

LIVESTREAM REORGANIZATION AND BUSINESS MEETING OF THE LOCAL GOVERNMENT COMMISSION

Wednesday, March 17, 2021

The livestream reorganizational meeting of the Local Government Commission (Commission) was called to order by Senator Jacob D. Corman, III, President Pro Tempore of the Senate, at 9:00 a.m. with the following Commission Members, staff and guests participating:

Senator Jacob D. Corman, III, Presiding Officer

MEMBERS

Senator Scott E. Hutchinson, Chair
Senator Judy Ward
Senator Cris Dush
Senator Judith L. Schwank
Senator Timothy P. Kearney
Representative R. Lee James
Representative Dan Moul
Representative Carl Walker Metzgar
Representative Robert Freeman
Representative Christina D. Sappey

STAFF

David A. Greene, Executive Director
Kristopher J. Gazsi, Assistant Director
Danette H. Magee, Senior Research Analyst
Julia E. Frey, Research Analyst
Karen S. Bear, Executive Assistant
Sonya I. Ebersole, Fiscal Administrator
Blake Marks, Legal Intern

GUESTS

Justin Leventry, Senator Hutchinson's Office
Nathan Akers, Senator Hutchinson's Office
Joseph Foust, Senator Dush's Office
Matt Maniskas, Senator Schwank's Office
Sam Arnold, Senator Kearney's Office
Bre Medevich, Representative Freeman's Office
Jim Dawes, Representative Sturla's Office
Mary Yoder, Senate Local Government Committee (R)
Rob Gaertner, House Local Government Committee (R)
Jon Castelli, House Local Government Committee (D)
Tim Scott, House Urban Affairs Committee (D)
Rick Vilello, Department of Community and Economic Development
Evelyn Chianelli, Department of Community and Economic Development
Andrew Sheaf, Department of Community and Economic Development

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**Renee Reynolds, State Tax Equalization Board
Ashley White, County Commissioners Association of Pennsylvania
Amy Sturges, Pennsylvania Municipal League
Kaitlin Errickson, Pennsylvania Municipal League
Edward Troxell, Pennsylvania State Association of Boroughs
Ron Grutza, Pennsylvania State Association of Boroughs
Tammy Shearer, Pennsylvania State Association of Elected County Officials
Eric Feder, Pennsylvania State Association of Elected County Officials
Joseph Gerdes, Pennsylvania State Association of Township Supervisors
Melissa Morgan, Pennsylvania State Association of Township Supervisors
Joe Regan, Pennsylvania State Fraternal Order of Police**

The recorded virtual meeting was conducted with both Member and Commission staff participation. On Wednesday, March 10, 2021, notice of the meeting was posted on the committee meeting pages of the Senate of Pennsylvania and the House of Representatives through the Legislative Data Processing Center. The meeting agenda was posted on the Commission's website, www.lgc.state.pa.us, on Tuesday, March 16, 2021. Any questions on agenda items for consideration by the Commission were addressed during the meeting. After adjournment, the recording of the meeting will be posted on the Commission's website at www.lgc.state.pa.us.

The President Pro Tempore of the Senate opened the floor for nominations for the position of Chair of the Commission. Representative James nominated Senator Hutchinson for Chair, and Senator Kearney seconded the nomination. Senator Corman moved that nominations for the position of Chair be closed. This motion carried unanimously, and Senator Hutchinson was elected Chair of the Commission by a unanimous vote. Senator Corman then opened the floor for nominations for the position of First Vice-Chair of the Commission. Senator Hutchinson nominated Representative James for the position of First Vice-Chair, and Representative Freeman seconded the nomination. Senator Corman moved that nominations for the position of First Vice-Chair be closed. This motion carried unanimously, and Representative James was elected unanimously as First Vice-Chair of the Commission. Senator Corman then moved that nominations for the position of Second Vice-Chair be opened. Representative Freeman nominated Senator Kearney for the position of Second Vice-Chair, and Senator Dush seconded the nomination. Senator Corman moved that nominations for the position of Second Vice-Chair be closed. This motion carried unanimously, and Senator Kearney was elected Second Vice-Chair by a unanimous vote.

At this point in the meeting, Senator Hutchinson assumed the chair and the business meeting of the Commission convened at 9:10 a.m.

