

## Legislation Text

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Calling on Mayor James F. Kenney and his administration to conduct an annual review of how the City's elimination of the Rule of Two has impacted workforce diversity in both hiring and promotion.

WHEREAS, In November 2021, a majority of voters in Philadelphia voted to eliminate the "Rule of Two," which dictated that under the law (as per the Home Rule Charter) that when filling single-position vacancies for Civil Service jobs, only the two highest ranking candidates on the eligible list were submitted to the requesting Department for an interview. The Department then selected one of the two candidates to fill the position; and

WHEREAS, Before its elimination, many had argued for decades that the Rule of Two discriminated against minorities and women for entry-level hiring, but especially with regard to promotions; and

WHEREAS, A 2018 Report by the Pew Charitable Trust - *Hiring and Employment in Philadelphia Government* - revealed that the Rule of Two did not provide managers with the latitude to make employment decisions that fit the unique nature of certain jobs; the Rule of Two limited hiring managers to the two top-scoring candidates for each civil service vacancy (meant to place emphasis on merit selection, the rule gave hiring managers little discretion in assembling their teams); and because the Rule of Two drew hard-and-fast distinctions between candidates of roughly equal qualifications, it could undermine a manager's ability to hire a diverse workforce; and

WHEREAS, In a 2017 comparison with 35 other peer cities, it was found that no other municipality adhered to a Rule of Two. All had more expansive rules (Rule of Five, Rule of Ten, etc.), and approximately 20 percent used a varying rule, which is what Philadelphia chose to do by eliminating the Rule of Two; and

WHEREAS, By eliminating the Rule of Two, the goal is to increase the diversity of candidate pools and also to allow the City to leverage the use of alternate selection tools like training and experience as opposed to traditional "pen and paper" (a.k.a standardized test) assessments and to provide hiring managers greater flexibility in assembling their teams and to reach more talented employees based on their experience; and

WHEREAS, Eliminating the Rule of Two will allow the Human Resources Director for the City to set rules for each announcement based on several variables defined under specific guidelines which will address these questions and more: 1) What is the diversity of the incumbents in the job title to be announced?, 2) Where are the gaps in diversity?, 3) What is the historical data from prior lists about diversity of the talent pool?, and 4) What is the data on budgeted vacancies?, 5) What is the projected size of the candidate pool and the availability of qualified candidates?, and 6) What is the ability to use more flexible selection tools?; and

WHEREAS, A 2015 article by Tom Ferrick in *The Philadelphia Inquirer* detailed how our local government workforce did not reflect the City of today. He wrote, "Blacks, Latinos, and Asians are underrepresented when it comes to local government jobs. Women of all races and ethnic origins are as well." His analysis found that for the 4,000-plus City employees who earned \$70,000 a year or more, 64 percent were white and 72 percent were male. And for the 4,000 or so City employees who earned \$35,000 a year or less, 67 percent were Black and 55 percent were male. He also found that the average salary of a white worker (\$60,107) was about

\$10,642 more than the average for a Black employee, who earned \$49,465; and

WHEREAS, Ferrick's article pointed out the obvious that when it comes to promotions, because the pipeline usually is filled with white males in many departments, the odds favor them taking the next step up; and

WHEREAS, Our municipal government is one of the largest employers in the City of Philadelphia, and for too long, the Rule of Two has held back Black and Brown employees, either from obtaining an entry-level job or from getting that promotion. Eliminating the Rule of Two is by no means a "silver bullet" to making our City's workforce, and particularly our City's upper management, more reflective of Philadelphia's demographics, but it is a necessary and important step; and

WHEREAS, To ensure that the elimination of the Rule of Two has its intended effect to increase diversity and to provide greater flexibility in the hiring process, the Mayor and his administration must conduct an annual review of how the City's elimination of the Rule of Two has impacted workforce diversity in both hiring and promotion and has provided hiring managers greater flexibility in these employment decisions. The annual review should occur for at least the next three years to ensure that we are on the right path; now, therefore, be it

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That it hereby calls on Mayor James F. Kenney and his administration to conduct an annual review of how the City's elimination of the Rule of Two has impacted workforce diversity in both hiring and promotion.