

LIVESTREAM MEETING OF THE LOCAL GOVERNMENT COMMISSION

Wednesday, September 23, 2020

The livestream meeting of the Local Government Commission (Commission) was called to order by Senator Scott Hutchinson at 9:05 a.m. with the following Commission Members, staff and guests participating:

MEMBERS

Senator Scott E. Hutchinson, Chair
Senator Scott F. Martin
Senator Judy Ward
Senator Judith L. Schwank
Representative R. Lee James
Representative Robert Freeman
Representative Christina D. Sappey

STAFF

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

GUESTS

Justin Leventry, Senator Hutchinson's Office
Cynthia Urban, Senator Martin's Office
Matt Maniskas, Senator Schwank's Office
Sam Arnold, Senator Kearney's Office
Christopher Mulhall, House Local Government Committee (R)
Melissa Anese, County Commissioners Association of Pennsylvania
Jennie Shade, Pennsylvania Municipal Authorities Association
Amy Sturges, Pennsylvania Municipal League
Kaitlin Errickson, Pennsylvania Municipal League
Benjamin Holland, Pennsylvania State Association of Elected County Officials
Tammy Shearer, Pennsylvania State Association of Elected County Officials
Melissa Morgan, Pennsylvania State Association of Township Supervisors
Hayden Rigo, Greenlee Partners

As the first order of business, the Executive Director read a statement giving a brief summary of the remote proceeding. Mr. Greene announced that the meeting was being conducted with both Member and Commission staff participation by livestream and was being recorded. Also, on Monday, September 21, 2020, 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, September 22, 2020. Any questions on agenda items for consideration by the Commission would be 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.

An Executive Session was held prior to the business meeting for the stated purpose of discussing the Executive Director's performance evaluation. On a motion by Senator Martin and a second by Representative Freeman, the Members unanimously approved to grant the Executive Director a satisfactory rating on his performance evaluation and to extend his tenure with the Commission by one year, budget permitting.

The Members discussed the minutes of the June 18, 2020, business meeting, which were unanimously approved on a motion by Representative Freeman and a second by Representative James. The financial reports for the months of June, July and August 2020 were presented, and an explanation was given by the Executive Director. The financial reports were unanimously approved on a motion by Senator Martin and a second by Senator Schwank.

Benjamin Holland, Butler County Controller, and President of the Pennsylvania State Association of Elected County Officials (PSAECO), thanked the Commission for its continued assistance throughout the legislative session and for being a constant source of information. Mr. Holland then advocated for the passage of Senate Bill 1039, Printer's Number 1755. Senate Bill 1039 incorporates Act 154 of 2018, the reenactment and amendment of the County 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 PSAECO, the County Code Revision Committee, the 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. Senate Bill 1039 passed the Senate (50-0) and was referred to the House Local Government Committee on September 14, 2020.

Mr. Holland also offered the support of the Sheriffs' Association of the Commonwealth of Pennsylvania for the passage of Senate Bill 1193, Printer's Number 1756. Senate Bill 1193 would amend Act 2 of 1984, known as the Sheriff and Deputy Sherriff Education and Training Act, by increasing surcharges on fees collected by sheriffs for service of any complaint, summons, writ or other legal paper they are required to serve or post. The last increase in the surcharge was approved by Act 10 of 1998. Senate Bill 1193 passed the Senate (50-0) and was referred to the House Judiciary Committee on July 8, 2020.

Tammy Shearer, Cumberland County Recorder of Deeds and Vice President of PSAECO, echoed Mr. Holland's sentiments and thanked the Commission Members for extending Mr. Greene's tenure with the Commission.

