

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON FINANCE

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, December 3, 2012
2:25 p.m.

PRESENT:

COUNCILMAN BILL GREEN, CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN DENNIS O'BRIEN
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN MARK SQUILLA

BILL 120822 - An ordinance amending Title 19 of The Philadelphia Code, entitled "Finance, Taxes and Collections," by changing the interest rate and penalty rate for unpaid taxes...

BILL 120823 - An ordinance amending Chapter 19-500 of The Philadelphia Code, entitled "Taxes and Rents - General," by changing the allocation of delinquent payments...

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COUNCILMAN GREEN: Good

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afternoon. The Finance Committee shall

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come to order. We have a hearing on two

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bills, 120822 and 120823.

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I note the presence of a quorum

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in the presence of Councilmembers

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Blackwell, Goode, Greenlee, and O'Brien,

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and I ask the Clerk to please read the

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title of the bills.

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THE CLERK: Bill No. 120822, an

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ordinance amending Title 19 of The

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Philadelphia Code, entitled "Finance,

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Taxes and Collections," by changing the

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interest rate and penalty rate for unpaid

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taxes; and by making clarifying

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amendments concerning the suspension or

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tolling of various statutes of

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limitations; all under certain terms and

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conditions.

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Bill No. 120823, an ordinance

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amending Chapter 19-500 of The

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Philadelphia Code, entitled "Taxes and

24

Rents - General," by changing the

25

allocation of delinquent payments, under

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 certain terms and conditions.

3 COUNCILMAN GREEN: Thank you.
4 I understand that it is okay with the
5 Administration to accept a testimony of
6 the person testifying for the PICPA. So
7 I'd ask them to come forward.

8 (Witnesses approached witness
9 table.)

10 COUNCILMAN GREEN: Good
11 afternoon, gentlemen.

12 (Good afternoon.)

13 COUNCILMAN GREEN: It's good to
14 see you again. Please state your name
15 for the record and proceed with your
16 testimony.

17 MR. HORNICK: Thank you. It's
18 also good to see you all.

19 I think this afternoon we're
20 going to start with our discussion with
21 Bill 120822, but before we do, some
22 introductions.

23 Matt, would you like to start.

24 MR. MELINSON: Sure.

25 Matt Melinson. I'm a partner

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 with Grant Thornton, an estate and local
3 tax practice.

4 MR. HORNICK: And I'm Bob
5 Hornick. I'm with Hornick and
6 Associates, LLC and I'm Chairman of the
7 Committee on Legislation and Local Taxes
8 for the PICPA.

9 Matt, your role and some of the
10 other connections with the City.

11 MR. MELINSON: Well, are we on
12 the record?

13 COUNCILMAN GREEN: Please
14 proceed with your testimony.

15 MR. MELINSON: Okay. Just for
16 background for the -- and mostly
17 Councilmembers would hopefully know, be
18 somewhat familiar at least with the
19 Pennsylvania Institute of CPAs, but for
20 perspective, we represent about 21,000
21 members statewide. About 10,000 of those
22 are in the Greater Philadelphia and
23 basically in the five-county area here.
24 We obviously serve a lot of clients,
25 businesses, individual taxpayers, many of

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 whom pay City of Philadelphia taxes in
3 various forms. So thank you for the
4 opportunity to come and testify today.

5 For general background, I'm not
6 going to, in the interest of your time,
7 we won't go through the testimony. We
8 provided you with written copies. The
9 general gist of this, from my
10 perspective, is this has been in
11 discussions in terms of what should we do
12 for many years. I can speak to at least
13 about 15 to 20 years worth of that.

14 I served on Mayor Nutter's Tax
15 Policy Committee in 2009. I've served on
16 Commissioner Richardson's and his
17 predecessor, Commissioner Kammerdeiner's
18 Advisory Committee for the last 12 years
19 or so.

20 This is one where I have the
21 benefit of attending and presenting at a
22 lot of national conference in the field
23 of state and local taxation, and
24 Philadelphia often gets a black eye for a
25 number of reasons in the tax area. One

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 of these isolated reasons we're dealing
3 with the bills today here is in the
4 interest and penalty area.

5 The interest and penalty is, in
6 short, far higher than the norm around
7 the United States of America, far higher
8 than the federal norm, the Commonwealth
9 of Pennsylvania, and possibly everywhere,
10 but definitely the overwhelming majority
11 of state and local taxing jurisdictions
12 throughout the country.

