

TESTIMONY ON HB 2408  
AMENDMENTS TO THE PENNSYLVANIA SUNSHINE ACT

PRESENTED TO THE  
HOUSE STATE GOVERNMENT COMMITTEE

BY

DOUGLAS E. HILL  
EXECUTIVE DIRECTOR

September 16, 2014  
Harrisburg, PA

On behalf of the County Commissioners Association of Pennsylvania (CCAP), I want to thank Chairman Metcalfe, Chairman Cohen and members of the House State Government for the opportunity to submit comments on House Bill 2408 that would amend Pennsylvania's Sunshine Act. The CCAP is a non-profit, non-partisan association providing legislative and regulatory representation, education, research, insurance, technology, and other services on behalf of all of the Commonwealth's 67 counties.

The Pennsylvania Sunshine Act took effect in 1987, and requires all public agencies, including counties, to take all official actions and conduct deliberations leading up to official actions at public meetings. Counties agree with the importance of openness, transparency, and accountability while maintaining an appropriate balance between access to information and economic feasibility, and we participated actively in the bill's development and supported its final passage.

Under current law, counties must provide public notice of their first regular meeting of the calendar or fiscal year and the schedule of its remaining regular meetings at least three days before the first meeting. Notice of the meeting also must be prominently posted at the principal office of the agency or at the public building where the meeting is to be held. This concept, which assures public notice while at the same time providing some levels of advertising efficiency, has been the norm for a considerable time, even predating the existing law.

House Bill 2408 would require public agencies to provide an additional notice at least 24 hours in advance of every regular meeting, and would require the notice to include the meeting agenda. Any business matter not on the schedule would be precluded from official action, with the exception of emergency matters affecting safety of individuals or security of property.

CCAP opposes the legislation. The requirement to publish an additional 24-hour notice would be an unnecessary and unfunded mandate on public bodies; the requirement to include an agenda in the published notice would significantly increase the advertising costs; and the prohibition of official action on non-advertised agenda items would prevent local governments from promptly responding to time-sensitive issues.

At the county level, just under half of our boards meet on a weekly basis and the remainder meet at least bi-monthly. In addition, they may have work sessions in between, which are also covered by the Sunshine Act. Counties also have a significant number of other boards, which also must meet the law's requirements, including among others the salary board, prison board, pension board, workforce development board, nursing home board, transit board, assessment board, election board and the boards of various human services agencies and jointers.

The volume of ads required would be cost-prohibitive and serve little additional public purpose; all of these boards do summary advertisements at the beginning of the year, and the public never complains about the lack of scheduled meeting notice.

Additionally, almost all (if not all) counties post their regular meeting schedule, and notice of special meetings, on their websites, which is increasingly the first place the public looks for

meeting notice. Many counties also maintain lists of media, and provide public sign-up, for direct emails of meeting notices and other public announcements.

House Bill 2408's concurrent requirement that the meeting agenda be published with the notice increases the costs exponentially. The current summary advertisement is usually a couple lines or short paragraph in length, while a typical agenda can run several pages, even in summary form. Newspaper advertising costs are gauged by the word or by the line, so the inescapable conclusion is that many more ads, of much greater length, would significantly increase advertising costs.

The prohibition against official action on matters coming before the body that were not contained in the advertisement severely constrains our ability to serve the public, in different ways.

First, as a practical matter, in many counties the local news publication and deadline schedules would not match the frequency of counties' publication need. Many counties' media markets are weekly papers, and even in Harrisburg the major publication is no longer a true daily; we know that in their case the lead time for publication can be four days. Given the volume and timing of our meetings, this could mean delays in action on matters that are important to our constituents, inasmuch that issues coming up in the intervening time between publication deadlines and the meeting date could not be added to the agenda.

Second, even in counties with true dailies, we often have matters such as grant application approvals or state contracts which, although not presenting clear and present danger, are time-sensitive and may arise within 24 hours of a meeting. House Bill 2408 would not allow counties to proceed with deliberation in those instances, potentially jeopardizing their ability to secure funding opportunities or to move forward with timely projects or programs in an efficient manner.

Third, a 1993 amendment to the Sunshine Act requires the boards or councils of political subdivisions and authorities created by political subdivisions to provide a reasonable opportunity for public comments at each advertised regular and special meeting. Publication of every matter that may or may not be discussed as required under HB 2408 prohibits elected official's use of discretion and prevents county governments from being able to respond promptly to the public's issues and concerns. For example, if a constituent attends a meeting and raises an issue not listed on the agenda, would the government agency be compelled to tell that individual that he or she must wait until a subsequent meeting so the issue can be placed on the agenda and properly noticed?

Counties take their responsibility to include the public in the governance process seriously. Many counties, like the General Assembly, already post meeting agendas on their website. But like the General Assembly we indicate other business may come before the body. We understand the sponsors' concern with the potential for major issues sometimes coming late to an agenda, but we note both that in those rare instances that it occurs it has a governance necessity, and that there are very few documented circumstances where it can be argued that the scheduling is for the purpose of circumventing public awareness and input.

We look forward to working with you on matters affecting the Sunshine Act and related county responsibilities. I would be happy to discuss these comments further and answer any questions you may have at your convenience.