

XII

New Business – Motions
August 29, 2023

MOTION OF THE COUNCIL OF ALLEGHENY COUNTY

Urging the United States Congress to defeat H.R. 4417 and S. 2019, collectively known as the Ending Agricultural Trade Suppression Act.

Whereas, as of mid-2023, voters and legislators in over a dozen states have passed laws protecting farmed animals from a variety of practices in the factory farming industry due to their cruelty to the animals involved, including bans on intensive confinement in systems such as gestation crates, veal crates, and battery cages; and

Whereas, in late June of 2023, members of the United States Congress have introduced federal legislation that would largely or completely override these state legislative actions; and

Whereas, this federal legislation, known as the *Ending Agricultural Trade Suppression (EATS) Act* (introduced in the House and Senate respectively as H.R. 4417/ S. 2019), could strip states and localities of their right to impose standards or conditions on the production or manufacturing of agricultural products sold or offered for sale in interstate commerce when those standards differ from federal law or the laws of other states; and

Whereas, the EATS Act expressly prohibits “[t]he government of a State or a unit of local government within a State” from imposing “a standard or condition on the preharvest production of any agricultural products sold or offered for sale in interstate commerce if the production occurs in another State; and the standard or condition is in addition to the standards and conditions applicable to the production pursuant to Federal law and the laws of the State and unit of local government in which the production occurs”; and

Whereas, the EATS Act expressly provides that *any* "person, including a producer, a transporter, a distributor, a consumer, a laborer, a trade association, the Federal Government, a State government, or a unit of local government, that is affected by a regulation of a State or unit of local government that regulates any aspect of 1 or more agricultural products that are sold in interstate commerce, including any aspect of the method of production, or any means or instrumentality through which 1 or more agricultural products are sold in interstate commerce may bring an action in the appropriate court to invalidate that regulation and seek damages for economic loss resulting from that regulation.”; and

Whereas, the EATS Act also would require that a court in which such action is filed issue a preliminary injunction against enforcement of any state regulation at issue in the litigation if the plaintiff demonstrates a likelihood of success on the merits and irreparable economic harm resulting from the regulation(s) at issue; and

Whereas, the EATS Act also establishes a ten year statute of limitations on such court actions, and allows such litigation to be filed in the district court of the United States for the judicial district in which the plaintiff is affected by a regulation described in that subsection or in

which such plaintiff resides, operates or does business, or in “any other appropriate court otherwise having jurisdiction”; and

Whereas, it is the judgment of Council that the EATS Act would establish poor public policy, to the extent that it would enable a virtually unlimited class of plaintiffs to challenge regulations validly enacted by states having no tangible connection to such plaintiffs; and

Whereas, it is further the judgment of Council that the EATS Act would enable frivolous litigation in such a wide range of jurisdictions and for such an extended time period that the fear of paying the costs of such litigation and the delays inherently involved in doing so would almost inevitably function as a significant disincentive to any jurisdiction to regulate on the subject matter at all; and

Whereas, Council further recognizes that the EATS Act as introduced threatens the ability of local governments to enact and enforce laws and policies that reflect the unique needs, values, diversity, and priorities of their residents and industry; and

Whereas, it is the judgment of Council that the EATS Act also would limit the authority of this County to pass laws and establish regulations that seek to safeguard public health, promote sustainable and equitable purchasing, and prioritize animal welfare in our community; and

Whereas, the EATS Act also threatens existing laws and regulations aimed at protecting food safety, promoting local agriculture, protecting the environment, and advancing humane treatment of animals and would fundamentally undermine the authority of local governments and local attempts to support minority, women, and veteran-owned food businesses that were put in place to help families in communities who are often left behind; and

Whereas, Council is profoundly concerned that the EATS Act strongly resembles the 2013 and 2018 King Amendments which were opposed by over 225 diverse organizations and a bipartisan coalition of federal and state legislators, individual farmers, veterinary professionals, faith leaders, animal protection groups, and legal experts;

The Council of the County of Allegheny therefore hereby moves as follows:

That Allegheny County Council hereby urges the United States Congress to reject any attempt to enact H.R. 4417 or S. 2019.

PRIMARY SPONSOR: COUNCIL MEMBER PRIZIO

CO-SPONSORS: COUNCIL MEMBERS KLEIN, HALLAM and DUERR

Read and approved in Council, this _____ day of _____, 2023,

Council Agenda No. _____

Patrick Catena
President of Council

Attest: _____
Jared E. Barker, Chief Clerk
Allegheny County Council

MOTION OF THE COUNCIL OF ALLEGHENY COUNTY

Authorizing payment of two invoices for extraordinary professional services rendered as a result of litigation captioned *Fitzgerald v. Allegheny County Council*.

Whereas, on October 12, 2022, Allegheny County Council entered into a contract for the provision of professional services with Frank, Gale, Bails & Procrass, P.C. (“FGBP”); and

Whereas, pursuant to this contract, FGBP provides legal advice, counsel, and representation to Allegheny County Council as its solicitor; and

Whereas, pursuant to §3.c. of the contract between FGBC and Council, “[c]ompensation paid pursuant to the terms of this Paragraph shall not exceed the amount of \$5,000 in any given calendar month unless compensation greater than \$5,000 for such calendar month is approved via written motion duly enacted by [Council].”; and

Whereas, on June 6, 2023, Allegheny County Council passed Bill No. 12345-22, enacting a minimum wage for County employees; and

Whereas, Chief Executive Rich Fitzgerald vetoed this bill, and Council overrode that veto on June 20, 2023; and

Whereas, in response to his veto being overridden, Chief Executive Fitzgerald filed a declaratory judgment action captioned *Fitzgerald v. County Council*, at GD-23-7939; and

Whereas, this litigation has resulted in extraordinary expenses for FGBP, acting as County Council’s solicitor, in the months of June and July, 2023; and

Whereas, it is accordingly the desire of Council to authorize payment of invoices 72809 and 73088, issued on June 30 and July 31 and for a total of \$7849.00, in accordance with the provisions of §3.c. of Council’s contract with FGBP; and

The Council of the County of Allegheny therefore hereby moves as follows:

Council hereby authorizes payment of invoices 72809 and 73088, as referenced herein.

PRIMARY SPONSOR: PRESIDENT CATENA

CO-SPONSORS:

Read and approved in Council, this _____ day of _____, 2023,

Council Agenda No. _____

Patrick Catena
President of Council

Attest: _____
Jared E. Barker, Chief Clerk
Allegheny County Council