13 So the first bill here, 120822,
14 which would take the 12 percent interest
15 rate -- and you guys know what it would
16 be like to get a loan these days or what
17 the current market interest rate is.
18 Twelve percent is not an accurate
19 reflection of the current market interest
20 rate, is the general gist here.

21 So the concept of bringing this
22 down, I think the proposal is the federal
23 short-term rate plus five, one could
24 opine that that's even slightly high, but
25 it's certainly a heck of a lot better

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 than where you are. It also allows for
3 fluctuations. If you go back to the
4 Jimmy Carter era potentially here and the
5 rates go higher, it builds in some
6 protection for the City to take it
7 higher, and there's an element of
8 reasonable fairness around that rate,
9 certainly relative to where we are today
10 from an interest perspective.

11 Bob, anything you want to add?

12 MR. HORNICK: I agree. I think
13 everyone agrees here that our rates in
14 Philadelphia are much too high. And I
15 guess at one time perhaps that was looked
16 at as a big stick that was needed to get
17 taxpayers to the table, to come in and
18 get them to pay, but today it's way out
19 of line for when at the time it was
20 written.

21 MR. MELINSON: On the penalty
22 side, the tie-in again, I would opine
23 that in my experience from practicing
24 around the country in state and local
25 taxes, generally interest is supposed to

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 serve as time value of money. So
3 something that's in the general ball park
4 of time value of money should be where an
5 interest rate is at, and if there is a
6 stick, that should be imposed on the
7 penalty side.

8 Now, we certainly, to say the
9 least, do have a stick in place and,
10 frankly, would still have one even after
11 the adjustments to the rate here. So for
12 perspective, the penalty rates as they
13 stand right now, it's a graduated scale
14 in year one. When you aggregate all the
15 months, it comes to 30 percent. And then
16 it would be 15 percent a year thereafter,
17 basically a percent and a quarter per
18 month. And it never stops. So a lot of
19 jurisdictions around the country, there's
20 a cut-off point. Maybe it's when you get
21 to 25 percent of the total value of the
22 tax, 50 percent, maybe 100 percent. This
23 tax grows and grows and grows. So when
24 you get to -- like if you have an
25 assessment for, say, \$5,000 of tax from

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 three years and three months ago, your
3 interest and penalty will be greater than
4 5,000. Once you take it out seven years,
5 if you had a \$5,000 assessment, the
6 interest and penalty would be more than
7 \$10,000. And this causes a lot of
8 complications in terms of trying to
9 negotiate and try to get people actually
10 onto the rolls and paying what they're
11 supposed to be paying in terms of tax.

12 The penalty rates are far out
13 of line with what you usually see around
14 the United States, far out of line with
15 Pennsylvania, federal. This would be a
16 positive step, this bill. It takes a
17 positive step. It would get rid of some
18 of those really egregious rates in the
19 first year. It would take the 30 percent
20 down to 15 percent.

21 And so, again, the only thing
22 on behalf of the PICPA I would say is,
23 arguably we could even go further, but
24 this is definitely a step in the right
25 direction and, therefore, we're

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 supportive of the bills. This is a
3 positive step, sends the right message to
4 the business and taxpayer community that
5 the City is trying to do the right things
6 and to act in good faith and to try to
7 set forth some reasonable parameters in
8 the interest and penalty environment, and
9 I think it's a very positive thing.

10 MR. HORNICK: And I would add
11 to that. I think that the lower the
12 rates are, the more business-friendly we
13 are to small businesses. Big businesses
14 come in with big guns, they negotiate,
15 and they get their rates, they get things
16 changed. Small businessmen are dazed in
17 this. They have no idea they could be
18 making payments for a long time, and then
19 all of the sudden learn that they haven't
20 touched the principal. They're still
21 paying primarily penalty and interest,
22 which in our notes we say, in our
23 testimony, we say how unfair we felt that
24 was.

25 So I think that is a big plus.

1 12/3/12 - FINANCE - BILLS 120822 & 120823

2 Small businesses would probably be the
3 biggest beneficiaries of this change.

4 MR. MELINSON: Before we
5 transition to 120823, is it appropriate
6 to transition to that or do you have any
7 questions on the interest and penalty?

