

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2122 Session of
2019

INTRODUCED BY MOUL, JAMES, EVERETT, FREEMAN AND SAPPEY,
DECEMBER 10, 2019

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, DECEMBER 10, 2019

AN ACT

1 Amending Title 8 (Boroughs and Incorporated Towns) of the
2 Pennsylvania Consolidated Statutes, in associations and
3 organizations, further providing for associations and
4 organizations for mayors; in elections of officers, further
5 providing for eligibility; in powers, duties and rights of
6 appointed officers and employees, further providing for
7 appointments and incompatible offices and for police serving
8 under cooperative agreement or contract; in corporate powers,
9 further providing for specific powers; in taxation and
10 finance, further providing for investment of funds; providing
11 for solid waste collection and disposition; and, in
12 ordinances, further providing for ordinances and resolutions
13 and for publication.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Sections 704(a) and (b), 801(a), 1104(c), 1122(a)
17 and 1202(8) of Title 8 of the Pennsylvania Consolidated Statutes
18 are amended to read:

19 § 704. Associations and organizations for mayors.

20 (a) Authorization.--A mayor may join [a] any mayors'
21 association[, and council] in Pennsylvania. Council shall pay
22 reasonable dues [of up to] not to exceed \$100 [for each mayor
23 belonging to the mayors' association]. The mayor may attend the

1 annual meeting of the mayors' association, which shall be held
2 in this Commonwealth in accordance with the procedure adopted by
3 the mayors' association.

4 (b) Expenses.--A mayor [may] shall receive the following
5 expenses for attending the annual meeting under subsection (a):

6 (1) The registration fee.

7 (2) Lodging, meals and mileage for use of a personal
8 vehicle or reimbursement of actual transportation expenses
9 going to and returning from the meeting.

10 (3) Any actual expenses that the council may have agreed
11 to pay.

12 * * *

13 § 801. Eligibility.

14 (a) Residency.--The following shall apply:

15 (1) [Except as provided under subsection (c), only] Only
16 registered electors of the borough shall be eligible to
17 elective borough offices.

18 (2) [Before] Except as provided under subsection (c) and
19 53 Pa.C.S. § 1142 (relating to residency during military
20 service), before being sworn into office, each elected
21 borough officer shall present a signed affidavit to the
22 borough secretary that states that the officer resides in the
23 borough, or within the ward in the case of a ward office,
24 from which elected and has resided in the borough
25 continuously for at least one year immediately prior to the
26 officer's election.

27 * * *

28 § 1104. Appointments and incompatible offices.

29 * * *

30 (c) Multiple offices.--If there is no incompatibility in

1 fact [and subject to subsection (a) as to compensation],
2 appointees of council may hold two or more appointive borough
3 offices, but no mayor or member of council may serve as borough
4 manager, secretary or treasurer.

5 * * *

6 § 1122. Police serving under cooperative agreement or contract.

7 (a) General rule.--If a borough enters into a cooperative
8 agreement or contract with any municipal corporation, regional
9 police force or other governmental entity created by two or more
10 municipal corporations under 53 Pa.C.S. Ch. 23 Subch. A
11 (relating to intergovernmental cooperation) for the furnishing
12 or receiving of police protection as authorized by section
13 [1202(35)] 1202(24) (relating to specific powers), the police
14 force of the municipal corporation, regional police force or
15 other governmental entity furnishing the police protection shall
16 be appointed and accepted as the police force of the borough
17 receiving the police service by resolution of the council.

18 * * *

19 § 1202. Specific powers.

20 The powers of the borough shall be vested in the council. In
21 the exercise of any specific powers involving the enactment of
22 an ordinance or the making of any regulation, restriction or
23 prohibition, the borough may provide for enforcement and
24 penalties for violations. The specific powers of the borough
25 shall include the following:

26 * * *

27 (8) [To provide for garbage and other refuse material as
28 follows:

29 (i) To prohibit, individually or jointly with other
30 municipal corporations pursuant to an agreement,

1 accumulations of garbage or other refuse material upon
2 public and private property and to make regulations for
3 the care, removal and collection of garbage or other
4 refuse material, including:

5 (A) To provide for the collection and imposition
6 of reasonable fees and charges for the collection of
7 garbage and other refuse material.

