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HB 1036 (Printer's No. 1208) Analysis

Date: April 5, 2019

**Amending the Borough Code –
Provide for the option to decrease the size of borough council
pursuant to petition and referendum**

Prime Sponsor: Representative Moul

A. Synopsis of Bill

This bill amends the Borough Code to require a court of common pleas to certify a ballot question for a decrease in size of borough council to be submitted to the voters of an eligible borough in the case where at least 5% of the registered electors of that Borough have petitioned the Court asking for such a reduction.

B. Summary and Analysis of Bill

This bill amends the process by which a small borough, having a population of 3,000 residents or fewer, may seek to reduce the size of its borough council from seven members to either five members or three members. To do so, interested individuals would need to prepare a petition, totaling at least 5% of the registered electors of the borough, which specifies the number of members of council proposed. When the petition is presented to the court of common pleas, the court must certify it to instruct the county board of elections that the question should be presented for a referendum vote in the borough at the next general election scheduled no sooner than the thirteenth Tuesday following the date of the petition. Upon receipt of the certified election results, the court is instructed to issue a final decree granting or denying the petitioner's request. If the petition is successful, transition to the new size of council shall proceed according to current law. No petition under this mechanism may be considered by the court more often than once every five years.

This act would take effect immediately.

C. Relevant Current Law

In the Borough Code, the current mechanism to reduce the size of borough council gives the court of common pleas direct discretion to make a change to the size of council after receiving a petition from five percent of

the borough's electors. Although a proposal to reduce the size of borough council would be advertised in a newspaper, and an opportunity to respond to the petition before the court would be available to the public at a hearing, the final decision is delegated to the court, not the will of a majority of the electorate.

Existing law also provides a mechanism which applies to the next two municipal elections following a decision to reduce the size of council. The provision dictates how many members of council will be elected at the next two elections to effectuate the change in council and maintain staggered terms. Although the bill would alter the method by which a change in council was adopted as discussed in the summary and analysis above, the mechanism applying to the next two elections would remain unchanged.

D. Background of Bill

The Pennsylvania State Association of Boroughs (PSAB) adopted resolution 2017-7 proposing that the current mechanism requiring 5% of the electors to petition the court of common pleas be replaced by a requirement that the minimum petition constitute 15% of the electors. Upon a policy review of the boroughs association's resolution, the Local Government Commission determined that it would be preferable to adopt a mechanism that seeks the consent of a majority of voters of the borough, rather than a higher petition threshold that still results in a decision made at the court's discretion.

E. Effect of Bill

This bill would place a question proposing a reduction in the size of borough council before the voters of the borough rather than at the discretion of the county court of common pleas.

F. Issues, Policy Questions and Stakeholder Feedback

PSAB supports this legislation.

G. Bill History

In the 2017-2018 Session, this legislation was introduced in the House as House Bill 2470. House Bill 2470 was referred to the House Local Government Committee on June 6, 2018, where it remained upon sine die adjournment. The legislation was also introduced in the Senate during the 2017-2018 Session as Senate Bill 1168. Senate Bill 1168 was given second consideration by the Senate on June 18, 2018. The bill was immediately rereferred to the Senate Appropriations Committee where it remained upon sine die adjournment. The legislation was not introduced previously.