8 Okay. As it pertains to the
9 second bill here, 120823, this is one
10 that I personally dealt with probably,
11 I'll just say, approximately 30 times in
12 my career at least in -- let's just say
13 over the last ten years I've dealt with
14 this 30 times with the City of
15 Philadelphia, and the issue here, it's a
16 little -- it's an administrative issue in
17 large part here, where the City the way
18 that the current statute reads, it's
19 supposed to take the taxpayers' money
20 when there's a payment -- so, again,
21 let's go back to my earlier example. You
22 have 15,000 due and 5,000 is principal
23 and a little over 10,000 is interest and
24 penalty, let's say. Somebody makes a
25 payment of \$5,000, which again almost all

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 jurisdictions around the country they
3 would believe to be and in fact would be
4 paying off the principal, stopping the
5 bleeding, so to speak, so that they could
6 later negotiate interest and penalty.

7 The way that the City currently
8 processes that payment is, they take a
9 pro rata portion of that, apply it to
10 tax, and then they apply the rest to
11 interest and penalty. So my example of
12 5,000 -- my numbers might get flawed
13 here, but something like 1,250 bucks
14 would go to the tax principal and the
15 other 3,750 go to interest and penalty.
16 So you'd still have nearly a \$4,000
17 principal balance. And, again, the
18 interest and penalty keeps running
19 against that existing principal balance.
20 And, again, it's very inconsistent and
21 it's also confusing to taxpayers.
22 Taxpayers don't understand. They think
23 they paid the 5,000. In their mind,
24 many, many times they think that they
25 paid what they're supposed to pay to at

1 12/3/12 - FINANCE - BILLS 120822 & 120823

2 least stop the principal, but then they
3 later learn via bills and we have to get
4 into some, let's just call it, confusing
5 negotiations with the City. By this
6 point, a lot of us kind of know who to
7 get to and know how to get through it,
8 but the small businesses or the mid-sized
9 businesses, they don't know where to go
10 and they don't understand the problem in
11 the first place.

12 So with respect -- the
13 Administration can certainly tell you
14 some of the issues they deal with on that
15 end, but I know it's taking up
16 administrative time for the Department of
17 Revenue and certainly from the taxpayers'
18 standpoint. They've got to hire people
19 like ourselves and attorneys to get them
20 through those situations.

21 MR. HORNICK: And if I'm not
22 mistaken, in most cases, non-city or
23 others, if an individual marks their
24 payment "apply to principal only," that's
25 been held in many courts that that should

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 be applied to principal only and no
3 matter what the terms are. And I don't
4 know if that's been brought up in
5 Philadelphia cases at all.

6 MR. MELINSON: Well, I will say
7 this: Again, my experience has been, we
8 always get to that answer. It's just a
9 lot of pain to get to that answer. Now,
10 I don't know that everybody gets to that
11 answer, but I would say in my clients'
12 case, we're getting to that answer, but
13 it literally -- you're dealing with
14 appeals, like formal appeals, to get that
15 unwound and to get it to how it should
16 have been, where the 5,000 is applied to
17 principal first and then the balance is
18 reflected as interest and penalty.

19 So in an overall basis, this is
20 a really good bill here. There's no
21 doubt this one, in my mind at least, this
22 one is a step in the right direction.
23 PICPA supports it. The only caveat we'd
24 put on behalf of the organization on this
25 one -- and I understand that some efforts

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 are going on to possibly address this,
3 but on both of the bills, the real estate
4 taxation is excluded, and we understand
5 that there's some good reasons why it was
6 excluded, but I'll just say it would be
7 nice if that could get included in the
8 future.

9 But the PICPA, in short,
10 supports both of these bills, supports
11 them strongly, and thinks it's a step in
12 the right direction for the City of
13 Philadelphia.

14 MR. HORNICK: Thanks, Matt.

15 Again, what Matt just said is
16 very true, but if you notice, he's
17 talking about, in order to get these
18 payments applied to other than interest
19 and principal, he's talking about costs.
20 He's talking about hiring accountants,
21 hiring attorneys. So, again, I feel this
22 would benefit small businesses, which is
23 important.

24 COUNCILMAN GREEN: Great. Yes.

25 I want to note the presence of

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 Councilmember Squilla and Blondell
3 Reynolds Brown, who joined us.

4 And I just want to ask you in
5 your opinion, the way you read this, in
6 the example, you gave there's \$5,000 of
7 principal and a \$15,000 bill, and \$5,000
8 comes in in a single or series of checks
9 and principal is applied. Once that
10 principal is paid, do interest and
11 penalties cease accruing on that account?

