

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

FROM: John H. Broujos, Counsel

SUBJECT: House Bill 213, Printer's No. 234 - Boroughs--Integration of Fire and Police Force

REF: 53 PS 46195.1 (new section)

LAW AND MUNICIPALITY AFFECTED: Borough Code, Act of February 1, 1966 (P.L.1656), Section 1195.1 (new section).

SIMILAR BILLS: House Bill 2173, Session of 1970, contained similar proposed amendment, except that it called only for limitation against consolidation within a borough since it amended Borough Code, and not county, city, borough, town, or township, as in the present bill.

House Bill 1230, Session of 1970, contained identical proposal to House Bill 2173.

PROVISIONS:

Purpose: To require a referendum for consolidation, integration, and reorganization of paid fire force and paid police force into one force.

Section 1 (Section 1195.1): This section states that no county, city, borough, town, or township shall except by referendum consolidate, integrate, or reorganize paid fire force and paid police force into one force.

COMMENT: Generally, the same observations concerning a referendum and the requirement of specifying substance and procedure therein, as set forth in memo on House Bill 212, pertain to this bill.

COMMENT: I have not ascertained any section of the Borough Code authorizing creation of a fire force or fire department. Section 1171, 53 PS 46171, refers to "salaried operators of fire apparatus" and to volunteer fire companies or departments. Section 1172 also refers only to "paid fire apparatus operators." Section 1195 refers only to "fire apparatus operators." In all three of the above sections, the paid fire apparatus operators are discussed in conjunction with the borough police force with respect to civil service. The sections are under subdivision (j) entitled "Civil Service for Police and Firemen." The Civil Service Commission created in each borough is for police force and paid fire apparatus operators. Consequently, effectively, the only apparent authorized fire force consists of paid fire apparatus operators who are in fact consolidated for civil service purposes under one commission.

CONCLUSION: Unless there is some section of the Election Code setting forth provisions for referendum wherever called for under some other law, their mere reference to a referendum is insufficient to set up the machinery required.

RECOMMENDATION: A redraft to comply with constitutional and other legal provisions.