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PART I

**EXECUTIVE SUMMARY ON THE REVISIONS TO THE BOROUGH CODE,
THE ACT OF FEBRUARY 1, 1966 (1965 P.L. 1656, NO. 581), AS AMENDED**

Act 43 of 2012

(HB 1702, PN 3331)

This proposed legislation seeks to modernize and recodify the Borough Code (Code), an effort that has not been attempted in the last 45 years. The Local Government Commission, in concert with the Borough Code Revision Committee established by the Pennsylvania State Association of Boroughs, has since 2003 reviewed the Code by removing obsolete provisions, incorporating pertinent and updated language, consolidating common subjects, and adding some language that had been part of both the last significant recodification pertaining to the Second Class Township Code which was enacted in 1995 and, another Local Government Commission effort, Senate Bill 874, Printer's Number 890, of the 2011-12 legislative session, which also seeks to modernize the Third Class City Code. It should also be noted that, when necessary, various articles of the proposed Code were forwarded to several state agencies for comment in relation to their jurisdictional powers. In addition to a section-by-section summarization of the amendatory changes that have been made to the Borough Code, this executive summary will encapsulate the intent of the major changes by Article. According to statistics from the Governor's Center for Local Government Services, there are 958 boroughs in the Commonwealth,¹ 19 of which have adopted a home rule charter. Although this recodification will not apply per se to boroughs that have adopted a home rule charter, certain matters such as subjects of taxation, will continue to apply. Finally, the purpose of this executive summary is to give a very broad overview of the recommended changes to the Borough Code. A more concise, section-by-section commentary is provided in Part III of this document.

Update 11/11 - House Bill 1702 was reviewed by the House Local Government Committee in October and November of 2011. Through the Committee review process and negotiations with various

¹ Governor's Center for Local Government Services, Department of Community and Economic Development, *Pennsylvania Local Government Fact Sheet*, October, 2010.

stakeholders, additional modifications to the revision were incorporated by the Committee. These additional modifications are noted in this Summary with a superscripted ‘**hlgc.**’

Update 1/18/12 – House Bill 1702 was reviewed by the Senate Local Government Committee and reported as amended to the Senate floor. Other than minor editorial changes, two substantive amendments were added to Section 1183 and Section 359 on the last page of the bill. See footnote 11, page 7. These additional modifications are noted in this Summary with a superscripted “**slgc.**”

Update 4/2/12 – House Bill 1702 was amended and reported from the Senate Appropriations Committee. The amendments: (1) grandfather certain water authority employees that previously worked for a borough water department into the borough’s pension system; (2) incorporate House Bill 18 sponsored by Rep. Jim Marshall that would permit boroughs to purchase used personal property from other governmental entities without competitive bidding or written or telephonic quotes; and (3) add language clarifying Act 104 of 2011 that permits borough employees to continue to in an elected capacity when the borough’s population increased over 3,000 in population during the last census. These additional amendments are noted in this Summary with the superscripted ‘**sappc.**’

Update 5/17/12 - Governor Corbett signed House 1702 into law as Act 43 of 2012.

Article I – Preliminary Provisions

Most changes to this article are editorial although one significant change is made in relation to adoption of provisions of the Code by the Town of Bloomsburg. As a matter of statutory construction, Section 106 is clarified to delineate that the new codification will apply to all boroughs whether incorporated under special, local, or general law. If the provisions of any special or local law which have not been surrendered are in conflict with the codification, the provisions and codification are to be construed to give effect to both. If provisions are in conflict, the local or special law will prevail. A new Section 107.1(a) would permit Bloomsburg to adopt *any part* of the Borough Code by ordinance, but it specifically would not be permitted to alter or amend the Borough Code itself by the adoption of such ordinance. Under current provisions of Section 107, an incorporated town is permitted to adopt the Borough Code *in its entirety* by petitioning the court of common pleas. This provision is retained and moved to Section 107.1(b).

Article II – Creation and Alteration of Boroughs

The provisions for incorporation of boroughs are altered to specify that boroughs may be incorporated from all or parts of townships of the second class. Current law permits incorporation from areas not already incorporated or a part of an incorporated municipality. This appears to be archaic language since all areas in Pennsylvania are incorporated whether pursuant to a municipal code or by special act. Additionally, case law interpreting the phrase “incorporated municipality” in statutes enacted prior to 1975, like the current Borough Code, have excluded townships from the definition.² Section 202 would statutorily clarify the status of freeholders who may petition the court of common pleas for an

² See *In re Incorporation of the Borough of Chilton*, 646 A.2d 13 (Pa. Cmwlth. 1994), citing *Patrick Media Group, Inc. v. Commonwealth Department of Transportation*, 620 A.2d 1125 (Pa. 1993).

application of incorporation.³ Section 202(b) would be renumbered Section 202.1 in reference to the appointment by the court of a Borough Advisory Committee. Two additional findings of fact for the Committee to consider are added in relation to its duty to advise the court on the desirability of incorporation: (a) whether the proposed borough constitutes a harmonious whole with common interests and needs that can best be served by a borough government and (b) whether the borough would provide for land use regulations to meet the legitimate needs for all categories of residents or whether the plan is exclusionary or would result in economic segregation.⁴ In consideration of the concept of “harmonious whole”, the advisory committee is required to consider whether the proposed borough represents a distinct community with features different from those of the existing township or townships.^{hlgc} Section 202.2 (currently Section 202(d)) would include the holders of any ownership interest in real property as an interested party who may testify on the proposed incorporation. This provision was added to reflect the Commonwealth Court’s holding in *In re Incorporation of the Borough of Treasure Lake*, which provided that notwithstanding the fact that owners of certain property interests within the proposed borough were not eligible to sign the incorporation petition, they could still participate in the hearing. Consistent with case law, language is also added to permit the court to obtain additional information beyond the evidence submitted at the hearing and advice rendered by the advisory committee before making its decision on whether the question of incorporation will be submitted for referendum. See *In re Incorporation of the Borough of Chilton*. Editorial changes are made to Sections 231 and 232 when a borough is created from a city of the third class. Section 232 would require the recorder of deeds in each county affected to submit a copy of a charter of a borough created from a city of the third class to the Departments of State, Community and Economic Development, and Transportation, and to the county planning commission. This is the same notification required when a borough is incorporated from a second class township or townships (See Section 210). Section 241 is added to reference that a borough may be merged or consolidated into a new or existing municipality pursuant to 53 Pa.C.S. Ch. 7, Subch. C (relating to consolidation and merger). Section 242, relating to change of corporate name, is moved from Section 305 and a new requirement is made that if a borough’s name is altered, the recorder of deeds must submit same to the above departments and the county planning commission.

Article III – Annulment of Charters and Change of Corporate Names – Repealed

Portions of this Article have been moved to Article II.

