

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2122 Session of 2019

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JULY 8, 2020

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] IF REQUESTED BY THE MAYOR. <--

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

5 (b) Expenses.--A mayor [may] shall, IF REQUESTED, receive <--
6 the following expenses for attending the annual meeting under
7 subsection (a):

8 (1) The registration fee.

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

12 (3) Any actual expenses that the council may have agreed
13 to pay.

14 * * *

15 § 801. Eligibility.

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

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

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

29 * * *

30 § 1104. Appointments and incompatible offices.

1 * * *

2 (c) Multiple offices.--If there is no incompatibility in
3 fact [and subject to subsection (a) as to compensation],
4 appointees of council may hold two or more appointive borough
5 offices, but no mayor or member of council may serve as borough
6 manager, secretary or treasurer. AT NO TIME SHALL A MAYOR OR <--
7 MEMBER OF COUNCIL BE COMPENSATED FOR MORE THAN ONE OFFICE.

8 * * *

9 § 1122. Police serving under cooperative agreement or contract.

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

21 * * *

22 § 1202. Specific powers.

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

29 * * *

30 (8) [To provide for garbage and other refuse material as

1 follows:

2 (i) To prohibit, individually or jointly with other
3 municipal corporations pursuant to an agreement,
4 accumulations of garbage or other refuse material upon
5 public and private property and to make regulations for
6 the care, removal and collection of garbage or other
7 refuse material, including:

8 (A) To provide for the collection and imposition
9 of reasonable fees and charges for the collection of
10 garbage and other refuse material.

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

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

1 a detriment to neighboring properties. The finding of
2 the court shall be conclusive but in no way shall
3 adjudicate any question relating to damages for
4 injury to property.

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

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

24 * * *

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

27 § 1316. Investment of funds.

28 * * *

29 (c) Authorized types of investments.--Authorized types of
30 investments for borough funds are:

1 * * *

2 (9) An investment authorized by the act of July 25, 1973
3 (P.L.217, No.53), entitled "An act authorizing cities of the
4 first class and second class to invest all funds received and
5 deposited with the city treasurer in certain commercial paper
6 under certain terms and conditions; and providing for
7 investment of public corporation or municipal authority
8 funds."

9 * * *

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

11 CHAPTER 25B

12 SOLID WASTE COLLECTION AND DISPOSITION

13 Sec.

14 25B01. Definitions.

15 25B02. Accumulation of municipal waste.

16 25B03. Collection and removal.

17 25B04. Disposal.

18 25B05. Acquisition of real property and facilities.

19 25B06. Rates and charges.

20 25B07. Appropriations.

21 25B08. Exclusion from other laws.

22 § 25B01. Definitions.

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

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

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

1 § 25B02. Accumulation of municipal waste.

2 Council, in the manner authorized by the act of July 7, 1980
3 (P.L.380, No.97), known as the Solid Waste Management Act, and
4 the act of July 28, 1988 (P.L.556, No.101), known as the
5 Municipal Waste Planning, Recycling and Waste Reduction Act, may
6 prohibit accumulations of municipal waste upon public and
7 private property, including the imposition and collection of
8 reasonable fees and charges for the collection, removal and
9 disposal of municipal waste.

10 § 25B03. Collection and removal.

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

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

18 (c) Limitation.--The limitation under subsection (b) shall
19 not apply to a contract with a political subdivision or
20 municipal authority.

21 § 25B04. Disposal.

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

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

27 (c) Exemption.--The limitation under subsection (b) shall
28 not apply to a contract with a political subdivision or
29 municipal authority.

30 § 25B05. Acquisition of real property and facilities.

1 The following shall apply:

2 (1) Council may acquire any real property and erect,
3 maintain, improve, operate and lease, either as lessor or
4 lessee, facilities for incineration, landfill or other
5 methods of disposal, either inside or outside the limits of
6 the borough, including equipment, either separately or
7 jointly, with a political subdivision or municipal authority
8 in order to provide for the collection, removal, disposal and
9 destruction of municipal waste, for the collection and
10 storage of recyclable materials or for the composting of leaf
11 and yard waste.

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

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

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

22 § 25B06. Rates and charges.

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

25 (1) collection, removal and disposal of municipal waste
26 and recyclable materials; and <--

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

1 (3) amount due under a contract with a political
2 subdivision or municipal authority furnishing the services or
3 facilities.

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

9 § 25B07. Appropriations.

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

15 § 25B08. Exclusion from other laws.

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

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

26 § 3301.1. Ordinances and resolutions.

27 * * *

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

1 * * *

2 [(2) General appropriation ordinances.]

3 * * *

4 § 3301.2. Publication.

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

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

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

18 * * *

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