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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

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April 3, 2001

MEMORANDUM

SUBJECT: Proposed Legislation – County Code

TO: All House Members

FROM: Representative Larry O. Sather

I plan to introduce legislation that would amend the "County Code". This legislation is the product of several years of effort by the County Code Committee of the County Commissioners Association of PA (CCAP), working in conjunction with representatives of other elected county officials.

Rather than attempting to revise the entire "County Code" at one time, CCAP has chosen to work on an incremental basis. A draft copy is provided and we believe every effort has been made to address concerns of row offices.

If you wish to cosponsor this legislation, please contact Jennifer Haines in my office at 7-3335 or by Group Wise or e-mail at jhaines@pahousegop.com.

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October 31, 2001

The Honorable Lawrence Roberts
123B East Wing
Harrisburg, PA 17102-2020

Dear Representative Roberts:

I am writing to you regarding House Bill 1458 and the three amendments that you plan to offer.

Upon my further review of these amendments I cannot support them. The County Commissioners Association of Pennsylvania is in opposition of these amendments along with the Pennsylvania State Association of Elected County Officials. They would like to see House Bill 1458 passed without amendments. Letters received from the Pennsylvania State Association are enclosed for your information.

This legislation has been ongoing for several years and we believe it is time for final passage.

Sincerely,

Larry O. Sather

Enclosures

cc: Representative Lynn Herman, Chairman, Local Government Committee
Brian Preski, Chief of Staff

LOS/jrh

TALKING POINTS FOR H.B. 1458, P.N. 2677

Prime Sponsor Representative Larry Sather

GENERAL COMMENTS

Mr. Speaker, the County Code, which is the primary governing statute for counties of the third through eighth class, has not had a major revision since it was enacted in 1955. Since that time, county government has become much more sophisticated and has acquired significant new responsibilities, and technologies and business practices have evolved considerably. Last session, we enacted a bill to update the contracting provisions of the Code, Act 142 of 2000. House Bill 1458, before us today, is legislation that updates the Code provisions relating to county financial operations.

The legislation is intended to better recognize existing financial practices, to permit better use of technology, to give the commissioners better access to information necessary to be efficient stewards of public finances, and to clarify the relative responsibilities of the commissioners and the controllers/auditors.

This legislation was developed by the County Commissioners Association of Pennsylvania, in close consultation with the County Controllers Association of Pennsylvania and the Pennsylvania Institute of Certified Public Accountants. The bill also has received the unanimous endorsement of county row offices, through the Pennsylvania State Association of Elected County Officials. I have distributed their motion to that effect, dated November 8, 2001.

Analysis of Substantive Changes

Mr. Speaker, the bill makes changes with respect to a number of county fiscal practices. The bill:

- Clarifies the relative roles of commissioners and controllers
- Clarifies the manner for determination of the form and format of county books
- Improves accounting standards
- Eliminates the outdated and paper-based voucher system
- Expands the allowable use of facsimile signatures
- Provides clear authorization for electronic funds transfer
- Requires an earlier start for county budget preparation
- Clarifies the circumstances in which a county can collect its own taxes
- Clarifies the ability of counties to purchase insurance to satisfy the requirements for official bonds and
- Makes a number of technical and conforming changes.

Mr. Speaker, it is also important to note that there had been controversy over this legislation in prior sessions due to changes it would make in the audit procedures. By agreement with the row officers, we have removed all references to audits, and consequently the bill before us today makes no changes or additions to any existing audit provisions.

LARRY: The following can be used if anyone wants more information on any of the bullet points

Clarification of the Roles of Commissioners and Controllers

The bill gives commissioners more tools, including improved access to records, to better perform their management responsibilities. It gives controllers additional prerogatives in working with the commissioners on fiscal management, including the ability to comment on selection of outside auditors, clearer ability to determine the format of books and official papers, and provisions for joint determination of the application of accounting standards. The bill emphasizes the controller's role in determining the legality of expenditures and transactions, while clarifying the commissioners' role as the policy setting body.

Form and Format of Books

The bill gives the controller clearer ability to determine the format of books, and clarifies the controller responsibility to administer the books. The commissioners retain some ability to have input in the selection of bookkeeping systems through the requirement that they approve the expenditure. It should be noted that the clarification of the controller's responsibility for administration of books pertains only to ascertainment that the books are being kept properly and on the prescribed system. It does not make bookkeeping staff (for example, the bookkeeper in the county home or in any of the human services programs) reportable to the controller.

Improvement of Accounting Standards

Counties are required to develop a system of books that is sufficient to yield financial reports consistent with Generally Accepted Accounting Principles. Counties are given three years to make this transition. While there will be some expense involved as well as some practical difficulty, the counties believe that the size of county budgets, the complexity of county programs, and the reporting requirements of federal and state government necessitate this transition. Most counties already have this transition underway as a part of their efforts to comply with GASB 34. Once the transition is completed, commissioners will have better and more timely financial information, and the public will have consistent and clear financial statements for their review.