8 (B) To erect, operate and maintain refuse
9 disposal or incineration facilities or sanitary
10 landfills, either within or without the limits of the
11 borough, or provide other means for the collection,
12 destruction or removal of garbage and other refuse
13 material and provide for the payment of the cost or
14 expense of the activity, either in whole or in part,
15 out of the funds of the borough.

16 (C) To purchase real estate for the purpose of
17 erecting, operating and maintaining refuse disposal
18 or incineration facilities or sanitary landfills if,
19 prior to any acquisition of property pursuant to this
20 paragraph, the borough, individually or jointly, as
21 the case may be, obtains the approval of the court of
22 common pleas for the location of the facilities or
23 landfill after a hearing and subject to notice as the
24 court shall require. If no objections are heard at
25 the hearing, the court shall approve the location. If
26 any objection is made, the court shall proceed to
27 hear the matter and determine whether the location is
28 a detriment to neighboring properties. The finding of
29 the court shall be conclusive but in no way shall
30 adjudicate any question relating to damages for

1 injury to property.

2 (D) To take and appropriate real estate for
3 purposes of refuse disposals or incineration
4 facilities or sanitary landfills in accordance with
5 Chapter 15 (relating to eminent domain, assessment of
6 damages and damages for injury to property) if a
7 purchase price cannot first be agreed upon. No real
8 estate located outside the limits of the borough or
9 outside the limits of the joint municipal
10 corporations in the case of a joint effort shall be
11 taken and appropriated if the real estate currently
12 contains or is being used for a refuse disposal or
13 incineration facility or a sanitary landfill.

14 (ii) Regulations enacted under this paragraph shall
15 be consistent with the act of July 7, 1980 (P.L.380,
16 No.97), known as the Solid Waste Management Act, the act
17 of July 28, 1988 (P.L.556, No.101), known as the
18 Municipal Waste Planning, Recycling and Waste Reduction
19 Act, and subject to any other necessary Federal or State
20 approval.] (Reserved).

21 * * *

22 Section 2. Section 1316(c) of Title 8 is amended by adding a
23 paragraph to read:

24 § 1316. Investment of funds.

25 * * *

26 (c) Authorized types of investments.--Authorized types of
27 investments for borough funds are:

28 * * *

29 (9) An investment authorized by the act of July 25, 1973
30 (P.L.217, No.53), entitled "An act authorizing cities of the

1 first class and second class to invest all funds received and
2 deposited with the city treasurer in certain commercial paper
3 under certain terms and conditions; and providing for
4 investment of public corporation or municipal authority
5 funds."

6 * * *

7 Section 3. Title 8 is amended by adding a chapter to read:

8 CHAPTER 25B

9 SOLID WASTE COLLECTION AND DISPOSITION

10 Sec.

11 25B01. Definitions.

12 25B02. Accumulation of municipal waste.

13 25B03. Collection and removal.

14 25B04. Disposal.

15 25B05. Acquisition of real property and facilities.

16 25B06. Rates and charges.

17 25B07. Appropriations.

18 25B08. Exclusion from other laws.

19 § 25B01. Definitions.

20 The following words and phrases when used in this chapter
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 "Municipal authority." A body politic and corporate created
24 under 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

25 "Municipal waste." As defined in the act of July 28, 1988
26 (P.L.556, No.101), known as the Municipal Waste Planning,
27 Recycling and Waste Reduction Act.

28 § 25B02. Accumulation of municipal waste.

29 Council, in the manner authorized by the act of July 7, 1980
30 (P.L.380, No.97), known as the Solid Waste Management Act, and

1 the act of July 28, 1988 (P.L.556, No.101), known as the
2 Municipal Waste Planning, Recycling and Waste Reduction Act, may
3 prohibit accumulations of municipal waste upon public and
4 private property, including the imposition and collection of
5 reasonable fees and charges for the collection, removal and
6 disposal of municipal waste.

7 § 25B03. Collection and removal.

8 (a) General rule.--Council may collect and remove, by
9 contract or otherwise, municipal waste and recyclables and
10 prescribe penalties for the enforcement of the collection and
11 removal.

12 (b) Contract length.--A contract with refuse haulers may be
13 made for an initial period not to exceed five years with
14 optional renewal periods of up to five years.

