

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

**Wednesday, November 15, 2017**

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

### **STAFF**

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

### **GUESTS**

**Justin Leventory, Senator Hutchinson's Office  
Kyle Mullins, Senator Blake's Office  
Rob Gaertner, House Local Government Committee (R)  
Lisa Schaefer, County Commissioners Association of Pennsylvania  
Ed Troxell, Pennsylvania State Association of Boroughs  
Ron Grutza, Pennsylvania State Association of Boroughs**

As the first order of business, the Members discussed the minutes of the October 18, 2017, business meeting and the minutes of the October 16, 2017, County Code revision meeting, which were unanimously approved on a motion by Senator Schwank and a second by Senator McGarrigle. The financial report for the month of October 2017 was presented, and a detailed explanation was given by the Executive Director. The financial report was unanimously approved on a motion by Senator McGarrigle and a second by Representative Daley.

Written staff responses to questions or comments raised by the Members in attendance at the Local Government Commission County Code Review meeting on October 16, 2017, were provided to the Members for discussion.

**Comment 1. Senator Blake requested a provision related to the qualification for sheriffs that would not allow a sheriff to serve on a prison board.**

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**Response:** After further discussion with Senator Blake, staff concluded that this would be best addressed through separate revisions to the Prison Board Law.

**Comment 2.** Senator Eichelberger asked for revisions that would address a scenario where a deputy sheriff acting in the role of the Sheriff would also need to be replaced.

**Response:** Staff prepared draft legislation which would do all of the following:

1. Clarify the duties of the existing deputy.
2. Require the appointment of a second deputy who shall have duties in the absence of a chief deputy.
3. Authorize all counties to appoint a real estate deputy to carry out sheriff sale related duties. Currently only counties of the second class A through fourth class have this authority explicitly.

After a protracted discussion, the Members decided not to include proposed changes to Section 408(b), revising the provisions related to temporary succession, and incorporate the remaining suggested language into the proposed County Code draft legislation.

**Comment 3.** Senator Hutchinson requested that the low income exemption for the per capita tax simply cross-reference the existing exemption in the Local Tax Enabling Act.

**Response:** Staff will incorporate the change in to the draft legislation.

**Comment 4.** Representative Harper asked whether there should be a cross reference within the Public health article to the Area Agencies on Aging program.

**Response:** After corresponding with Representative Harper on this question, staff found that the Area Agencies on Aging may be a County program, but may also be a private program designated by the county or certain other municipalities, and therefore may not be a good candidate for a cross reference in relation to all counties.

**Comment 5.** Representative Harper questioned whether the definition of Recreation Places in the draft was sufficiently flexible.

**Response:** The catch-all provision of the current County Code refers to “other indoor or outdoor recreation centers” which is expanded by introducing the existing listed facilities with the word “including.” According to the Statutory Construction Digest published by the Legislative Reference Bureau, “including” and “including, but not limited to” would both serve the purpose as allowing unlisted items of the “same general class and nature as the listed items.”

**Comment 6.** Representative James raised questions about court discretion to award fees in regard to a surcharge action under some circumstances in Section 1733.

**Response:** It was noted at the October 16 meeting that the concept incorporated in the draft had been directly based upon the Second Class Township Code. We understand that Representative James may pursue further conversation on this concern with Counsel Greene.

**Comment 7.** Representative James and others questioned why the County Code used the term “non-debt” revenue bonds, when such an instrument is still a form of debt.

**Response:** The term “non-debt” will be stricken from every instance in the Code to become consistent with the Local Government Unit Debt Act. Current practice refers to “revenue bonds.”

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**Comment 8.** Senator Hutchinson and Representative James were concerned by the proposed removal of a mandate to provide care for the graves of deceased veterans within the county.

**Response:** The existing mandate is vague. County commissioners are charged to “see that” the graves of deceased service persons receive fitting and proper care, with the expenses paid by the county “except where suitable care is otherwise provided.” This requirement has been in the County Code, and its predecessor, since the mid-1930s. The provisions of the section have never been the subject of litigation. We heard from the County Directors of Veterans’ Affairs that they do not typically pay for this care, which in many cases may default on the private cemetery agreement related to the burial. The concern for the Directors was that the county could be subject to litigation where the county did not know of a grave receiving inadequate care, or one located on private property where access to provide care is not granted.

The Members concurred to maintain the proposed permissive language in the draft. Senator Schwank stated that she would like the Commission to further study the issue of cemetery abandonment and the role local and county governments should play in the care of cemeteries.

**Comment 9. Article XIX Appropriations Caps (Hutchinson/James).**

**Response:** This is ultimately a policy decision. There are six appropriations where County Code Revision Committee members have proposed removing the caps in Article XIX. They are:

1. Appropriations to qualified historical societies (§§ 1928-1930). There is no cap in the County Code, but the Second Class County Code capped appropriations at \$4000.
2. Appropriations to Agricultural and Horticultural Societies (§ 1937). Counties are currently capped at a total of \$1,500 in appropriations to qualifying societies within the county. Under the County Code, Commissioners may also make an appropriation of up to \$300 to a society located within another county in the Commonwealth.
3. Appropriations to County Fair Associations (§ 1939). Counties of the third through eighth class are currently capped at an appropriation of \$5,000. No authorization for second class A counties exists in the Second Class County Code.
4. Radio Broadcast Station (§ 1943). In second class A counties, the appropriation to radio or TV broadcast stations supporting public access and available for public use in emergency is capped at \$500. No cap exists for counties under County Code.
5. Volunteer Fire Departments (§ 1951). Counties of the seventh and eighth class are authorized to make appropriations to volunteer fire departments, currently capped at \$600.
6. Tourist Promotion Agencies (§ 1999d). Appropriations to tourist promotion agencies are not capped under County Code, however second class A counties are currently capped at an amount equal to 10 cents per resident of the county.

