



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

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**SB 1006 (Printer's No. 1694) Analysis**

**Date: 4/24/2018**

**Amending the Consolidated County Assessment Law to further provide  
for building permits**

**Prime Sponsor: Senator Eichelberger**

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**A. Synopsis of Bill**

The proposed legislation would amend the Consolidated County Assessment Law (CCAL) to further facilitate the existing statutory requirement that building permit and substantial improvement information be submitted to the county assessment office to ensure accurate property valuation and consequently, more fairly capture municipal property tax revenue. *The Senate Local Government Committee amended the bill to also require that demolition permit information be submitted to the county assessment office and be subject to provisions of the bill.* The legislation is an outcome of the [Local Government Commission Assessment Reform Task Force](#).

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**B. Summary and Analysis of Bill**

The bill amends Section 8861 of Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes (Pa.C.S.) within Chapter 88 of the Title, which is CCAL. CCAL is the codification of assessment law applicable predominantly to counties of the second class A through eighth class.

The bill specifies that the currently required submission of building and demolition permit information by municipalities, third-party agency code officials (TPAs) and the Department of Labor and Industry to the county assessment office would not be subject to the procedures of the Right-to-Know Law, and that submission of the information would not result in any criminal or civil liability. It also provides remedies to the county assessment office in the event that the county is not receiving the required submissions. Specifically, if there is noncompliance the assessment office would notify, in writing, the party responsible for submitting the information. If upon receipt the noncompliance continues:

- In the case of continuing noncompliance by a municipality or the Department, the assessment office may institute an action in mandamus before the court of common pleas to compel compliance, and upon a finding that the noncompliance was intentional, the court is required to order payment of the assessment office's costs and fees.
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- In the case of continuing noncompliance by a TPA, the assessment office may file a complaint with the Department of labor and Industry. Along with the complaint, the assessment office must provide the Department with documentation of notification and any other evidence related to intentional noncompliance. The bill provides that intentional noncompliance is “just cause for corrective action” by the Department. Title 34 of the Pa. Code, Section 401.14, describes corrective action taken by the Department, and may include a range of remedies including a formal warning through decertification.

Additionally, the bill contains a provision authorizing counties to enact ordinances requiring persons undertaking substantial improvements to property (i.e., improvements to property other than painting or normal regular repairs costing in excess of \$2,500, as currently defined in 53 Pa. C.S. §8861(b)) to submit information related to the improvement to the assessment office, regardless of whether the municipality requires a building permit. The county may provide for the electronic submission of the forms, may cooperate with the municipality, a TPA or the Department in the distribution of the forms, and may charge \$5.00 or the actual cost of producing and processing the form, whichever is less.

The bill converts the current penalty applicable to owners for failing to submit information on substantial improvements when a permit is not required, for submitting fraudulent information, or for noncompliance with an ordinance requiring improvement information, from a summary criminal offense to a civil penalty. This revision is based on the civil penalty provisions (Section 5.2) of the “Pennsylvania Farmland and Forest Land Assessment Act of 1974,” also known as Clean and Green. The penalties are limited to \$100 per violation (an increase from the \$50 under current law), and provide an opportunity for the owner to contest the penalty.

Finally, the bill “grandfathers” any existing county requirements for the submission of improvement information.

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### **C. Relevant Current Law**

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Every municipality or TPA, or the Department, responsible for the issuance of building permits shall forward a copy of each building permit to the county assessment office on or before the first day of every month. In addition to any charge otherwise permitted by law, a municipality, a third-party agency or the Department may charge an additional fee of \$10 to each person to whom a permit is issued for administrative costs incurred in compliance with this section.

If a person makes “substantial improvements” to any real property, other than painting of or normal regular repairs to a building aggregating more than \$2,500 in value, and a building permit is not required for the improvements, the property owner shall furnish the following information to the board of assessment appeals or revision: the name and address of the person owning the property; a description of the improvements made or to be made to the property; and the dollar value of the improvements. If a person intentionally fails to comply with this provision or intentionally falsifies the information provided, the individual shall, upon conviction in a summary proceeding, be sentenced to pay a fine of not more than \$50.

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### **D. Background of Bill**

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In the work of the Assessment Appeals Work Group within the Task Force, it was noted that the problem of inconsistent submission of building permit information, or the lack of submission of improvement information in municipalities without building permits, was leading to improvements sometimes dramatically

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affecting property values evading assessment. This further distorts the appropriate apportionment of tax burden between and among taxpayers. The Task Force resolved to examine the problem by creating a separate Building Permit Work Group. The Work Group agreed on the following findings:

- Some municipalities were requiring the assessment office to submit Right-to-Know requests in order to obtain the information required by Section 8861.
- No codified remedy exists for those situations where a county is not receiving building permit information as required by current law.
- No codified options exist for counties to require improvement information where building permits were not required. It was noted that counties had taken steps to promulgate regulations to anticipate this issue in the absence of express statutory language.
- The current summary criminal penalty provisions of Section 8861 were less preferable to a civil enforcement mechanism.

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### **E. Effect of Bill**

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It should be emphasized that in a majority of municipalities, building permit information is being submitted. Also, when the process is not working, communication and clarification of responsibility often cures any issue. *This bill is intended to provide options to the assessment office for rare persistent problems, and is only intended to be punitive when the failure to submit permit or improvement information is intentional.*

The legislation also provides the county with options when a municipality has no building permit requirement, authorizing the county to require improvement information under conditions that may be described by ordinance.

To summarize, the bill would:

- Provide additional authorization for counties to enact ordinances requiring notice of substantial improvements, and to establish the means by which building permit information is submitted to the county assessment office.
- Specify that the procedures of the Right-to-Know Law are not required in order for building or demolition permit information to be submitted from government entities or TPAs to the assessment office, and establish that no agency, officer or employee shall be liable in any action for complying with the requirement to submit building or demolition permit information.
- Provide remedies for municipalities and TPAs, and the Department, when they are noncompliant with existing obligations to submit building or demolition permit information to the county.
- Convert the existing penalty for a person failing to submit information on substantial improvements when a permit is not required, or submitting fraudulent information, from a summary criminal offense to a civil penalty, and increasing the maximum penalty from \$50 to \$100.
- Preserve existing county substantial improvement information requirements.

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**F. Issues, Policy Questions and Stakeholder Feedback**

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Through the work of the Building Permit Work Group of the Task Force, the County Commissioners Association of Pennsylvania, the Pennsylvania State Association of Township Supervisors, and the Pennsylvania State Association of Boroughs have participated in the development of this draft. No official position has been taken on the legislation by those entities.

Because of the remedies that would be applicable to TPAs, feedback from the Department was solicited and incorporated. Feedback was also sought from the Pennsylvania Association of Building Code Officials, but no response was received.

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**G. Bill History**

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There is no previous history for this bill.