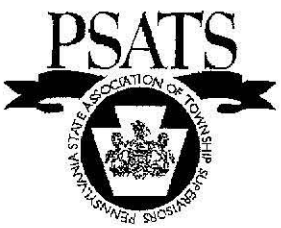

TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

BEFORE THE
HOUSE LOCAL GOVERNMENT COMMITTEE

ON

HB 2085 AND HB 1237

PRESENTED BY

ELAM M. HERR
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Chairman Freeman and members of the House Local Government Committee:

Thank you for the opportunity to comment today. My name is Elam Herr and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. We appreciate the opportunity to provide you with comments on behalf of the 1,455 townships in Pennsylvania represented by the Association.

Townships comprise 95 percent of the commonwealth's land area and are home to more than 5.4 million Pennsylvanians — nearly 42 percent of the state's population. These townships are very diverse, ranging from rural communities with fewer than 200 residents to more populated communities with populations approaching 70,000 residents.

The proliferation of outdoor advertising is a contentious issue that affects communities of all sizes. Implementing reasonable controls that balance property rights and the health, safety, and aesthetics of the community can be challenging. Many townships currently regulate signage in their communities through either a stand-alone ordinance or a zoning ordinance.

While the Association does not have a specific policy position on this issue, we will provide comments today on **HB 2085** *(PN 2900)* and **HB 1237** *(PN 1470)*, both of which would clearly authorize local governments to restrict the size and location of off-premise outdoor advertising.

Our members have varied opinions about the importance of regulating signs. The Association believes that townships should have reasonable authority to regulate signs in their communities, but should not be mandated to adopt or implement such regulations. Any legislation in this regard should be reasonable and not require the township to jump through hoops in order to regulate signage.

HB 2085 would amend the Pennsylvania Municipalities Planning Code to prohibit the location of off-premise advertising signs within 500 feet of an existing school, playground, park, residential housing area, child care facility, church, meetinghouse or other actual place of regularly stated religious worship or state-designated highway. The legislation gives municipalities authority to override this prohibition and permit advertising signs within the exclusion zone after providing all property owners within the exclusionary zone with written notice of its intent and holding one or more public hearings pursuant to public notice.

The definition of "advertising sign" in the legislation is fairly broad and would include any sign that is at least 32 square feet, located on a pole, and internally illuminated with changeable lettering, as well as any outdoor, off-premise sign that is on leased or rented property. While there is no definition of state-designated highway in the bill or the MPC, the definition in the state Vehicle Code includes nearly all state-owned highways.

While this legislation would provide a mechanism for a municipality to override a

state prohibition, municipal officials would be unlikely to do so from both a practical and political standpoint. The legislation appears to leave consideration of such applications to the prerogative of the municipality, however, this is unclear. If the municipality received a permit application, would it automatically be required to consider the application or could the municipality disregard the application? Could an applicant appeal to the zoning hearing board when denied a permit by the municipality? In addition, the notice and hearing provisions would be unlikely to draw out supporters of overriding the state ban. We believe that the end result of this legislation would be that few, if any, municipalities would override a state ban.

Also, the bill does not specify how the written notice must be made. It appears that this would have to done via certified mail, which would be an added expense. In addition, the state prohibition is only for *existing* facilities and does not clarify if the ban would apply to a *new* school, church, or playground. Also, what happens to existing signs? The bill does not say if these signs would be grandfathered or how noncompliant signs should be treated. Is this placing another cost on municipalities as far as a "takings" issue since a municipality could override the state's veto?

In the end, it is a public policy decision for the General Assembly whether to prohibit such signs in the Commonwealth. If the decision is to ban such signs, we suggest that a statewide ban be put in place and that municipalities not be placed into the difficult position of overriding a state ban or the legislation be amended to remove any financial burden on the municipality.

HB 1237 would provide municipalities with three options for placing reasonable restrictions on the size and location of outdoor advertising devices. It is our read of the bill that these provisions are intended to be separate options. The bill appears to include a reasonable definition of outdoor advertising device, which excludes on-premise signs, traffic, directional, and informational signs regulated or approved by PennDOT or the Federal Highway Administration.

Section 6 of HB 1237 would permit municipalities to regulate off-premise signs by a stand-alone ordinance and appears to bolster current authority to regulate signage. Municipalities without zoning would need to adopt ordinances with standards that are in accordance with the Outdoor Advertising Control Act of 1971 and its regulations. Those municipalities with zoning could condition a permit on compliance with all applicable ordinances adopted under the MPC. In either case, a sign administrator would be required to review applications within 60 days of receipt. However, it is not clear what would happen if the sign administrator failed to take action on the application within this time frame or if the sign administrator could also be a code officer or zoning officer. The bill would require appeals of sign administrator decisions to be made to the municipal governing body, even for those municipalities with zoning in place. Overall, this section appears to be fairly reasonable.

Section 5 of the legislation would permit those municipalities with zoning to implement a highway corridor overlay district within 660 feet of the nearest edge of the

right-of-way of any highway or portion of a highway within the municipality. The overlay district would be required to include provisions for abandoning and removing noncomforming signs and would require payment if the municipality removed a noncomforming sign without the consent of the owner. We question why an owner would ever consent to removal.

HB 1237 does contain language in Section 5(d) that would require highway corridor overlay zones to be designated in a park, recreation and open space plan, or a comprehensive plan recommended by the planning commission of the municipality in which the real property is located and adopted by that municipality's governing body. We believe that requiring inclusion in the recreation plan or comprehensive plan could serve as a barrier to implementing such overlay zones. However, the requirement that these provisions be *recommended* by the planning commission and then adopted by the municipal governing body appears to be excessive. What if the governing body made the recommendation for the overlay district as part of an amendment to the comprehensive plan and the planning commission failed to comment during the amendment process? Would such a situation serve to prohibit the municipality from otherwise implementing an overlay zone?

This provision goes on to provide for a situation where a municipality has zoning in place but no planning commission and would require the county planning commission to recommend the inclusion of overlay zoning in the recreation or comprehensive plan. Most county comprehensive plans are not that municipal specific. Again, we think this provision is excessive and would serve as an unnecessary barrier to implementing an overlay zone.

Finally, Section 4 would authorize municipalities and land trusts to obtain highway corridor conservation easements as a fee simple interest in real property. This provision would likely be used the least often due to the cost of acquiring these easements and the restrictions placed on municipalities contemplating the use of this provision. A municipality would have to designate the real property as a potential easement in a park, recreation and open space plan, or a comprehensive plan before acquisition could be made. Similar to the provision above, the planning commission would have to recommend this language for inclusion in the recreation or comprehensive plan prior to adoption by the municipality's governing body. Again, we feel this is excessive. Simply requiring these easements to be contained in the recreation plan or comprehensive plan will serve as a serious barrier to acquiring such easements.

While both bills under discussion today could accomplish the objective of placing restrictions on off-premise advertising in the commonwealth, HB 1237 would give municipalities some flexibility in accomplishing these goals and, with a few amendments, could be workable tool for municipalities wishing to regulate off-premise outdoor advertising.

Thank you for the opportunity to testify before today.