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HB 2186 (Printer's No. 3728) Analysis

Date: July 13, 2016

Prime Sponsor: Representative Harper

A. Synopsis of Bill

Establishes uniform residential qualifications of office for persons seeking election to, or appointment to fill a vacancy in, a municipal elected office where recent service in the military might interfere with the person's ability to satisfy the relevant residency requirements.

B. Summary and Analysis of Bill

This bill amends Title 53 of the Pennsylvania Consolidated Statutes (Municipalities Generally) to establish that a person remains a resident of a municipality, or ward of a municipality, in which the person had previously established his or her residency for one year prior to a period of defined active military duty for the purposes of satisfying a residency requirement imposed as a qualification of election to, or appointment to fill a vacancy in, a municipal elected office. This provision will apply unless the person takes an action to express his or her attempt to establish a new domicile (i.e. the place of dwelling for which a person has no present intent to leave). Upon enactment, the law will take effect in 60 days.

C. Relevant Current Law

Each municipal code contains, as a qualification to hold locally elected office, a similarly-stated requirement that the person elected or appointed to that office be a resident of the municipality at the time of election or appointment, as well as for the immediately prior year. Unlike Article II, Section 5, of the Pennsylvania Constitution that applies to Members of the General Assembly, which provides an exception to legislator residency requirements for persons 'absent on the public business of the United States or of this State', no such exception applies to persons elected to local office. Thus, consistent with case law that has found that a person must be physically present in a place to be a resident, a person returning to his or her permanent home from active military duty could be required to restart the one-year residency prerequisite before pursuing election to or accepting appointment to fill a vacancy in a locally elected office.

D. Background of Bill

The concept for this bill was suggested for sponsorship by the Local Government Commission by Senator Teplitz as a result of a matter that arose from one of his constituents. It has not been previously introduced.

E. Effect of Bill

The only effect of the bill is to clarify that a person returning to his or her municipality of permanent residence following active military service is qualified for election to, or appointment to fill a vacancy in, a locally elected office without restarting a one year residency period.

F. Issues, Policy Questions and Stakeholder Feedback

This issue has been presented to the following municipal associations for their feedback:

Pennsylvania State Association of Township Supervisors (PSATS): **SUPPORT**

Pennsylvania Municipal League (PML): **SUPPORT**

Pennsylvania State Association of Boroughs (PSAB): **SUPPORT**

County Commissioners Association of Pennsylvania (CCAP): **SUPPORT**

The Pennsylvania Department of Military and Veterans Affairs has no issues with this bill.

The Majority and Minority Executive Directors of the House and Senate Veterans Affairs & Emergency Preparedness committees were consulted during the drafting of this legislation.