Article IV – Change of Borough Limits - Repealed

The provisions of this Article have been repealed as being inconsistent with amendments made to Article IX of the Pennsylvania Constitution in 1968 and *Derry Township Supervisors v. Borough of Hummelstown*, 458 Pa. 396, 326 A.2d 343 (1974).

Article V – Borough Boundaries

Although most changes are editorial to this article, language in Section 502 permitting the court to alter the lines of a borough adjoining another municipality “to suit the convenience of the inhabitants” is

³ Statutory clarification of “freeholder residing” was added in accordance with *In re Incorporation of the Borough of Treasure Lake*, 999 A.2d 644 (Pa.Cmwlth. 2010).

⁴ *In re Incorporation of the Borough of Chilton*, 646 A.2d 13 (Pa.Cmwlth. 1994).

deleted. A similar provision in the First Class Township Code was held invalid because boundary changes other than those resulting from a boundary dispute may only be affected by initiative and referendum.⁵ However, the court would retain jurisdiction to ascertain disputed boundaries when a petition is presented to it.

Article VI – Borough Wards

The major change to this article is that council, by ordinance, is empowered to erect, abolish, and change wards instead of the court of common pleas. Case law provides that reapportionment has been ordained a legislative function.⁶ Court involvement is limited to hearing a petition filed by the electors if they believe that existing wards are not in compliance with the provisions of the Borough Code or constitutional requirements provided in Article IX, Section 11, relating to local reapportionment. Language in Section 601 is deleted due to a conflict with the Municipal Reapportionment Act, 53 Pa.C.S. Part II, Chapter 9. The right of the electors to petition council to reapportion wards or parts of wards is retained in Section 602. However, subsection (b) to Section 602 is added to permit ten registered voters to petition the court to contest the existing apportionment as violating Section 601, including a new provision in Section 601(d) that requires wards to be composed of compact and contiguous territory as nearly equal in population as practicable as officially and finally reported by the last official census. Under Section 603(b), a copy of the ordinance relating to the changing of the wards along with a plot showing its boundaries is required to be forwarded to the county board of elections. In addition, the power of the court or the board of elections over wards and election districts is preserved pursuant to Article V of the Pennsylvania Election Code.^{hlgc}

Article VII – Associations and Organizations

New Section 701.1 permits council to designate elected or appointed officials of a borough to not only attend the annual meeting as previously provided in Section 701, but also a conference, educational training, or committee meeting of the Pennsylvania State Association of Boroughs. In addition, as a matter of clarification, if a mayor or members of council are employed by the borough (in addition to other borough employees), council may permit them to be compensated at their regular employee rate while attending the annual meeting, or a conference, educational, or committee meeting of the association. However, council is to permit at least one member of council to be reimbursed for allowed expenses including the registration fee, lodging, meals and mileage when attending meetings.^{hlgc} Section 701.2 is added to permit the mayor or members of council who are employed by the borough to be compensated at their regular rate or if not employed by the borough, including those who are self-employed,^{hlgc} to be reimbursed for lost wages or salaries if they attend a meeting for which the mayor or council member is an officer, a member of the board of directors, a member of the executive committee, or a member of a standing committee, or a trustee of the association under specified limitations. This provision is similar to Section 602 of the Second Class Township Code that was added by Act 101 of 2006 that permits similar payment or reimbursement of wages or salaries of township supervisors who act in a similar capacity with the Pennsylvania State Association of Township Supervisors. Section 702

⁵ *In re Establishment of Boundary Change Between Collier Township and Robinson Township*, 360 A.2d 841, 842 (Pa. Cmwlth. 1976).

⁶ *See, e.g. In re Ross Tp. Election Dist. Reapportionment*, 489 A.2d 297 (Pa. Cmwlth. 1985) (“[T]he fundamental principle is that reapportionment is primarily a legislative function and that the courts should defer to the legislative judgment where constitutional and statutory standards have been satisfied.” *Id.* at 241).

increases the annual dues that would be paid to a county or regional association of boroughs from \$75 to \$100. Section 704, relating to the expenses of a mayor attending a meeting of an association of mayors, specifies that in addition to reimbursement for registration fees and mileage, a mayor now will be eligible to be reimbursed for lodging and meals.^{hlgc}

Article VIII – Elections of Officers

Section 801 is amended to require that an elected borough officer, prior to being sworn into office, provide the borough secretary with a signed affidavit that the person so elected has continuously resided in the borough for the required one year immediately before that person's election. This is meant to verify that the residency requirement has been attained, and that no question exists as to the person's qualification for office based on residency. Section 806 is restructured to delineate the officers to be elected in a borough and their terms of office. However, by this listing and subsequent repeal of Section 851, the office of elected assessor is eliminated to ensure conformity with Act 93 of 2010, which abolished the office of elected assessors (See Section 8332(d) of that Act), effective January 1, 2011. Consonant with Article VI, changes are made to reflect that delegation of the alteration of wards is to be made by council by ordinance. However, the court would retain jurisdiction to increase or reduce the number of members of council in situations in which wards are not involved. This provision is preserved to maintain a neutral forum which affects a member of council's right to hold office. The mechanics of increasing or decreasing the number of wards and election of council members when new wards are created or abolished are not altered.

Article IX – Vacancies in Office

Most changes to this article are editorial. Section 901 is amended to reflect that a person who fails to file the affidavit required by Section 801 is not qualified for office, and the office is considered vacant and may be filled by council pursuant to Section 903. Section 901 is also amended to provide that any person appointed to fill a vacancy must have resided in the borough or ward continuously for at least one year prior to their appointment. Section 904 relating to the right of council to declare a seat vacant when a member fails to attend meetings is repealed as being likely unconstitutional.⁷

Article X – Powers and Duties of Elected Borough Officials

Section 1001 has been amended by adding subsection (b), which will permit members of council to participate in meetings by telecommunication device, provided a quorum has been established by the physical presence of a majority of the membership of council. A similar provision has been included into the recodification of the Third Class City Code (SB 874 of 2011, Printer's Number 890). Those not present at a meeting may participate provided those members can speak to and hear the comments and votes of members present and the public at large and vice-versa for members present in regard to hearing and speaking to members not in attendance.⁸ If a member physically present at the meeting must be disqualified from voting due to a conflict, a member participating by telecommunication device can

⁷ The Pennsylvania Supreme Court in *South Newton Township Electors v. South Newton Township Supervisors, Bouch*, 838 A.2d 643 (Pa. 2003), held that Section 503 of the Second Class Township Code relating to removal of township officers for failure to perform duties was unconstitutional as violating Article VI, Section 7 of the Pennsylvania Constitution.

