



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 1719

PRINTERS NO. 3275

PRIME SPONSOR: Gingrich

### COST / (SAVINGS)

FUND	FY 2013/14	FY 2014/15
Borough Funds	\$0	\$0

**SUMMARY:** Incorporates the Borough Code into Title 8 of the PA Consolidated Statutes and adds substantive and technical amendments. This legislation would take effect in 60 days.

**ANALYSIS:** This legislation places the Borough Code into Part I of Title 8 (Boroughs and Incorporated Towns) of the PA Consolidated Statutes and repeals Act 581 of 1965, known as the Borough Code. In addition, the following substantive and technical changes are made.

#### Substantive changes:

**Section 200:** Adds the definition of "freeholder" that emphasizes that a freeholder is a person that has continuous and permanent possession and ownership of property in relation to eligibility to sign a petition for borough incorporation.

**Section 801(b):** Provides that a trustee of a charter school will be ineligible for elected borough office.

**Section 901(a) and new subsection 901(a.1):** Specifies that a vacancy by resignation from a borough office is only created after a written resignation is accepted by council through a majority vote of a quorum at a public meeting, which is required to take place within 45 days; if council does not accept the resignation within the allotted time, and the resignation is not withdrawn by the resignee, a resignation will be deemed effective after 45 days.

**Section 902:** References Sections 4.2 and 4.4 of the Local Tax Collection Law that permits a municipal governing body to provide, by agreement, for collection of real estate taxes either by a neighboring municipality or by the county treasurer when there is a vacancy in the office of tax collector.

**New Section 904.1:** Section 904.1 is added to specify that elected borough officials may only be removed through current Constitutional means – impeachment, by the Governor for reasonable cause upon two-thirds vote by the Senate, or by the court upon conviction of misbehavior in office or for conviction of an infamous crime. The Constitutional procedures do not impact quo warranto proceedings in which a person’s qualification for office may be challenged.

**Section 1104:** A prohibition on elected or appointed borough officials being compensated for serving on a board, commission, authority or an agency created by the borough is removed.

**New paragraph 1104(f)(3):** Subsection (3) is added to prohibit a borough resident from seeking elected borough office when that resident is employed as a police officer or firefighter in a municipality that has a contract with the borough to provide police or fire services.

**New paragraph 1121(a)(5):** Provides borough council the right to determine employment hours for police officers.

**Section 1202(23):** Authorizes an increase, from 5% to 25%, in the operating reserve fund to be maintained from the estimated revenues of the Borough’s general fund, which would be available for use, in addition to currently authorized purposes, to counterbalance potential budget deficits resulting from increases in anticipated costs for goods or services.

**Section 1202(60):** Permits boroughs to purchase, use, own, operate, and control natural gas wells to supply natural gas for its own municipal purposes. Also limits a municipal gas distribution system for a borough already owning or operating a well on the effective date of this section.

**Section 21A06:** Clarifies that resolutions may not be used to levy assessments against benefited property for public improvements. Such assessments will now be accomplished through the passage of an ordinance.

**Section 2456(b)(3):** For consistency with other Code provisions relating to borough contracts, adds the phrase “and responsible” to the phrase “lowest qualified bidder.”

**Section 2708:** Removes subsection (b), added by Act 43, which restricts council from delegating the power to maintain accounts and expend funds to the recreation board.

**New paragraph 3301.1(b)(5):** Clarifies that imposing assessments on benefited property will be done by ordinance.

**Section 3301.2(a)(2) and (c):** Specifies that proposed borough ordinances are to be maintained in the borough office or place where borough records are kept rather than a vague reference to keeping such proposed ordinances in a “place in the borough.”

**Section 3301.2(b)(2):** Language is added that will permit boroughs, as an option, to electronically submit copies of adopted ordinances to the county law library or the office in the county where ordinances are retained providing the county has a method available for such storage. An ordinance stored electronically must be able to be accessed by the public during regular business hours. In addition, the borough will be required to retain a printed copy of the e-mail and ordinance transmitted to the county.

**Technical changes:**

**Section 210(a):** Corrects a reference relating to the notification of a decree issued by the court incorporating a borough, which will be done by the clerk of courts rather than the recorder of deeds.

**Section 801(a):** Clarifies that the residency affidavit which borough officers are required to sign and present prior to being sworn into office must specify that they meet the ward residency requirements.

**Section 801(c):** Removes a reference to a date (January 1, 1964) regarding boroughs with less than a population of 150. In these boroughs, residents are not required to live in the borough for one year prior to election to be eligible for elected borough office.

**New subparagraph section 1202(20)(C)(iii):** Amends the specific powers section to clarify that boroughs may issue licenses under the Act 217 of 1963 (which relates to the authorization to hold fire sales).

**Section 1202(24):** For consistency purposes, removes the words “city, borough, and town” and replaces them with the term “municipal corporation” in relation to authority to enter into intergovernmental cooperation agreements for public safety.

**Section 1202(35):** For consistency purposes, removes the words “city, borough, and town” and replaces them with the term “municipal corporation” in relation to appropriations for fire training involving intergovernmental cooperation agreements.

**Section 1202(46):** Amends authorization to issue nondebt revenue bonds pursuant to provisions of 53 Pa.C.S. Pt. VII Subpt. B for gas works by removing a requirement that the gas plants or distribution systems are for municipal purposes only to be consistent with 1202(60).

**New paragraph 1302(a)(10):** Relocates previously authorized tax levy for recreational purposes to the tax levy section.

**Section 1315(a)(4):** Amends the authorization for capital improvement nondebt revenue bonds pursuant to provisions of 53 Pa.C.S. Pt. VII Subpt. B for gas works by removing a requirement that the gas plants or distribution systems are for municipal purposes only.

**Section 2701(e):** Inserts a cross reference to tax levy authorization for recreational purposes in section 1302(a)(10).

Except for the specific changes to the sections noted above, the addition of 8 Pa.C.S. Pt. I is a continuation of the Borough Code. Thus, all activities initiated under the Borough Code continue and remain in full force and effect and may be completed under 8 Pa.C.S. Pt. I. Orders, regulations, rules and decisions made under the Borough Code and which are in effect on the effective date of this legislation remain in full force and effect until revoked, vacated or modified under 8 Pa.C.S. Pt. I. Contracts, obligations and collective bargaining agreements entered into under the Borough Code are neither affected nor impaired by the repeal of the Borough Code.

**Title 44 (Law and Justice):**

This legislation also amends Section 7132(b) in Title 44 (Law and Justice) by changing the cross-reference from the civil service provisions in Act 581 of 1965 (the current Borough Code) to the civil service provisions in Title 8 Ch. 11 Subch. J. Section 7132(b) provides that borough police officers who reside in the borough may hold and exercise the office of constable in the borough or a ward in the borough unless prevented from doing so by operation of the Borough Code. The reference to the Borough Code will simply change to a reference to Title 8.

**FISCAL IMPACT:** This legislation would have no adverse fiscal impact on Commonwealth or borough funds.

**PREPARED BY:** Tim Rodrigo  
House Appropriations Committee (R)

**DATE:** April 7, 2014

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*