

HB 2122 Testimony

Good morning, my name is Kris Gazsi and I serve the Local Government Commission as an Associate Legal Counsel. We have been asked this morning to share our analysis of HB 2122, which you find before you this morning for your consideration. The Commission consists of members from all four caucuses in the legislature, and as a practice consistent with its overall goal to advance the effectiveness and efficiency of local government in Pennsylvania, makes the resources of its professional staff available for consultation to any member on issues related to local government. However, our comments and analysis do not amount to an endorsement of the policies proposed here or in any other bill apart from legislation sponsored directly by the Local Government Commission. Accordingly, my testimony today seeks only to place the bill at hand in the context of Pennsylvania municipal governance and the constitutional provisions which relate to the establishment of unincorporated districts governed by a county of the second class.

HB 2122 proposes an optional alternative form of local governance for the citizens of Allegheny County by substituting county administration of local services previously administered by the now dissolved municipal corporation. This would constitute a modern novelty in the Commonwealth. Today, the territory of the entire state is divided among, and completely contained within 2,560 municipal corporations and 67 counties. With the exception of Philadelphia, where the city and county are coterminous and integrated, each resident of the Commonwealth is a resident of a county and a separately elected city, borough, incorporated town, or township. Not all states in our region have established the same universal practice of two independent layers of local government. Further, the Constitution of our Commonwealth does not appear to limit the General Assembly to provide for local government by way of the status quo, either.

Article IX of the Pennsylvania Constitution, among other things, directs the General Assembly to provide for local government,¹ and with specific direction to facilitate alternative plans² of governance, home rule,³ delegation or cooperation⁴ between units of local government and the formation of area government providing for “the establishment and dissolution of government of areas involving two or more municipalities or parts.”⁵ Further, the framers of the 1968 Constitution explicitly reserve, as the rights of the governed, the power of local electors to insist by initiative on the consolidation or merger of the municipal corporation,⁶ or “delegation or transfer of any function, power or responsibility to, one or more ... other municipalities or districts or ... any newly created governmental unit.”⁷

¹ Art. IX, § 1. Local government.

² Art. IX, § 3. Optional Plans.

³ Art. IX, § 2. Home rule.

⁴ Art. IX, § 5. Intergovernmental cooperation.

⁵ Art. IX, § 6. Area government.

⁶ Art. IX, § 8. Consolidation, merger or boundary change.

⁷ Art. IX, § 5. Intergovernmental cooperation.

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HB 2122 would allow the residents of a municipal corporation in Allegheny County, which as a home rule county has the power to “perform any function not denied by the Constitution of Pennsylvania, by statute or by its home rule charter,” to pass the responsibility for municipal governance to the county where the residents have given their assent, and the governing bodies of the municipal corporation and Allegheny County have planned for an orderly transition away from the existing form of government. Without careful planning, delegating an existing municipal corporation’s functions to the county would raise many questions regarding the effect and enforceability of the existing ordinances, taxing liabilities, existing financial obligations, provision of public safety and maintenance of public property. In a prior enactment, the General Assembly sought to resolve these questions by establishing a process by which an existing, fiscally distressed municipal corporation could work with a state-appointed administrator to transfer its functions into a trust-like relationship with the Commonwealth should no other options for its financial viability exist. By contrast, the process under HB 2122 would not impose responsibility on the Commonwealth but instead rely on an agreement between governing bodies formed prior to municipal dissolution. With the provisions of that agreement presented to the public for inspection and hearing, the electors would have the final say by referendum of the agreement.

Should the referendum succeed, the resulting unincorporated district would no longer function independently as a general purpose unit of local government under the laws of the Commonwealth. The county would inherit the corporate powers of the former municipal corporation including the power to levy and collect the taxes and fees which would have been a power of the former governing body. Moving forward, the affairs of the county and the affairs of the district would be consolidated and addressed as any other legislative or administrative act in Allegheny County. However, whenever the county proposes to amend its ordinances that relate specifically to the district, the County Council will participate in a local comment meeting with representatives of the district and to hear public comment on the proposal prior to taking legislative action.

Of course there are many other considerations which would go into the local decision making facilitated by HB 2122 and policy questions as to whether this measure should proceed. As I stated at the outset, the Commission does not have a position on the bill, and I defer to its sponsors and advocates on how the measure is intended to be applied more specifically and serve the residents of Allegheny County.

Thank you.

where we have to ask the question, “What is the best way to provide the services our citizens want and deserve, and how do we do it in the most efficient manner?”

Only 31 out of 2,560 municipalities have ever been in distress status, and with House Bill 2122 limited to Second Class and Second-Class A counties, the potential municipalities which would be able to consider this option is limited. Allegheny County is the only Second-Class county in Pennsylvania. Bucks, Delaware, and Montgomery are Second Class A counties.

Of the 31 municipalities that have been in distress status as defined by Act 47, nine of those have been from Allegheny County. Statewide, fourteen municipalities have come out of Act 47; six of them have been from Allegheny County.

Distress Status (Act 47) of Municipalities in Class 2 and Class 2A Counties

Distress Status (Act 47) of Class 2 County Municipalities		
County	Formerly in Act 47	Years in Act 47
Allegheny	Borough of Wilkinsburg	1988 to 1998
Allegheny	Borough of East Pittsburgh	1992 to 1999
Allegheny	Borough of North Braddock	1995 to 2003
Allegheny	Borough of Homestead	1993 to 2007
Allegheny	City of Clairton	1988 to 2015
Allegheny	City of Pittsburgh	2003 to 2018

Distress Status (Act 47) of Class 2 County Municipalities		
County	Currently in Act 47	Year Entered Act 47
Allegheny	Borough of Braddock	1988
Allegheny	Borough of Rankin	1989
Allegheny	City of Duquesne	1991

Distress Status (Act 47) of Class 2A County Municipalities		
County	Formerly in Act 47	Years in Act 47
Delaware	Borough of Millbourne	1993 to 2014

Distress Status (Act 47) of Class 2A County Municipalities		
County	Currently in Act 47	Year Entered Act 47
Delaware	City of Chester	1995
Delaware	Borough of Colwyn	2015

We are going to have to have some very hard discussions in the coming years as municipalities time out of Act 199. Maybe House Bill 2122 saves a couple of municipalities from being part of some of those hard discussions. “Receivership” and “Disincorporation” are bad words. Nobody wants to use them. Nobody wants to hear them.