⁸ *But see Babac v. Pennsylvania Milk Marketing Board*, 531 Pa. 391, 613 A.2d 551 (Pa. 1992), holding that official action can take place at a public meeting if a quorum is established by members who are not physically present but participate in the meeting by speakerphone.

be counted toward the quorum to maintain the meeting.^{hlgc} Council may permit members who are absent and who wish to participate by telecommunication device for the following closed set of reasons: illness or disability of the member, caring for the ill or newborn in the council member’s family, an emergency, or family or business travel.^{hlgc}

Section 1001(e) is amended to remove a provision that council may receive compensation to be fixed by ordinance “at any time and from time to time.” This language is unconstitutional in light of *Buckwalter v. Borough of Phoenixville*,⁹ which held that Article III, Section 27, of the Pennsylvania Constitution, which provides that no law shall increase or decrease the salary of a public officer after election or appointment, applies to ordinances. Furthermore, similar to Section 606 of the Second Class Township Code, language is added to specifically state that any change in salary, compensation, or emoluments for members of council shall not become effective until the beginning of the next term of office.

Section 1002 provides that the oath of office for members of council shall be in compliance with 53 Pa.C.S. 1141 relating to the form of oaths of office, and that notaries, pursuant to Act 373 of 1953, may administer such oaths. Section 1009 is amended to provide that borough records may be electronically or digitally stored or retained in a form that is durable pursuant to Act 250 of 1949. Further, Section 1014 transfers from the borough secretary to the solicitor the right to proceed to court when a witness refuses to testify before council, even when subpoenaed, in matters relating to hearings and the production of papers, books, or evidence.

Section 1041 is amended to clarify that when the elected auditors organize each year, if the first Tuesday is a holiday, the auditors will meet and organize the following day. Provisions relating to the annual audit are moved to new Sections 1059.1 through 1059.11. Although most of the current language of the Borough Code relating to the annual audit is retained, the secretary of the board of auditors would be required to file a copy of the audit with named entities including the prothonotary of the court. Section 1059.1(c) is new and it would provide that the secretary to the auditors would serve, by registered or certified mail, notice to officials who have a balance or shortage as it appears in the audit report. Specifications for the notice are delineated.

Section 1059.8, relating to the awarding of attorney fees on appeal of an audit report, is new and it is derived from similar, but not exact language, taken from the Second Class Township Code. Subsection (b) of Section 1059.8 provides that the awarding of attorney’s fees in cases of appeals involving accounts other than those of borough officers are to be awarded at the court’s discretion. This would include the accounts of the magisterial district judge. Section 1059.10(b) adds a new provision that an auditor who is financially interested in a borough transaction would be guilty of a summary offense. Section 1059.11(c) adds language that would permit an independent auditor to employ an attorney subject to approval of council. The independent auditor would be required to publish the annual financial statement in the same manner and form required for elected auditors (Section 1159(a)).^{hlgc} Section 1059.11(d) gives independent auditors the same powers as the elected auditors in relation to the issuance of subpoenas, payment of witnesses compelled by the auditors to testify, and the settlement of accounts of a person who refuses to provide required documents.

Minor changes are made to provisions related to the borough controller who serves in lieu of the elected auditors. The controller would be required to give an oath of office under Title 53 Pa.C.S. 1141 (Section

⁹ 985 A.2d 728 (Pa. 2009).

1061) and, pursuant to *Buckwalter*, any changes in the salary, compensation, or emoluments of the controller would not become effective until the beginning of the next term (Section 1062).

Language also has been inserted into Section 1086, relating to the powers and duties of the tax collectors, to ensure that the powers of the tax collector do not extend to collection of the earned income tax as provided by Chapter 5 of Act 511 of 1968 (as amended by Act 32 of 2008), which establishes a countywide income tax collection. A borough still would be permitted to designate the tax collector to collect other Act 511 taxes by ordinance.

Finally, ordinance provisions have been moved to new Article XXXIII, and the provisions relating to the mayor have been relocated to a new Article X-A.

Article X-A (New)

This new article consolidates the provisions for the office of mayor. Section 1003-A mandates that the oath of office be given in compliance with 53 Pa.C.S. 1141, and Section 1004-A(b) provides that no change in compensation or salary be implemented until the next term of office. However, Section 1005-A(b) would incorporate provisions of House Bill 931, Printer's Number 1000 of 2011, and Senate Bill 938, Printer's Number 1016 of 2011, which would permit a mayor to accept a monetary fee of up to \$150 to solemnize marriage ceremonies. The mayor would be required to notify council of the mayor's intention to perform marriages and further be obligated to keep accurate accounts of fees accepted. Quarterly reports to council on monies received would also be required. The purpose of these bills was to overrule a Commonwealth Court decision holding that a mayor's acceptance of a fee for solemnization of marriages was a violation of the Ethics Act.¹⁰ The amendment also expressly sets forth that any such fees would not be considered compensation. Because the amendment itself is enabling in nature and involves transactions in which the mayor is an agent of private parties rather than the municipality itself, we do not believe the amendment would be a prohibited mid-term "change in the salary or emoluments" of the mayor as proscribed by Article III, Section 27 of the Pennsylvania Constitution.

Article XI – Powers, Duties and Rights of Appointed Officers and Employees

Section 1104 relating to incompatible offices, prohibits an elected borough official from being employed by the borough if the borough's population exceeds 3,000. However, language was inserted to comport with Act 104 of 2011 that would grandfather a borough official serving as an employee for that borough prior to certification of a decennial census which increased the borough's population to more than 3,000.^{hlgc} A technical amendment was added to clarify that this provision applies to officials serving as an employee of the borough prior to the certification of the 2010 census or a subsequent decennial census.^{sappc} Section 1104(f) now provides that a police officer or firefighter may not hold office in a borough where the officer or firefighter is employed. In addition, this prohibition would be extended to an officer or firefighter that is employed by a regional department or other cooperative venture thus making them ineligible to be an elected official in a municipality served by the regional department or cooperative venture. This ban will apply to officials elected or appointed to fill a vacancy in an elected

¹⁰ See *Keller v. State Ethics Com'n*, 860 A.2d 659 (Pa.Cmwlt. 2004).

office after the effective date of House Bill 1702, if enacted. However, those police officers and firefighters then in office would be able to serve the remainder of their term.^{11, slgc}

Following precedent set in 2004 in relation to employees of a waste water authority, Section 1105.1 was amended to permit employees of an authority that commenced operations after October 4, 2010, to remain in the borough pension system if they had previously been employed by the borough. Those employees will be grandfathered providing certain conditions are met including the employees have past service credits under the borough pension system, they file a written election within one year of the effective date of this amendment, and they meet other criteria already existing in this section.^{sappc, 12}

Although Section 1106 is editorially changed to specifically enumerate the duties of the borough treasurer, one substantive change is that monies paid out of the treasury will now be done with the authorization of council instead of the treasurer. The assistant treasurer, who may be appointed by council pursuant to Section 1107, could also be the assistant borough secretary as long as the appointee is not a member of council. Likewise, in Section 1112, the assistant secretary may be appointed as the assistant treasurer if the assistant secretary is not a member of council. Section 1117 increases the amount (from \$2,500 to \$4,000) that a mayor may expend at the borough's expense for outside counsel when in a dispute with the council.

