

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

**Wednesday, September 25, 2013**

The meeting of the Local Government Commission was called to order by Senator John Eichelberger, Jr., at 8:45 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 Robert D. Robbins  
Senator Edwin B. Erickson  
Senator John P. Blake  
Representative Chris Ross  
Representative Mauree Gingrich  
Representative Kate Harper  
Representative Robert L. Freeman  
Representative Mary Jo Daley**

### **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**

**Lee Derr, Senator Eichelberger's Office  
Chris Yniguez, Senator Robbins' Office  
Luc Miron, Senator Blake's Office  
Kyle Mullins, Senator Blake's Office  
John Fulton, Representative Freeman's Office  
Brianna Medevich, Representative Freeman's Office  
Wanda Snader, House Republican Research Office  
Rob Gaertner, House Republican Research Office  
Christine Goldbeck, House Republican Research Office  
Jonathan Hendrickson, Dept. of Community & Economic Dev.  
Don Numer, PA Commission on Crime & Delinquency  
Doug Hill, County Commissioners Association of PA  
Brinda Penyak, County Commissioners Association of PA  
Ron Grutza, PA State Association of Boroughs  
Ed Troxell, PA State Association of Boroughs  
Amy Sturges, PA Municipal League  
Karey Molnar, PA Municipal League  
Joe Regan, Fraternal Order of Police  
Bob Wollyung, Sheriffs' Association of the Cmwlt. of PA  
Judy Eschberger, Novak Strategies  
Jim Martin, PA District Attorneys Association**

As the first order of business, the Members discussed the minutes of the June 12, 2013, business meeting, which were unanimously approved on a motion by Senator Erickson and a second by Senator Robbins. The financial reports for the months of June, July, and August 2013 were presented, and detailed explanations were given by the Executive Director. The financial reports were unanimously approved on a motion by Representative Ross and a second by Representative Freeman.

Draft language to the Deputy Sheriffs Education and Training Act was presented to the Members for their review. The draft language was requested by the County Commissioners Association of Pennsylvania (CCAP) to expand the Deputy Sheriffs' Education and Training Act by bringing elected and appointed sheriffs under the regulation of the act. By doing so, it provides for the requirement that sheriffs elected or appointed after the effective date of these amendments receive training equivalent to that of deputy sheriffs. The requirement allows a sheriff to be elected without first undergoing

training provided that the sheriff successfully obtains the Sheriff and Deputy Education and Training Board's training certification by completing the training during their first term and completing continuing education requirements as provided by the Training Board. The Training Board may reduce the number of hours of training where the sheriff, through prior education or experience has acquired the knowledge or skill equivalent to the Training Board's training program. Any sheriff who does not complete the training before the expiration of the sheriff's first term will be deemed ineligible to be on the ballot for a subsequent term. The Members unanimously agreed to introduce the draft language in the Senate of Pennsylvania and the House of Representatives with Representative Harper as prime sponsor in the House.

A letter from the Pennsylvania District Attorneys Association (PDAA) was included in the Members' meeting folders for their consideration. The PDAA seeks legislation that would reform current law regarding district attorney succession. Current law lacks uniformity as to how district attorney vacancies are filled in the different classes of counties. In counties of the fourth through eighth class, the first assistant ascends to the position of district attorney upon the district attorney's resignation, whereas in counties of the first through third class, the district attorney's replacement is chosen by the county board of judges. Lehigh County District Attorney James Martin explained to the Members that the PDAA seeks legislation which applies to all 67 counties, including those with home rule charters, to mandate that the first assistant fill the district attorney vacancy position. After a brief discussion, the Members requested that Commission staff revisit the legislation's applicability to home rule counties and in consultation with the Legislative Reference Bureau draft appropriate language and present it to the Members for review at a future business meeting. Mr. Martin thanked the Members for their consideration.

The Executive Director summarized the recommended amendments to Act 47 of 1987 (Municipalities Financial Recovery Act) as identified by the four subcommittees of the Act 47 Municipal Fiscal Distress Task Force during meetings held throughout the summer. The four subcommittees were as follows: Act 47 Procedure chaired by Senator Eichelberger; Labor chaired by Representative Ross; Community and Economic Development/Tax-Exempt Property chaired by Representative Freeman; and Finance/Indebtedness chaired by Senator Blake.

