever the Council is conducting an investigation relating to the executive and administrative branch of the City government, the Council may employ and fix the compensation of counsel of its own selection to handle such matter or to assist in conducting such investigation. In all other cases it shall obtain legal advice and services exclusively from the Law Department.

[§ 2-106.] *§ 2-107.* Certain Provisions Relating to the Executive and Administrative Branch to Apply Also to the Council.

The provisions of this charter on procurement of personal property, printing, engraving and publications, contracting for public utility services, maintenance of automobiles, disposing of personal property, distribution of printed matter, and the creation, maintenance, retention and disposition of records, shall apply to the Council, but the Council alone shall determine which of its records are not needful or useful in the transaction of its current or anticipated work.

Explanation:
[Brackets] indicate language deleted.
Italics indicate new language added.

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