Section 1121 makes a clearer delineation of council's powers over the police department but does not change that power substantively. Likewise, Section 1123.1 does the same for powers of the mayor. Section 1121(d) would prohibit police officers from participating in any political or election campaign while on duty or in uniform or while using borough property otherwise than to exercise the right to vote.^{hlgc} In relation to police pensions, Section 1131 would clarify that the threshold to require boroughs to adhere to Act 600 would be three "full-time" officers rather than just three officers.¹³ Section 1131(b) has added language that permits boroughs to include investments as part of the pension fund or annuities. Section 1131(c) adds language that would require council to appoint a pension administrator in light of language in Act 205 of 1984 which requires a chief administrative officer for the pension system.

Sections 1141 and 1142 are amended to provide that a borough manager may, at the discretion of council, be offered an employment contract that would set forth the terms and conditions of employment and permit the negotiation of a severance package. The contract could not be longer than two years and would neither guarantee employment during the term of the contract nor provide a legal remedy for the manager based on specific performance. However, any contract executed after a municipal election but before the reorganization meeting of council in January of the following year would be voided.^{hlgc}

Subdivision (j) of Article XI has numerous changes. Section 1172 would permit council to appoint up to three electors as alternate civil service commission members similar to Section 626 of the First Class Township Code. The civil service commission would organize on the first Monday of each even-numbered year rather the first Monday of February (Section 1174). The civil service commission would also be entitled to the services of a solicitor, who would be paid by the borough. The civil service

¹¹ See Section 359 of House Bill 1702, page 495.

¹² By letter dated January 20, 2012, from the Public Employee Retirement Commission to Senator John N. Wozniak, this amendatory language has no actuarial cost impact.

¹³ See Section 1910 of the Second Class Township Code which states that townships maintaining a police force of less than three full-time police officers may establish a police pension fund.

provisions include amendments contained in Act 91 of 2010 relating to conformance with federal and state anti-discrimination laws and reaffirming council's right to promote from an eligibility list rather than the highest rated candidate on that list.¹⁴ Section 1181 is amended by: (1) *permitting* civil service regulations to require physical fitness or agility examinations or physical and psychological medical examinations for promotions and (2) subjecting applicants on the eligibility list or those certified for hiring to background checks. Section 1183 is amended to permit the commission, similar to provisions added to Section 1191 (d), to conduct deliberations on evidentiary or procedural issues in executive session relating to applicants for a position in the police or fire departments who may have been denied placement on the certified eligibility list or refused an examination. The final decision of the commission must occur at a public meeting.^{slgc} Section 1190, pertaining to disciplinary action, is amended to comport with Section 1104 as it relates to police officers and firefighters engaging in political activities.^{hlgc} Finally, Section 1191 is amended to specify that notwithstanding the requirement that a hearing be held within ten days of a person's written request involving suspension, removal, or reduction in rank by the civil service commission, failure by the commission to hold the hearing within ten days will not result in the dismissal of the filed charges. Unless council or a person who is subject to suspension, removal, or reduction in rank requests that a disciplinary hearing before the civil service commission be conducted in public, the hearing will be closed. However, the commission's disposition of the disciplinary action would be public pursuant to the Sunshine Act.^{hlgc}

Article XII – Corporate Powers

The corporate powers provisions have been renumbered, and the provisions of Section 1201 relating to the purchase, exchange, lease, or sale of real and personal property have been bifurcated into Section 1201.1 (real property) and Section 1201.2 (personal property). The threshold values that require advertising and bidding for the sale of real or personal property remain at \$1,500 and \$1,000, respectively. In addition, the sale of real or personal property will require approval by council through the passage of a resolution. Section 1201.1(d)(1) is a new provision that will permit boroughs, by resolution, to exchange borough-owned real property for property of equal or greater value providing the property being acquired is used for municipal purposes. Notice of the resolution, including a description of the properties to be exchanged, would be required to be published in a newspaper of general circulation not more than 60 nor less than 7 days prior to adoption of the resolution.^{hlgc} Advertising and bidding are not required if the newly acquired property is subsequently sold or leased to public entities as provided in Section 1201.3. Under this circumstance, boroughs would be permitted to add a reversion clause similar to that contained in the Public School Code that if the conveyed property is no longer used by the entity for its purposes, the property would revert to ownership of the borough.

Section 1201.2(a)(2) is a new provision that would permit the conducting of an electronic auction for the sale of personal property. This procedure is patterned after Section 1504(d) of the Second Class Township Code. In relation to the specific powers of a borough, the following are notable changes:

Section 1202(1) – Reference is made that boroughs may not impose fees for police officers responding to vehicular accidents pursuant to 53 Pa.C.S. § 1392.^{hlgc}

¹⁴ Thus, negating *Wilksburg v. Colella*, 961 A.2d 265 (Pa.Cmwlt. 2008), holding that pursuant to the rules of statutory construction and prior case law, a promotion is not synonymous with original appointments or vacancies and, thus, the differing statutory procedures used for filling original appointments and for filling promotions are not interchangeable.

Section 1202(8) – Delineates regulation of the accumulation of garbage and other refuse by consolidating various pertinent sections of the Borough Code and adding similar language from the Third Class City Code recodification.

Section 1202(13) – Recognizes, by drawing upon the definition of “vehicle” from the Vehicle Code, that although boroughs may regulate the driving and parking of vehicles along and across sidewalks, this prohibition would not include regulating motorized wheelchairs or other electrical mobility devices used by a person with a disability.

Section 1202(17) – Boroughs would regulate fireworks and inflammable articles in accordance with the same language found in the Second Class Township Code.^{hlgc}

Section 1202(20) – This provision regarding the prohibition, licensing, and regulation of certain businesses is a codification of existing provisions.

Section 1202(23) – This is a new provision that would permit boroughs to create an operating reserve or “rainy day” fund. However, the amount in the reserve fund could not exceed five percent of the estimated revenue of the borough’s general fund for the current fiscal year.¹⁵

Section 1202(24) – Expands reference to the use of intergovernmental cooperation agreements, particularly as it applies to public safety services, and now recognizes regional police departments for purposes of such agreements.

Section 1202(26) – Removes the ability of a borough to provide life and health insurance benefits for a retired mayor or retired council member by deleting the phrase “or class, or classes thereof” immediately after the mention of mayor or council. This would apply to those elected officials who were not employed by the borough. This subsection is also amended to clarify a borough’s responsibility to provide workers’ compensation insurance to employees as defined in the Workers’ Compensation Act, which would include other emergency service personnel (in addition to volunteer firefighters).

