



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
HOUSE FINANCE COMMITTEE**

ON

ACT 32 OF 2008

PRESENTED BY

**ELAM M. HERR
ASSISTANT EXECUTIVE DIRECTOR**

**MARCH 2, 2010
HARRISBURG, PA**

4855 Woodland Drive Enola, PA 17025-1291 Internet: www.psats.org

PSATS Pennsylvania Township News Telephone: (717) 763-0930 Fax: (717) 763-9732

Trustees Insurance Fund Unemployment Compensation Group Trust Telephone: (800) 382-1268 Fax: (717) 730-0209

Chairman Levdansky and members of the House Finance Committee:

Thank you for the opportunity to comment today on Act 32 of 2008. My name is Elam Herr and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. We appreciate the opportunity to provide you with comments on behalf of the 1,455 townships in Pennsylvania represented by the Association.

Townships comprise 95 percent of the commonwealth's land area and are home to more than 5.4 million Pennsylvanians — nearly 42 percent of the state's population. These townships are very diverse, ranging from rural communities with fewer than 200 residents to more populated communities with populations approaching 70,000 residents. The majority of townships rely on the earned income tax as an important source of revenue and for many townships the earned income tax is the greatest source of tax revenue.

We are here today to comment on Act 32 of 2008 and the input that we have received from our members, particularly since the tax collection committees formed last fall. Act 32 requires an enormous change to the way the earned income tax is collected in the commonwealth. While these changes were intended to reduce costs for tax collection, there are many who are concerned with whether these savings will ever be realized due to the creation of a new tax collection bureaucracy.

PSATS long supported changes to the earned income tax collection process, including mandatory audit requirements, stronger bonding provisions, uniform forms and reporting requirements, distributions based on actual receipts, reconciliation of all tax dollars, sharing of information with the Department of Revenue, and stiff penalties for collectors who fail to follow the law. We believe that these changes will create accountability and protect tax dollars, which is simply good government. In fact, these administrative reforms may correct many of the existing weaknesses with the current system and significantly alleviate any financial losses.

In past testimonies before this committee, we maintained that the administrative process reforms needed to be made first and then sufficient time allowed before mandatory consolidation of the collections should be considered. Our belief was always that the administrative reforms would correct many of the problems with our collection system and that consolidation, if really needed, should be made on a voluntary basis. However, the decision was made to move ahead with a system consolidated on a countywide basis, except for Allegheny County, and the required march toward implementation began last year.

PSATS did work with the other local government associations and the Department of Community and Economic Development to try to obtain amendments during the legislative process that we believed would be beneficial to townships. In some cases we succeeded, in other cases the resulting compromise ended up further complicating matters. We will provide some of this background as we discuss the

primary concerns that we have heard from our members since the implementation process began.

Accuracy and updating of residency data: By far, the greatest concern is how will townships ensure that their residency lists are updated and their resident's taxes are tracked down and sent to the entity to which they are due. This is a major, ongoing concern of the existing collection process and many townships work very hard to make sure they receive the dollars due to them. The primary problem is that most residents know where they live by their post office address, rather than by municipality.

Processes need to be set up within each tax collection district to make sure that each entity can review its resident information and provide updates to make sure the dollars are going to the correct entity. The act does require accounting and reconciliation for every tax dollar, as well as standard monthly reports, which should help to assure that the process works correctly. Errors should be discovered in the auditing process and through the monthly reports required by the act. However, the problem has always been identifying where each individual lives and if bad data is used or updates aren't promptly made, tax dollars could go to the wrong entity. Only accurate data will assure that each entity receives the funds that are due to them.

Weighted voting: This was a key point in our discussions during the legislative process and the municipal associations were generally aligned against the school boards association. The school boards were in favor of basing the weighted vote proportionally on EIT revenues. Since many school districts are at a rate higher than half a percent, we knew that in many counties this would give the school districts, and in some cases one particular school district, the majority vote. Other methods that were discussed included capping these revenues at the equivalent of half of a percent or using population as the proportional basis, both of which we could have accepted. The end result was a compromise that no one really liked and if even one school district levies a higher EIT rate, then the school districts have disproportionate control of the votes, and this is a frequently cited concern from our members.

Today, some of our fears concerning the weighted vote have come true. In some areas, the school districts have the majority vote and are running the tax collection districts without true participation from the municipalities. In other areas, there is greater cooperation and TCCs have switched voting methodologies or have shared power with the municipalities. However, many TCCs are retaining the weighted vote and the townships in these areas, particularly the smaller communities, often feel disenfranchised because they do not have a true voice in the decision-making process.

