



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

**BEFORE THE
HOUSE URBAN AFFAIRS COMMITTEE**

ON

HOUSE BILL 2122 (*PN 3101*)

PRESENTED BY

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Chairman Keller and members of the House Urban Affairs Committee:

Good morning. My name is Melissa Wilbur Morgan and I am the Legislative and Policy Analyst for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,454 townships in Pennsylvania represented by the Association. Our members range in size from a couple of hundred residents to over 60,000 people and cover 95 percent of Pennsylvania's land mass.

While **HB 2122** (*PN 3101*) only affects townships located in Allegheny County, our membership has taken a strong position to oppose the concept of dissolution or disincorporation. Most recently our membership reaffirmed its opposition to any legislation that would dissolve municipalities into unincorporated territory governed by the county at our annual conference in April. As such, the Association must oppose HB 2122.

County government should not be given additional powers to administer unincorporated territory. Instead, the legislature should consider relieving unfunded mandates for municipalities, such as those requiring benefits to uniformed employees, to help alleviate financial challenges. We believe that townships are key to the delivery of local services and that requiring residents to rely on a more distant layer of government would usurp local democracy. In this proposal, the county is given primacy over an unincorporated district, despite the fact that the majority of county council members are elected from other districts within the county.

We understand that a task force created the concepts behind this legislation. It is interesting to note that there were no municipal officials on this task force. Clearly, municipal input is needed for this concept.

We must point out that this is not the first time that we have seen many of the concepts in this proposal. Similar language that contained processes driven by the state have been proposed in the past. In fact, very similar language was incorporated into Act 47, the Municipalities Financial Recovery Act, by Act 199 of 2014 as an option of last resort for financially distressed municipalities that exceed the timeframes for participation in the Act 47 program. PSATS opposed this language, which has yet to be utilized. It is possible that this procedure could be tested within the next few years as municipalities begin to be forced out of Act 47 status due to the expiration of the time limits on participation that were implemented as part of Act 199.

Local governments currently have the ability to enter into shared services agreements through the Intergovernmental Cooperation Act. This is very broad authority that, today, allows any municipality to enter into an agreement with any other local government to provide a service that the other local government is authorized and willing to provide. PSATS is a strong supporter of this act, which allows local governments to exercise their creativity and flexibility to provide services desired by their citizens at the best costs attainable. As such, we believe that municipalities within Allegheny County currently have the ability to contract with the county or another local government for a particular municipal service. As such, we believe this legislation is unnecessary.

In addition, municipalities may enter into discussions for voluntary merger and consolidation, with the approval of their electorate by referendum. PSATS continues to be supportive of merger and consolidation efforts that are driven by the community, not a state or county agency, provided they remain subject to approval by the citizens affected by any boundary change.

Following are comments specific to HB 2122:

- Why limit the municipal corporations that are eligible to become an unincorporated district administered by a county to those with a population of 10,000 or less? This makes it seem that either larger municipalities are unsuited to being administered by the county or that only those communities less than 10,000 are in need of being administered by the county. Which is it? And is there a list of possible candidates within Allegheny County that the sponsors have in mind? We have seen the list of 30 plus communities from the *Tribune Review* Right-to-Know request and observe that there are communities in excess of 10,000 population on the list, including Penn Hills, the second largest municipality in Allegheny County.
- Under the legislation, the process of becoming disincorporated could only be initiated by the governing body. Typically, boundary change legislation provides the residents of the municipality with the opportunity to initiate the process. If this is truly a viable solution, why should citizens not be able to initiate this process?
- In developing their essential services transition plan, one of the critical steps to disincorporation, the bill states that the municipality and the county “shall bear their own costs.” What is this supposed to mean? Since the plan is for the benefit of the municipality, not the county, is the municipality to pay for any costs incurred by the county? If so, how are these costs determined? Can the municipality dispute the costs?
- The legislation allows the municipality and county to rescind collective bargaining agreements applicable to the municipal employees as part of the development of the essential services transition plan. Doesn’t this contradict existing state law covering these agreements without changing it? Yes, these agreements can be very complex, expensive, and can create an enormous challenge to local governments that are attempting to offer shared services, particularly regional police departments. Wouldn’t it be beneficial to allow any municipality to rescind collective bargaining agreements that are burdensome to their community? We contend that changes are needed to our laws that mandate benefits for our public safety employees to make these services sustainable for our communities now and in the future. As an aside, rescinding collective bargaining agreements, as a tool, would enable all communities to improve their fiscal health.
- In developing the essential services transition plan, what happens to the municipal employees? Is this simply spelled out in the document itself? Will they become county employees? Will they be laid off? Will they be treated as a special class of county employee? Will they be entitled to county employee benefits?
- In developing the essential services plan, the legislation states that ordinances that will remain in effect after disincorporation will be codified. However, the negotiation phase

between the municipality and county is limited to 180 days plus a 90-day extension. If a municipality has already codified its ordinances, this may be a reasonable timeframe. However, if the municipality's ordinances are not already codified, this timeframe may be too short for codification.