Chairman Hutchinson welcomed new Commission Members Senator Dush and Representative Metzgar to the meeting. Representative Metzgar was appointed to the Commission on January 15, 2021, by the Speaker of the House Bryan Cutler and Senator Dush was appointed to the Commission on January 26, 2021, by the Senate President Pro Tempore Jacob Corman for the 2021-2022 legislative session.

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The Members discussed the minutes of the January 27, 2021, business meeting, which were unanimously approved on a motion by Senator Ward and a second by Senator Dush. The financial reports for the months of January and February 2021 were presented, and an explanation was given by the Executive Director. The financial reports were unanimously approved on a motion by Senator Kearney and a second by Representative James.

The reintroduction of Commission-sponsored legislation from the 2019-2020 legislative session was discussed by the Members. Below is a description of each bill and who will be the prime sponsor for the 2021-2022 Legislative Session.

Old SB 1039--Consolidation of the County Code into Title 16 of the Pennsylvania Consolidated Statutes. Senate Bill 1039 sought to incorporate Act 154 of 2018, the revision of the County Code (Code), Act 130 of 1955, into the Pennsylvania Consolidated Statutes (Pa.C.S.) as Part IV (Counties of the Second Class A through Eighth Class) of Title 16 (Counties). Act 154 was a seven-year effort by the Pennsylvania State Association of Elected County Officials (PSAECO) County Code Revision Committee, the Local Government Commission and other stakeholders to modernize the Code. The effort included integrating the Second Class County Code to the extent it applied to counties of the second class A into the County Code, modifying language to conform to case law developments, removing obsolete provisions, and incorporating other substantive changes. The Legislative Reference Bureau assisted Commission staff by converting substantive changes. The Legislative Reference Bureau assisted Commission staff by converting the Code into consolidated statute format, and then participating in a review of the product to ensure that the conversion was substantively consistent with Act 154. The original bill provides that it is to be construed as substantively identical to the County Code. *After a substantial revision of a municipal code in its freestanding form, the Commission routinely introduces a “consolidation bill” the next session to integrate the code into Consolidated Statutes.* For the 2021-2022 Legislative Session, Senator Dush will be the prime sponsor followed by Senator Kearney.

Old HB 1034--Clarifying and broadening repairs/upgrades to homes which could occur without triggering a property assessment review. The proposed legislation would amend the Consolidated County Assessment Law (CCAL) to more precisely define changes to real property that could occur without authorizing the assessment office to adjust an assessment, and to increase the value of other improvements that may occur before the assessment office is required to be notified. The bill also requires forwarding of demolition permit information to the county assessment office, provides greater accountability for existing requirements that permit information be submitted to the assessment office, and authorizes counties to enact reporting ordinances. The legislation is an outcome of the 2017-2018 Local Government Commission Assessment Reform Task Force. For the 2021-2022 Legislative Session, Senator Judy Ward and Representative Moul will be the prime sponsors.

Old HB 1035--This legislation would amend Act 78 of 1979 to authorize political subdivisions and authorities to enter into contracts for services when two consecutive advertisements fail to induce bids. Currently, the law only covers the purchase of goods and the sale of property. Act 78 of 1979 is titled, “An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received.” Under the provisions of this legislation, when a political

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subdivision, municipality authority or transportation authority is required to advertise for bids in order to enter into a contract for services and no bids are received, the political subdivision or authority may advertise for bids a second time. In the event that no bids are received within 15 days of the second advertisement, the political subdivision or authority may initiate negotiations for a contract for services with any provider not otherwise disqualified by law or an enactment or policy of the governing body. For the 2021-2022 Legislative Session, Senator Dush and Representative Sappey will be the prime sponsors.

Old HB 1246--This bill provided for the responsibilities of coordinators and receivers appointed to assist financially distressed municipalities by requiring compliance with ethics statutes. This bill would amend the Municipalities Financial Recovery Act, or “Act 47,” by specifying additional ethical compliance requirements for the appointees, recovery coordinators and receiver, who work directly with financially distressed municipalities on behalf of the Department of Community and Economic Development (DCED). A recovery coordinator would be prohibited from engaging in conduct that is prohibited under the Ethics Act (65 Pa.C.S. Ch. 11) and the State Adverse Interests Act (Act 451 of 1957). These acts require covered persons to avoid conflicts of interest, nepotism and self-dealing in contracts among other things. For the 2021-2022 Legislative Session, Senator Hutchinson and Representative Freeman will be the prime sponsors.

