

MEETING OF THE LOCAL GOVERNMENT COMMISSION

Wednesday, June 12, 2019

The meeting of the Local Government Commission was called to order by Senator Scott Hutchinson at 8:45 a.m. in Room 503 Irvis Office Building, Harrisburg, Pennsylvania, with the following individuals present:

MEMBERS

Senator Scott E. Hutchinson, Chair
Senator Judy Ward
Senator Judith L. Schwank
Senator Timothy P. Kearney
Representative R. Lee James
Representative Dan Moul
Representative Garth D. Everett
Representative Robert Freeman
Representative Christina D. Sappey

STAFF

Philip H. Klotz, Executive Director
David A. Greene, Assistant Director-Legal Counsel
Karen S. Bear, Secretary

GUESTS

Justin Leventry, Senator Hutchinson's Office
Cheryl Schriener, Senator Ward's Office
William Casey, Senator Schwank's Office
Samuel Arnold, Senator Kearney's Office
Brianna Medevich, Representative Freeman's Office
Rob Gaertner, House Local Government Committee (R)
Christopher Mulhall, House Local Government Committee (R)
Daniel Wohlberg, Intern, House Local Government Committee (R)
Lisa Schaefer, County Commissioners Association of Pennsylvania
Amy Sturges, Pennsylvania Municipal League
Karey Molnar, Pennsylvania Municipal League
Melissa Morgan, Pennsylvania State Association of Township Supervisors
Joe Gerdes, Pennsylvania State Association of Township Supervisors

As the first order of business, the Members discussed the minutes of the May 8, 2019, business meeting. Senator Hutchinson requested that the May 8 minutes be amended to include 'with regret' in the sentence of the second paragraph accepting the retirement resignation of the Executive Director. The sentence was revised as follows: "At 9:00 a.m. the Members returned to public session and voted unanimously on a motion by Senator Schwank and a second by Representative James to accept, with regret, the formal retirement resignation submitted by the Executive Director." With this correction, the minutes of the May 8, 2019, business meeting were unanimously approved on a motion by Senator Ward and a second by Representative Freeman.

The financial reports for the month of May 2019 were presented, and a detailed explanation was given by the Executive Director. A listing of in-kind contributions and expenses incurred by the Commission for its recent move from the Forum Place Building to the Irvis Office Building was also given to the Members for their perusal. The Executive Director thanked the House Chief Clerk's Office, the Department of General Services, the Pennsylvania Infrastructure Investment Authority and Leadership from the House and Senate for their assistance with the Commission office relocation. The financial reports were unanimously approved on a motion by Senator Kearney and a second by Representative Freeman.

David Greene, Assistant Director/Legal Counsel, reviewed the summary of changes to the Commission Personnel Policy, which was last comprehensively modified September 2008. The comments below provide a brief description of significant staff proposed changes to the Policy.

Sections 101-112 (General Provisions)

- Expressly reiterates “at will” status of employees and the discretion of the Executive Director and Commission in matters not specifically addressed in the Policy.
- Broadens the methods by which the Executive Director may recruit staff and expressly sets forth and the discretion of the Commission with regard to the timing and method of choosing the Executive Director.
- Changes reference to “probationary period” to “evaluation after six months of service” to be more consistent with recent case law examining principles of contract in personnel policies.
- Relocates promotion and resignation language as new Sections 104 and 105, without substantive changes.
- Enumerates explicit features of professional conduct, including satisfactory performance, appropriate workplace decorum, confidentiality, integrity, responsibility ethical standards, cooperation with directives, appropriate use of Commission resources, and appropriate personal conduct.
- Political activity prohibitions are modified. Partisan activity is restricted to activities involving the General Assembly and “political activities,” broadly, are prohibited only on Commission time.
- Incorporates LDPC IT system use regulations with some Commission-specific additions.
- Authorization for outside employment is relegated to the Executive Director rather than the Commission, and a provision related to revocation of the authorization upon a determination that the employment interferes with Commission duties is added.
- “Professional Development” is moved from Section 601.2 to new Section 112 and removes the Chair of the Commission from the decision-making process in professional development opportunities consistent with employee responsibilities and budgetary requirements.

Sections 201-209 (Job Descriptions)

- Research Associate now Research Analyst.
- New Senior Research Analyst position is created.
- Secretary now Executive Assistant.
- Bookkeeper-Municipal Codes Coordinator now Fiscal Administrator/Codes Coordinator.

- **Community Planner and Receptionist/Clerk-Stenographer job descriptions are removed.**
- **With regard to contracts for services, aside from technical changes, language is added to permit the Executive Director to procure services through bids, RFPs, or sole-source procurement where deemed cost effective and efficient. “Emergency” contracting will still require approval of the Commission Chair, but the threshold amount has been increased to \$5,000 from \$3,000.**

Sections 301-306 (Compensation, Insurance and Retirement Benefits)

- **A provision requiring a salary review of Commission positions by the Executive Director along with the authorization to establish a salary schedule is added.**
- **Performance evaluation provisions are relocated here from Chapter 6. The standard performance evaluation form is removed from the policy itself and language authorizing the Executive Director to use a form with prior notice to employees is added. All reviews remain required to be in writing and signed by the Executive Director.**
- **The Executive Director is given the discretion to determine the effective date of merit increases.**
- **COLAs continue to be authorized at the discretion of the Director, dependent on adequate funding, but will no longer be linked to any calculation involving averages of commensurate increases in the four caucuses, but instead capped by the Bureau of Labor and Statistics cost-of-living calculation for the previous 12-month period.**
- **Specific active and retired employee benefits references are removed. This has no effect on the substantive benefits of current and former employees, which are subject to Senate policies and procedures.**

