

SPECIAL MEETING OF THE LOCAL GOVERNMENT COMMISSION

Monday, October 16, 2017

The special meeting of the Local Government Commission was called to order by Senator John Eichelberger, Jr., at 10:35 a.m. in Room 451 Main Capitol Building, Harrisburg, Pennsylvania, with the following individuals present:

MEMBERS

Senator John H. Eichelberger, Jr., Chair
Senator Thomas J. McGarrigle
Senator Scott E. Hutchinson
Senator John P. Blake (via telephone)
Representative Kate Harper
Representative Warren Kampf
Representative R. Lee James
Representative Mary Jo Daley

STAFF

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

GUESTS

Lee Derr, Senator Eichelberger's Office
William Casey, Senator Schwank's Office
Brianna Medevich, Representative Freeman's Office
Rob Gaertner, House Local Government Committee (R)
Sean Sanderson, Department of Community & Economic Development
Don Petrille, Pennsylvania State Association of Elected County Officials
Lisa Schaefer, County Commissioners Association of Pennsylvania
Shelley Whitcomb, PA State Association of County Controllers
Timothy DeFoor, Dauphin County Controller

Senator Eichelberger indicated that the purpose of this special meeting of the Commission is to review the comprehensive County Code Revision. He acknowledged the Executive Director to begin the presentation. The Director then provided the following prefatory remarks.

In March 2011, Commission staff started providing support to the Pennsylvania State Association of Elected County Officials (PSAECO) County Code Revision Committee with the update and consolidation of the County Code and the Second Class County Code (SCCC), as the latter pertains to second class A counties. The County Code concerns third through eighth class counties. The County Code and the SCCC have not undergone comprehensive updates since their enactments in 1955 and 1953, respectively. PSAECO represents the statewide associations of county commissioners, auditors, controllers, coroners, district attorneys, prothonotaries and clerks of courts, recorders of deeds, registers of wills and clerks of orphans' courts, sheriffs and treasurers.

The purpose of the revision, in addition to integration of the two codes, is to amend the combined code to reflect case law and current practices, standards and requirements, update outdated or archaic language, and make provisions in the two codes consistent where possible. The Revision Committee and Commission staff only included changes for which the stakeholders could reach consensus.

The Revision Committee and staff typically met every three months. In addition, a separate subcommittee on fiscal affairs of county commissioners, controllers, auditors and treasurers met bimonthly for over a year, and a subcommittee of the County Directors of Veterans Affairs convened a number of times as well. Appropriate state agencies, such as the Department of Agriculture, the Department of Community and Economic Development (DCED), the Department of Health, and the Department Military and Veterans Affairs were also consulted as part of the process. Finally, representatives of the statewide row officer associations that make up PSAECO, including a relevant committee of the County Commissioners Association of Pennsylvania (CCAP), reviewed the draft legislation and provided comments, which are incorporated.

Upon completion of the Director's remarks, he indicated that Legal Counsel David Greene would present revisions to Articles I through XIV, the Director would review changes to Articles XV.1 through XIX, Associate Legal Counsel Kris Gazsi would discuss revisions to Articles XXI through XXIV, and David Greene would complete the review with Article XXV through XXVII, since each worked on the respective articles by enlarge. The Director indicated that County Code revision did not include provisions pertaining to hotel room rental tax in Article XIX as they were recently amended, first class county vehicle rental tax and third class county convention centers in Article XXIII, and the Southwestern Pennsylvania Regional Renaissance Initiative in Article XXX, given that the Revision focused on the fundamental provisions pertaining to the structure and function of county government.

During the course of staff's review, Commission Members posed several issues, questions or suggestions on specific provisions.