Old HB 2122--Made various technical changes and clarifications to the Borough Code. The legislation also repeals current provisions in the Borough Code regulating the accumulation and collection of garbage and other refuse materials, and creates a new chapter 25B “Solid Waste Collection and Disposition.” This bill is in the nature of an omnibus, with the following notable provisions, briefly:

- Clarified the mandatory nature of reimbursements to a mayor for attending annual meetings.
- Clarifying amendment and inclusion of the provisions of Act 54 of 2017 relating to counting specified active military service for purposes of residency requirements for office.
- Removing ambiguous language being interpreted as requiring an ordinance for budget enactment.
- Creating a new chapter 25B “Solid Waste Collection and Disposition,” which delineates regulation of the accumulation, collection and disposal of municipal waste and recyclables and contracts, rates and charges related thereto, closely tracking provisions in the Third Class City Code and Second Class Township.

For the 2021-22 Legislative Session, Senator Kearney and Representative Moul will be the prime sponsors.

Old HB 2141--Abbreviated home rule charter adoption process for distressed municipalities and clarifying tax limitations in charters. This bill introduces an alternative process to form a government study commission to consider and potentially propose a new, or amend an existing, home rule charter in a municipality that is currently in the Municipalities Financial Recovery Act Program (“Act 47”), see Act of July 10, 1987 (P.L. 205, No. 47). To be eligible, a municipality must have adopted a plan, which recommends the adoption of a home rule charter, under Chapter 2 of Act 47 to address fiscal distress, or to facilitate the municipality’s exit from the program, and must

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currently be served by a coordinator appointed by the Department of Community and Economic Development (“DCED”). The bill also clarifies that the governing body of a home rule municipality is constrained from violating provisions contained in the municipality’s home rule charter imposing limits on the rates of taxation which may be imposed on the municipality’s residents. For the 2021-2022 Legislative Session, Senator Kearney and Representative James will be the prime sponsors.

At the conclusion of the bill assignments, the Executive Director briefly reviewed the Commission’s co-sponsorship process and stated that co-sponsorship memoranda would soon be sent to all Members.

The Members discussed a formal written request submitted by the Pennsylvania State Association of Boroughs (PSAB) asking the Commission to amend the Pennsylvania Borough Code (Title 8) in several areas. At the behest of PSAB, the Commission sponsored companion bills, House Bill 2122 (see summary above) and Senate Bill 981, during the 2019-2020 legislative session, which addressed some of PSAB’s concerns. House Bill 2122 passed the House (201-0) and, along with Senate Bill 981, was referred to the Senate Local Government Committee where both bills remained until the end of the session. The PSAB encouraged the Commission to reintroduce those bills for the new 2021-2022 legislative session and to consider introducing language for seven additional amendments that were contained in the letter sent by PSAB. The new amendments are as follows:

- Provide analogous language in the Borough Code as in the new First Class Township Code (Act 96 of 2020) for increased compensation maximum limits;
- Provide analogous language in the Borough Code as in the new First Class Township Code (Act 96 of 2020) for the option to appoint a partnership, a limited partnership, an association or a professional corporation as the borough manager;
- Provide analogous language in the Borough Code as in the new First Class Township Code (Act 96 of 2020) to allow the Civil Service Commission to organize within 30 days of the first Monday of each even number year instead of on the first Monday of each even number year;
- Provide similar language as in the Ethics Act, 65 Pa.C.S. Section 1109(g), and the First Class Township Code, Section 1006.1, stipulating that an officer may not be surcharged if the officer acted in good faith reliance on a written, non-confidential opinion of the solicitor of the borough or on the solicitor’s publicly stated opinion at an open meeting and recorded in the official minutes of the meeting;
- Due to more boroughs holding council meeting exclusively on the internet, remove the requirement in the Borough Code that only council members physically present at a meeting count towards the quorum. There is no such requirement in the Second Class Township Code;

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- Clarify in Section 1708 (Street Lighting) & Section 21A01(a) that council may assess the costs of street lighting. (Current law only allows for the assessment of the erection of street lights.);
- In Section 1307, remove the requirement to adopt the proposed budget 30 days before the adoption of the final budget. The First Class Township Code (Act 96 of 2020) recently removed this 30 day requirement since more time is needed from introduction to adoption to allow for modifications to the proposed budget.