Section 1202(28) – In addition to other existing methods to acquire land or buildings for a community building or public facility, this corporate power is amended to permit council to exchange land for this purpose. This is consonant with Section 1201.1(d)(1), which permits council to exchange real property for other real property of equal or greater value.

Section 1202(34) - Specifies that when a borough contracts with commercial towers and the tower agrees to a negotiated price and is lawfully authorized to tow vehicles in accordance with state and federal law, the tower will be put on an official rotation list if the borough council provides for same.

Section 1202(61) – Provisions related to the real estate registry are moved from Article XXX and specifically provide for conformance with the Uniform Municipal Deed Registration Act, Act 110 of 2008.

¹⁵ See similar language in Section 1508.1 of the Second Class Township Code and Section 1784.3 of the County Code.

Section 1202(63) – Clarifies that boroughs may provide cable television services, but they must do so in a manner consistent with federal law.

Section 1202(64) – This provision is relocated from old Article XXIII, but now specifies, in conformance with case law,¹⁶ that a borough may regulate the manner and terms and conditions of the use of underground conduits subject to the approval of the Public Utility Commission. Boroughs continue to have the power to define reasonable districts for the placement of conduits without PUC approval.

Section 1202(65) – This corporate power is a new provision which permits, in addition to the filing of liens, the recovery and collection of claims by a borough by a suit in assumpsit against the person or person owning the property at the time of completion of an improvement or at the time the water or sewer rates or the cost of removal a nuisance first became payable. The suit may be filed notwithstanding the fact that there may have been a failure by the borough to enter the claim as a lien against the property assessed. However, the suit in assumpsit must be commenced within six years after the completion of the improvement from which the claim arises or within six years after the water or sewer rates or the cost of abating a nuisance first became payable.

Article XIII – Taxation and Finance

The threshold provided in Section 1308, which requires proposed budgets to be advertised, is raised from \$5,000 to \$50,000. Proposed budgets under \$50,000 would continue to be posted and readily available for public inspection in the office of the borough secretary. Section 1313.1 is a modification of current Section 1202(32), but it deletes the phrase “other than taxation,” thus providing that all borough funds, including those generated from tax revenue that are set aside in a special investment fund, could be placed in a “lock-box” where only interest generated from the special fund would be expended. The ordinance creating the fund may specify that voter approval would be needed to expend monies from the principal.

Article XIV – Contracts

Section 1401 is amended by adding a subsection (b) that would permit boroughs to establish prequalification standards for contracts and purchases. The standards would be designed to assist council in determining the ability of the bidder to successfully complete the contract or purchase.¹⁷ Pursuant to Act 92 of 2011, the bidding threshold for contracts and purchases that would require advertising and bidding is increased from \$10,000 to \$18,500. Similarly, the threshold for written and telephonic quotations is increased from \$4,000 to \$10,000. Adjustments to these base amounts in future years are added in accordance with Act 92.^{hlgc} Irrevocable letters of credit would be added to the types of security that council may accept from bidders (Section 1402(b)(1), (c)). The purchase of computer software would be added to the list of contracts or purchases that would be exempt from bidding as well as those contracts involving utility services. (Section 1402(d)(3)). Boroughs would also be able to purchase used

¹⁶ See *Duquesne Light Co. v. Borough of Monroeville*, 298 A.2d 252 (Pa.1972).

¹⁷ This new language to permit boroughs to establish prequalification standards is consonant with case law. *Corcoran v. City of Philadelphia*, 70 A.2d 623 (Pa. 1950); *Flaherty v. Allegheny Contracting Industries Inc.*, 293 A.2d 639 (Pa. Cmwlth. 1972)

personal property such as vehicles and equipment from other governmental entities without competitive bidding or securing written or telephonic quotations (Section 1402 (d) (3.1)).^{18, sappc} Section 1404 would be amended to repeal the provisions relating to elected and appointed borough officials having personal interests in contracts and, in lieu thereof, reference provisions of the Ethics Act (65 Pa.C.S. Ch. 11). The contract amount that requires obtaining bonds for protection of labor and materials in Section 1406 is increased from \$1,500 to \$10,000 to comport with provisions of the Public Works Contractors' Bond Law of 1967. Section 1407, requiring the payment of the minimum wage in public works contracts, is repealed since federal and state minimum laws apply. The provisions of Act 87 of 2010 that provide for no-bid contracts for the purchase of electricity and associated energy services has been incorporated into Article XIV, including clarification that these contracts are exempt from bidding under Section 1402(d).

Article XV – Eminent Domain; Assessment of Damages; Damages for Injury to Property

Most of the changes to this Article are editorial, and certain provisions from Article XXV are moved to Article XV as they relate to exercising eminent domain for public purposes. Procedural aspects of condemnation are linked to the Eminent Domain Code (Title 26 Pa.C.S).

Article XVI – Land Subdivision (Removed from the Code since it was previously repealed)

Reference to this article, which was repealed by the enactment of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, is removed from the Code.

Article XVII – Streets

This article has been amended to reposition provisions related to the opening and vacating of streets to logically sequence the procedures involved (Section 1731). In addition, the definition of “street” in Section 111 has also been incorporated into this article. “Laying out” of a defined “unopened” street recognizes that this can occur either under the auspices of the Pennsylvania Municipalities Planning Code (Act 247), a subdivision or land development plan, or under an ordinance enacted pursuant to this Article (Section 1701(4)). Section 1707 is added to permit aggrieved parties to seek a court order to compel a hearing as required by the Article. Section 1708 is new, although based partly on relocated language, and would permit a borough to provide street lights and ornamental lighting as well as authorize council to provide for traffic control signals in accordance with the Vehicle Code. Section 1712, relating to borough street plans, recognizes that streets planned before 1968 may not comport with the provisions of Act 247, but requires that future street plans correspond with the Act. In addition, streets laid out in an official map adopted pursuant to Act 247 are deemed to have been laid out for purposes of Article XVII (Section 1721.2). Section 1721.2 also includes new language intended to provide appeal rights for aggrieved parties pertaining to actions on the laying out of streets and that such streets that are laid out are duly recorded.

Article XVIII – Sidewalks

Section 1801 is amended to remove reference to the ability of council to “ordain” and establish sidewalks, curbs, gutters, and surface water drains and substitute that council must enact an ordinance to

¹⁸ See House Bill 18, Printer's Number 2481

provide for same.¹⁹ Section 1805 is amended to provide that after a property owner fails to make required improvements as provided in this Article, a borough must give notice to the owner that the person has 30 days to complete the work. In relation to emergency repairs to sidewalks, a borough may certify that a dangerous condition exists, and, pursuant to current law, if a property owner does not make the repairs within the 48-hour notice period, the borough may make the emergency repairs at the owner's expense, provided that the cost is no more than \$1,000. The current amount for which an owner is liable is \$500. Failure of the owner to make the necessary repairs will result in a lien charged against the owner of the property in question (Section 1806).