12 MR. MELINSON: That's correct.
13 That would be my understanding. So if
14 the Administration could support that or
15 validate that. But, yes, my
16 understanding is that would stop the
17 interest and penalty from running. Now,
18 certainly the interest and penalty still
19 hangs there.

20 COUNCILMAN GREEN: It exists.

21 MR. MELINSON: That's an
22 outstanding liability that's collectible
23 and --

24 COUNCILMAN GREEN: But it
25 doesn't compound on itself.

1 12/3/12 - FINANCE - BILLS 120822 & 120823

2 MR. MELINSON: That's correct.

3 That's correct, importantly.

4 COUNCILMAN GREEN: Okay. And
5 we do have an amendment that we've agreed
6 to with the Administration that includes
7 real estate in this bill. So this will
8 be passed out of Committee adding real
9 estate to the bill.

10 MR. MELINSON: I think that's
11 great.

12 MR. HORNICK: That's good.

13 COUNCILMAN GREEN: Thank you
14 very much.

15 Any questions from members of
16 the Committee?

17 (No response.)

18 COUNCILMAN GREEN: Seeing none,
19 thank you very much for your testimony.
20 We appreciate the time you took to come
21 in today, and hopefully we'll have you
22 back to talk about some other business
23 tax changes in the near future. Thanks.

24 (Thank you.)

25 COUNCILMAN GREEN: Whoever is

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 testifying from the Administration, if
3 you could please come forward.

4 (Witnesses approached witness
5 table.)

6 COUNCILMAN GREEN: Good
7 afternoon. Please state your name for
8 the record and proceed with your
9 testimony. If you would like to
10 summarize your testimony, that would be
11 okay with us.

12 COMMISSIONER RICHARDSON: I
13 figured it would be.

14 Good afternoon, Chairman Green
15 and members of the Finance Committee.
16 Again, my name is Keith J. Richardson,
17 the Revenue Commissioner for the City of
18 Philadelphia. With me today is Francis
19 Ruml Beckley, Chief Counsel for the Tax
20 Law Unit in the Revenue Department. We
21 are both here today to testify in support
22 of Bill No. 120822 and 120823.

23 Bill No. 120822 amends Section
24 19-509 of the Code that deals with
25 interest and penalties by changing the

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 interest and penalty rates charged for
3 late payment of City and School District
4 taxes, other than real estate taxes, but
5 we're -- currently the interest rate is 1
6 percent on the amount of unpaid taxes
7 each month, which is a total of 12
8 percent a year, during which the tax
9 remains unpaid. This rate has been in
10 effect since July 1st of 1997. Prior to
11 that, the interest rate was a half
12 percent. The current penalty rate is a
13 progressively increasing rate in each
14 quarter of the first year. Again, 1
15 percent for the first quarter, 2 percent
16 for each month in the second quarter, and
17 3 percent for the next quarter and 4
18 percent for the fourth quarter. Again, a
19 total of 30 percent over the first year.
20 This makes the combined interest and
21 penalty rate 42 percent for the tax year
22 if the tax remains unpaid in the first
23 year. In the years thereafter, where the
24 1 percent interest rate remains
25 unchanged, the penalty rate becomes 1 and

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 a quarter percent, which comes to 15
3 percent over a year. Again, making that,
4 combined with the 12 percent, 27 percent
5 for a year. These penalty provisions
6 have been in effect since July 1st of
7 1987. Again, that was a situation after
8 the tax amnesty program the City did back
9 in 1986 to kind of be the carrot to
10 induce delinquent taxpayers to come
11 forward and make payments on their taxes.

12 Bill No. 120822 also makes
13 clarifying amendments to Section 19-510
14 and 19-510A concerning limitations of
15 actions to recover delinquent taxes and
16 assess taxes. This clarifying amendment
17 is needed to de-couple the provision
18 relating to discovery of fraudulent
19 evasion of taxes from the provision
20 dealing with the mere discovery of
21 substantial understatement of gross
22 receipts from the income. The language
23 of the current provision is not
24 sufficiently clear. The Department of
25 Revenue does not have to possess evidence

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 revealing the fraudulent evasion of taxes
3 when review of taxpayers' books and
4 records reveals substantial
5 understatement of gross receipts in the
6 income. Again, this clarifying amendment
7 makes it clear that mere discovery of
8 substantial understatement is sufficient
9 to suspend the statutes of limitation of
10 actions provided under Section 19-510 and
11 19-510A.

