

Sept. 16, 2014

Chairman Metcalfe and committee members:

I would like to thank you for the opportunity to take a few minutes to talk with you about House Bill 2408.

My name is Shane Fitzgerald, and I am the Executive Editor of the Beaver County Times. We are a daily newspaper that serves 33,000 Beaver and western Allegheny County print readers, and another 16,000 unique visitors daily to our website at www.timesonline.com and receive about 1.6 million page views per month. The paper is in its 140th year of serving our community, the past 77 years under Calkins Media's ownership.

In my 27-year career, I've worked at small, medium and large newspapers in Livingston, Montana; Denver, Colorado; Corpus Christi, Texas; and, for the past 13 months, in Beaver County, Pa. I currently serve on the boards of the Pennsylvania Freedom of Information Coalition and for the Pennsylvania Associated Press Managers Editors. For most of my 10 years in Texas, I served on the Freedom of Information Foundation of Texas, the Legislative Advisory Committee that provided counsel on media and open-government-related bills, and I am a past president of the Texas Associated Press Managing Editors.

The first thing I think is pertinent to point out is that 29 states currently have laws in place that require at least 24 hours' notice of what will be discussed at any public meeting, and 12 of those states have the same time requirement as this bill proposes. Two of my states (Colorado and Texas) require published agendas before a meeting, and two do not (Montana and Pennsylvania).

I would like briefly to share my Texas experience, mostly because of the similarities in government structure to Pennsylvania. Texas' first version of the Open Meetings Act came in 1967 and slowly has morphed into one of the more progressive laws of its kind. It requires 72 hours' notice for any public entity to publish an agenda and they were very specific topics – no item can be discussed at that public meeting if it is not on the agenda.

While on the surface that could be perceived as onerous and restrictive – it certainly was thought that way in some corners before that requirement was enacted – it actually has provided government bodies with an aura of transparency in their communities that doesn't seem to be present here in Pennsylvania. While in Texas, I recall several conversations with city council and school board members and Corpus Christi mayors Joe Adame and Nelda Martinez who saw great benefit in having such clear direction in the law. Often, if an issue would get heated, particularly during a public comment session, the elected officials could politely assure a constituent that their issue could be discussed at the next meeting and in the meantime work could get done in the interim.

Rep. Todd Hunter, R-Corpus Christi, who is the Calendars Committee chairman in Texas, which is arguably the second-most prominent member of the House of Representatives behind the Speaker of the House, championed several open government initiatives. He often told me that he believed good transparency led to the good communication which led to good government. He didn't want anyone thinking government officials were purposely hiding anything from the public and that being up front with the public was far better. He knew there were enough other misperceptions out there, that having open agendas were one major help to being able to talk about the importance of transparency with credibility.

And it is clear that open agendas increase public involvement.

We have a good example of this recently in our coverage area. Moon Area School District, which is one of the few that willingly posts public agendas before its meetings, showed how what could have been a terrible negative became more positive. The school district had listed five proposals to the community that included closing zero, one or two of the local elementary schools, and the district gave the public several months to offer input. The night the final decision was to be made, a vocal group of parents came to the podium for several hours – the meeting started at 7 p.m. – to try to save their school from being closed. Into the early-morning hours, a couple of board members decided they had been swayed and suggested an alternative that included closing a school that wasn't even on the list of the original five proposals and perhaps consolidating with another small, adjacent school district. That

obviously pleased the people who went to the meeting, but it was a complete shock to those tied to the school now slated for closure. Cooler heads prevailed, and the board tabled the vote so it could get public feedback on the abrupt change in plans.

The superintendent the next day gathered with many parents to talk about what the school board wanted to do. One parent made the best point in terms of the discussion we are having about this bill: After the meeting, one mom, Michelle Carrier, lamented about the switch to close Hyde Elementary, saying she never thought her school was a consideration. “We were never on the chopping block. My head was never in the guillotine,” Carrier said, explaining why she didn’t attend previous school board meetings. “We don’t want to be blind-sided. I feel that’s what happened.” She is a busy mother who relied on the agenda to know whether she should attend the meetings. I can only imagine if Moon hadn’t been transparent, and what might have happened, given the fervor the night on which the decision was supposed to be voted upon.