A side effect of the weighted vote can be difficulty in achieving a quorum when many small municipalities have only a fraction of a percent of the vote. These municipalities can feel that it is simply not worth participating, even though they are required to do so. This can lead to difficulty in approving bylaws and making other required decisions.

Cost sharing: Another related concern is the sharing of costs. In the act, TCC costs must be shared proportionally based upon EIT taxes collected unless the majority votes otherwise. This language was chosen because this was the standard method used and was thought to be the most fair.

However, this cost-sharing method appears to be problematic for some. We have heard of school districts or larger municipalities with controlling votes only agree to share power if the cost sharing formula changes.

In addition, a bigger issue appears to be the many start-up costs, how to equitably share them, and how to keep this new level of bureaucracy afloat until the revenues start coming in and, hopefully, the TCC becomes self-sufficient.

Start-up costs: During discussions on the legislation, all of the local government associations insisted that there would be numerous start-up costs, including legal fees, insurance, legal advertising, fees for meeting space, and staff. These costs have certainly become a reality. While some of these costs will decrease over time, others may increase, so it is difficult to determine the long-term expense of running a tax collection district.

As part of the earlier discussions on the bill, numerous requests were made for start-up funding, which the local government associations believed that the state should provide. DCED agreed to prioritize \$1 million in Shared Municipal Services Grants for this purpose and to request an additional appropriation if needed. However, the Department's funding for this valuable program was slashed from \$2.37 million to \$495,000 in the current budget, leaving costs to be borne as unfunded mandates by local participants. We believe this program needs to be restored.

While the Department has announced that matching grants of \$5,000 per tax collection district will be available to help offset these costs, this most likely will not cover all of the interim costs for the transition. Instead, the local governments will be forced to shoulder the costs of creating this new layer of bureaucracy.

DCED: While we have heard numerous complaints about a lack of assistance from DCED, we do want to recognize that they have taken on this additional responsibility with a shrinking budget and already overworked staff. These budget cuts are impacting the assistance that the Department could otherwise provide.

DCED has issued a fairly comprehensive best practices report with sample bylaws, contracts, and evaluation criteria and has made this information available to each TCC, which we believe to be a valuable resource.

Opt-out provisions: One major fear that we hear is why isn't there a usable opt-out clause in the legislation for townships that may lose money with a new collector. We have seen situations where townships switched to different tax collectors in the last several years and saw their revenues increase because of better collection methods. Some

of the entities that now control the TCCs are using these former collectors and many townships fear they will be forced to go back to a less effective collector.

We asked for an opt-out clause for just cause during the legislative process. The version in the act is a clause of last resort. While it does exist, it is doubtful that any entity would ever end up this far into the appeals process unless a collector is truly negligent.

Distribution of funds: The required timing for the distribution of funds is a major concern, as the act requires a turnaround time of 60 days, which will be reduced to 30 days after several years into the new system. Most municipalities currently receive monthly distributions and many receive more frequent distributions. We asked for a maximum of 30 days.

Other concerns: Other concerns that we have heard from our members include the fact that the tax collection certification process is not yet up and running; delays in receiving funds caused by the "Wal-Mart" provision; that the current collection system is working fine and did not need to be changed; fears that the state will expand the program to include the real estate or local services tax; a lack of guidance regarding how disputes between tax collection committee members should be resolved; lack of guidance over the reconciliation and appeals process when a municipality does not receive moneys owed to it by the tax officer; and difficulty obtaining insurance because Act 32 doesn't explicitly designate a TCC as a local government under the Political Subdivision Tort Claims Act.

In some cases, TCCs aren't operating as planned. We have had calls indicating that at least one TCC is still being run the chair of the county commissioners and there appears to be confusion over how to establish bylaws. In other counties where only one or two entities collect the EIT, TCCs may have only one or two delegates, which raises a host of procedural issues, including how can one person function as a committee?

In closing, not all of the feedback that we have heard is negative. We have heard of TCCs that are functioning in a fair and efficient manner, with the clear intent to make their TCC the best that it can possibly be, even in areas of the state with a high number of current collectors. It is clear that cooperation from all members must be built on trust and that trust must be nurtured.

Thank you for the opportunity to testify before today on such an important issue for our members.