Article XIX – Bridges, Viaducts and Underground Passageways

Section 1903 is clarified that in relation to boundary bridges between a borough and another municipality, the borough may enter into an intergovernmental cooperation agreement to construct and maintain the bridge, and that the cost will be apportioned as per the agreement. In relation to street railways and bridges utilized by railroads and other companies and when those entities agree to pay a certain portion of the cost of the work on the infrastructure, the jurisdiction of the Public Utility Commission is preserved since the PUC has primary authority over the construction of railroad highway crossings (Section 1904).

Article XX – Sanitary Sewers

This article is editorially realigned, but it has not been changed significantly. Similar to Article XVIII (Sidewalks), reference to a borough having the authorization to “ordain” sanitary sewers is removed. Instead, boroughs may layout and construct sanitary sewers or branches upon enactment of an ordinance. Reference is made in Section 2001(b)(1) that if required by law, a borough must seek approval of the Department of Environmental Protection, any other state agency (including the Pennsylvania Turnpike Commission), or a county or federal entity for constructing sanitary sewer lines. Assessment of benefits for sewer construction has been moved to new Article XXI-A. Extensions of sewer lines beyond the boundaries of a borough are subject to 26 Pa.C.S. Section 206 (relating to extraterritorial takings.) Construction and apportionment of costs of joint sanitary sewers with another municipality will be accomplished by an intergovernmental cooperation agreement (Section 2021).

Article XXI – Collection by Instalment of Street and Sewer Assessments (Repealed)

Provisions of this Article have been moved to new Article XXI-A.

Article XXI-A – Assessments and Charges for Public Improvements (New)

This new article consolidates the current methods for the assessing of benefits on real property owners for various public improvements found in numerous sections of the Borough Code. It is similar to what was accomplished in Article XXXIII of the Second Class Township Code that was modernized in 1995. The delineation of public improvements are found in Section 2101-A and it provides that a borough may pay for such improvements from: (1) the general fund; (2) special borough funds created for a specified purpose; or (3) by either the front foot method or benefit conferred method of assessment. Notice of

¹⁹ The word “ordain” has been removed from the Borough Code since it has no clear meaning and, when necessary, council will now enact an ordinance for a specified purpose.

assessments is found in Section 2102-A; calculation of assessment on the front foot basis in Section 2103-A; and calculation of the assessment of benefits conferred in Section 2104-A. Section 2106-A, which is new and based upon Sections 2509 and 2613 of the Second Class Township Code, provides for a petition to the court of common pleas for the appointment of viewers by property owners whose property is being assessed for a benefit and who allege that the assessment insufficiently represents the benefits accruing to accommodated properties.

Article XXII – Storm Sewers and Water Courses

Most of the changes to this Article are editorial. Section 2201 authorizes boroughs to acquire and maintain areas for infiltration, detention and retention of storm water.^{hlgc} Section 2205 adds language making it unlawful for any person to erect a building or improvement in a stormwater right-of-way of any storm sewer laid out. Section 2206 permits boroughs to acquire ownership of existing storm sewers and culverts by purchase, eminent domain or gift. Both sections are based on similar language in the Borough Code providing for sanitary sewers.

Article XXIII – Underground Conduits (Repealed)

Most provisions of this Article have been moved to the Specific Powers, Section 1202(64).

Article XXIV – Water System

This Article, renamed from Public Service, now applies only to water supply. The provisions related to the manufacture and supply of electricity have been moved to a new article - Article XXIV-A. Sections relating to operation of gas wells and gas works have been moved to Section 1202(60) and operation of airports has been moved to a new article - Article XXV-A.

At the suggestion of the Department of Environmental Protection (DEP), the term “waterworks” has been removed and rephrased as “water system.” Section 2401(c) has been added and Section 2407 has been amended to clarify that a borough’s supply of water and rates charged to users outside of the borough is subject to PUC regulation and control. Bond language, in Sections 2403 and 2404, has been altered to recognize debt incurrence pursuant to the Local Government Unit Debt Act.

In relation to building a water system that requires the acquisition of lands outside of the borough, it must be done in compliance with 26 Pa. C.S. Section 206 (relating to extraterritorial takings) (Section 2411).

Section 2461 relating to water connections adds provisions similar to that of Section 2603 of the Second Class Township Code, as amended by Act 34 of 2008. Under the proposed change, borough council, by ordinance, can require property owners to connect to a borough water system in either of the following cases: (1) if the property owner’s principal building is located within 150 feet of the water system, or (2) if the property has no supply of water which is safe for human consumption. However, an exception is made to the 150 foot rule, if on the effective date of this subsection, all of the following occur: (1) the property owner’s principal building is within that distance; (2) the principle building has its own water supply which is safe for human consumption; and (3) the owner was not required on the effective date to connect to the existing system. Under current law, any property owner whose land “abuts” a street in which a water main is constructed or acquired could be required to connect to the system without regard to distance from the main. This section also adds a stipulation, suggested by DEP, that a borough may

require an owner to install and maintain a backflow device based on the degree of potential hazard of the connected property in accordance with the Pennsylvania Construction Code Act and regulations promulgated under that law.^{hlgc}

Article XXIV-A – Manufacture and Supply of Electricity (New)

This Article contains all the provisions of the current language in Subdivision (b) of current Article XXIV with little change. If a municipal power agency is created by two or more boroughs under Section 2404-A, it must be done by ordinance rather than resolution.^{hlgc} Language from Act 87 of 2010 is incorporated into the new article which “expressly authorizes those boroughs that own or operate electric generation or distribution facilities to enter into no-bid contracts for the procurement of electricity and authorizes these same boroughs to enter into contracts for generation, sale, exchange or transmission of electricity and the associated energy or capacity for a term of no more than 50 years”²⁰ is included.

Article XXV – Public Buildings and Works (Repealed)

The provisions of this Article were relocated to Article XV and Section 1202(8).

Article XXV-A – Airports (New)

This article simply codifies and moves Sections 2491, 2492, and 2493 under the current the current “Public Service” to new Article XXV-A.

Article XXVI – Wharves and Docks

This article is realigned but not substantively changed.

Article XXVII – Recreation Places, Shade Trees, Forests

Section 2701 is amended to provide that a borough may provide joint recreational activities with other political subdivisions pursuant to the Intergovernmental Cooperation Act. Section 2708 is amended by adding subsection (b) that provides that council cannot delegate the maintenance of accounts or the expenditure of funds to a recreation board. Creation of the board will be done by ordinance. After consulting with the Pennsylvania School Boards Association, provisions in Section 2709(b) that would permit a borough council to appoint members to a school district recreation board are repealed.