Some of the proposed changes to Act 47 are as follows:

1. The Early Intervention Program (EIP) would be codified into Act 47.
2. Section 123(d) is added to provide additional taxing powers to assist in the alleviation of a municipality's fiscal distress and to give the coordinator more revenue options when analyzing current revenue and expenditure patterns in an effort to provide for an equitable distribution of the tax burden. These tax options include:
  - Imposition of an increased LST at a maximum rate of \$156 per year on residents and nonresidents working in the distressed municipality (an increase from \$1 to up to \$3 per week per worker) *in lieu of* an increase in the local earned income tax that may be imposed on residents and nonresidents (the so-called "commuter tax"). If imposed, the increased LST must provide for an exemption for persons with income or net profits less than \$15,600 per year.
  - Imposition of a payroll preparation tax that is provided in Section 303 of the Local Tax Enabling Act (which Pittsburgh currently levies) *not in excess of the amount of revenue raised from the municipality's mercantile or business privilege tax from the previous year*. The mercantile or business privilege tax could not be levied as long as the payroll preparation tax is in effect. This authority would be limited to those municipalities imposing a business privilege or mercantile tax in the year of the petition.
  - Imposition of an alcohol consumption tax *in lieu of* a commuter tax or an increase in the rate of the LST.
3. Section 124 is added to provide for an optional alcohol consumption tax that could be levied as a replacement for the earned income (commuter) tax or an increase in the rate of the LST. The tax is similar to that levied by the City of Philadelphia and Allegheny County on consumers of liquor or malt and brewed beverages sold at retail. The rate of the tax would be up to 10% of the sale price.

4. Section 221(d) is amended by specifically imposing a duty upon the coordinator, within 45 days of the execution of a contract with DCED, to issue a list of preliminary findings on the fiscal condition of the municipality. The listing would include projected operating deficits for the current fiscal year and projections of revenues and operating expenses for the next three fiscal years, all outstanding debt obligations, the cost and term of outstanding contracts, and other relevant information. The coordinator would further be required to solicit comments from those who may have participated in the EIP, consultants who provided assistance to the municipality on issues related to distress, elected officials and employees, and members of collective bargaining units.

5. Under Section 221(e), the coordinator would be empowered to investigate the tax-exempt status of property within the municipality and solicit and negotiate payment of in lieu of taxes from institutions of purely public charity and other tax-exempt property owners.

6. Section 254 establishes a general rule for the termination of distress. As of the effective date of Section 254, municipalities will be subject to a five-year limitation on distressed status, subject to a possible three-year exit plan extension. For municipalities in distressed status as of the effective date of the section, the five-year period would begin to run from the effective date of the most recent recovery plan or amendment. For municipalities in their last year of a recovery plan on the effective date of the section, the date for the termination of distressed status would be three years from the termination date of the current plan.

7. Subchapters C and D in Chapter 4, pertaining to disincorporation of nonviable municipalities and unincorporated service districts, respectively, are added. If the Secretary determines that the municipality is nonviable under Section 431.1, Section 432 provides three methods by which the process of disincorporation may be initiated:

- a. The first is that the municipality may enact an ordinance initiating disincorporation within 45 days of the Secretary's determination.
- b. The second, which is authorized if the governing body does not enact an ordinance initiating disincorporation, is a petition comprised of 51% of the electors who voted in the last gubernatorial election submitted to the court of common pleas within 60 days of the deadline for the municipality to adopt an ordinance.
- c. The third authorizes the Secretary, after the time has expired for disincorporation to be initiated by ordinance or petition by electors, to petition the court directly to initiate disincorporation.

At the conclusion of the Director's summary, some of the Members questioned the limitation on potential tax revenue growth. After some discussion, it was determined that the language prepared under Section 123(d) of the draft bill remain unchanged.

The Members agreed to clarify language in Section 124 regarding the "drink tax." Language would be added to exclude distressed municipalities in Allegheny County from the drink tax since the County currently imposes a tax on consumers of liquor or malt and brewed beverages sold at retail.

At the conclusion of the bill review, the Members directed Commission staff to redraft language in Section 124 and prepare the bill for introduction into the Senate of Pennsylvania and the House of Representatives with Senator Eichelberger and Representative Ross as prime sponsors.

The Wednesday, October 9, 2013, business meeting at 8:45 a.m. in Room 14 East Wing-Main Capitol Building was moved to Wednesday, October 16, 2013. The time and venue of the meeting will remain the same.

The Director announced that the Commission would be conducting its quarterly meeting with the Pennsylvania State Association of Elected County Officials on Thursday, September 26, 2013, at 11:00 a.m. in the Senate Majority Caucus Room. Commission Members were urged to attend.

**MEETING OF THE LOCAL GOVERNMENT COMMISSION**

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**Page 4 – September 25, 2013**

**On October 21, 2013, the Local Government Commission is scheduled to give a briefing on Senate Bill 497, Printer's Number 1293, to the House Urban Affairs Committee. Senate Bill 497, which is on the Senate Calendar, is a Commission-sponsored bill that recodifies the Third Class City Code.**

**As the last order of business, the Members resolved themselves into Executive Session to discuss a personnel matter. At the conclusion of the Executive Session, the Members unanimously agreed on a motion by Representative Gingrich, and a second by Representative Freeman, to grant a six-month probationary salary adjustment to Kristopher J. Gazsi, Associate Legal Counsel. Mr. Gazsi began his employment with the Commission on April 1, 2013.**

**The meeting adjourned at 9:50 a.m.**

**ATTESTED: \_\_\_\_\_**

**October 1, 2013**