12 Bill No. 120823, again, amends
13 19-505 of the Code dealing with
14 allocation of delinquent payments. The
15 provision of this section currently
16 provides for the proration of partial
17 payment of any delinquent tax between the
18 principal sum of such tax and the
19 interest and penalties accumulated on it.
20 The bill proposes to change the provision
21 of all the taxes and potentially the real
22 estate imposed by the City and the School
23 District providing for the application of
24 a partial payment of delinquent tax to
25 the principal sum of the tax, interest,

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 costs, and penalties, in that order.
3 Again, the Pennsylvania Code also
4 provides that for any tax administered by
5 the Pennsylvania Department of Revenue,
6 any partial payment of tax is applied to
7 the following: Tax, addition to tax,
8 interest, penalty, and any other fees and
9 charges. It is time to change the City's
10 practice of prorating partial payment of
11 taxes between principal, interest, and
12 penalty to a less burdensome, less
13 confusing, and more familiar practice
14 that the federal government, the State of
15 Pennsylvania, and other tax jurisdictions
16 currently apply in one form or another.

17 There are some amendments that
18 have been proposed, and we are here to
19 answer any questions, and thank you for
20 letting us testify.

21 COUNCILMAN GREEN: Thank you.

22 Ms. Beckley, if you could
23 please describe the amendments that have
24 been proposed that add real estate taxes
25 to this bill. We had language that we

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 sent over to you, which I think was
3 extraordinarily clear, and I have before
4 me a change to that amendment, which I
5 think is less than clear, and I just want
6 to make sure for the record we are clear
7 on what this language means.

8 MS. BECKLEY: Okay. As I
9 recall, the amendment that you have
10 proposed was simply to strike the
11 exclusion of real estate from the normal
12 cascading whereby a payment was applied
13 first to principal, then to interest,
14 then to cost, then to penalty. We had
15 given you a slight variation on that,
16 asking you to propose this amendment
17 instead, because in the case of real
18 estate tax, state law allows us to add
19 counsel fees separately from what's
20 actually owed to us and we wanted to
21 ensure that we are able to continue to
22 employ co-counsel in a situation where
23 they will get those counsel fees even
24 when there's a partial payment.

25 So the language we've proposed

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 for proration for real estate has the
3 first dollar applied not only to
4 principal but also pro rata to counsel
5 fees.

6 COUNCILMAN GREEN: When you say
7 "pro rata," you have to have a proportion
8 to begin with when you use the word "pro
9 rata," and there is no proportion to
10 begin with that is in this bill, and that
11 is why I find this amendment confusing,
12 because for pro rata there has to be a
13 numerator and denominator and I don't
14 understand what that means.

15 MS. BECKLEY: Right. Well,
16 there's a -- separately -- I don't
17 remember which section it's in -- the
18 ordinance provides that counsel fees can
19 be imposed up to the rate of 18 percent.
20 We currently impose them at that maximum
21 18 percent rate. I think we would be
22 reluctant to lock ourselves in to paying
23 that rate by ordinance. That's been a
24 matter of contract negotiation with our
25 co-counsel, and if in the future we can

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 bring that rate down, we'd probably like
3 to do that since it's an additional cost
4 imposed on the taxpayer.

5 COUNCILMAN GREEN: So the
6 question I have is, why not just say it's
7 applied first to principal, less counsel
8 fees applicable to the payment, as
9 opposed to you using the confusing term
10 "pro rata." In other words, you could
11 say it's 100 percent applied to
12 principal, less applicable counsel fees.
13 It seems to me that's far more clear.

14 MS. BECKLEY: I think it would
15 make sense for us to have a prolonged
16 discussion and include Richie Feder or
17 somebody else from Legislation and
18 Appeals in that discussion. I don't find
19 the other language as clear. Pro rata
20 simply means proportionate.

21 COUNCILMAN GREEN: To what?

22 MS. BECKLEY: To each other, to
23 the two liabilities.

24 COUNCILMAN GREEN:

25 Proportionate to each other, you have to

1 12/3/12 - FINANCE - BILLS 120822 & 120823

2 have a --

3 MS. BECKLEY: They get 18 cents
4 for every dollar they bring us.

5 COUNCILMAN GREEN: --
6 percentage to begin with and we in theory
7 could have -- it's not in reference to
8 agreements with outside counsel.

