

IN-PERSON AND LIVESTREAM BUSINESS MEETING OF THE LOCAL GOVERNMENT COMMISSION

Wednesday, June 21, 2023

The meeting of the Local Government Commission (Commission) was called to order by Senator Scott Hutchinson at 9:00 a.m. in Room 515 Irvis Office Building with the following Commission Members, staff and guests participating in-person and remotely:

MEMBERS

**Senator Scott E. Hutchinson, Chair
Senator Rosemary M. Brown
Senator Timothy P. Kearney
Senator Carolyn T. Comitta
Representative Robert Freeman
Representative Christine Sappey
Representative R. Lee James
Representative Dan Moul**

STAFF

**David A. Greene, Executive Director
Kristopher J. Gazsi, Assistant Director
Martin A. Toth, Associate Legal Counsel
Julia Frey, Research Analyst
Jaren Bittinger, Research Analyst
Karen S. Bear, Executive Assistant
Sonya I. Ebersole, Fiscal Administrator**

GUESTS

**Matthew Deegan, Senator Hutchinson's Office
Sam Arnold, Senator Kearney's Office
Wesley Medina, Senator Kearney's Office
Arianna Genna, Representative Freeman's Office
Teresa Leitner, Representative James' Office
Mary Yoder, Senate Local Government Committee (R)
Jon Castelli, House Local Government Committee (D)
Rob Gaertner, House Local Government Committee (R)
Aven Bittinger, House Legislative Policy and Research Office
Melissa Gates, County Commissioners Association of Pennsylvania
Frank Mazza, County Commissioners Association of Pennsylvania
Larry Gerrity, Pennsylvania Fraternal Order of Police
Jennie Shade, Pennsylvania Municipal Authorities Association
Amy Sturges, Pennsylvania Municipal League
Kaitlin Errickson, Pennsylvania Municipal League
Ed Troxell, Pennsylvania State Association of Boroughs
Ron Grutza, Pennsylvania State Association of Boroughs
A.C. Stickel, Pennsylvania State Association of Elected County Officials
Joe Gerdes, Pennsylvania State Association of Township Supervisors**

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**Emme Reiser, Pennsylvania Association of Realtors
John Geib
Ben Schenkel
Joshua Walker**

The Executive Director made a statement that the in-person and virtual meeting was being recorded and conducted with both Member and Commission staff participation. On Monday, June 5, 2023, notice of the meeting was posted on the committee meeting pages of the Senate of Pennsylvania and the House of Representatives through the Legislative Data Processing Center. The meeting agenda was posted on the Commission's website, www.lgc.state.pa.us, on Monday, June 19, 2023, and outside of the Commission's office located at 506 Irvis Office Building. Any questions on agenda items for consideration by the Commission were addressed during the meeting. After adjournment, the recording of the meeting will be posted on the Commission's website at www.lgc.state.pa.us.

As the first order of business, the Members reviewed the minutes of the May 10, 2023, business meeting, which were unanimously approved on a motion by Senator Kearney and a second by Senator Brown. The financial reports for the month of May 2023 were presented, and an explanation was given by the Executive Director. The financial reports were unanimously approved on a motion by Senator Brown and a second by Representative Sappey.

Two Memorandums of Understanding (MOU) were presented to the Members for their approval. The first MOU is between the Senate of Pennsylvania and the Commission which affords the Commission the opportunity to continue participation, at a lower cost, in the Senate Health Benefits contract that includes hospital/medical, prescription drug, vision, dental, group life, and long-term disability. The roles and responsibilities of both the Senate and the Commission were outlined in the agreement. After a brief discussion the Members unanimously agreed on a motion by Representative Moul and a second by Representative Freeman to authorize the Director to execute the agreement.

The second MOU is between the Pennsylvania House of Representatives and the Commission. This MOU is the first extension of the MOU entered into by the aforementioned parties setting forth the terms and conditions for the use of office space by the Commission in the Irvis Office Building of the Pennsylvania State Capitol Complex. The original 5-year contract will end on February 29, 2024, with the additional 2-year period beginning immediately and ending on August 31, 2026. All other terms and conditions of the original contract remain unchanged. The Members unanimously agreed on a motion by Senator Kearney and a second by Senator Brown to authorize the Director to execute the document.

