



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
HOUSE LOCAL GOVERNMENT COMMITTEE**

ON

SB 1261 (PN 1625)

PRESENTED BY

**ELAM M. HERR
ASSISTANT EXECUTIVE DIRECTOR**

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HARRISBURG, PA**

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Chairman Creighton and members of the House Local Government Committee:

Good afternoon. My name is Elam M. Herr, and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,455 townships in Pennsylvania represented by the Association.

Our townships comprise 95 percent of the commonwealth's land area and are home to more than 5.5 million Pennsylvanians — nearly 44 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 60,000 residents.

Over the last several years, we have heard from our members about a series of unfunded environmental mandates from the U.S. Environmental Protection Agency that expands municipal responsibility for the oversight of the quality and quantity of both public and private storm water discharges. Currently, it is estimated that the costs of the improvements that municipalities will be required to undertake and manage could exceed several billion dollars, which is money that our members simply don't have.

PSATS will continue to work with its members, the state Department of Environmental Protection, EPA, and the Pennsylvania Congressional delegation to try to decrease the costs of these mandates and try to ensure that any action that municipalities are required to take has the biggest impact on the environment at the least cost. However, it appears clear that while we may be able to reduce the cost of these mandates, eliminating this expense altogether is simply not going to happen in the current environment. As such, townships are faced with a significant expense without a mechanism, other than increased property taxes, to equitably share this cost with the residents and businesses in their communities.

SB 1261 (*PN 1625*) would amend the Municipal Authorities Act to provide for the establishment of municipal authorities for storm water management planning and projects. While we agree that establishment of a municipal authority for these purposes should be a legitimate option, we believe that the bill, as written, lacks needed detail.

How much independent power and discretion would this proposal give to an authority board for storm water management and planning purposes? As written, it appears to be unlimited within the confines of the Municipality Authorities Act. This means unlimited discretion in terms of the types of projects it may choose to undertake that relate to storm water management planning and projects (*Section 5607(c) of the MAA*); unrestricted ability to determine rates for charges to perform these functions and repay any debt that the board decides to issue to fund these projects (*Section 5607(d)(9) of the MAA*); and the ability to use eminent domain to acquire the property needed to carry out its mission, both inside and outside of the forming municipality or municipalities (*Section 5607(d)(15) and Section 5615(b) of the MAA*). We believe these items should be addressed within the legislation.

Another issue is that under EPA regulations, the municipality is responsible for the Municipal Separate Storm Sewer System (*MS4*) permit and for carrying out the duties under the permit. As we understand it, there is no way to transfer the permit responsibility to an authority. SB 1261 would empower the municipal authority board to make decisions on which projects to undertake and how and who to levy fees to pay for these projects.

While the intent may be for the elected board and the appointed board to work together, this doesn't always happen. In those cases, we could have the appointed authority board undertaking projects that are different from what the elected municipal leaders want or need to comply with its MS4 permit. The municipality would still need to pay for the needed projects, but the residents could end up paying twice – once through fees for the projects the authority decides to undertake and once through taxes for the projects the municipality must perform. Our MS4 municipalities are already struggling with a 500 percent increase in permit fees from DEP (*from \$500 to \$2,500*).

A final concern is that if municipalities are required to perform storm water management responsibilities beyond Act 167 of 1978 as a result of MS4 permits, then they should be given options of how to raise the revenues needed to fund these expenses. While a municipal authority's fee structure may be one option, we believe that consideration should also be given to amending the municipal codes or creating a stand-alone piece of legislation that would provide an allowable menu of charges for storm water management and planning, similar to what is currently provided for street lights, sanitary sewers, and water service in the Second Class Township Code. These provide for a menu of charges from front-footage assessments, to assessments by district, to equal charges or assessments based on the county tax assessment for each property.

In closing, we understand the magnitude of the expensive unfunded storm water mandates that municipalities are facing and believe that a means to pay for the unmitigated portion of these expenses is needed. While SB 1261 is one means to achieve that goal, we believe that it leaves a number of unanswered questions that should be addressed in the legislation. Other alternatives to financing these expenses should be considered, including authorization for fee imposition.

Thank you for the opportunity to testify before you today and I will now attempt to answer any questions that you may have.