

TO: Lester K. Fryer, Chairman, Local Government Committee

FROM: John H. Broujos, Counsel

SUBJECT: House Bill 212, Printer's No. 233 - Termination of Borough Fire Force

REF: 53 PS 46190

LAW AND MUNICIPALITY AFFECTED: Borough Code, Act of February 1, 1966 (P.L.1656), Section 1190

SIMILAR LEGISLATION: House Bill 2172, Printer's No. 2912, of Session of 1970, contained a similar amendment to the Borough Code. It was referred to Local Government Committee.

House Bill 1232, Session of 1970.

PROVISIONS:

Purpose: To prevent disbanding of a paid fire force in favor of a volunteer force, except by referendum.

Section 1 (Section 1190): This section provides that a borough with paid employees on its fire force, shall not disband the fire force in favor of a volunteer force, except by referendum.

COMMENT: For some reason, this amendment includes as the municipalities affected county, city, borough, town, and township. This section is in the Borough Code and the reference to the other municipalities seems improper.

COMMENT: The Act of June 13, 1955 (P.L.173), 53 PS 3831, provides for Referendum on Type of Fire Company within a city, borough, town, or township. The act provides that no municipality shall replace any volunteer fire company with a paid fire company unless a majority of the voters in a municipality have first voted in favor of the change. The act then goes on to provide for a referendum by following specific enumerated procedures.

The effect of the bill is to perform the opposite objective: replacement of a paid fire company by a volunteer fire company.

The bill as it stands is indefinite, vague, and has no means of implementation. Method of placing question on the ballot, election - general or municipal, fall or primary, number of persons who can initiate petition for referendum, whether borough council can initiate referendum, procedures for phrasing, effective date of implementation, and other matters are not spelled out.

COMMENT: In the event that a paid fire force were disbanded by referendum, under what conditions could a paid fire force be reestablished? It is conceivable that upon the substantial expansion or growth of a borough, a real need for a paid fire force could exist. Or if the volunteer force was not a successful venture, a need for a paid force may arise. Thus, a time limit on having the issue raised again should be set forth.

COMMENT: The importance of having properly drafted legislation in this area is attested by the conflict which has occurred in some municipalities between volunteer fire forces and paid fire forces. See the case of Volunteer Fireman Relief Association of New Castle, Pennsylvania, v DiLullo et al 414 Pa 138 (1964).