9 I find it very confusing, but I
10 just want to state for the record you are
11 open to amending this to principal, less
12 applicable counsel fees or something --

13 MS. BECKLEY: I'm open to
14 amending it to language that we all
15 mutually agree gets where we want to be.
16 I think we're all in agreement about what
17 we want to accomplish. I'm as unenamored
18 of your formulation as you are of ours,
19 but perhaps we can find a third way that
20 everybody is comfortable with, and I
21 suspect we can since there's no -- we
22 have no disagreement about what we're
23 trying to get.

24 COUNCILMAN GREEN: So would you
25 state clearly for the record what we're

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 trying to achieve.

3 MS. BECKLEY: We are trying to
4 have it so that when the first dollar
5 comes in, we are paying -- everything is
6 applied to principal, except for the
7 amount necessary to pay co-counsel.

8 COUNCILMAN GREEN: Okay. Thank
9 you.

10 Any questions from anyone else?
11 Councilmember Goode.

12 COUNCILMAN GOODE: Just a
13 clarification regarding the term "pro
14 rata." And so is that payout to
15 principal and payout to counsel based
16 strictly upon the ordinance or is it
17 based upon whatever contract you have
18 with counsel?

19 MS. BECKLEY: They will get a
20 percentage counsel fee that is whatever
21 is currently negotiated in our contract
22 with them.

23 COUNCILMAN GOODE: So it's
24 based upon your contract with counsel?

25 MS. BECKLEY: Right. It

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 cannot -- there is another City ordinance
3 that requires that it not be above 18
4 percent, but --

5 COUNCILMAN GOODE: I understand
6 that.

7 MS. BECKLEY: -- it's 18
8 percent or less.

9 COUNCILMAN GOODE: But in terms
10 of pro rata, is that determined by
11 ordinance or is that determined by your
12 contract with counsel?

13 MS. BECKLEY: There's no
14 question that it's proportionate to what
15 they have collected, and that proportion
16 is set by contract.

17 COUNCILMAN GOODE: So it's set
18 by contract, not by ordinance?

19 MS. BECKLEY: Correct.

20 COUNCILMAN GOODE: Okay. I
21 just wanted to clarify that.

22 MS. BECKLEY: It's capped by
23 ordinance, but what it actually is right
24 now is set in the contract.

25 COUNCILMAN GOODE: But in terms

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 of how it's paid out is determined by
3 contract?

4 COMMISSIONER RICHARDSON: It's
5 by contract, sir.

6 COUNCILMAN GREEN: Anybody else
7 with any questions?

8 (No response.)

9 COUNCILMAN GREEN: Seeing none,
10 thank you very much for your testimony.
11 Mr. Bruno.

12 (Witness approached witness
13 table.)

14 COUNCILMAN GREEN: Good
15 afternoon.

16 MR. BRUNO: Good afternoon,
17 gentlemen.

18 COUNCILMAN GREEN: Please state
19 your name for the record and proceed with
20 your testimony.

21 MR. BRUNO: My name is Roger
22 Bruno. I'm representing the Pennsylvania
23 Tri County Chapter -- the Philadelphia
24 Tri County Chapter of the Pennsylvania
25 Society of Public Accountants. I am here

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 to voice our membership's support of both
3 Bills No. 120822 and 120823.

4 Bill No. 120823 that changes
5 the allocation of delinquent payments to
6 principal first instead of interest and
7 penalty would be a big step of good faith
8 shown to small businesses in this city.
9 Most of our membership services small
10 businesses in the City, and I can attest
11 from the reactions of our clients that
12 the current insidious practice of
13 applying any payments toward interest and
14 penalty first, thus creating a false tax
15 balance on which to continue charging
16 more interest and penalty, has been a
17 long thorn in the sides of struggling
18 businesses. It has created a sour and
19 hostile atmosphere among the small
20 business community that feels that this
21 practice contributes to the widespread
22 belief that the City is, quote, out to
23 get them instead of being a partner and a
24 help to continue their businesses during
25 these current difficult economic times.

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2 It is also a source of confusion. For
3 example, when a business is unable to pay
4 their tax on time and they pay it a few
5 months late, they receive a bill from the
6 City that shows a tax balance due and
7 continuing interest and penalty. The
8 delinquent bill implies that the return
9 was completed incorrectly since it shows
10 the tax due. This misrepresents the
11 situation and puts us, the tax
12 professional, in a bad position, as we
13 then have to explain that we did indeed
14 prepare the return properly, but that the
15 City has this system of applying
16 delinquent payments first to interest and
17 penalty. No one in the private sector
18 would ever conduct his or her business in
19 such a manner.

