AMENDMENTS TO HOUSE BILL NO. 1469

Sponsor: SENATOR LAUGHLIN

Printer's No. 2186

Amend Bill, page 1, lines 7 and 8, by striking out "; AND, IN TRAINING AND CERTIFICATION OF INSPECTORS, FURTHER PROVIDING FOR TRAINING OF INSPECTORS"

Amend Bill, page 1, lines 16 through 20; pages 2 through 7, lines 1 through 30; page 8, lines 1 through 21; by striking out all of said lines on said pages and inserting

Section 1. Section 501(b)(1), (2) and (3) and (c) of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, are amended and the section is amended by adding subsections to read:

Section 501. Administration and enforcement.

* * *

(b) Municipal administration and enforcement.--This act may be administered and enforced by municipalities in any of the following ways:

(1) By the designation of an employee to serve as the municipal code official to act on behalf of the municipality for administration and enforcement of this act. <u>A municipal code official may utilize third-party agencies to supplement the municipal code enforcement program's plan review and inspection services or may utilize third-party agencies to perform plan review and inspection services in categories which its program does not possess the necessary personnel to administer.</u>

(2) By the retention of one or more construction code officials or third-party agencies to act on behalf of the municipality for administration and enforcement of this act. <u>This paragraph shall expire June 30, 2019.</u>

<u>(2.1) On and after July 1, 2019, by the retention of two or more third-party agencies to act on behalf of the municipality for administration and enforcement of this act.</u>

(3) Two or more municipalities may provide for the joint administration and enforcement of this act through an intermunicipal agreement under 53 Pa.C.S. Ch. 23 Subch. A

(relating to intergovernmental cooperation). Any intermunicipal agreement that provides for exclusive enforcement by a third-party agency shall be in writing and conform to paragraph (2.1) on and after July 1, 2019.

* * *

(b.1) Administration and enforcement by third-party agencies.--A municipality opting to administer and enforce this act by retaining two or more third-party agencies under subsection (b)(2.1) shall be subject to the following requirements:

(1) The services of the third-party agencies shall be furnished and performed under written professional services contracts with the municipality.

(2) In entering into professional services contracts under this subsection, the governing body of the municipality shall take into consideration all of the following:

(i) The qualifications of the third-party agency.

(ii) The fee schedule.

(iii) The availability of services.

(iv) The input of affected stakeholders.

(3) Third-party agencies contracting with the municipality under this subsection may not be affiliated with one another.

(4) One of the third-party agencies contracting with the municipality under this subsection shall be designated as the enforcement agent for the municipality for general code enforcement actions.

(5) A professional services contract between a municipality and a third-party agency in effect before the effective date of this subsection shall remain in effect and the provisions of subsection (b)(2.1) shall take effect upon the expiration of the original terms of the professional services contract.

(6) A professional services contract entered into between a municipality and a third-party agency on or after the effective date of this subsection may not exceed three years.

(b.2) Waiver.--If a municipality opts to administer and enforce this act under subsection (b)(2.1) but cannot obtain an offer from a qualified third-party agency to fulfill the need to have at least two third-party agencies, the municipality may be relieved from the requirement of retaining two third-party agencies by completing a certification form, subject to the following:

(1) The municipality must complete the certification form before the contract with the selected third-party agency is executed and must maintain the form throughout the life of the contract with the third-party agency.

(2) The certification form must be completed annually.

(3) A copy of the certification form must be filed with the department. The department shall maintain a list of

municipalities that have filed a certification form on the department's publicly accessible Internet website.

(4) The department shall furnish the certification form which must:

(i) Require the municipality to disclose the methods and dates of the public solicitation. For purposes of meeting this requirement, the municipality shall advertise requests for proposals and announce the solicitation at a public meeting.

(ii) Require the municipality to disclose the number of qualified bids received to the public solicitation.

(iii) Contain a statement that the information provided by the municipality is in compliance with 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(iv) Contain a statement that the department does not have the discretion to deny waiver requests.

(b.3) Duties of municipalities.--If a municipality contracts with third-party agencies for the administration and enforcement of this act, the municipality shall:

(1) Ensure that the form utilized for a permit application notifies an applicant of all of the following:

(i) The third-party agency is acting on behalf of the municipality.

(ii) An applicant may inform the governing body of complaints about the third-party agencies' services, including reports of incompetence or gross negligence, a failure to abide by a time period specified under this act, unprofessional behavior or discrimination based on personal bias against the applicant.

(iii) The department certifies third-party agencies and investigates complaints due to violations of this act, incompetence or gross negligence, fraud, deceit or acts of moral turpitude.

(iv) The department has a publicly accessible Internet website that includes the form for filing a complaint under subparagraph (iii).

(2) Maintain a record of complaints submitted under paragraph (1)(ii).

(c) Board of appeals.--

(1) A municipality which has adopted an ordinance for the administration and enforcement of this act or municipalities which are parties to an agreement for the joint administration and enforcement of this act shall establish or designate a board of appeals as provided by regulations promulgated by the department to hear appeals from decisions of the code administrator[.] subject to the following:

(i) Members of the municipality's governing body may not serve as members of the board of appeals.

(ii) A municipality may establish a board of appeals

or may establish or designate a joint board of appeals in accordance with 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

(iii) A city of the first class may designate an existing departmental board that has jurisdiction over building standard appeals to act as the board of appeals of the city of the first class and advise the appropriate department that oversees building standards as to whether an appeal should be granted, modified or rejected. The department shall render final decision on requests for appeal.

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Amend Bill, page 8, line 22, by striking out "3" and inserting

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Amend Bill, page 8, by inserting between lines 24 and 25

Section 3. The amendment of section 501(b)(3) of the act shall apply to intermunicipal agreements entered into on and after the effective date of this section.

Amend Bill, page 8, line 25, by striking out "in 60 days" and inserting

immediately