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SB 765 (Printer's No. 863) Analysis

Date: June 13, 2023

**Amending the Borough Code—Modernizing provisions related to surcharge,
borough managers, organization of the civil service commission and budget adoption**

Prime Sponsor: Senator Comitta

A. Synopsis of Bill

Makes four specific changes to the Borough Code in a manner consistent with recent revisions to the First Class Township Code as comprehensively updated by Act 96 of 2020.

B. Summary and Analysis of Bill

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

Section 1059.3 (Surcharge by auditors)—Adds language providing that an elected or appointed official of a borough may not be surcharged if the official acting in good faith on a written or publicly-disclosed opinion of the borough solicitor.

Sections 1141-1143 (Borough manager, Generally)—Authorizing a borough to appoint a partnership, limited partnership, association or professional corporation as the borough manager.

Section 1174 (Organization of the civil service commission)—Permitting the civil service commission of a borough to reorganize within 30 days of the first Monday in January of each even-numbered year.

Section 1307 (Preparation of budget)—Removing a requirement that a preliminary budget be prepared beginning at least 30 days prior to the adoption of the budget.

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.

Currently, Section 1059.3 of the Borough Code contains no protection for a borough official who, by unauthorized official action, causes a financial loss to the borough, even if they relied on the opinion of the borough solicitor.

Sections 1141-1143 of the Borough Code permit only an individual to be appointed and employed as the borough manager.

Section 1174 of the Borough Code requires that a civil service commission organize on the first Monday in January in even-numbered years.

Section 1307 requires that the preliminary budget be prepared beginning at least 30 days prior to the adoption of the budget.

D. Background of Bill

The Pennsylvania State Association of Boroughs (PSAB) formally requested the Local Government Commission to introduce legislation to modernize provisions of the Borough Code in a manner consistent with recent changes to the revised First Class Township Code.

E. Effect of Bill

Provides further consistency among municipal classifications for procedural issues.

Offers greater autonomy for a borough to receive management services.

Provides greater flexibility for civil service organization.

Provides clarifying changes and greater flexibility for budgetary procedures.

F. Issues, Policy Questions and Stakeholder Feedback

The Pennsylvania State Association of Boroughs supports this legislation.

G. Bill History

In the 2021-2022 Session, this bill was introduced as Senate Bill 674. Senate Bill 674 passed the Senate unanimously and was referred to the House Local Government Committee where it remained upon sine die adjournment. This legislation was also introduced in the House during the 2021-2022 session as House Bill 1350. House Bill 1350 passed the House 196-3 and after second consideration in the Senate, was re-referred to the Senate Appropriations Committee where it remained upon sine die adjournment.