

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

**Wednesday, November 20, 2019**

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The meeting of the Local Government Commission (Commission) was called to order by Senator Scott Hutchinson at 8:50 a.m. in Room 14 East Wing-Main Capitol Building, Harrisburg, Pennsylvania, with the following individuals present:

### **MEMBERS**

**Senator Scott E. Hutchinson, Chair**  
**Senator Judith L. Schwank**  
**Senator Timothy P. Kearney**  
**Representative R. Lee James**  
**Representative Dan Moul**  
**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 Frey, Research Analyst**  
**Karen S. Bear, Executive Assistant**

### **GUESTS**

**Justin Leventry, Senator Hutchinson's Office**  
**Cynthia Urban, Senator Martin's Office**  
**Matt Maniskas, Senator Schwank's Office**  
**Samuel Arnold, Senator Kearney's Office**  
**Christopher Mulhall, House Local Government Committee (R)**  
**Melissa Anese, County Commissioners Association of Pennsylvania**  
**Amy Sturges, Pennsylvania Municipal League**  
**Ed Troxell, Pennsylvania State Association of Boroughs**  
**Ron Grutza, Pennsylvania State Association of Boroughs**  
**Melissa Morgan, Pennsylvania State Association of Township Supervisors**  
**Joe Regan, Fraternal Order of Police**  
**Hayden Rigo, Greenlee Partners**

As the first order of business, the Members discussed the minutes of the October 30, 2019, business meeting, which were unanimously approved on a motion by Senator Kearney and a second by Representative James. The financial reports for the month of October 2019 were presented, and an explanation was given by the Executive Director. The financial reports were unanimously approved on a motion by Representative Moul and a second by Senator Kearney.

A copy of the Commission's quinquennial *Report to the Pennsylvania General Assembly* was given to each Member for his/her review. The report will be placed on the Commission's website

[www.lgc.state.pa.us](http://www.lgc.state.pa.us)) after it is electronically submitted to all Members of the General Assembly. The report contains detailed information regarding the Commission's ongoing assignments, periodic work products, recent and current Commission and cooperative projects, and prospective Commission projects. The Commission last presented a 5-year report to the General Assembly in October 2014. This publication was entirely prepared in-house to minimize the cost. The distribution of the November 2019 report was unanimously approved on a motion by Representative Freeman and a second by Senator Schwank. Senator Hutchinson expressed his thanks to the Commission staff for all of their continued hard work.

Assistant Director Kris Gazsi presented to the Members for their review two alternative pieces of legislation. Both contain language that would amend the Home Rule Charter and Optional Plans Law to allow distressed municipalities to form a government study commission directly and include a specific role for the Act 47 coordinator study and recommendation process. However, the one piece of proposed legislation would additionally encourage the public's adoption of the charter by clarifying the power of a charter to contain taxpayer protection provisions. The bill clarifies that the governing body of a home rule municipality is constrained from violating provisions contained in the municipality's home rule charter imposing limits on the rates of taxation which may be imposed on the municipality's residents. Municipalities in fiscal recovery in the Act 47 program frequently consider the adoption of a home rule charter to reorganize the municipality's form of government, diversify its revenue structure, or pursue professionalism and financial controls to address some of the causes of the financial distress. The process in current law does not help the study commission consider the recovery objectives of the distressed municipality, and the requirement for two separate elections may cause the process to be lengthier and more complex than the distressed municipality's limited time to participate in the recovery program would allow. The Local Government Commission Committee on Act 47 conducted a stakeholder survey with coordinators, consultants, municipal associations, the Governor's Center for Local Government Services and others to identify areas of improvement for the Act 47 program and advise the committee accordingly. The resulting feedback demonstrated a need to make the home rule process more efficient for distressed municipalities, and help a distressed municipality adopt a charter more consistent with the goals of the municipality's recovery. After Mr. Gazsi addressed the Members' questions, Senator Schwank made a motion, which was seconded by Representative Freeman and unanimously approved by the Members, to add additional language that would offer all existing home rule municipalities and distressed municipalities the opportunity to form a government study commission. The Members then unanimously voted on a motion by Representative James and a second by Senator Kearney to introduce the language that imposes limits on the rates of taxation that may be levied on the municipality's residents. The legislation, which will include the additional language suggested by Senator Schwank, will be introduced in both chambers, with Senator Hutchinson and Representative Moul as prime sponsors.