- Article I (Preliminary Provisions), Section 102.1 (Definitions). Representative Harper asked staff to consider whether “but not limited to” should be inserted after “includes” in the definition “Recreation places” as it relates to Article XXV (Recreation Places). The Director said staff would look into it.
- Article IV (County Officers), Section 401 (Enumeration of Elected Officers). Senator Eichelberger questioned the current mechanism for combined row offices, specifically the combination of Clerk of Court and Clerk of Orphan's Court. From the audience, Donald Petrille, Bucks County Register of Wills and Clerk of the Orphans' Court and PSAECO Vice President, noted that 17 Clerks of the Orphans' Court do not hold the office of Register of Wills, and are usually Prothonotaries and/or Clerks of Court. He indicated that several counties, primarily those of the fourth and fifth class, have Registers of Wills who are also Recorders of Deeds. Mr. Petrille also noted that since cases generated in the Registers' offices often have Orphans' Court components, practitioners generally find it convenient for the offices to be held by the same officeholder. The Director said he would instruct staff to explore the issue further.

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- **Article XII-A (Sheriff).** Senator Eichelberger asked whether amendments were made to Article XII-A to address a situation in Blair County where a simultaneous vacancy existed in both the office of sheriff and office of chief deputy. This caused a disruption in the issuance of certain firearms licenses and property conveyances. Counsel Greene responded that he discussed the matter with the CCAP and PSAECO, and the consensus was that the Blair County situation was very unusual and the amendments were not advocated by these stakeholders. Senator Eichelberger acknowledged that the situation was unusual, but would still like the Commission staff to explore amendments that could help preclude it from happening again. Counsel Greene said that provisions governing second deputies could be examined and that staff would draft a resolution.
- **Article XIV (District Attorney, Assistants and Detectives).** Senator Blake inquired whether the District Attorneys Association had sought to have the revision to Article XIV address prison board representation. The Director and Counsel Greene indicated that the issue was not raised during the revision, but that they would explore the matter further.
- **Article XVII (Fiscal Affairs), Section 1770 (Tax Levies).** Senator Hutchinson suggested that rather than a stated \$12,000 individual income threshold for exemption from county per capita tax, consistent with the Local Tax Enabling Act (Act 511 of 1965), to just cross reference the relevant provision in Act 511 to maintain consistency. The Director said he would make the change.
- **Article XVII, Section 1733 (Allowance of Attorney Fees).** Representative James questioned the amendments to proposed Section 1733, specifically proposed subsection (b), “the attorney fees in case of appeals involving accounts other than those of county officers shall be allocated in the court’s discretion.” Counsel Greene explained that the language is carried over from the Second Class Township Code and is intended to provide an equitable apportionment of fees depending on whether a surcharged officer was vindicated. He went on to note that if the Representative had further questions or had requests for changes, Commission staff would be responsive.
- **Article XIX (Special Powers and Duties of Counties).** Senator Hutchinson and Representative James questioned removing maximum appropriation dollar amounts and prescriptive procedures for appropriations for various purposes and leaving the amounts and criteria to the discretion of the Commissioners to provide more flexibility.
- **Article XIX, Section 1999g (Issuance of Non-Debt Revenue Bonds for Industrial Development Projects).** Representative James questioned the use of the term “non-debt revenue bonds.” Attorney Gazsi responded that the provision is intended to apply to self-funding securities that do not count against a municipal entity’s debt limitations. Senator Eichelberger directed Commission staff to explore whether the term was consistent with the Local Government Unit Debt Act and make changes, if appropriate.
- **Article XIX-A (Military and Veterans Affairs), Section 1915-A (Care of Graves and Headstones).** Senator Hutchinson questioned whether a mandate requiring counties to care for the graves of veterans should be replaced with an authorization in Section 1915-A.

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- **Article XXI (Public Health), Subdivision (e) (Care of Dependents and Children). Representative Harper inquired whether Subdivision (e) should include a cross reference to incorporate the Area Agencies on Aging programs which are provided for under other laws. The Director said staff would look into it.**

The Director said that staff would provide responses to these items for the Commission business meeting on November 15, 2017.

The meeting adjourned at 12:20 p.m.

ATTESTED: _____
November 8, 2017