

## **MEETING OF THE LOCAL GOVERNMENT COMMISSION**

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**Wednesday, April 9, 2014**

The meeting of the Local Government Commission was called to order by Senator John Eichelberger, Jr., at 8:50 a.m. in Room 14 East Wing-Main Capitol Building, Harrisburg, Pennsylvania, with the following individuals present:

### **MEMBERS**

**Senator John H. Eichelberger, Jr., Chairman**  
**Senator Edwin B. Erickson**  
**Senator John N. Wozniak**  
**Senator John P. Blake**  
**Representative Chris Ross**  
**Representative Mauree Gingrich**  
**Representative Kate Harper**  
**Representative Robert L. Freeman**

### **STAFF**

**Michael P. Gasbarre, Executive Director**  
**Philip H. Klotz, Assistant Director**  
**David A. Greene, Legal Counsel**  
**Kristopher Gazsi, Associate Legal Counsel**  
**Karen S. Bear, Secretary**

### **GUESTS**

**Representative Mark Mustio**  
**Lee Derr, Senator Eichelberger's Office**  
**Luc Miron, Senator Blake's Office**  
**Kyle Mullins, Senator Blake's Office**  
**Brianna Medevich, Representative Freeman's Office**  
**Christine Goldbeck, House Republican Research Office**  
**Wanda Snader, House Republican Research Office**  
**Brett Mauser, House Republican Research Office**  
**Lisa Schaeffer, County Commissioners Association of PA**  
**Joe Regan, Fraternal Order of Police**  
**Christian Muniz, Duane Morris Government Strategies**  
**Stefan Richter, Community Associations Institute**  
**Tony Campisi, Community Associations Institute**  
**Steve Zarano, Community Associations Institute**

As the first order of business, the Members discussed the minutes of the March 12, 2014, business meeting, which were unanimously approved on a motion by Senator Erickson and a second by Representative Ross. The financial report for the month of March 2014 was presented, and a detailed explanation was given by the Executive Director. The financial report was unanimously approved on a motion by Representative Gingrich and a second by Representative Ross.

The minutes of the March 13, 2014, meeting with the local government associations were unanimously approved on a motion by Senator Erickson and a second by Representative Ross. The Executive Director highlighted the concerns raised by Mary Smithson and Glenna Walters, who represented the Pennsylvania State Association of Prothonotaries and Clerks of Courts regarding Senate Bill 1215, Printer's Number 1716. Senate Bill 1215 would transfer county clerks of court, prothonotaries and selected deputies to the Unified Judicial System. The transfer would be similar to that of the district court administrators, which was made in 2000 under Act 12 of 1999. According to the co-sponsorship memorandum on the bill, bringing the offices under the Unified Judicial System would standardize statewide court practices and collection procedures and eliminate existing disparities to establish a more cohesive, efficient operation. Ms. Smithson stated that removing these offices from the political process every four years would eliminate the threat of job disruption and loss of professional expertise. Ms. Smithson and Ms. Walters declared their Association's opposition to this proposed legislation. Both ladies expressed concern that having those positions under the purview of the courts would curtail the elected county government positions' independent voices in contrast to that of appointed positions. Ms. Smithson

also expressed her concern over constitutionality of transferring the offices to the Unified Judicial System. A survey of the statewide associations was recently conducted at the request of Senator Stewart Greenleaf to determine if members favored the previously mentioned positions being transferred to the Unified Judicial System. The results of the survey will be made available in a few weeks. Senate Bill 1215, Printer's Number 1716, was referred to the Senate Judiciary Committee on January 17, 2014.

The Members were presented with copies of the Commission's new lease extension agreement. The lease extension agreement for office space located at 555 Walnut Street, Harrisburg, Pennsylvania, is extended for a three year period ending June 30, 2017. The agreement also includes two 1-year renewal options at the current rent subject to annual adjustments to the operation cost component (utilities). The options include a required six months' notice to vacate the premises. The rent is \$17.33 per square foot per year (\$6,836.69 per month), which includes the operating cost component of \$5.78 that is subject to an annual adjustment beginning July 1, 2015. The lower per square foot cost negotiated for this agreement compared to the previous lease agreement will save the Commission \$13,992.12 in the first year of the rental agreement. The Members unanimously approved the lease extension agreement on a motion by Representative Ross and a second by Senator Erickson.

A legislative request by the Pennsylvania and Delaware Valley Chapter Community Associations Institute was reviewed by the Members. The Community Association Institute is concerned that some counties in Pennsylvania charge separate "indexing" fees for each lot or unit upon recordation of amendments to community association governing documents. The Association maintains that the fees can reach thousands of dollars, which makes the passage of simple amendments to governing documents cost prohibitive for many condominium and planned communities. Draft legislation is being sought by the Association to amend Sections 3219(c) and 5219(c) of Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes that would prevent the imposition of a declaration amendment indexing fee for each uniform parcel identifier number assigned to units. Draft legislation was given to the Members for their perusal. The Executive Director opined that discussions had taken place last year with several members of the Pennsylvania Recorder of Deeds Association to ascertain their views on this issue. After a lengthy discussion among the Members and at the recommendation of Representative Harper, it was unanimously agreed that the Commission staff contact all stakeholders, in particular the County Commissioners Association of Pennsylvania and the Pennsylvania Recorder of Deeds Association, to establish their positions regarding this issue prior to the Commission's further involvement.

