



Senate Box 203078
Harrisburg, PA 17120-3078
(717) 787-7680
Fax (717) 772-4524
www.lgc.state.pa.us

**LOCAL GOVERNMENT
COMMISSION**
Created in 1935

EXECUTIVE DIRECTOR
Philip H. Klotz

ASSISTANT DIRECTOR
David A. Greene

MEMBERS

Senator John H. Eichelberger, Jr.
Senator Thomas J. McGarrigle
Senator Scott E. Hutchinson

Senator John P. Blake
Senator Judith L. Schwank

Representative Kate Harper
Representative Warren Kampf
Representative R. Lee James

Representative Robert Freeman
Representative Mary Jo Daley

HB 1363 (Printer's No. 1692) Analysis

Date: May 9, 2017

**Amending Title 53 of the Pennsylvania Consolidated Statutes –
Military leave and residency qualifications for municipal office**

Prime Sponsor: Representative James

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 domicile during 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).

The act would 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 former Senator Robert Teplitz as a result of a matter that arose from one of his constituents.

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

The Pennsylvania State Association of Township Supervisors, Pennsylvania State Association of Township Commissioners, Pennsylvania State Association of Boroughs, Pennsylvania Municipal League, and County Commissioners Association of Pennsylvania support the legislation. 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 provided with a copy of this bill for their review, feedback and suggestions during the 2015-2016 Session. Upon amending the bill as recommended by the Majority Executive Director of the House Veterans Affairs & Emergency Preparedness Committee, no additional issues with the substance of the bill were raised.

G. Bill History

In the 2015-2016 Session, this bill was introduced in the House as House Bill 2186, which was passed by the House on September 19, 2016 (185-0). The bill was given first consideration by the Senate on October 19, 2016. No further action was taken due to sine die adjournment. This legislation was also introduced in the Senate during the 2015-2016 Session as Senate Bill 1300, which was passed by the Senate on October 18, 2016 (50-0). In the House, Senate Bill 1300 was referred to the House Local Government Committee where it remained upon sine die adjournment.