

MEMORANDUM

TO: Pennsylvania House of Representatives Urban Affairs Committee

FROM: Rich Fitzgerald, Allegheny County Chief Executive
John K. Weinstein, Allegheny County Treasurer

DATE: November 12, 2013

RE: Testimony Related to House Bill 1409

This Memorandum provides Allegheny County's position with respect to the proposed gut and replace amendment to HB 1409. In addition to the comments made below, Allegheny County adopts the Memorandum and testimony of its Special Legal Counsel for delinquent real estate tax collection, Michael G. McCabe, Esquire of Goehring, Rutter & Boehm.

Allegheny County does not have a delinquent tax collection problem. The below chart reflects the County's excellent collection results for tax years 2009 through 2012. Not only does the County Treasurer experience current collection rates of between 96% and 97%, the County's total collection rate, including delinquent tax collection, reaches approximately 99% in roughly two years of delinquency.

Tax Year	Current Collection Rate	Overall Collection Rate 10/31/2013	
2009	96.49	98.79	(3.5 years delinquent)
2010	96.72	98.83	(2.5 years delinquent)
2011	96.89	98.48	(1.5 years delinquent)
2012	96.70	97.83	(.5 year delinquent)

Allegheny County successfully utilizes the provisions of the Municipal Claim and Tax Lien Law, using a private delinquent tax collector deputized by the Allegheny County Treasurer and outside counsel to bring Sheriff's Sale proceedings when necessary. All costs and fees for their services are part of the taxes due and are collected directly from the delinquent taxpayer or from the proceeds of the property at Sheriff's Sale. Thus, there is no cost incurred by the County for delinquent collections.

HB 1409 would be detrimental to Allegheny:

- **HB 1409 creates an unfunded mandate that would likely cost Allegheny County in excess of \$125,000,000 of unrecoverable funds which the County does not have.**

- Allegheny County does not presently have a County operated tax claim bureau. As a result, even if the County should opt out of HB 1409, the Law would still require that it create a tax collection bureau.
- Allegheny County is comprised of 130 municipalities and 43 school districts. The County does not have the revenue necessary to create and staff an office large enough to accommodate all 173 taxing bodies.
- The County does not have the revenue to comply with HB 1409's notice requirements, which are estimated to be over \$120 million. Moreover, the cost of title searches, court costs, service expenses, posting expenses, investigation and mailing expenses for 50,000 or more properties would result in tens of millions of dollars in additional expenses.
- The County cannot comply with HB 1409's mandatory website requirement. While all municipal, school and County tax liens are part of an online County Department of Court Records public website, real estate tax balances and statements must be obtained from the individual taxing jurisdiction. The County does not house real time collection and tax data for the 173 taxing jurisdictions within the County. Requiring it to do so with no ability to recover the expense of programming, data conversion and maintenance would be another unfunded mandate created by HB 1409.
- The County cannot afford to take title to the tens of thousands of unsellable properties it would be required to purchase at the end of the mandatory foreclosure process of HB 1409.
- **The Collection and Sheriff's Sale process in Allegheny County works.**
 - The County experiences a 99% collection rate without incurring any costs, fees and expenses of collection. When needed, the foreclosure provisions of the Municipal Claim and Tax Lien Law sufficiently meet the needs of the County.
 - The County does not need to provide an advertised pre-foreclose notice to all tax delinquent properties to achieve its 99% collection rate. Such a notice is not constitutionally mandated and the cost of complying would far exceed any benefit to the County.
- **The County desires to work with Taxpayers to resolve their tax delinquencies.**
 - HB 1409's 24-month payment plan limit is unreasonable when dealing with many poor and elderly taxpayers who need more time to pay their delinquent taxes.

- Incurring unnecessary advertising expenses, court costs and other expenses mandated in HB 1409's notice provisions will place an unreasonable burden on taxpayers who may not be able to meet HB 1409's 24-month maximum payment plan term, resulting in the judicial sale of their properties.
- HB 1409 limits a taxpayer's right to pay the taxes due to stop a scheduled judicial sale.
- HB 1409 precludes taxpayers from entering into Hardship Payment Plans after a legal action is initiated.
- **The Assignment Provisions of HB 1409 are unreasonable.**
 - HB 1409 permits only the County Tax Bureau to assign claims. The County does not want to be in the position of assigning another taxing jurisdiction's assets. The proposed assignment provisions are onerous and HB 1409 will severely limit the possibility of future assignment transactions in Pennsylvania, which the County has successfully used to raise funds necessary to meet its revenue needs.
- **HB 1409 does not address ongoing judicial sales filed pursuant to the Municipal Claim and Tax Lien Law.**
 - There are presently tens of thousands of pending court proceedings filed pursuant to the Municipal Claim and Tax Lien Law in Allegheny County, as well as in other jurisdictions throughout Pennsylvania. These actions are at various stages. HB 1409 does not provide for the disposition of any of these pending proceedings or for the recovery of any costs, fees and expenses already incurred by the taxing jurisdictions for attorney fees, court costs, service of process, advertising or title searches. Many of these actions are already at judgment and it is questionable whether a new judicial action can legally be brought against the same property for the same tax delinquencies that have already been reduced to judgment.

Conclusion

For the above reasons, Allegheny County respectfully requests to be excluded from HB 1409.