Representative Ross announced that the Senate Local Government Committee is scheduled to hold a public hearing on financially distressed municipalities and Senate Bill 1157 on Thursday, April 10, 2014, at 10:00 a.m. in Room 8E-A East Wing-Main Capitol Building. Representative Ross then updated the Members on the Act 47 legislation currently in the House of Representatives. House Bill 1773, Printer's Number 3288, comprehensively amends the Municipalities Financial Recovery Act (Act 47 of 1987), which provides procedures and options to assist financially distressed municipalities and to help them return to fiscal stability. House Bill 1773 was amended on the House Floor on April 1 with agreed-to language. Specifically, the amendment:

- Modifies new Section 254 to reflect the inclusion of procedures under Section 255.1 and clarifies the duration of distressed status for municipalities exiting receivership under Chapter 7. For those municipalities, the duration of distressed status will be no longer than five years after the termination of the receivership, and not subject to a five-year report or another three-year exit plan.
- Specifies that the coordinator's five-year report must be issued no later than the first 180 days of the fifth year of distress.
- Require the Secretary to issue a determination relating to the termination of status upon receipt of a report from the coordinator recommending termination. The Secretary shall conduct a public hearing, receive testimony and financial information, and issue a determination no later than 90 days after the termination of the public hearing.
- Grants, to collective bargaining units and parties with standing to recommend distressed status under Section 202, a right to appeal a determination of the termination of distressed status by the Secretary.
- Provides for the suspension of subsequent proceedings pending a determination or litigation relating to a determination, and preserves the right of the Secretary to

- recommend termination of status at any time, in accordance with the standards established in the new section.
- Specifies that a failure to adopt or implement an exit plan will, upon a written determination by the coordinator, require the Secretary to make a determination of a fiscal emergency under Chapter 6.
  - Limits what can occur to the municipality after the full eight-year period (initial five years plus three-year exit plan term) to termination of status.
  - Provides that a municipality may petition for bankruptcy after a declaration of distress, except to the extent it is subject to a declaration of fiscal emergency or receivership.
  - Alters Section 602 to specify that a fiscal emergency declaration by the Governor is warranted where: (1) the municipality is insolvent or projected to be insolvent within 180 days and is unable to provide vital and necessary services, or (2) the municipality has failed to adopt or implement a coordinator’s plan or an alternative plan.

Representative Ross praised the Commission staff, Committees’ staff, and all individuals representing the various agencies and municipal associations who served on the Act 47 Task Force for the time and effort expended during and after the Act 47 Task Force to see the results of the study come to fruition. The initial meeting of the Act 47 Task Force study occurred on May 2, 2013, with the concluding meeting held on September 17, 2013. Moreover, substantial work has continued on Act 47 since the Task Force’s final meeting. In that vein, Representative Ross noted his displeasure with two municipal associations that sent correspondence to all House Members seeking “no” votes on House Bill 1773 immediately prior to a scheduled vote on the bill in the House of Representatives. Representative Ross was particularly perturbed with the actions of the two associations since the Commission and its Members have had a long history of honoring requests presented to the Commission by the municipal associations. The Members unanimously concurred with Representative Ross’ counsel to agree to an amendment offered by an Allegheny County legislator that would remove the local services tax increase option from House Bill 1773 and, thereby, position House Bill 1773 on the House calendar for another vote. The Members voiced their wish to see the bill’s continued movement through the legislative process.

On March 19, 2014, the Commission received correspondence from Representative Mark Mustio seeking an amendment to the Borough Code as it relates to the decisions by borough councils and shade tree commissions. Representative Mustio explained that he met with a constituent who wants borough councils or shade tree commissions to consider environmental concerns or property damage and pedestrian safety as a precondition of enacting ordinances relating to the planting, removing or maintenance of shade trees. The Executive Director responded to Representative Mustio by letter on March 24, 2014, offering suggestions on how to realize the goals of his constituent. Representative Mustio favored making a personal appeal at today’s Commission business meeting by outlining his constituent’s concerns and requesting that the Members consider introducing an amendment to the Borough Code. The Members discussed the issue and reviewed the proposed amendment drafted by Commission staff. At the conclusion of the debate, the Members directed the Commission staff to contact the other municipal associations and the organization, Tree City USA, and produce draft language that would be applicable to the other municipal codes. Representative Mustio thanked the Commission Members for their assistance.

As the last order of business, the Commission Members unanimously voted to cancel the May 14, 2014, business meeting. The next meeting will be Wednesday, June 11, 2014, at 8:45 a.m. in Room 14 East Wing-Main Capitol Building.

The meeting adjourned at 9:25 a.m.

ATTESTED: \_\_\_\_\_  
April 15, 2014