Commission Legal Counsel Wanda Dehan presented an update on Borough Code legislation. The legislation, which was approved previously by the Members at the Commission's September 25, 2019, business meeting, makes various technical changes and clarifications and also repeals current provisions regulating the accumulation and collection of garbage and other refuse materials, and creates a new chapter 25B "Solid Waste Collection Disposition." Due to some concerns, two changes were made to the previously approved legislation. Section 704(b) is a clarifying amendment to revert to "shall" which was changed to "may" in the Title 8

consolidation. This subsection relates to a mayor “shall” receive reimbursement for specified expenses in attending an annual meeting. Section 4 of Act 34 provided an exclusive list of substantive changes in the consolidation and section 704 was not included in that list. Thus, reinstating “shall” is not a substantive change. The second change, to Section 3301.1(b)(2) (Ordinances and Resolutions), removes language that is the subject of an ordinance requirement, and which has been interpreted as creating an ambiguity as to the process of borough budget enactment. The listing of those actions requiring an ordinance in section 3301.1 does not affect the substance of other sections in the Borough Code that may specifically require an ordinance. After a brief discussion the Members unanimously agreed to introduce the revised legislation.

For informational purposes, office holiday closing dates for 2020 were presented to the Members. The dates are in accordance with the Commission’s Personnel Policy.

Commission Research Analyst Julia Frey updated the Members on the payment in lieu of taxes (PILOT) survey that is being conducted by Commission staff. Ms. Frey stated that during the September 25, 2019, Commission business meeting, Senior Research Analyst Danette Magee introduced the PILOT study to determine the status of PILOT programs within the Commonwealth. Ms. Frey has been working with Commission Intern Jaren Bittinger the past two months to collect and analyze the data that has been received from the survey results. Two main goals or questions were identified, as follows: (1) what commonalities exist among municipalities that have a PILOT policy, and (2) of those that have a PILOT, what commonalities exist among the policies that are considered by the municipality to be successful? In determining commonalities within municipalities that have a PILOT, Commission staff examined what municipal services are offered and if a fee is levied for those services, the size of the population and the budget of the municipality, the budgetary concerns of the municipality, and most importantly, the type of tax exempt properties that exist within the municipality. Ms. Frey and Mr. Bittinger discovered during their review that municipalities with a university or hospital are most likely to have a PILOT policy. Ms. Frey suggests those municipalities with government property or social services, such as Housing and Urban Development (HUD), should explore what statutory or case law allows for payments, such as a percentage of rent through HUD. It was ascertained that those municipalities with smaller nonprofits and churches have the least PILOT participation. In developing a toolkit for municipalities that are considering implementing PILOTs, the survey results suggest that the type of tax exempt properties within the municipality is the most important factor.

Ms. Frey also reported that in determining whether a municipality considers their PILOT program successful, factors include if there is a charge for municipal services (those that impose a fee are more likely to have a successful program), the participation rate among tax exempt property owners, and whether a specific dollar amount is requested, which is typically calculated based on a percentage of the taxes that would be owed without the tax exempt status. The data also shows that municipalities that charge for municipal services and ask for a specific dollar amount have higher levels of success. The survey also asked municipalities to identify their three largest budgetary concerns. Overwhelmingly, aging infrastructure was the number one concern, followed by payroll and pension costs, service costs and declining or slowly growing tax bases. Additionally, a large number of municipalities expressed interest in learning more about PILOT

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**programs and how they could implement such programs within their own communities. When the PILOT survey findings are complete, a report will be disseminated to municipalities, using past task forces as a model for this education.**

**As the last order of business, the Members discussed business meeting dates for 2020. Historically, Commission business meetings have been conducted on Wednesday mornings. Due to Committee conflicts, attendance at the Commission monthly meetings has become an issue. The Members were provided with a listing of possible 2020 meeting dates that occur on Mondays and Wednesdays. After a brief exchange, the Members decided to revisit the issue at the Commission’s December 11, 2019, business meeting.**

**The meeting adjourned at 9:25 a.m.**

**ATTESTED: \_\_\_\_\_  
December 2, 2019**