15 (c) Limitation.--The limitation under subsection (b) shall
16 not apply to a contract with a political subdivision or
17 municipal authority.

18 § 25B04. Disposal.

19 (a) General rule.--Council may dispose of, by contract or
20 otherwise, municipal waste.

21 (b) Contract length.--A contract with the owner of a private
22 facility for the disposal or incineration of municipal waste may
23 be made for a period not to exceed 20 years.

24 (c) Exemption.--The limitation under subsection (b) shall
25 not apply to a contract with a political subdivision or
26 municipal authority.

27 § 25B05. Acquisition of real property and facilities.

28 The following shall apply:

29 (1) Council may acquire any real property and erect,
30 maintain, improve, operate and lease, either as lessor or

1 lessee, facilities for incineration, landfill or other
2 methods of disposal, either inside or outside the limits of
3 the borough, including equipment, either separately or
4 jointly, with a political subdivision or municipal authority
5 in order to provide for the collection, removal, disposal and
6 destruction of municipal waste, for the collection and
7 storage of recyclable materials or for the composting of leaf
8 and yard waste.

9 (2) Council may provide for the payment of the cost,
10 either in whole or part, out of the funds of the borough.

11 (3) Council may acquire land for landfill purposes,
12 either amicably or by exercising the power of eminent domain,
13 and may maintain lands and places for the dumping of
14 municipal waste.

15 (4) If council acquires land outside the limits of the
16 borough by exercising the power of eminent domain, the taking
17 shall be subject to the limitations in 26 Pa.C.S. § 206
18 (relating to extraterritorial takings).

19 § 25B06. Rates and charges.

20 (a) Council authorization.--Council may establish, alter,
21 charge and collect rates and other charges for the:

22 (1) collection, removal and disposal of municipal waste
23 and recyclable materials; and

24 (2) cost of including the payment of any indebtedness
25 incurred for the construction, purchase, improvement, repair,
26 maintenance and operation of any facilities for collection,
27 removal and disposal; and

28 (3) amount due under a contract with a political
29 subdivision or municipal authority furnishing the services or
30 facilities.

1 (b) Method of collection.--The rates and other charges shall
2 be collected pursuant to the act of May 16, 1923 (P.L.207,
3 No.153), referred to as the Municipal Claim and Tax Lien Law, by
4 a civil action, or any other collection method authorized by
5 law.

6 § 25B07. Appropriations.

7 Council may make appropriations to a political subdivision or
8 municipal authority for the construction, purchase, improvement,
9 repair, maintenance and operation of a facility for the
10 collection, removal, disposal or marketing of municipal waste,
11 recyclable materials or composted leaf and yard waste.

12 § 25B08. Exclusion from other laws.

13 A borough shall not be subject to requirements otherwise
14 imposed by law for the sale of personal property owned by the
15 borough when selling recyclable materials or materials
16 separated, collected, recovered or created by recycling, as
17 provided in the act of April 9, 1992 (P.L.70, No.21), entitled
18 "An act excluding the sale of recyclable material from political
19 subdivision personal property sale restrictions relating to
20 advertising and bidding."

21 Section 4. Sections 3301.1(b)(2) and 3301.2(a) of Title 8
22 are amended to read:

23 § 3301.1. Ordinances and resolutions.

24 * * *

25 (b) Legislative acts.--Every legislative act of council must
26 be by ordinance. Legislative acts shall include, but not be
27 limited to:

28 * * *

29 [(2) General appropriation ordinances.]

30 * * *

1 § 3301.2. Publication.

2 (a) Requirements.--Except as provided under this part or
3 other law, council shall publish every proposed ordinance once
4 in one newspaper of general circulation [~~for at least~~] no less
5 than seven days and [~~not~~] no more than 60 days [~~prior to~~
6 ~~enactment~~] prior to the day when council shall vote on the
7 proposed ordinance. Publication of any proposed ordinance shall
8 include all of the following:

9 (1) The full text or the title of the ordinance and a
10 brief summary prepared by the borough solicitor setting forth
11 all the provisions in reasonable detail.

12 (2) A reference to the borough office or other place
13 where borough records are kept where copies of the proposed
14 ordinance may be examined.

15 * * *

16 Section 5. This act shall take effect in 60 days.