

MEETING OF THE LOCAL GOVERNMENT COMMISSION

Wednesday, September 25, 2019

The meeting of the Local Government Commission (Commission) was called to order by Senator Scott Hutchinson at 8:45 a.m. in Room 14 East Wing-Main Capitol Building, Harrisburg, Pennsylvania, with the following individuals present:

MEMBERS

Senator Scott E. Hutchinson, Chair
Senator Scott F. Martin
Senator Judy Ward
Senator Judith L. Schwank
Senator Timothy P. Kearney
Representative R. Lee James
Representative Garth D. Everett
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 Frey, Research Analyst
Karen S. Bear, Executive Assistant

GUESTS

Justin Leventry, Senator Hutchinson's Office
Cynthia Urban, Senator Martin's Office
Cheryl Schriener, Senator Ward's Office
Eric Pauley, Senator Ward's Office
Samuel Arnold, Senator Kearney's Office
Christopher Mulhall, House Local Government Committee (R)
John Fulton, House Local Government Committee (D)
Melissa Anese, County Commissioners Association of Pennsylvania
Ron Grutza, Pennsylvania State Association of Boroughs
Don Petrille, Pennsylvania State Association of Elected County Officials
Joe Gerdes, Pennsylvania State Association of Township Supervisors
Melissa Morgan, Pennsylvania State Association of Township Supervisors
Eric Jespersen, JMT Technology Group
Hayden Rigo, Greenlee Partners

As the first order of business, the Members discussed the minutes of the June 12, 2019, business meeting, which were unanimously approved on a motion by Senator Schwank and a second by Senator Kearney. The financial reports for the months of June, July and August 2019

were presented, and a detailed explanation was given by the Executive Director. The financial reports were unanimously approved on a motion by Representative James and a second by Representative Everett.

Legislative priorities and resolutions adopted at the 2019 annual conventions of the Pennsylvania State Association of Township Supervisors (PSATS), the Pennsylvania State Association of Boroughs (PSAB), the County Commissioners Association of Pennsylvania (CCAP) and the Pennsylvania State Association of Township Commissioners (PSATC) were discussed by the Commission Members. Many resolutions that were submitted for consideration are being addressed by legislation introduced during the current 2019-2020 legislative session. The disposition of a remaining resolution is as follows:

PSATS Resolution 2019-33 - Amending municipal codes to authorize appropriation of funds for the recognition of officials, employees or volunteers. *Disposition:* Staff was directed to develop language similar to House Bill 1226 that was introduced by the Commission during the 2015-2016 Legislative Session. Staff will present alternative language to the Members at the October 30 business meeting.

Don Petrille, representing the Pennsylvania State Association of Elected County Officials (PSAECO), reviewed PSAECO's adopted 2019-2020 Policy Priorities for the General Assembly. PSAECO represents ten statewide associations of county officers including commissioners, controllers, auditors, treasurers, register of wills, clerks of court, prothonotaries, recorders of deed, coroners, sheriffs and district attorneys. PSAECO's goals are to promote intergovernmental cooperation and the efficient administration of county government. Mr. Petrille emphasized that the main items for consideration this legislative session are property assessment reform, electronic advertising of public notices on official government sites and the modernization of court-related row office fee structures. As noted by Mr. Petrille, sheriffs' fees were last addressed in 1984. Four additional issues identified by PSAECO that need clarification and some policy fixes are as follows:

- 1. Right-to-Know Law.** The coroners have received a decision from the courts which can be used as a persuasive authority regarding bulk requests for records. The decision may allow for potentially voluminous and overburdening records requests.
- 2. Clean slate.** The clerks of court are going to be looking for guidance on what a "justice agency" is, because it is not well defined in the statute. "Justice agencies" may have access to certain records.
- 3. Next step on County Code.** There is a general consensus that each county officer's right to solicitors should be explicitly written into the County Code. For some offices, the right is found in other parts of the Code.
- 4. Sheriffs' Fee Bill Modernization.** Ensuring that the update to county sheriffs' fees, and the corresponding transfer to the sheriffs' training fund remain a high priority for counties.

Chairman Hutchinson received a letter dated September 5, 2019, from the PSAB requesting the assistance of the Commission in amending the Pennsylvania Borough Code to cleanup several items. In 2012, the Commission was instrumental in modernizing the Borough Code; additionally, in 2014 the Commission assisted in codifying the Borough Code into the

Pennsylvania Consolidated Statutes under Title 8. During this process a reordering of many sections and chapters created items that are now inconsistent or irrelevant, and need to be corrected or deleted. PSAB also is soliciting the Commission’s support for a rewrite of the solid waste provisions contained in Title 8. The suggested changes to the Borough Code are consistent with those provisions established for the Second Class Township Code, the Third Class City Code and the draft of the new First Class Township Code. The Members were provided a copy of the proposed changes, which are as follows:

- a. Section 704 (Association of Mayors) – clarify and remove superfluous language. Each borough only has one mayor; therefore, remove reference to “each mayor.”
- b. Section 801 (Eligibility) – the exception of subsection (c) seems more suited to be placed in subsection (a)(2) instead of (a)(1). Subsection (a)(2) pertains to the residency affidavit; therefore, the exception for the residency requirement would be better placed here. Also included to the exception for active military service as enacted under Act 54 of 2017.
- c. Section 1104(c) (Appointment and Incompatible Offices) – Act 37 of 2014, the codification of the Borough Code, removed the compensation prohibition of elected borough officials serving as appointed officials. Therefore, the language under subsection (c) needs to be removed since there is no longer language limiting compensation under subsection (a).
- d. Section 1122 (Police Serving under Cooperative Agreement or Contract) – reference in subsection (a) to specific power in Section 1202 needs to be corrected. It should reference Section 1202(24) instead of 1202(35).
- e. Section 1202(8) (Specific Powers, Solid Waste) – removed due to the addition of Chapter 25B.
- f. Section 1316 (Investment of Funds) – adds under authorized types of investments those allowed under Act 53 of 1973 due to Act 10 of 2016.
- g. Addition of chapter 25B (Solid Waste) – tracks analogous language of the Third Class City Code and Second Class Township Code.
- h. Section 3301.2 (Publication of Ordinances) – clarifies confusing language in the timing of the public notice of proposed ordinances.

Draft legislation that contains all of the suggested amendments was given to the Members for their perusal. After a lengthy discussion, the Members unanimously approved to introduce the language into both chambers. Senator Kearney will be the prime sponsor of the legislation in the Senate, and the Commission House Members, in consultation with Representative Moul, will select who will prime sponsor the legislation in the House of Representatives.

The Commission’s strategic plan was the next item on the agenda for discussion. The Director reviewed the Commission’s short- and long-term goals as outlined in the strategic plan, which encompasses activities from September 2019 through July 2021. Mr. Greene reported that the short-term goals of recodifying the First Class Township Code, consolidating the County Code, formalizing the home rule proposals developed by the Commission Act 47 Committee and completing the Commission 5-Year Report have been realized. All four of those items will be presented to the Members for their perusal at the October 30 and November 20 business meetings.

Danette Magee, Commission Senior Research Analyst, was recognized to update the Members on the PILOT (payment in lieu of taxes) survey being conducted. Ms. Magee stated that in 2018 a number of municipalities in the fiscal distress recovery program had begun to prepare to transition to three-year exit plans or plan to exit the recovery program altogether. The Commission convened a committee of the Commission to consider the state of the program and to review policy objectives that could improve the effectiveness of the program over the next several years. One of the issues being explored by the committee is whether policy options exist that would allow municipalities to address revenue limitations caused by high volumes of tax exempt property or increase incentives for PILOT agreements. Ms. Magee and Julia Frey, Commission Research Analyst, have been conducting research on PILOT programs in other states and in the Commonwealth. Two electronic surveys were developed by staff to request information from cities, boroughs and first class townships in Pennsylvania to identify the current status and trends of PILOTs in these municipalities and the respective counties' involvement in these agreements. Staff met with representatives of the Pennsylvania Municipal League, the PSAB and the CCAP to ask for the associations' assistance in pushing out the surveys to their respective members. The municipal PILOT survey was electronically distributed in mid-August with a closing date of September 13. The county survey was distributed in early September with a closing date of September 27. The municipal survey deadline has been extended to encourage additional participation. County participation has been very good with 33 of 67 responses thus far. Ms. Magee stated that the Commission staff will be analyzing the survey results during the months of October and November. The Commission's new intern, Jaren Bittinger, a Shippensburg University student, will be assisting with the data analysis. Staff will be preparing the deliverables during the months of December 2019 and January 2020 and plan to present the findings to the Members at the February 2020 business meeting.

Wanda Dehan, Commission Legal Counsel, reported to the Members the status of the First Class Township Code. Ms. Dehan stated that since 2016, she has met several times a year with a working group comprised of township commissioners and managers, as well as staff and legal counsel of PSATC with the goal of rewriting the First Class Township Code. Ms. Dehan revealed that the draft of the First Class Township Code has been completed and shared with pertinent stakeholders for their review and comment. At the October 30 business meeting, Ms. Dehan anticipates providing highlights of the draft to the Members with introduction of the legislation occurring in November. If the legislation is passed during the 2019-2020 legislative session, a consolidated draft will be introduced in the 2021-2022 legislative session that would place the First Class Township Code into Title 73 of the Pennsylvania Consolidated Statutes.

Representative James asked Ms. Dehan for a quick update on the Blight Reform Task Force for which she participates. Ms. Dehan explained that the Task Force was established by Senator David Argall and meets quarterly. Currently, the Task Force participants are brainstorming how to incentivize codes enforcement programs.

Senator Martin had a follow-up question to the previous discussion regarding the addition of chapter 25B (Solid Waste) to the Borough Code. Senator Martin asked if trash "opt out" clauses exist for municipalities, such as may an individual "opt out" of municipal trash removal. The Director stated that the staff would research the matter and contact him with the findings.

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As the last order of business, the Director stated that the next Commission business meeting is scheduled for October 30, 2019, at 8:45 a.m. in Room 14 East Wing-Main Capitol Building. Attendance at this meeting is encouraged since all 2020-2021 fiscal year budgets must be submitted to the budget secretary by October 31, 2019.

The meeting adjourned at 9:30 a.m.

ATTESTED: _____
October 3, 2019