Audits

The bill makes no changes, either direct or implied, in any existing provision relating to audits of county finances or of any county office.

Elimination of the Voucher System

The Code currently requires county controllers (or treasurers where there is no controller) to prepare vouchers for all bills received as a means of creating a paper record trail. This system does not adapt well to electronic accounting systems, and the bill deletes the requirement that the voucher system be used. Whether or not the county chooses to retain the voucher system, the financial system must contain "internal accounting and other control systems" to maintain system security.

Expand Facsimile Signatures

The bill expands the ability of the commissioners and controller to use facsimile signatures, where appropriate.

Authorization for Electronic Funds Transfer

The bill gives clear authority for electronic funds transfer, provided that suitable security and record keeping systems are developed and maintained.

Earlier Budget Preparation

The bill requires counties to begin budget preparation 90 days in advance of adoption, instead of the current 30, changes the form and amount of information the commissioners may request from the controller to use for budget preparation, and permits counties to use their own format for budget preparation rather than the Department of Community and Economic Development form. Some of the provisions in the bill parallel those of H.B. 1405, which as of last week, has been approved by the House and reported from the Senate Local Government Committee. An amendment was inserted in H.B. 1458 in the House Local Government Committee to fully incorporate the provisions of H.B. 1405.

Collection of County Taxes

Currently, counties are permitted to collect their own taxes only in home rule municipalities and in third class cities. The bill adds two items for clarity. First, if the county elects to collect its taxes in a third class city, the collection is to be done by the county treasurer. Second, if the commissioners decide to collect their own taxes in cities of the third class, they must act prior to the first day for circulating nominating petitions for tax collectors, and the change does not take effect until the end of the term of office of the incumbent collector.

Insurance for Bonds

The bill permits counties to purchase insurance to satisfy the bonding requirements for county elected officials, so long as that insurance covers the same incidents and is payable in the same fashion as bonds.

Technical Changes

The bill makes a number of technical changes, including:

- Moving the sections relating to gifts to the county, operating reserves, and capital reserves to another article of the Code for clarity;
- Deleting the requirement to retain canceled checks;
- Increasing the information furnished to treasurer on checks to be issued;
- Using proper accounting terminology ("assets" instead of "moneys", "revenue" for "receipts", e.g.); and
- Using correct names ("Department of Community and Economic Development" instead of "Department of Community Affairs", "County Commissioners Association of Pennsylvania" instead of "Pennsylvania State Association of County Commissioners", "court of common pleas" instead of "court of quarter sessions and oyer and terminer").

(COMMENTARY ON ROBERTS AMENDMENTS if necessary:)

A____, Relating to the Prerogatives of Deputy Row Officers

This amendment adds explicit language relative to the prerogatives of any deputy row officer when the principal is absent, including "signing of checks, attendance and voting at board meetings and approval of purchases." The language appears to be directed to the office of controller, but its placement makes it applicable to any row office deputy, which is a problem (no other row office signs checks or approves purchases).

The problem with this section of the Code is not what a deputy can do on behalf of the principal; the question is when the provision can be invoked. Relative to the duties, it is explicit: "perform all duties of such principal . . ." The section's deficiency is that it allows the deputy to act during the "necessary or temporary absence" of the principal, without defining the phrase. Thus, counties are often faced with the problem of determining locally, by custom or solicitor's ruling, what constitutes an absence. Is it literal absence from the county? Is it incapacity or absence due to illness? Or can it be as little as a choice not to attend to a duty and having the deputy step in? This can be a critical decision, particularly where the row officer constitutes a voting member of a legislative or quasi-judicial body, such as the pension board, the salary board, or the prison board.

The County Commissioners Association of Pennsylvania opposes this amendment as unnecessary and improperly drawn. Instead, the CCAP suggests that the larger issue of what constitutes ~~and~~ AN absence be studied.

A____, Relating to Facsimile Signatures

This amendment requires that, if facsimile signatures are used, the county must retain the paper voucher system and include "live" commissioner signatures on the vouchers. Essentially, commissioners face two choices: Sign checks, or sign paper vouchers. This amendment both reinstates a live signature requirement for commissioners (they currently do not sign vouchers, and can use a facsimile signature on checks), and negates the advantages of the bill's attempt to accommodate electronic accounting and check writing systems by eliminating the voucher system. In addition, it introduces a new, undefined term, "certified voucher."

CCAP opposes this amendment as contrary to the intent of the bill, and as a step backward. A properly drawn accounting system can provide necessary safeguards to allow facsimile signatures and to remove the need for paper vouchers.

A____, Relating to Controllers' Solicitor Salary

This amendment would require that the salary of the controller's solicitor be paid by the county, and be "proportional to that of the county solicitor." The Code currently provides, in section 1630, that the commissioners are to pay the salaries of the row officer solicitors, but omits from its explicit delineation the solicitors for the controller and auditors. The language to provide for payment to the controller's or auditors' solicitors properly belongs in that section, and H.B. 2005, introduced by our colleague Representative Ross, has already been introduced to accomplish this.