Sections 401-413 (Leave Policy)

- **Directly integrates the LSA Model Leave Policy adopted by the Commission in 2014 and adds existing personal day provisions to the chapter.**

Sections 501-504 (Travel, Meetings and Compensatory Time)

- **Authorization for conference attendance, always contingent on budgetary constraints, is relegated from the Commission to the Chair and the Executive Director.**
- **Guidelines for when an employee is authorized to speak at functions of Members of the General Assembly are abbreviated, but retain a prohibition on partisan or election functions. Discretion remains with the Executive Director to determine whether the employee has sufficient expertise for the engagement and whether the engagement will interfere with Commission functions.**
- **Professional licensing, when a condition of employment (counsel positions), is added as a reimbursable expense.**
- **Alcoholic drinks are expressly prohibited as a reimbursable expense.**
- **Credit for leave time submitted over office closures is added as an authorized reason for compensatory time.**
- **The compensatory time form is removed from the Policy.**

Sections 601-604 (Disciplinary Procedure)

- **Current reprimand procedure is replaced with a progressive disciplinary procedure and all adverse employment decisions are relegated to the Executive Director rather than the Commission at large.**
- **The Chapter 9 grievance procedure is repealed.**

Section 701 (Workplace Harassment)

- **Previously an addendum to the Policy, the “Sexual Harassment Policy,” is renamed, and incorporated as Chapter 7 with existing investigatory and resolution procedures. An updated definition based on the Senate Policy is incorporated.**

Senator Hutchinson questioned the necessity for Section 107 (Internet Access), subsection b (Specific conduct constituting unauthorized use of Commission email), item 6 (opening of e-mail attachments from unknown sources). The Members agreed that it can be difficult to ascertain whether an email and its attachments are from a nefarious source; therefore, an employee should not be subject to discipline if there is no willful intent. After a brief discussion, the Members decided to remove item 6 from the listing of unacceptable uses of electronic communications. The Members then unanimously approved the Local Government Commission Personnel Policy on a motion by Representative Everett and a second by Representative Moul.

The Members resolved themselves into executive session at 9:00 a.m. to discuss personnel matters. At 9:20 a.m. the Members returned to public session and made three motions that are to be made effective August 1, 2019.

- (1) On a motion by Senator Kearney and a second by Representative Freeman, the Members voted unanimously that the position of Assistant Director/Legal Counsel be bifurcated and that Kristopher Gazsi be promoted to Assistant Director and Wanda Dehan be promoted to Legal Counsel.**
- (2) On a motion by Representative Freeman and a second by Representative Everett, the Members voted unanimously that Danette Magee be promoted to the position of Senior Research Analyst.**
- (3) On a motion by Representative Everett and a second by Representative Freeman, the Members voted unanimously that the salary of the Executive Director-designate be set at \$112,000.**

Resolutions adopted at the 2018 annual convention of the Pennsylvania Municipal League (PML) were discussed by the Commission Members. The disposition is as follows:

- Resolution 2018-3 - Continuation of nonresident earned income tax after exiting Act 47.**
Disposition: **Staff is researching revenue phase-outs that may extend beyond Act 47 recovery, exchanging authorized sources of local tax revenues, and payment in-lieu-of taxes (PILOTS) in the context of special Commission committee meetings on issues related to the Municipalities Recovery Act (Act 47).**

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Resolutions adopted at the 2016, 2017 and 2018 annual conventions of the Pennsylvania State Association of Boroughs (PSAB) were discussed by the Commission Members. The dispositions are as follows:

- Resolution 2016-3 - PSAB seeks legislation to revise compensation schedules/rates for elected borough officials. *Disposition:* See Senate Bill 688, Printer’s No. 827, and House Bill 1529, Printer’s No. 1931. Both bills are sponsored by the Local Government Commission.

- Resolution 2017-9 - PSAB continues to seek legislation increasing compensation schedules for elected borough officials which have not been revised to 21 years. *Disposition:* See Senate Bill 688, Printer’s No. 827, and House Bill 1529, Printer’s No. 1931. Both bills are sponsored by the Local Government Commission.

- Resolution 2018-2 - PSAB supports legislation to help stem the fiscal crisis in Pennsylvania communities by enabling taxpayer equity and providing a reliable source of revenue through state reimbursement of tax-exempt properties. *Disposition:* Staff is researching PILOTS in the context of special Commission committee meetings on issues related to Act 47.

- Resolution 2015-4 - (RA-18) – PSAB seeks legislation providing for an annual revenue sharing program for municipalities relating to tax-exempt real property and establishing the Tax Exempt Property Municipal Assistance Fund through the Department of Community and Economic Development and funded by revenue generated by the 18 percent Johnstown Flood Tax. *Disposition:* Staff is researching PILOTS in the context of special Commission committee meetings on issues related to Act 47.

As the last order of business, the Director stated that the next Commission business meeting is scheduled for July 10, 2019, at 8:45 a.m. Members will be notified of any changes to the July meeting.

The meeting adjourned at 9:30 a.m.

ATTESTED: _____
June 17, 2019