An informational meeting was held on Thursday, September 17, 2020, to outline the work that was accomplished during the summer regarding the Act 47 Diversionary Concept. The draft legislation that resulted from the Act 47 Diversionary Concept working group was provided to the Members prior to the September 17 meeting and today's business meeting. The Commission at its June 18 business meeting resolved to form a work group over the summer to discuss solutions in

the event the municipal insolvency projections of Dr. George Dougherty, Jr., and the Municipal Finance Research Collaborative at the University of Pittsburgh's Center for Metropolitan Studies came to pass through the end of 2021. Foremost among the concepts was an alternative approach to municipal recovery if the economic forces surrounding the COVID-19 crisis create a wave of distress that cannot be realistically addressed through the existing Act 47 recovery program and Strategic Management Planning (STMP) Program. The bipartisan, bicameral working group was headed by Commission Assistant Director Kristopher Gazsi and consisted of Dr. Dougherty, Department of Community and Economic Development (DCED) practitioners, legislative staff and Commission staff. Three productive meetings and numerous follow-up discussions were held, and Mr. Gazsi integrated the feedback into a draft diversionary program. The draft was circulated to the working group and to the municipal associations for review and comment. The draft amendments for Act 47 were based on two of the concepts discussed in the July meeting that would create an alternative recovery process and optional regional recovery bodies. The draft proposal includes:

1. An optional process for the DCED's Governor's Center for Local Government Services (GCLGS) to steer some distressed communities into a more self-directed process with resources available and oversight. The process would be time-limited, include access to existing Act 47 tax tools (with limits), and be subject to revocation or sanction if municipal actors fail to participate in the program, or the program is insufficient as a tool for the municipality's fiscal situation, and
2. Divides the Commonwealth into six-regions, each of which *could* be served by a regional recovery authority. If activated, the authority would step into the shoes of the GCLGS to provide oversight assistance and supplement the recovery plan with additional recommendations to address recovery. The authority's priorities would be oversight, regional cooperation, and technical assistance.

DCED would have the option in the future to authorize distressed municipalities to follow a course of more self-directed recovery under the guidance of a general plan as an alternative to the existing coordinator-based recovery program. Essentially, the Commission has heard from coordinators and folks within the DCED that it may be helpful to have a program that is less hands-on as opposed to a coordinator based recovery, and have more tools than a purely advice-based STMP program.

On the mechanics, the Secretary of the DCED is required to 'consider' factors in determining whether the program is appropriate for a particular municipality, but those considerations are an administrative decision, not criteria mandates. The view of the working group is that the municipalities facing deficits amidst good management, or despite best efforts in the STMP program are ideal candidates, while municipalities requiring critical assistance to bring a managerial house in order, address uncontrolled debts, or other more hands on distress needs.

The regional recovery authorities would be a collection of six authorities set up similarly to Harrisburg's Intergovernmental Cooperation Authority to serve as an alternative oversight entity (to relieve some of DCED's administrative requirements). The updated draft discussed at the business meeting removed the authorities from the proposal.

Mr. Gazsi fielded questions by the Members and highlighted the support given by the Pennsylvania Municipal League (PML) and the Pennsylvania State Association of Township Supervisors (PSATS) for introduction of the proposed legislation. After a lengthy discussion, Senator Schwank made a motion to introduce the bill. Upon further debate and the lack of consensus by the Members, Senator Schwank withdrew her motion. The Members thanked Mr. Gazsi for his presentation and his efforts.

Commission Legal Counsel Wanda Dehan presented to the Members an amendment to the Third Class City Code that would equalize the signature and filing fee requirements for candidates in third class cities with other municipal corporations. Specifically, the bill provides that only ten signatures, rather than 100 signatures, are needed on a nominating ballot for candidates running in a primary for public or party offices to be filled by a vote of the electors at large in third class cities. Additionally, the bill provides that no filing fee, as opposed to a \$25 filing fee, is required for these candidates in third class cities. This amendment would bring uniformity among the municipal corporations so that the number of signers for nomination petitions and the amount of a filing fee would be the same for candidates running for office in third class cities, boroughs, towns and townships. The PML has no objection to this proposal and is in favor of uniformity among the municipal corporations. After a brief discussion, the Members unanimously agreed on a motion by Representative James and a second by Senator Martin to introduce the language into both chambers. Senator Hutchinson and Representative James agreed to be the prime sponsors.