The amendment is also problematic in its phrase requiring compensation to be proportional to that of the county solicitor. "Proportional" is not defined, and so will be the subject of local dispute; while the intent may be that the salary is to be comparable, the case could also be made that any percentage (50%, 75%) is "proportional." The existing Section 1630 contains no language on the determination of row officer solicitor salaries, but the lack of language has presented no significant problem as long as the salary for the row officers' solicitors are in line with the amount budgeted by the county for the purpose and are comparable to similar services in the local market place.

CCAP opposes the amendment as being drawn to the wrong section of the Code, and as containing undefined and unnecessary language regarding the establishment of salaries.

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October 25, 2002

Stephen L. Flood
Luzerne County Controller
Luzerne County Courthouse
200 North River Street
Wilkes-Barre, PA 18711-1001

Dear Mr. Flood:

You have written seeking clarification of language enacted into law by Act 103 of 2002, most particularly relating to the authority of the Controller and the County Commissioners with respect to determining the form of financial record keeping for the County.

You indicate that you have read the analysis of the legislation provided by the County Commissioners Association and ask for a further explanation of the terminology of the statute.

Frankly, I am at a loss to figure out what needs further explanation. I believe the language of the bill is crystal clear in clarifying the powers of the Controller, vis-à-vis the County Commissioners, in this area. That, taken together with what I deem to be a clear and concise explanation on the part of the Association, would appear to necessitate little need for further clarification.

My advice is that you submit any outstanding questions you have to your solicitor.

Sincerely,

Larry O. Sather

Larry O. Sather

LOS/jrh
Cc: Pennsylvania State Association of County Controllers

ANALYSIS OF AMENDMENTS TO H.B. 1458
Representative Roberts

A3486, Relating to the Prerogatives of Deputy Row Officers
This amendment adds explicit language relative to the prerogatives of any deputy row officer when the principal is absent, including "signing of checks, attendance and voting at board meetings and approval of purchases." The language appears to be directed to the office of controller, but its placement makes it applicable to any row office deputy, which is a problem (no other row office signs checks or approves purchases).

The problem with this section is not what a deputy can do on behalf of the principal; the question is when the provision can be invoked. Relative to the duties, it is explicit: "perform all duties of such principal . . ." The section's deficiency is that allows the deputy to act during the "necessary or temporary absence" of the principal, without defining the phrase. Thus, counties are often faced with the problem of determining locally, by custom or solicitor's ruling, what constitutes an absence. Is it literal absence from the county, incapacity, or absence due to illness? Or can it be as little as a choice not to attend to a duty and having the deputy step in? This can be a critical decision, particularly where the row officer constitutes a voting member of a legislative or quasi-judicial body, such as the pension board, the salary board, or the prison board.

CCAP opposes this amendment as unnecessary and improperly drawn. Instead, the CCAP suggests that the larger issue of what constitutes and absence be studied.

A3492, Relating to Facsimile Signatures
This amendment requires that, if facsimile signatures are used, the county must retain the paper voucher system and include "live" commissioner signatures on the vouchers. Essentially, commissioners face two choices: Sign checks, or sign paper vouchers. This amendment both reinstates a live signature requirement for commissioners (they currently do not sign vouchers, and can use a facsimile signature on checks), and negates the advantages of the bill's attempt to accommodate electronic accounting and check writing systems by eliminating the voucher system. In addition, it introduces a new, undefined term, "certified voucher."

CCAP opposes this amendment as contrary to the intent of the bill, and as a step backward. A properly drawn accounting system can provide necessary safeguards to allow facsimile signatures and to remove the need for paper vouchers.

A3498, Relating to Controllers' Solicitor Salary
This amendment would require that the salary of the controller's solicitor be paid by the county, and be "proportional to that of the county solicitor." The Code currently provides, in section 1630, that the commissioners are to pay the salaries of the row officer solicitors, but omits from its explicit delineation the solicitors for the controller and auditors. The language to provide for payment to the controller's or auditors' solicitors properly belongs in that section, and H.B. 2005 has already been introduced to accomplish this.

The amendment is also problematic in its phrase requiring compensation to be proportional to that of the county solicitor. "Proportional" is not defined, and so will be the subject of local dispute; while the intent may be that the salary is to be comparable, the case could also be made that any percentage (50%, 75%) is "proportional." Section 1630 contains no language on the determination of row officer solicitor salaries, but the lack of language has presented no significant problem as long as the salary for the row officers' solicitors are in line with the amount budgeted by the county for the purpose and are comparable to similar services in the local market place.

CCAP opposes the amendment as being drawn to the wrong section of the Code, and as containing undefined and unnecessary language regarding the establishment of salaries.