20 We believe that the passage of
21 this bill would create a sense of
22 fairness in the system and in the
23 perception of the small business person
24 who is making a good-faith effort to pay
25 their tax liabilities.

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2 In reference to Bill No.

3 120822, our organization also supports
4 the passage of this bill, because the
5 interest and penalty system that the City
6 imposes on the small business person has
7 long been known to be the highest and
8 most unfair penalties in America. By
9 tying the City rate to the federal rate
10 and reducing the current onerous
11 penalties, it would bring the City rates
12 in line with other cities and would
13 eliminate the need for so many businesses
14 to appeal these large and unfair
15 penalties and interest to the Law
16 Department, thus reducing their workload
17 and expense. We believe it would also
18 motivate more delinquents to come forward
19 to make and arrange payments with the
20 City, thus actually increasing
21 collections.

22 I thank you for this
23 opportunity to articulate our
24 organization's views on these bills.

25 COUNCILMAN GREEN: Thank you

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2 very much, Mr. Bruno. We appreciate you
3 taking the time to come in today. We
4 know you're very busy, and it is
5 appreciated. Thank you.

6 MR. BRUNO: Thank you.

7 COUNCILMAN GREEN: Any
8 questions for Mr. Bruno?

9 (No response.)

10 COUNCILMAN GREEN: Thank you.

11 Ms. Beckley, could we just ask
12 a couple of clarifying questions.

13 Just so we have actual numbers
14 to apply, if \$100 is being paid to the
15 City by a person who owes more than \$100
16 in principal --

17 MS. BECKLEY: Right.

18 COUNCILMAN GREEN: -- what does
19 the language here -- how would the money
20 be split up, assuming the contract with
21 counsel is for 18 percent?

22 MS. BECKLEY: You would -- I
23 would have to have a calculator. You
24 take what the percentage is -- let's make
25 it simple. If \$118 came in, the City

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 would get 100 and co-counsel would get
3 18.

4 COUNCILMAN GREEN: That's not
5 true. Co-counsel would get more than 18
6 percent because -- more than \$18, because
7 what we collected was 118, and 18 percent
8 of 118 is greater than 18.

9 COMMISSIONER RICHARDSON: If
10 it's \$100 that is owed, sir, and 118 is
11 the total bill, because they get their
12 money off the top, we don't add it into
13 it for the real estate.

14 COUNCILMAN GREEN: Well, okay.
15 So then we don't need this amendment,
16 because we're only saying that what comes
17 in is principal -- what comes into the
18 City is paid as principal. So are you
19 saying the City collects counsel's fees
20 and then remits them to counsel.

21 MS. BECKLEY: Exactly, because
22 otherwise we were concerned -- we have
23 had vendors in the past that have not --
24 that have overpaid themselves. So every
25 single dollar they collect goes to us,

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2 then they invoice us for their fees and
3 we pay them.

4 COUNCILMAN GREEN: But when the
5 taxpayer pays the bill, is it separated
6 into principal and counsel fees?

7 MS. BECKLEY: The total bill
8 is, but each payment is not. If you get
9 a partial payment on a payment plan, it
10 won't tell you what -- they're just
11 paying \$200 a month or whatever they pay
12 under their payment plan.

13 COUNCILMAN GREEN: Right. So
14 let's just leave it at \$100 a month. How
15 much goes to co-counsel and how much
16 comes to the City? Or let's leave it at
17 \$118.

18 MS. BECKLEY: If \$118 comes in,
19 they get their 18 and we get our hundred.

20 COUNCILMAN GREEN: And that
21 will apply to every single payment --

22 MS. BECKLEY: Correct.

23 COUNCILMAN GREEN: -- of
24 principal?

25 MS. BECKLEY: Until both

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2 principal and fees are satisfied, yes.

3 COUNCILMAN GREEN: Until both

4 principal and fees are satisfied.

5 MS. BECKLEY: Right.

6 COUNCILMAN GREEN: And do they

7 earn money on interest and penalties?

8 MS. BECKLEY: They do. But

9 they don't earn that money -- that money

10 doesn't accrue on the bill. They don't

11 earn that money until it actually walks

12 into our lockbox.

13 COUNCILMAN GREEN: Okay. So

14 there isn't the way -- there's no

15 front-loading of this payment. They only

16 get 18 percent on the dollars that

17 actually come in the door?

18 COMMISSIONER RICHARDSON:

19 Correct.

20 MS. BECKLEY: Correct.

21 COUNCILMAN GREEN: So they're

22 not getting -- if someone settles for

23 \$1,000 but only makes the first \$500 in

24 payments, they don't get \$180?