The Members reviewed five bills from the Commission's proposed 2023-2024 legislative package. A brief synopsis, history, and disposition of each proposed bill are as follows:

1. **Amends Title 11 (Cities) of the Pennsylvania Consolidated Statutes to update, clarify, and consolidate the law relating to the classification of cities in the Commonwealth.** This bill replaces and repeals the City Classification Law of 1895 to update and simplify the city

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classification process and permit Second Class A and Third Class cities to remain in their current classification in most cases regardless of population changes unless they qualify for, and actively choose a change of class. In the 2021-2022 Session, this bill was introduced as Senate Bill 991 (Prime Sponsor: Senator Judy Schwank). Senate Bill 991 was re-reported from Senate Appropriations after second consideration, and subsequently tabled where it remained upon sine die adjournment. This legislation was also introduced in the House during the 2021-2022 session as House Bill 2254 (Prime Sponsor: Representative Lee James). House Bill 2254 passed the House unanimously and was referred to the Senate Local Government Committee where it remained upon sine die adjournment. The Commission Members unanimously agreed to re-introduce this bill in both chambers with Senator Kearney and Representative James as prime sponsors.

2. **Consolidates the free-standing County Code into Title 16.** This bill incorporates Act 154 of 2018, the reenactment and amendment of the County Code into the Pennsylvania Consolidated Statutes (Pa.C.S.) as Part IV (Counties of the Second Class A through Eighth Class) of Title 16 (Counties). Act 154 was a seven-year effort by the Pennsylvania State Association of Elected County Officials (PSAECO) County Code Revision Committee, the Local Government Commission, and other stakeholders to modernize the Code. The Commission website contains extensive information on Act 154, including an executive summary of major changes, a section-by-section commentary, and derivation and disposition tables. The Legislative Reference Bureau assisted staff by converting the Code into consolidated statute format, and then participating in a review of the product to ensure that the conversion was substantively consistent with Act 154. In the 2021-2022 Session, this bill was introduced as Senate Bill 831 (Prime Sponsor: Senator Cris Dush) where it passed the Senate unanimously in September 2022, and was subsequently referred to the House Local Government Committee where it remained upon sine die adjournment. In the 2019-2020 Session this bill was introduced as Senate Bill 1039 (Prime Sponsor: Senator Scott Martin), where it also passed the Senate unanimously in September 2020, and was subsequently referred to the House Local Government Committee where it remained upon sine die adjournment. The previous two sessions' introductions added 8 substantive changes to the underlying Act 154:
 1. Authorize the commissioners, with the approval of the appropriate officer and, in the case of the "judicial offices," the president judge, to provide off-site space for the conduct of business.
 2. Clarify that nothing in the County Code precludes the use of electronic bidding in accordance with Title 62.
 3. Remove unnecessary statutory restrictions on appropriations for paid and volunteer fire companies in counties of the 7th and 8th classes.
 4. Incorporation of Act 7 of 2021, providing for the filling of a vacancy in the office of District Attorney with the first Deputy District Attorney, as conditioned.
 5. Amend the county classification provisions consistent with Act 74 of 2021 to provide for a freeze in county classification following the release of the 2020 decennial Census unless a County chooses to change its classification.

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6. Incorporation of Act 88 of 2021, requiring the District Attorney to continually hold an active law license, and providing for procedure in the event of disbarment or suspension of license.

The Members unanimously agreed to reintroduce this bill in both chambers with Senator Brown and Representative Freeman as prime sponsors.