Edward Troxell, Director of Government Affairs for PSAB, and Ron Grutza, Assistant Director of Government Affairs for PSAB, agreed that some of the requested amendments are controversial and are a heavy left for the Members; however, they are seeking uniformity among the municipal codes. Senator Hutchinson stated that he in particular has concerns regarding the amendments dealing with increased compensation and the assessment of street lighting. Representative Moul echoed Senator Hutchinson's thoughts especially regarding the assessment of street lighting. Mr. Troxell then that in the past compensation for borough officials has been addressed every ten years. Representative Freeman said that he had previous discussions with Mr. Troxell and Mr. Grutza and expressed his reservations about removing the requirement that council members be physically present at a meeting to count towards a quorum. Assistant Director Kris Gazsi volunteered to meet with Mr. Troxell and Mr. Grutza to develop language that would address Representative Freeman's concerns. The proposed language could specify reasons by which an elected official's presence might be considered towards a quorum if that official is participating remotely. The Executive Director stated that he would contact the other municipal associations to determine if some of the suggested borough amendments should be addressed in the other municipal codes. After a lengthy discussion, the Members agreed to revisit five of the seven suggested amendments at next month's business meeting. The two amendments involving increased compensation and street lighting were tabled.

A resolution offered by the Pennsylvania Municipal League (PML) was given to the Members for their consideration. The resolution, which was adopted by the Borough of State College in 2020, seeks temporary property assessment relief for persons who have suffered COVID-19-related economic loss to their real property. Resolution #4-2020 calls for an amendment to the Consolidated County Assessment Law that will allow temporary reductions in the assessed value or real property for the years 2021, 2022 and 2023. The resolution resulted from several hotels in the State College area experiencing a major decline in revenues since the start of the pandemic. Senior Research Analyst Danette Magee stated that she had spoken with various county assessment officials to obtain additional feedback on the timing of this legislative proposal. Some assessment practitioners were optimistic that certain sectors of the economy, such as the hospitality industry, may see significant improvement by the end of 2021 and suggested waiting a few months to monitor the economic conditions before enacting legislation. Ms. Magee opined that the amendment may have been more helpful to property owners impacted by the pandemic during 2020. Amy Sturges, representing the PML, agreed with Ms. Magee's findings and recommended revisiting the topic at a future business meeting. After a brief discussion, the Members unanimously decided to table the proposed amendatory language until more information is provided. Ms. Magee will be reaching out to the Pennsylvania School Boards Association for their feedback on the proposal.

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President Tammy Shearer and Vice President Eric Feder of the Pennsylvania State Association of Elected County Officials (PSAECO) were introduced by the Executive Director. Mr. Greene invited Ms. Shearer and Mr. Feder to attend the Commission business meetings to increase participation and involvement by county row officers. Ms. Shearer thanked Mr. Greene and the Members and staff of the Commission for their continued assistance and extended an offer to the Members to join PSAECO's monthly membership meetings that are held the fourth Wednesday of every month. Chairman Hutchinson opined that the Commission welcomes PSAECO's input and is looking forward to working with all members of PSAECO this legislative session.

The Executive Director announced that the new 2020 edition of the Second Class Township Code is now available. An e-mail will be distributed to all legislators explaining the manner by which the Code may be obtained.

The Commission was approved by the Pennsylvania Continuing Legal Education (CLE) Board to offer a CLE course entitled, *The Basics of Municipal Financial Recovery: The Structure of Act 47*. The course, which was approved for 1 CLE credit hour, will be held in Harrisburg on August 25, 2021. Executive Director David Greene and Assistant Director Kris Gazsi will be the presenters.

Mr. Gazsi gave a short overview on the most recent information resulting from the American Rescue Act. Based on information from the published United States House Oversight Committee calculations and analysis from the National Conference of State Legislatures (NCSL), Mr. Gazsi assembled a Pennsylvania-specific spreadsheet of projected allocations and put together a brief narrative and tweet, which may be found by going to the following link:

https://twitter.com/Pa_LGC/status/1370469165614706688?s=20

The spreadsheet will be updated as more information becomes available.

At the April business meeting, Research Analyst Julia Frey will discuss the findings from a Fall 2020 study on row office solicitor compensation, which was conducted by the PSAECO County Code Revision Committee and the staff of the Commission. The next business meeting is scheduled for Wednesday, April 21, 2021.

The meeting adjourned at 10:20 a.m.

ATTESTED: _____
April 13, 2021