- The legislation states that the plan is to include the tax rates and any changes, which will take effect when the dissolution takes effect. However, this appears to contradict with the Local Tax Enabling Act, which has strict timeframes for when certain changes can take effect, particularly the earned income and local services tax, which must go on the Local Tax Register.
- The county executive would be authorized to appoint members to any authority boards that serve the district in lieu of the municipal governing body. There is no public process to the appointment process, other than the executive is required to consult with the advisory committee.
- The plan must include the level and mode of delivery of municipal services. Is this portion of the plan to be made for the long-term or just for the transition to the unincorporated district? It also appears that once disincorporated, county council has broad authority to make whatever changes it deems necessary to this plan without meaningful input from the affected residents and businesses within the unincorporated district.
- What about administration of land use ordinances and zoning? Who appoints the zoning hearing board and municipal planning commission members? Or does the proposal's silence imply that the municipal land use ordinances would be abolished and the unincorporated district would function under county land use ordinances and administration?
- The bill proposes state grant programs to assist with the transition costs for dissolution. We must oppose these proposals as well.

District advisory committee

One of the most disturbing aspects of the bill is the district advisory committee provisions. Like most of this proposal, it is not a new concept. In this proposal, the district advisory committee would consist of three electors of the unincorporated district who would be appointed by the county executive, subject to approval by a majority of the seated members of county council. However, these committee members would serve at the pleasure of the county executive – which would appear that the county executive could remove any member at any time. Keep in mind, the district advisory committee is the only link between residents of the unincorporated district and council. The advisory committee would be required to meet at least quarterly and hold public meetings. Neither council nor the county executive would be required to attend any of these meetings but would receive a report. Essentially, the district advisory committee would function as a buffer between those deemed worthy of making all decisions regarding the unincorporated district and those who actually live there. Is this truly what representative democracy was intended to look like?

The district advisory committee would be required hold a joint meeting along with two members of county council, including one member of council that represents a portion of the

district, to accept comments from the residents on any county council proposed changes to the essential services transition plan and to make a recommendation back to council as to whether council should move forward with the proposed changes. However, nothing in the bill would require council to follow the advice of the district advisory committee and two council members. The simple fact that only two members of council would be required to attend this meeting to hear the input of those affected by the actions of council indicates volumes about how little council will be invested in the well-being of an unincorporated district. Any proposed changes would likely involve a change to property tax rates, but the proposal would not require council to take the time to hear how the affected taxpayers feel about any such changes. It is worth remembering that due to the ward system in Allegheny County, the residents of the unincorporated district only get to vote for 3 of the 13 members of council. It also brings to mind a cry of taxation without representation.

Unincorporated district

Once disincorporated, the county would hold title to all of the former municipality's assets, to be held in trust for the residents and property owners of the unincorporated district. All powers for the administration of the district would be vested in the county. However, the district would continue to be responsible for any debt and its citizens would be required to pay taxes and fees for municipal services and debt payments. While a district advisory committee would be formed, they would not possess any real powers. It appears that the citizens would have no control over services or taxes. Essentially, the former municipality would become a "service district" administered by county council.

County council would oversee all activity, finances, ordinance changes, and be given all powers of the former municipality. Council would determine what municipal services are provided to the residents and businesses of the former municipality and be given unilateral authority to assess and collect taxes and fees on the unincorporated district to pay for these services, as well as any remaining debts and legacy costs, with little opportunity for public input.

Finally, the HB 2122 would not only give all of the former municipality's authority to the county, it would also give the county any power not denied by the legislation, the county's home rule charter, or the Constitution of Pennsylvania. This appears to be a sweeping expansion of county powers that we must oppose.

In closing, what citizens are asking to live in an unincorporated territory overseen by a distant board with little knowledge of the challenges and benefits of the community? What municipalities in Allegheny are asking for the option to give up and let the county take over? We are not hearing any citizens or municipalities asking for this option. Instead, our members would like relief of unfunded mandates so they can work to provide the best communities for their residents as sustainable costs. Even the Allegheny League of Municipalities is not supportive of the legislation.

I will now take any questions that you may have.