In relation to Shade Tree Commissions, the most significant change is in Section 2720(a) which gives council the exclusive power to care for and control shade trees in a borough. However, council retains the right to delegate this function to the commission. Section 2720.1 does not alter the ability of council to levy a one-tenth of one mill tax for the support of shade trees, but an existing power of the commission found in current Section 2729 to utilize shade tree revenue as required by the commission is

²⁰ For more information on Act 87, see Summary of Senate Bill 168, Printer’s Number 2179 of 2009, prepared by Amanda Rumsey of the House Consumer Affairs Committee (R).

deleted. New Section 2724.1 would continue the requirement that the commission certify the amount needed for the care of shade trees with the proviso that money expended will be for purposes authorized by council.

Subdivision (c) that provides for the acquisition of land for forest purposes removes the right of the old Department of Forest and Waters to approve such acquisitions. The Department of Conservation and Natural Resources believes this approval is no longer necessary.

Article XXVIII – Cemeteries

Section 2800, currently Section 1202(61), retains the ability of boroughs to appropriate monies for cemetery maintenance but removes the \$3,000 limitation on the amount that may be appropriated for this purpose. Section 2805.1 (currently 2804) permits borough council, pursuant to its police powers, to clean up cemeteries without reliance on a court order. This section also provides expanded personal notice requirements to owners of abandoned cemeteries to direct removal of refuse and debris. Other changes to this article are editorial.

Article XXIX - Licenses and License Fees

Section 2902 adds language to specifically provide that a Commonwealth licenses fee or tax imposed on transient merchants shall not preempt registration, license, or regulatory powers of a borough under this Article. Section 2903 expands the ability of boroughs to regulate for-profit parking garages in addition to parking lots that may be regulated under current law.

Article XXIX-A Veterans’ Affairs (New)

This new article is a consolidation of corporate powers Section 1202(53), (54), (55), (56), (57), (58), (59) and (60) as it relates to borough support of the Pennsylvania National Guard and veterans’ organizations. There is little deviation in the current language other than the removal of monetary limits that boroughs could expend for these purposes.

Article XXX – Real Estate Registry (Repealed)

These provisions have been moved to Section 1202(61).

Article XXXI – Health and Sanitation

Section 3101 is clarified by segmenting the section into subsections. Subsection (a) is altered to specifically clarify that a borough may, by ordinance, appoint either a board of health or a health officer. The health officer, if appointed, must be certified by the Department of Health within six months of the officer’s appointment. Currently, there is no time limit within which the health officer must be certified. Subsection (c) is added to permit the borough to dissolve, by ordinance, the board of health and thereby subject the borough to the jurisdiction of a county or joint county health department.²¹

²¹ See Section 15 of Act 315 of 1951, the Local Health Administration Law.

Section 3102 would permit council to appoint a health board comprised of three members in lieu of the current five member board and provide for their initial term of service. In addition, this section is changed to permit council to appoint a defined health care professional (Subsection (b)) to the board instead of a physician and specifies that if no health care professional can be appointed to the board, that an individual who has experience in or is knowledgeable of public health issues may be chosen.

Section 3104 would require the secretary of the health board to keep and retain records in accordance with the Municipal Records Act and Section 3107 is amended to add a provision permitting the board or health officer, if refused entry by an owner or tenant of real property that may be a public nuisance, to seek and obtain an administrative search warrant from a magisterial district judge. The seeking of a warrant is meant to protect council and the rights of property owners. Case law provides that Fourth Amendment reasonable search and seizure issues may arise when a municipality obtains unauthorized access to areas in which a reasonable expectation of privacy exists.²² In an effort to assist boroughs, it was decided that the process of obtaining an administrative search warrant to avoid potential constitutional claims should be expressly codified.

In relation to health inspections, Section 3108 is amended to grant council the power to seek injunctive relief from a nuisance or threatened nuisance. Section 3111 pertaining to the powers of the Secretary of Health is changed at the suggestion the Department of Health to reference the Department's responsibilities under Article XXI of the Administrative Code of 1929 which permits the Health Department to take full charge and control of a borough health regulations under certain conditions and to abate necessary nuisances at the expense of the borough.

Article XXXII - Zoning (Removed from the Code since it was previously repealed)

Article XXXII-A Uniform Construction Code, Property Maintenance Code, and Reserved Powers (New)

Section 3201-A recognizes the primacy of the Uniform Construction Code (UCC), adopted pursuant to Section 301 of the Pennsylvania Construction Code Act (Act 45 of 1999), in relation to construction, alteration, repair, and occupancy of buildings. Any borough ordinance adopted pursuant to this Article is to be read *in pari materia* (read together) with the UCC although a borough under Section 3202-A may enact an ordinance which is equal to or exceeds the minimum requirements of the UCC as provided in Section 503 of the Pennsylvania Construction Code Act. Specifically, such ordinances are subject to review by the Department of Labor and Industry as specified in Section 503(j)(2) of that Act.^{hlgc} Regulations of the Department of Labor and Industry have adopted, by reference, the following codes into the UCC: specified chapters of the International Building Code, International Performance Code, International Mechanical Code, International Fuel Gas Code, International Plumbing Code, International Residential Code, International Fire Code, International Energy Conservation Code, International Existing Building Code, International Wildland-Urban Interface Code, and certain appendices of the above codes.²³

Section 3204-A permits boroughs to adopt property maintenance ordinances including any standard or nationally recognized property maintenance code. Ordinance publication requirements and penalties and

²² See *Com. v. Tobin*, 828 A.2d 415 (Pa.Cmwlth. 2003).

²³ See 34 Pa. Code Chapter 403, § 403.21.

finances for violating the property maintenance code are specified in Section 3204-A(a). Council may also appoint property maintenance code enforcement officers to inspect property consummate with administrative warrant procedures specified in Section 3107(b)-(c) and seek appropriate actions or proceedings at law or equity to prevent or restrain property maintenance violations (Section 3204-A(c)). This section is further clarified to provide for borough powers pursuant to the Neighborhood Blight Reclamation and Revitalization Act and the Abandoned and Blighted Property Conservatorship Act.²⁴ Section 3205-A reserves the historical power of boroughs in relation to the adoption of standard codes and health and safety regulations if, by some legislative act or court finding, the UCC or any replacement code is no longer made available to boroughs.

Article XXXIII – Ordinances

This article codifies all provisions related to ordinances including: publication of proposed ordinances; enactment, approval and veto of ordinances by the mayor; effective date of ordinances; recording, advertising and proof of ordinances; and codification and appeals from an ordinance. These sections have been moved from current Article X. The most significant change is found in Section 3301.1 which now will require that every legislative act be accomplished by ordinance. These include but are not limited to tax ordinances, general appropriations, capital expenditures not payable out of current funds, legislation exercising the police power of the borough, land use regulations, and enactment of standard codes found in the previous Article. Resolutions will consist of ceremonial and congratulatory expressions of good will of council, statements of policy, approval of formal agreements (other than purchasing) and approval of administrative rules, regulations and bylaws arising out of state statutes or borough ordinances and the appointment of certain positions. However, council's approval of acquisition, disposition and leasing of real or personal property shall be accomplished by resolution.

