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HB 1233 (Printer's No. 1324) Analysis

Date: May 24, 2023

**Amending Title 53, Ch. 11 to provide for emergency meeting powers and local
emergency officer succession**

Prime Sponsor: Representative Freeman

A. Synopsis of Bill

This bill would revise the emergency powers to designate a temporary seat of government and provide for emergency succession of officers during an emergency.

B. Summary and Analysis of Bill

- I. **Emergency Seat of Government.** Permit a municipality to establish a temporary location for the purpose of holding public meetings during an emergency declared by the governor or by a local authority that renders holding meetings at the ordinary location unsafe, hazardous or impossible. Such a meeting may be held at any other place in the municipality, or in an adjacent or nearby municipality.
- II. **Emergency Remote Meetings.** Permit a municipality that is currently subject to a requirement to establish a quorum in person to hold a remote public meeting by authorized telecommunications device during a declared emergency where an in-person meeting would be unsafe, hazardous or impossible. This meeting would allow the body holding the meeting to establish a quorum and take official action during the remote meeting. The following conditions apply:
 - a. The municipality must give 24 hours of advance notice of the meeting by posting a notification on its website or by publishing the notice in the newspaper. Other notice and posting requirements under the Sunshine Act should be followed to the greatest extent practicable.
 - b. The meeting must include remote public participation by members of the public to the extent possible.
 - c. The body may not remote meetings in response to an emergency for a period longer than 21 days following the emergency declaration unless the governing body adopts a resolution

establishing that it is necessary to hold a remote meeting to comply with a disaster emergency declared by the Governor as extended by the General Assembly.

III. Emergency Succession of Officers. An officer in a municipality may establish, by title, an emergency successor to carry out the duties of the office during a declared emergency under the following conditions:

- a. The officer is unavailable during the emergency (due to vacancy, or because the officer is unable to execute the duties of the office), and no deputy is available to fulfill the duties of the office.
- b. The emergency successor may carry out the duties of the office until:
 - i. The officer, or authorized deputy, is no longer unavailable.
 - ii. The vacancy is filled.
 - iii. The emergency declaration expires or is rescinded.

IV. If the meeting location is changed under I or II, the governing body shall post information on how to access the meeting at the entrance of the location where the municipality's meetings are regularly held, except in the case when it is unsafe, hazardous to human health or impossible.

C. Relevant Current Law

Under current law, designation of an emergency meeting location outside of a political subdivision is authorized only during an "enemy attack". Additionally, the emergency officer succession provisions apply only when an officer becomes available because of an "enemy attack". No current provision of law expressly authorizes remote public meetings during an emergency after the expiration of the remote meetings provisions in Act 15 of 2020.

D. Background of Bill

The Covid-19 pandemic highlighted the need for emergency alternative procedures for local governments. Many local governments moved public meetings out of municipal buildings and into semi-sheltered outdoor areas like salt sheds or park pavilions in an effort to limit the spread of Covid-19. Seeing these innovations in action also highlighted the potential that a local government may need flexibility to hold meetings in a nearby high school because a municipal building is damaged by floodwaters or hold an emergency remote meeting during a snow emergency where driving would be dangerous. In addition, the General Assembly had previously enacted emergency succession procedures to address unavailability that might occur during the chaos of wartime conditions. These same needs could arise during other emergency circumstances.

E. Effect of Bill

This bill would give additional flexibility to local government officials to address the challenge of holding public meetings and exercising officer duties during future emergencies.

F. Issues, Policy Questions and Stakeholder Feedback

This language has been shared with the Department of Community and Economic Development, County Commissioners Association of Pennsylvania, Pennsylvania Municipal League, Pennsylvania State

Association of Township Commissioners, Pennsylvania State Association of Boroughs and Pennsylvania State Association of Township Supervisors.

Comments received from the County Commissioners Association of Pennsylvania have been incorporated into this bill.

G. Bill History

In the 2021-2022 Session, this bill was introduced as House Bill 2253. House Bill 2253 passed the House unanimously and was referred to the Senate Local Government Committee where it remained upon sine die adjournment. This legislation was also introduced in the Senate during the 2021-2022 session as Senate Bill 1052. Senate Bill 1052 passed the Senate unanimously and was referred to the House Local Government Committee where it remained upon sine die adjournment.