

## HOW PHILLY WORKS

### Minimum Wages and Benefits; Conflict Counsel:

#### What You Should Know about Philadelphia's May 20 Ballot Questions, Part II

Here is Part II in our [HOW PHILLY WORKS](#) series on the three questions on Philadelphia's May 20, 2014 primary election ballot. In case you missed it yesterday, here is [Part I](#). All three seek to amend provisions of the Philadelphia Home Rule Charter, the city's governing document.

Ballot questions often aren't very sexy. But Seventy is dedicated to educating city voters about them. We know this information can be tough to find. And the ballot questions themselves can be hard to understand. We're happy to help.

**REMEMBER: All eligible city voters, regardless of their party affiliation, can vote on ballot questions.**

--May 15, 2014

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**Ballot Question #1: Shall The Philadelphia Home Rule Charter be amended to confirm Council's power to enact provisions Council considers necessary or appropriate to implement a Minimum Wage and Benefits Ordinance, including, but not limited to, provisions mandating that minimum wage and benefits requirements be passed along to subcontractors on City contracts and subrecipients of City financial assistance, and provisions authorizing the granting and revocation of waivers, with debarment as a potential penalty for violation of such provisions?**

#### [You're right. The ballot question is hard to understand.](#)

In November 2010, city voters approved a ballot question that gave City Council the power to require entities that do business with, and get financial assistance from, the city government to compensate their employees with certain minimum levels of pay and certain minimum levels of benefits. The May 2014 ballot question would give Council the authority to require the same entities to pass along these minimum wage and benefits requirements to their subcontractors or subrecipients of city financial assistance. Council could also assign power to waive this requirement to an existing or new city agency or to itself. (That part is not in the ballot question.)

#### [So the May 20 ballot question gives new powers to Council?](#)

According to City Councilman W. Wilson Goode, Jr. – who has championed Council's efforts to provide living wages for city workers – minimum wages and benefits set by Council for entities that do city business and receive city financial assistance already extend to these entities' subcontractors and subrecipients of city financial assistance. The Nutter administration disagreed with this interpretation. (You may remember protests by employees of airport subcontractors.) Goode sponsored the 2014 ballot question to settle the issue.

#### [What if a company doesn't go along with the law?](#)

Council can bar them from doing city business or getting city money.



### Minimum wage seems to be a big issue. Didn't Mayor Nutter just do something about this?

You're probably thinking of the Executive Order the mayor signed earlier this month that requires companies with gross receipts of more than \$1 million and with city contracts of over \$10,000 to provide a minimum wage of \$12/hour for their employees (up from \$10.88/hour), beginning January 1, 2015 – and also raises the pay for certain subcontractors' employees to \$10.88/hour, beginning on May 20, and then to \$12/hour, beginning January 1, 2015.

### Does the mayor's Executive Order make the May 20 ballot question moot?

No. Laws passed by City Council are permanent. On the other hand, a mayor's Executive Order governs as long as the mayor issuing the order is in office. The next mayor can do away with an Executive Order.

### Are there downsides to raising the minimum wage?

When this ballot question was first heard by Council, the Nutter administration expressed concerns about "unintended consequences" (e.g., increased city costs and possible loss of jobs). But in issuing his recent Executive Order, the mayor cited grim statistics that one out of every four city households lives on less than \$15,000 a year – the highest poverty rate among the 10 largest U.S. cities. He says raising the minimum wage will help.

### Does Seventy have a position on this ballot question?

Seventy has not taken a position on this ballot question. The *Daily News* says to vote "yes." The *Inquirer* recommends a "no" vote. You can read their editorials [here](#) and [here](#).

**Ballot Question #3 (NOTE: "Resign to Run" is the second question on the ballot. The following question is in the #3 position): Shall The Philadelphia Home Rule Charter be amended to provide that Council approval is required for certain contracts for one year or less for the purpose of providing legal representation and related services for indigent persons, including but not limited to parents and children who are subjects of dependency proceedings; criminal defendants; persons in juvenile justice proceedings; persons involved in behavioral health proceedings; and indigent persons involved in other proceedings where legal representation is required?**

### I don't really understand this ballot question either.

This ballot question would require City Council to approve city contracts of one year or less that cost over \$100,000 and involve the legal representation of indigent Philadelphians (i.e., Philadelphians who can't afford their own lawyer) in certain proceedings – and also the renewal and extension of these contracts.

### Does Council approve all city contracts?

No. The city's Law Department explains that the Home Rule Charter gives Council the authority to approve only certain kinds of city contracts, e.g., sale or purchase of real estate by the city and contracts for services or supplies or leases of real estate extending for over a year. Council approval is not required for these contracts if they are for less than a year.



### What prompted this ballot question?

A dispute with the Nutter administration. Depending on the type of proceeding involved, the city already contracts with the Defender Association of Philadelphia, Community Legal Services (CLS) or the Support Center for Child Advocates to provide legal services to Philadelphians who cannot afford their own lawyers. When one of these groups already represents someone else in the same case, the city appoints an outside lawyer to handle these “conflict” cases.

### What’s the Mayor/Council dispute about?

To improve the delivery of legal services, the Nutter administration decided to create a new “Conflict Counsel” office. This hasn’t happened yet. (The process was halted after a technical snafu in the application of the law firm chosen to head up the office.) Meanwhile, critics claimed a “Conflict Counsel” office would be more concerned with making money than providing quality legal services. So City Councilman Dennis O’Brien sponsored this Council-approval-for-conflict-counsel-contracts ballot question (contracts with the Defenders, CLS or Support Center are exempted). O’Brien said Council needs to be involved since these cases impact “constitutional rights” and the public should have input.

### I guess the Nutter administration wasn’t too happy with Council.

The administration said Council approval would slow down the contracting process, incur additional costs, encroach on the power of the executive branch and risk a perception of “political interference” by Council in contracting decisions. City Council passed the ballot question. Mayor Nutter took no action, which means he didn’t sign or veto the proposal so Council’s passage stands. Now the decision is up to city voters.

### Does Seventy have a position on this ballot question?

Seventy has not taken a position on this ballot question. Both the *Inquirer* and *Daily News* recommend a “no” vote. Their editorials are [here](#) and [here](#).

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