Provisions for enforcement of ordinances are patterned after Section 1601 of the Second Class Township Code. In essence, Section 3321 bifurcates the method of enforcement by providing that most ordinances will be enforced through civil enforcement proceedings before a magisterial district judge while delineated ordinance violations will be considered summary offenses. The latter specifically include: building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, and water, air, or noise pollution control ordinances. Existing ordinances, with the exception of the previous identified ordinances, are deemed to be automatically amended so that they are enforced through civil enforcement proceedings. Ordinances may provide for separate offenses for each day or portion of a day in which a violation is found to exist and that the court may assess costs and reasonable attorney fees (Section 3321(6)).

Article XXXIV – Actions By and Against Boroughs – Repealed

Article XXXV – Acts of Assembly Repealed; Saving Clause

In addition to updating outdated references to statutes and executive agencies, this article was amended to enumerate eleven specific repeals:

- The act, approved the sixteenth day of April, one thousand eight hundred seventy-five (Pamphlet Laws 55), entitled "An act authorizing the burgess and town council of each of the several

²⁴ See 53 Pa.C.S. Chapter 61 and Act 135 of 2008, respectively.

boroughs throughout this commonwealth to levy and collect a gas, kerosene oil and water tax,"--
The provisions of this act, which provided independent authority to levy a tax of up to 8 mills for certain utility facilities and service is duplicative of tax authorization contained at section 1302(a)(5).

- The act, approved the eighteenth day of April, one thousand eight hundred seventy-seven (Pamphlet Laws 55), entitled “An act to provide through the courts of this commonwealth for the erection of boroughs out of territory now included in cities of the third class that have been formed by joining together two or more boroughs,”—**This law, providing for a very specialized type of borough incorporation, was chosen for repeal in light of the Article II restriction of permitting the incorporation of boroughs only from portions of townships of the second class (see section 201).**
- The act, approved the sixteenth day of June, one thousand eight hundred ninety-one (Pamphlet Laws 302), entitled “A further supplement to an act approved the sixteenth of April, Anno Domini one thousand eight hundred and seventy-five, entitled "An act authorizing the burgess and town council of each of the several boroughs throughout this Commonwealth to levy and collect a gas, kerosene oil and water tax," amended by the act approved the eighth day of May, Anno Domini one thousand eight hundred and seventy-six, providing for a further amendment of section second, as amended by said last mentioned act, to authorize the use of the money so raised and collected for the purpose of illuminating said boroughs with electric light,” absolutely. —**This law is a supplement to the 1875 act authorizing the 8 mil utility tax. Because the underlying act itself is being repealed, repeal of the supplement is necessary.**
- The act, approved the second day of May, one thousand nine hundred one (Pamphlet Laws 120), entitled “An act to prevent burgesses and councilmen of the several boroughs within this Commonwealth from soliciting or receiving bribes, and to punish any person who may offer to bribe the same,” absolutely.—**This law is duplicative of Crimes Code provisions that exist to prohibit bribery (See 18 Pa.C.S. §4701).**
- The act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 673), entitled “An act relating to purchases by boroughs,” absolutely.—**This act duplicates an exception to competitive bidding for “patented and manufactured products” that is already contained in Section 1402(d)(3).**
- The act, approved the twenty-sixth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws 823), entitled “An act permitting boroughs to provide a method of assessment for borough taxes,” absolutely.—**This act permitted boroughs, in counties without a county board of assessors, to appoint assessors. Given that law currently provides for the assessment of property in all counties, this law is no longer necessary.**
- The act, approved the eleventh day of April, one thousand nine hundred thirty-one (Pamphlet Laws 26), entitled “An act to validate certain proceedings for municipal improvements, municipal assessments, municipal claims, and municipal liens, in the several boroughs of this Commonwealth, and validating such improvements, assessments, claims, and liens; providing for the filing of claims and liens therefor; and the proceedings for the collection of such assessments

and claims,” absolutely.—**This act validated certain municipal claims and provided a six-month window for the filing of a lien. Given the revival mechanisms in the Municipal Claim and Tax Lien Law and the likelihood that the claims in question have been satisfied, the act is no longer necessary.**

- The act, approved the twelfth day of June, one thousand nine hundred thirty-one (Pamphlet Laws 559), entitled “An act to authorize boroughs to sue out writs of scire facias on certain municipal claims, where more than five years have elapsed since said claims were filed, and to reduce such claims to judgment; and providing for the revival and collection of such judgments,” absolutely.—**This act also provided a three-month window from the date of enactment to perfect certain municipal claims. The act is no longer necessary.**
- The act, approved the third day of March, one thousand nine hundred thirty-three (Pamphlet Laws 8) entitled “An act validating, ratifying and confirming acts and municipal functions done, executed and performed, municipal works and improvements instituted and completed, and affairs regulated by boroughs in accordance with general borough laws, where such boroughs were incorporated under local law, and no official record of the acceptance of the general borough law is in existence or can be found,” absolutely.—**This act validated specific municipal functions undertaken by certain boroughs incorporated under special law. Given that the functions validated by the act are beyond challenge, and that the Borough Code will be amended to apply to all boroughs, this act was deemed no longer necessary.**
- The act, approved the twelfth day of July, one thousand nine hundred and thirty-five (Pamphlet Laws 721), entitled “An act authorizing boroughs to construct, reconstruct, and repair sidewalks, gutters, curbs, and grass plots, in cases where material is paid by the abutters, and labor is furnished without cost to the borough,” absolutely.—**This act, by its own terms a law “to provide an additional method of improving sidewalks in aid of unemployment relief,” was intended to provide a very specialized exception to competitive bidding for sidewalk improvements in cases in which the abutting landowners pay for materials, and labor will not be paid from borough funds. Given that the current law and practice permits boroughs to require abutting landowners to construct and repair sidewalks with their own contractors, the act is no longer necessary.**
- The act, approved the eighteenth day of July, one thousand nine hundred thirty-five (Pamphlet Laws 1305), entitled “An act authorizing boroughs to repay certain surcharges heretofore made against councilmen for the purchase of any fire apparatus where there was no fraud, corruption, or dishonesty, or profit to such councilmen, and where the borough is in possession of and uses such fire apparatus,” absolutely.—**This is another “corrective” act that permitted boroughs to pay for surcharges against certain council members that, prior to 1935, had purchased fire equipment in violation of competitive bidding requirements. The act is no longer necessary.**