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SB 687 (Printer's No. 841) Analysis

Date: May 31, 2019

**Amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes—
Clarifying permissible municipal regulation of unmanned aircraft**

Prime Sponsor: Senator J. Ward

A. Synopsis of Bill

This bill clarifies that municipalities have the power to regulate the operation, use, and retrieval of unmanned aircraft on municipal property.

B. Summary and Analysis of Bill

This bill would amend Section 305 (Local regulation of unmanned aircraft prohibited) of Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes (Pa.C.S.) to specify that municipalities, municipal authorities, and intergovernmental entities have the authority to regulate the operation, control, retrieval or launch of unmanned aircraft on municipal buildings, land and water. This authorization to regulate would not permit the municipality to regulate airspace over municipal property; it would solely pertain to the conduct occurring at ground level on such property.

The act would take effect in 60 days.

C. Relevant Current Law

Act 78 of 2018 amended Title 18 (Crimes Code) of the Pennsylvania Consolidated Statutes to create an offense of “unlawful use of unmanned aircraft,” which prohibited the use of unmanned aircraft for surveillance in a private place, operation in a manner which places someone in fear of bodily injury, or the use of such aircraft for the delivery of contraband to an inmate. Exemptions were provided for specified law enforcement, emergency service and official data collection purposes.

The act also added 53 Pa.C.S. Section 305 entitled “Local regulation of unmanned aircraft prohibited,” which provided that the new Crimes Code provision preempted and superseded any ordinance or enactment of a

municipality regulating the use or operation of unmanned aircraft. The section preserved the power of a municipality to use an unmanned aircraft for “municipal purposes” and regulate that use.

D. Background of Bill

Commission staff received several inquiries from municipal officials asking whether the preemption in 53 Pa.C.S. Section 305 prohibited municipalities from regulating the *private* use of unmanned aircraft on municipal property. Although some municipal solicitors suggested that municipalities could enact such regulations under existing police power, clarification would provide greater certainty to municipalities as use of unmanned aircraft continues to rise.

The Pennsylvania Game Commission promulgated 58 Pa. Code Section 135.41(c)(23), a regulation which vested in the Game Commission the power to regulate unmanned aircraft on its property. The language in that regulation served as the template for the provisions of this bill.

E. Effect of Bill

This bill would provide greater certainty to municipalities with regard to the scope of their authority to regulate conduct relating to unmanned aircraft on the property of that municipality without violating the preemption on regulating airspace contained in federal law and regulation and without violating the original scope of the Crimes Code provision added by Act 78.

F. Issues, Policy Questions and Stakeholder Feedback

The Pennsylvania Game Commission was consulted on the language contained in this bill. Feedback from the Federal Aviation Administration has been solicited, but not yet received. The following local government associations have expressed support for the concepts contained in this bill.

- County Commissioners Association of Pennsylvania
- Pennsylvania Municipal League
- Pennsylvania State Association of Township Supervisors
- Pennsylvania State Association of Boroughs

G. Bill History

No prior history