3. **Amends Title 9 (Burial Grounds) of the Pennsylvania Consolidated Statutes by providing for certain deposit and registration exceptions.** This bill exempts municipalities from certain deposit and registration requirements for cemetery companies. This bill amends Section 301 and Section 304, relating to deposit and registration requirements for cemetery companies, respectively, of Title 9 by including “municipal corporations” into the exceptions currently in place for non-profit organizations. This bill would include municipalities into the already pre-existing exceptions for religious and fraternal organizations. Municipalities would no longer need to hold a permanent lot care fund of at least \$25,000, nor would they be required to register as a cemetery company with the State Real Estate Commission. The Local Government Commission staff received feedback from the Pennsylvania State Association of Township Supervisors (PSATS) that municipalities were treated as cemetery companies under Title 9 and therefore subject to the abovementioned requirements. Other inquiries received by the Commission illustrated this point and emphasized the need to provide clarity on this subject. This bill is the collaborative result of discussions between PSATS and Commission staff. After a lengthy discussion, the Members recommended adding language to the bill that would also exempt counties from the deposit and registration requirements. The Director stated that Commission staff would do further research and consult with the pertinent stakeholders to determine if adding counties to the language would create an issue. The Members unanimously agreed to introduce the bill with the added language in both chambers with Senator Hutchinson and Representative Moul as prime sponsors. The Director said that if the Commission staff concludes that adding counties to the language would be problematical, the proposed legislation will be revisited by the Members at its next business meeting.
4. **Amends Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes by providing for the conditional dispersal of liquid fuels allocations.** This bill stipulates that a municipality may only receive an allotted payment of Liquid Fuels Tax revenue from the Motor License Fund if they have filed an annual audit and financial report (AFR). This bill adds Section 9511.14, Conditional Dispersal of Allocations, to Title 75 and provides that the Pennsylvania Department of Transportation (PennDOT) may not disperse an allocation from the Motor License Fund under the Liquid Fuels Tax Municipal Allocation Law (Act 655 of 1955) to a municipality unless they had filed an AFR to the Pennsylvania Department of Community and Economic Development (DCED) that was due the previous calendar year. The Local Government Commission staff received feedback from personnel within DCED noting that some municipalities have failed to submit the AFR in a timely manner or are delinquent for multiple years. Although there may be a variety of reasons for the lack of timely submission, a perpetual failure to file can be an indicator of

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poor management, improper bookkeeping, or even financial impropriety. Ultimately, these circumstances, if not addressed expeditiously, can result in additional difficulties for municipalities and their residents. To alleviate this concern and prevent similar situations in other municipalities, the DCED has recommended tying the AFR to liquid fuels allocations the same way that the Municipal Report of Elected and Appointed Officials is currently. This bill is the result of a collaborative effort with representatives from DCED, the Governor's Center for Local Government Services, and the various municipal associations. Concerns were raised by PSATS and the Pennsylvania State Association of Boroughs as to the economic burden that municipalities could face if liquid fuels monies were to be withheld. Many smaller municipalities employ CPA firms to manage municipal reporting requirements and experience delays in CPA firms filing the necessary municipal reports to DCED. After a lengthy discussion, the Members requested Commission staff to research if other steps could be implemented to avoid municipalities from having liquid fuels money delayed. The Director stated that more research will be completed, and the Commission staff's findings and recommendations will be presented to the Members at a future business meeting.

5. **Express Power for Recognition.** This legislation would amend the Borough Code (8 Pa.C.S Section 1202 (41.1)), the Second Class Township Code (Section 1540.1), the First Class Township Code (Section 1502(57)), and the Third Class City Code (Title 11 Pa.C.S. Section 12448(a)(2)) by providing for the recognition of municipal officials, employees, and members of municipal boards and commissions in appreciation of their service to the municipality, through the purchases of flowers, certificates, plaques, medals, trophies, or other forms of awards to acknowledge their contribution, including the reasonable expenses of a ceremony, event or presentation of the awards. This power may not be exercised unless from a budget line item solely for the aforementioned purposes approved for the fiscal year of the expenditure, and the municipal board discloses and approves individual expenditures in a public meeting. The value of tangible personal property not in excess of \$250 received by a public official, employee or volunteer shall be considered of de minimis economic impact as defined in each respective Code and shall not be subject to reporting under 65 Pa.C.S. Section 1105 (relating to statement of financial interests). The Members concurred that municipal officials, employees, and members of municipal boards and commissions should be recognized; however, no consensus was reached as to the proper monetary limit. After a lengthy discussion, the Members agreed to revisit this issue and requested Commission staff to provide additional language.

The Director announced that the Commission received a letter from Senator David Argall, who chairs the Statewide Blight Task Force, asking for assistance in conducting a study on property maintenance code enforcement in Pennsylvania. Currently, Pennsylvania does not have a statewide property maintenance code or training program for code officers, and the task force is very interested in learning how municipalities navigate code enforcement. After a brief discussion, the Members unanimously agreed on a motion by Representative Freeman and a second by Senator Kearney to authorize the Commission staff to proceed with the study.

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The next Commission business meeting is scheduled for Wednesday, August 16, 2023, at 9:00 a.m. in 515 Irvis Office Building.

The meeting adjourned at 10:05 a.m.

**ATTESTED: _____
August 9, 2023**