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ACT 2 OF 2024

SB 753 (Printer's No. 800) Analysis

Date: March 28, 2024

**Amending the Borough Code—Making Technical/Clarifying Changes, Providing
Additional Authorization to Increase or Decrease Council Size, and Revising
Provisions Regulating Municipal Waste on Public and Private Property**

Prime Sponsor: Senator Kearney

A. Synopsis of Bill

Makes various technical changes and clarifications to the Borough Code. The legislation also provides for the reduction of council membership from 7 to 5 or 3 members regardless of borough population, and conversely increase council size, repeals current provisions in the Borough Code regulating the accumulation and collection of garbage and other refuse materials and creates a new chapter 25B "Solid Waste Collection and Disposition."

B. Summary and Analysis of Bill

The legislation amends the Borough Code in Title 8 of the Pennsylvania Consolidated Statutes by making technical changes and clarifications to the following sections:

Section 704(a) (Associations and organizations for mayors)—Clarifying amendments. Specifies that council shall pay reasonable dues not to exceed \$100 for a mayor to join an any mayors' association if requested by the mayor.

Section 704(b)—Clarifying amendment to revert to "shall" which was changed to "may" in the Title 8 consolidation (Act 34 of 2014). This subsection relates to a mayor "shall" receive reimbursement for specified expenses in attending an annual meeting if requested by the mayor. Section 4 of Act 34 provided an exclusive list of substantive changes in the consolidation and section 704 was not included in that list. Thus, reinstating "shall" is not a substantive change here.

Section 801(a) (Eligibility)—Clarifying amendment and inclusion of the provisions of Act 54 of 2017 relating to active military service.

The legislation amends Sections 806 (Officers elected) and 818 (Decrease in number of members of council) to remove the minimum population requirement for decreasing the number of council members from seven to five or three, provide for a similar increase in council membership to five or seven, and require the court of common pleas to establish a schedule for the subsequent election of council members.

Section 1104(c) (Appointments and incompatible offices)—Technical amendment.

Section 1122(a) (Police serving under cooperative agreement or contract)—Technical amendment.

Section 1202(8) (Specific powers, solid waste)—Repealed due to the addition of new chapter 25B.

Section 1316(c)(9) (Investment of funds)—Technical amendment.

The legislation also creates new chapter 25B “Solid Waste Collection and Disposition,” which delineates regulation of the accumulation, collection and disposal of municipal waste and recyclables and contracts, rates and charges related thereto, closely tracking provisions in the Third Class City Code and Second Class Township Code. “Municipal waste,” with a cross-reference to the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101 of 1988), is now used in place of ashes, garbage, rubbish and refuse materials; a similar change was made to the County Code rewrite, Act 154 of 2017 (SB 1005).

Section 3301.1(b)(2) (Ordinances and resolutions)—Removing language that is the subject of an ordinance requirement, and which has been interpreted as creating an ambiguity as to the process of borough budget enactment. The listing of those actions requiring an ordinance in section 3301.1 does not affect the substance of other sections in the Code that may specifically require an ordinance.

Section 3301.2(a) (Publication of ordinances)—Clarifying amendment.

C. Relevant Current Law

Act 37 of 2014 incorporated the provisions of the Borough Code, the act of February 1, 1966 (1965 P.L. 1656, No. 581), as amended and reenacted by Act 43 of 2012, into Title 8 (Boroughs and Incorporated Towns) of the Pennsylvania Consolidated Statutes.

D. Background of Bill

The Pennsylvania State Association of Boroughs (PSAB) formally requested the Local Government Commission to introduce legislation to resolve some inconsistent provisions in the Borough Code, as well as make technical changes due, in part, to subsequent statutory enactments by the General Assembly. PSAB also requested that the current provisions in the Borough Code regulating the accumulation of ashes, garbage, rubbish and refuse materials be revised and aligned with analogous provisions in the County Code, Third Class City Code, Second Class Township Code and the draft of the revised First Class Township Code.

E. Effect of Bill

Further modernizes the Borough Code.

F. Issues, Policy Questions and Stakeholder Feedback

The Pennsylvania State Association of Boroughs support this legislation.

G. Bill History

In the 2021-2022 Session, this bill, without the council modification provision, was introduced as House Bill 1184. The bill was passed in both chambers but was ultimately vetoed by the Governor over his objection to an amendment. This legislation was also introduced in the Senate during the 2021-2022 Session as Senate Bill 480. Senate Bill 480 passed the Senate unanimously, and after second consideration in the House, was re-referred to the House Appropriations Committee where it remained upon sine die adjournment.