The Members did not object to the removal of caps as contained in the draft legislation.

**Comment 10.** Senator Eichelberger questioned the current mechanism for combined row offices, specifically the combination of the Clerk of Court and Clerk of Orphans’ Court in certain counties.

**Response:** Section 1302 of the County Code delineates how the offices are to be held, with exceptions. In recent years, exceptions were added for counties advancing from the fifth to the fourth class, and counties advancing from the sixth to the fifth class, respectively. More importantly, subsection (e) provides, “This section does not repeal any of the provisions of

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section one of the act, approved [July 2, 1839 (P.L. 559, No. 193)], entitled ‘An act to provide for the election of prothonotaries, clerks, recorders and registers,’ nor any of the provisions of any other local law.” Act 193 of 1839 delineates the configuration of the subject row offices for each of 51 counties in existence in 1839.

To give counties flexibility, Section 1302(f) further provides:

Any county in which the offices provided for herein are not now held as hereinbefore provided [in this section], and which desires to provide for the holding of two or more of said county offices by the same person, may, at any time hereafter, accept the provisions of this section in whole or in part, and provide for the holding of its county offices, or any of them, in the manner provided in this section for the class of counties to which it belongs.

Given the complexity of the basis for the configuration of row offices, staff recommends that this question, if investigated, should be done so separate from the County Code Revision in conjunction with CCAP and the respective row officer associations.

The Members concurred with the Commission staff’s recommendation to address this matter separately.

**Comment 11.** Montgomery County staff requested that a CPI adjustment to the advertising limits imposed on sale of personal property.

**Response:** This is ultimately a policy decision, but one which would limit the need to revisit the issue in the future. The current draft increases the advertising limit for the sale of personal property, but sets a static amount.

The Members agreed to address this in a separate amendment.

After further discussion, the Members unanimously agreed on a motion by Representative Kampf and a second by Senator McGarrigle to introduce the County Code Revision legislation.

Two proposed bills were presented to the Members for their review and approval. The legislation is a result of the Local Government Commission Assessment Reform Task Force that began January 2017. The first proposed bill would amend several sections in Chapter 88 of Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes (Pa.C.S.), which is known as the Consolidated County Assessment Law (CCAL). CCAL is the codification of assessment law applicable predominantly to counties of the second class A through eighth class. The amendatory language would provide for the training and qualifications of members of a board of assessment appeal/revision and auxiliary appeal boards, change the method by which auxiliary appeal boards are established and staffed, clarify the types of corrections that may be made during an informal review of a property owner’s proposed market value or assessment, specify the date by which informal reviews must be completed, require the county to make publicly available taxing district information, and also require the assessment appeal board to provide notice of rights of further appeal to board decisions. Overall, the legislation would strengthen and enhance objectivity, accountability, efficiency, equality and transparency in the assessment appeal process. After a lengthy discussion, the Members unanimously approved on a motion by Representative Kampf and a second by Senator Schwank to introduce the proposed legislation into both chambers. The prime sponsors of the legislation are Senator Eichelberger and Representative Harper.

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The second draft legislation presented to the Members would amend Section 8861 within Chapter 88 (CCAL) of Title 53 (Municipalities Generally) of the Pa.C.S. by further facilitating the existing statutory requirement that building permit information be submitted to the county assessment office to ensure accurate property valuation and, consequently, more fairly capture municipal property tax revenue. The bill also provides remedies to the county assessment office in the event that the county is not receiving the required building permit submissions. After a brief discussion, the Members unanimously approved on a motion by Representative Harper and a second by Representative James to introduce the proposed legislation into both chambers. Senator Eichelberger and Representative Harper will be the prime sponsors.

Local Government Commission meeting dates for 2018 were presented to the Members for their approval. After briefly reviewing the dates, the Members voted unanimously to meet on the following dates: January 24, 2018, monthly business meeting; February 14, 2018, monthly business meeting; March 14, 2018, monthly business meeting and meeting with local government associations; April 11, 2018, monthly business meeting; May 9, 2018, monthly business meeting; June 13, 2018, monthly business meeting and meeting with local government associations; July 11, 2018, monthly business meeting; September 26, 2018, monthly business meeting and meeting with local government associations; October 17, 2018, monthly business meeting; November 14, 2018, monthly business meeting; and December 12, 2018, monthly business meeting and meeting with local government associations. Office closing dates for 2018 were presented to the Members, as well, with the Members unanimously approving all meeting and closing dates on a motion by Representative Kampf and a second by Representative Harper.

As the last order of business, the Executive Director apprised the Members that the Commission's December 13, 2017, business meeting will be held in conjunction with the quarterly meeting of the Pennsylvania State Association of Elected County Officials (PSAECO) at 8:45 a.m. in Room 14 East Wing-Main Capitol Building. At that meeting, the Members will be reviewing the 2017 municipal association resolutions and hear representatives from PSAECO address issues affecting county row offices.

The meeting adjourned at 9:55 a.m.

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

November 21, 2017