The Members were presented with proposed language that would amend the Local Government Unit Debt Act (LGUDA) by creating a new subsection (d) to Section 8130 of Title 53 of the Pa.C.S. The amendment would authorize unfunded debt by a municipality, within existing borrowing limits, solely for the purpose of addressing COVID-19 related budget shortfalls without seeking court approval as with other unanticipated unfunded debt. Under current law, Section 8130 requires a municipality to petition the court for approval to issue bonds or notes to fund unfunded debt. The court must issue a finding that “the unfunded debt is a lawful obligation of the local government unit; that there has been an unforeseeable decline in revenues or that taxes levied have not produced the revenues anticipated or that it was not reasonable to foresee the obligation; that paying the debt by curtailing municipal services will be dangerous to the public health, safety or education; and that it is not feasible or not in the public interest to levy additional taxes in the current fiscal year.” The court also establishes the term of the debt (not to exceed 10 years) and, in the case of nonelectoral debt, the amount of the debt to count against debt limitations. Specifically, the suggested bill would:

- Require the municipality, by resolution, to issue a finding that due to the COVID-19 emergency there has been a decline or delay in anticipated revenue, there are no additional state or federal funds available, additional taxation is not advisable, and paying the debt by curtailing municipal services would be dangerous to the public health or safety.
- Specify that the debt is restricted to a maturity not in excess of 10 years and is counted against the municipality’s borrowing base. The municipality must certify that the debt is equal to or less than the decline or delay in revenue reasonably attributable to the COVID-19 emergency.
- Require the DCED’s review and approval as with other municipal debt. The certification required above must be provided to the Department as a condition of approval.

- **Require that municipalities report to the Local Government Commission any borrowing in accordance with the subsection. The Commission shall prepare a report to the General Assembly by December 31, 2022.**

The proposed amendment was distributed to pertinent stakeholders and banking professionals for review and comment as requested by the Members at the June 18, 2020, business meeting. The Pennsylvania State Association of Boroughs and the PML have no formal position on the concept yet, but believe the Commission should examine it. The DCED is supportive of the concept generally, but believes it should be restricted to non-distressed municipalities. After a brief discussion, the Members unanimously agreed on a motion by Senator Schwank and a second by Representative James to introduce the proposed language into both chambers. The Executive Director was directed to consult with the Members after the meeting to determine the prime sponsors.

The Director provided draft language to the Members that would provide, by ordinance, for emergency authorization of municipalities to offset revenue shortfall conditions through reallocation of funds from payments and reserves. Since COVID-19 has resulted in reduced and delayed municipal revenues and may jeopardize the provision of vital and necessary services in municipalities, the proposed language would provide temporary flexibility in the use of Commonwealth payments received by municipalities and internal restricted municipal accounts would further ensure the continuation of vital and necessary services. Vital and necessary services include police and fire services, ambulance and rescue services, water supply and distribution, wastewater services, refuse collection and disposal, snow removal, payroll and pension obligations, and the fulfillment of payment of debt obligations or any other financial obligations. As economic conditions improve, municipalities would be required to restore internal municipal restricted accounts. The ordinance would contain a repayment schedule to replace the funds reallocated in full no later than the end of the third fiscal year following the year during which the ordinance was enacted. After a brief discussion, the Members unanimously agreed on a motion by Representative James and a second by Representative Sappey to introduce the language into both chambers. Representative James volunteered to prime sponsor the bill in the House of Representatives. The Executive Director will confer with Commission Senate Members as to who will be the Senate prime sponsor.

As the last order of business, the Executive Director announced that an updated *Legislator’s Municipal Deskbook* will be presented to the Members for their perusal at the October 21, 2020, business meeting. Commission staff is currently in its final review of the publication. Consideration of the Commission’s 2021-2022 fiscal year budgets will also be on the October 21 meeting agenda. All 2021-2022 budget requests must be submitted to the budget secretary by October 31, 2020.

The meeting adjourned at 9:57 a.m.

ATTESTED: _____
October 16, 2020