25 MS. BECKLEY: Correct.

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2 COUNCILMAN GREEN: Okay. I
3 just wanted to clarify that. Thank you.

4 Any questions?

5 (No response.)

6 COUNCILMAN GREEN: Is there an
7 amendment for 22 from the Administration
8 that changes the effective date?

9 MS. BECKLEY: It's in the ones
10 that we gave you.

11 COUNCILMAN GREEN: That's in
12 23.

13 COMMISSIONER RICHARDSON:
14 That's in both bills, sir.

15 COUNCILMAN GREEN: We don't
16 have the amendments for 22.

17 COMMISSIONER RICHARDSON: You
18 want me to bring them up to you? It's an
19 amendment for this one also.

20 COUNCILMAN GREEN: Thank you.

21 COMMISSIONER RICHARDSON:
22 You're welcome, sir.

23 COUNCILMAN GREEN: This will
24 conclude the public hearing on Bills No.
25 120822 and 120823. We are now in a

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 public meeting on said bills, and I would
3 ask Councilmember Goode to offer
4 amendments, please.

5 COUNCILMAN GOODE: Thank you,
6 Mr. Chairman. I move the amendment to
7 Bill No. 120822 to be approved.

8 (Duly seconded.)

9 COUNCILMAN GREEN: It has been
10 properly moved and seconded that the
11 amendments to Bill No. 120822 be
12 approved.

13 All in favor?

14 (Aye.)

15 COUNCILMAN GREEN:

16 Councilmember Goode.

17 COUNCILMAN GOODE: I move that
18 Bill No. 120822, as amended, be reported
19 out of the committee with a favorable
20 recommendation and the rules of Council
21 be suspended so as to permit first
22 reading at our next Council session.

23 (Duly seconded.)

24 COUNCILMAN GREEN: It has been
25 properly moved and seconded that Bill No.

1 12/3/12 - FINANCE - BILLS 120822 & 120823

2 120822 -- I'm sorry.

3 COUNCILMAN JONES: Excuse me,
4 Mr. Chairman. We're in a different
5 portion of the meeting.

6 COUNCILMAN GREEN: I apologize.

7 COUNCILMAN JONES: That's okay.

8 COUNCILMAN GREEN: Please speak
9 before we vote on this bill, Mr.
10 Majority Leader.

11 COUNCILMAN JONES: Screw the
12 bill.

13 (Laughter.)

14 COUNCILMAN GREEN: It has been
15 properly moved and seconded that Bill No.
16 120822 be reported out of Committee with
17 a favorable recommendation and suspension
18 of the rules to permit first reading at
19 our next session of Council.

20 All in favor?

21 (Aye.)

22 COUNCILMAN GREEN: Any opposed?

23 (No response.)

24 COUNCILMAN GREEN: The ayes
25 have it.

1 12/3/12 - FINANCE - BILLS 120822 & 120823

2 Councilmember Goode.

3 COUNCILMAN GOODE: I move the
4 amendment to Bill No. 12823 be approved.
5 (Duly seconded.)

6 COUNCILMAN GREEN: It's been
7 properly moved and seconded that the
8 amendments to Bill No. 120823 be
9 approved.

10 All in favor?

11 (Aye.)

12 COUNCILMAN GREEN: Opposed?
13 (No response.)

14 COUNCILMAN GREEN: Hearing
15 none, the ayes have it.

16 Councilmember Goode.

17 COUNCILMAN GOODE: I move that
18 Bill No. 120823, as amended, be reported
19 out of Committee with a favorable
20 recommendation and the rules of Council
21 be suspended so as to permit first
22 reading at our next Council session.

23 (Duly seconded.)

24 COUNCILMAN GREEN: It's been
25 properly moved and seconded that Bill No.

1 12/3/12 - FINANCE - BILLS 120822 & 120823
2 120823 be reported from Committee with a
3 favorable recommendation and suspension
4 of the rules.

5 All in favor?

6 (Aye.)

7 COUNCILMAN GREEN: Any opposed?

8 (No response.)

9 COUNCILMAN GREEN: Hearing
10 none, the ayes have it, and this
11 concludes the public meeting on said
12 bills.

13 (Committee on Finance concluded
14 at 3:00 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on December 3, 2012, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

(The foregoing certification of this
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of the same by any means, unless under the
direct control and/or supervision of the
certifying reporter.)

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