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HB 1184 (Printer's No. 2928) Analysis

Date: April 5, 2022

Amending the Borough Code—Making Technical/Clarifying Changes and Revising Provisions Regulating Municipal Waste on Public and Private Property

Prime Sponsor: Representative Moul

A. Synopsis of Bill

Makes various technical changes and clarifications to the Borough Code. The legislation also repeals current provisions in the Borough Code regulating the accumulation and collection of garbage and other refuse materials and creates a new chapter 25B “Solid Waste Collection and Disposition.”

B. Summary and Analysis of Bill

The House Local Government Committee amended HB 1184. The Committee’s amendments appear in bold.

HB 1184 was amended on second consideration in the House on May 25, 2021. The amendments appear in bold italics.

The legislation amends the Borough Code in Title 8 of the Pennsylvania Consolidated Statutes by making technical changes and clarifications to the following sections:

Removes the definition “Township” from Chapter 2 (relating to creation and alteration) of the Borough Code and adds the definition “Municipality.” Because the Borough Code currently only allows a borough to be incorporated out of existing townships of the first and second class, the House amendment would facilitate borough incorporation from one or more municipalities defined as “a city, incorporated town, township, home rule municipality, optional plan municipality, optional charter municipality or similar general purpose unit of government which may be created or authorized by statute.”

Section 704(a) (Associations and organizations for mayors)—Clarifying amendments. Specifies that council shall pay reasonable dues not to exceed \$100 for a mayor to join an any mayors’ association **if requested by the mayor.**

Section 704(b)—Clarifying amendment to revert to “shall” which was changed to “may” in the Title 8 consolidation (Act 34 of 2014). This subsection relates to a mayor “shall” receive reimbursement for specified expenses in attending an annual meeting **if requested by the mayor**. 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 here.

Section 801(a) (Eligibility)—Clarifying amendment and inclusion of the provisions of Act 54 of 2017 relating to active military service.

Section 1104(c) (Appointments and incompatible offices)—Technical amendment.

Section 1122(a) (Police serving under cooperative agreement or contract)—Technical amendment.

Section 1202(8) (Specific powers, solid waste)—Repealed due to the addition of new chapter 25B.

Section 1316(c)(9) (Investment of funds)—Technical amendment.

Section 3301.1(b)(2) (Ordinances and resolutions)—Removing 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 Code that may specifically require an ordinance.

Section 3301.2(a) (Publication of ordinances)—Clarifying amendment.

The legislation also creates new chapter 25B “Solid Waste Collection and Disposition,” which delineates regulation of the accumulation, collection and disposal of municipal waste and recyclables and contracts, rates and charges related thereto, closely tracking provisions in the Third Class City Code and Second Class Township Code. “Municipal waste,” with a cross-reference to the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1988), is now used in place of ashes, garbage, rubbish and refuse materials; a similar change was made to the County Code rewrite, Act 154 of 2017 (SB 1005).

The bill was further amended by the Senate Local Government Committee on April 4, 2022, to provide for advisory committee and debt adjustment appointments in situations where no candidates for either body reside outside of the proposed borough or the municipality from which the borough is proposed to be incorporated.

C. Relevant Current Law

Act 37 of 2014 incorporated the provisions of the Borough Code, the act of February 1, 1966 (1965 P.L. 1656, No. 581), as amended and reenacted by Act 43 of 2012, into Title 8 (Boroughs and Incorporated Towns) of the Pennsylvania Consolidated Statutes.

D. Background of Bill

The Pennsylvania State Association of Boroughs (PSAB) formally requested the Local Government Commission to introduce legislation to resolve some inconsistent provisions in the Borough Code, as well as make technical changes due, in part, to subsequent statutory enactments by the General Assembly. PSAB also requested that the current provisions in the Borough Code regulating the accumulation of ashes, garbage, rubbish and refuse materials be revised and aligned with analogous provisions in the County Code, Third Class City Code, Second Class Township Code and the draft of the revised First Class Township Code.

E. Effect of Bill

Further modernizes the Borough Code.

F. Issues, Policy Questions and Stakeholder Feedback

The Pennsylvania State Association of Boroughs and Pennsylvania State Mayors Association support the underlying legislation.

G. Bill History

In the 2019-2020 Session, this bill was introduced in the House as House Bill 2122. House Bill 2122 was passed by the House on July 13, 2020 (201-0) and was subsequently referred to the Senate Local Government Committee on August 10, 2020 where it remained upon sine die adjournment. This legislation was introduced in the Senate as Senate Bill 981. Senate Bill 981 was referred to the Senate Local Government Committee on December 12, 2019 where it remained upon sine die adjournment.