Where Texas and Pennsylvania have tremendous similarities are in the sheer number of municipalities and school districts. Colorado and Montana were far more streamlined with government entities largely county-based. Texas and Pennsylvania are far more hyper-localized. Beaver County has about 175,000 people who live there, and there are 54 municipalities and 14 school districts. That’s a little more than 3,000 people per municipality and a little more than 12,000 people total per school district.

So what happens in one small community or district likely will affect someone in a nearby community or district. Public agendas aren’t just for the people who are served by that one entity. Public agendas serve the entire surrounding community, including the business community. It’s important to know about zoning changes or board appointments or replacement or new business tax breaks or infrastructure needs that might raise taxes, to scratch the surface of the possibilities of what could matter to someone.

I will give you an example from our area of how a public agenda almost certainly would have headed off a blatant conflict of interest. Freedom Borough residents had voted out a council member in November. That council member was back in office in January as an appointment for a vacancy. It just happens that three other members of the seven-member council were relatives and made the appointment, giving the family a quorum. And no, the appointment wasn’t on a public agenda on which anyone could comment or where a watchdog such as my newspaper could have seen it. We did a story after the fact, but it was too late at that point.

Stories like that give Pennsylvania politics a black eye. And I’m sure some of my friends from other media organizations are going to share horror stories with you after me.

From my experience, I can imagine some concerns that might crop up, so let’s talk about a few of them.

- The idea that additional public notice requirements will cost more and is an unfunded mandate.
 - It’s not. The bill requires the posting at the meeting site, and if a website is available, to post it there, too. It doesn’t require entities to build a website. If it has a website, it has to post it there but doesn’t require it to build one. The cost is the sheet or sheets of paper that will be printed for the meeting already, plus one.
- Concern over stopping someone during the public comment portion of a meeting.
 - It doesn’t stop the constituent. That person can keep talking based on the standard procedure of the entity. It does keep the government body from deliberating it until the topic has been put on an agenda. I would suggest that taking the time to put it on the next meeting’s agenda almost always will be more positive than negative, especially if it’s a hot-button item. Cooler heads usually prevail.
- Concern over stopping a true emergency item
 - In Section 712.1 (b), there is a clear provision to address emergency items regarding clear and present danger to lives or property that are excluded.

Unfortunately far more examples exist where too much government is going on behind the scenes and out of the spotlight. This bill takes steps toward transparency.

In my own county, I would be remiss if I didn’t mention two positive stories. First, Blackhawk School District, which has had as contentious debate on a teachers contract as any around. But these items always are on their agenda and it broadcasts via video on their website so the public can see for itself what is going on. It might feel messy at times, but school board members have

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expressed to me they have no regrets at all about being up front and involving the community in the discussion, no matter how difficult it might be on a given evening.

The other is our local County Commissioners, who in the past month started posting public agendas 24 hours in advance of their meeting. The county commissioners have come under great fire from our newspaper for open records and open meetings disputes on a variety of topics, particularly in the past year. But to their credit, they do understand the value of trying to change the perception and trying to show transparency. The turning point came when one of their constituents, Chippewa Twp. Attorney David Lozier, came to a commissioners meeting and asked the commissioners to post agendas 48 hours in advance. He noted how the commissioners were about to pass 78 resolutions with a single motion during the meeting. Commissioners hold workshop meetings before regular meetings where attorneys often explain key resolutions to officials, but regular meetings can take less than 10 minutes. The commissioners saw his point. And acted.

Commissioners did express concern that they may tweak agenda items, but Commissioner Dennis Nichols also suggested such adjustments are rare. But now they posting their agenda items, and nothing bad has happened, despite their initial fears.

Pennsylvania residents need and deserve to have as much information as possible before their elected officials make decisions with their money. If that means preparing an agenda a couple days in advance and walking it over to the meeting place to post it or uploading it to a website, that seems like a heck of a service – and an inexpensive one – to the people who are paying the bills. This is a great bill to build trust. It inherently is transparent, and the requirement only helps government bodies connect with their constituents.

I urge you to pass HB 2408.

Sincerely,



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