



# HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

## FISCAL NOTE

**HOUSE BILL:** 330

**PRINTER'S NO:** 362

**PRIME SPONSOR:** Readshaw

<b>FISCAL IMPACT SUMMARY</b>	<b>FY 2008/09</b>	<b>FY 2009/10</b>
<b>Expenditure Increase/(Decrease):</b>		
General funds of <i>each</i> borough within the Commonwealth	\$0	\$0 to \$1,500

### OVERVIEW:

House Bill 330 amends the Borough Code (1965 P.L. 1656, No. 581) to allow a borough mayor to receive fees not to exceed \$150 for each performance of a marriage ceremony and to increase the allowable annual expense for outside legal counsel for a mayor from \$2,500 to \$4,000.

The Domestic Relations Code, 23 Pa.C.S., §1503, gives borough and city mayors the authority to perform marriages.

On December 6, 2001, the Investigative Division of the State Ethics Commission (Commission) opened a full investigation of a complaint that Lawrence E. Keller, mayor of New Hope, Bucks County, was using fees collected from performing marriages in violation of the Public Official and Employee Ethics Act (Ethics Act), 65 Pa.C.S. On July 8, 2003, the Commission ruled that Keller violated the Act when he received such payments and deposited those funds in a personal bank account. Keller petitioned Commonwealth Court to review the Commission's Order, and on November 1, 2004, the Court upheld the order against Keller (No. 1781 C.D. 2003).

Similarly, on January 8, 2007, the Commission in a final adjudication (Order No. 1424) decided that Robert Green, mayor of Jefferson Borough, York County, violated the Ethics Act by accepting fees for performing marriage ceremonies in excess of his expenses. On April 16, 2007, the Commission issued an *Advice of Counsel* that the Ethics Act prohibits Green from receiving payments for performing marriages in excess of reimbursements for actual expenses.

This bill will allow a mayor to receive fees up to \$150 for each marriage ceremony above any other compensation he receives, and the bill specifies that receipt of said fees shall not violate the Ethics Act.

This bill requires that prior to performing marriage ceremonies a mayor must notify borough council in writing of his intention to do so. He also must keep accurate accounts of fees received thereof and submit to council quarterly reports, which shall become public record. These fees compensate the mayor and do not become revenue of the borough.

The Borough Code already provides that a mayor may hire outside legal counsel at the borough's expense up to \$2,500 for any twelve-month period for those circumstances where there is a legal dispute between council and the mayor or if there would be a conflict of interest with the borough solicitor. The bill raises the maximum allowable amount to \$4,000.

According to the Pennsylvania Local Fact Sheet (January 7, 2008), published by the Governor's Center for Local Government Services, there are 959 boroughs in Pennsylvania.

The effective date is sixty days.

**ANALYSIS:**

The bill will allow a mayor to increase expenses for outside legal counsel by up to \$1,500 over the current \$2,500 maximum in any twelve month period for those circumstances where there is a legal dispute between the mayor and borough council or when there is a conflict of interest with the solicitor. Any additional cost incurred up to the new maximum of \$4,000 will only occur for those boroughs where the permissible circumstances exist for hiring outside counsel and when the actual expense will exceed the current \$2,500 threshold in any twelve month period. No aggregate data are readily available on the frequency or cost when mayors have utilized the outside counsel provision; thus it is not possible to estimate the aggregate cost for all boroughs throughout the Commonwealth without surveying the 959 boroughs.

According to the Consumer Price Index (CPI) Inflation Calculator on the website of the United States Bureau of Labor Statistics, \$2,500 in 1992, when this provision was originally adopted, is worth \$3,781 in today's prices. The proposed increase in the maximum annual allowance, therefore, approximates inflation as measured by CPI within six percentage points. If inflation continues at the same geometric average of 2.46% over the next several years as it did since 1992, the adjusted price for inflation of the original \$2,500 will exceed \$4,000 sometime in 2011.

Allowing the mayor to receive compensation for performing marriage ceremonies does not impact the finances of the borough, just the mayor. The reporting and accounting requirements fall onto the mayor, and any expenses thereof will be minimal. Making the quarterly reports public record may have minimal costs for the borough for record keeping and for providing copies to those requesting to see the record. The Pennsylvania's New Right to Know Law, Act 3 of 2008, signed into law by Gov. Edward G. Rendell on February 14, 2008, allows local governments to charge reasonable fees for duplication; thus any expense for providing records of these quarterly reports can be offset by fees. According to the Local Government Commission, boroughs may charge as a general rule a fee to recoup expenses of providing a service but the fee may not raise revenue beyond what is necessary to provide the service.

The following sources were used in the preparation of this fiscal note: the Pennsylvania State Association of Boroughs, the Local Government Commission, the State Ethics Commission, and the Governor's Center for Local Government Services of the Department of Community and Economic Development.

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**DATE:** March 31, 2009

**General Note and Disclaimer:** *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*