Townships and State Government: PARTNERING TODAY for a BETTER TOMORROW

PSATS’ 2017-2018 Policy Statement
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A Message from the Executive Director

New Session Brings Opportunity for Legislature to Remove Costly Barriers for Townships

At the start of each new session, PSATS releases this policy statement, which represents its legislative agenda for the next two years. These policies are established by the Association’s membership in democratic forums and guide our advocacy efforts on behalf of the state’s 1,454 townships.

2017-18 PSATS legislative priorities

As we look toward the new session, we want to see the General Assembly build on its support for local government by taking steps to keep local governments sustainable by removing or mediating costly barriers to success.

The following are at the top of PSATS’ wish list for 2017-2018:

- **Stop unfunded mandates:** The Association strongly supports legislation that would require the state and federal governments to provide adequate and necessary funding for any mandates imposed on local governments or eliminate the unfunded mandate.

  We support the SR 323 of 2010 Report’s recommendations for general mandate reform, including municipal mandate impact statements for proposed legislation; requirements for state cost-sharing of new mandates that would increase expenditures or decrease revenues for local governments unless overridden by a two-thirds vote of the General Assembly; and establishment of a state local government mandates task force to perform periodic reviews of mandates and provide recommendations for relief.

- **Volunteer fire departments:** Volunteer fire departments are the primary providers of fire protection in townships. The responsibilities of these first responders have expanded over the years to include rescue, hazardous materials response, and terrorism prevention, which has significantly increased the training needed by these volunteers and, in turn, led to the reduction in willing volunteers.

  The Association supports the 2004 recommendations of the Senate Resolution 60 Commission that would help recruit and retain volunteer emergency service providers. PSATS strongly supports efforts to revisit this report and re-energize efforts to enact legislation on this critical issue.

- **Stormwater:** The expansion of municipal responsibility for the oversight of the quality and quantity of public and private stormwater discharges is an example of the continual escalation of

As we look toward the new session, we want to see the General Assembly build on its support for local government by taking steps to keep local governments sustainable by removing or mediating costly barriers to success.
unfunded mandates imposed by federal and state environmental regulations. We believe that a flexible menu of cost-effective options is needed that will maximize the reduction in pollutants and sediments being deposited into our waterways without bankrupting our communities and shutting down economic growth. This menu should give municipalities the freedom to work together creatively to share the burden of compliance.

Any effort to impose reductions in nutrient or sediment discharges should equitably allocate responsibility between the state’s point and nonpoint sources on a proportionate basis and include state or federal funding to help local governments implement these reductions. Finally, townships need new funding options to comply with these mandates.

- **Right-to-Know Law reform:** PSATS supports the public’s right to view and obtain copies of public documents. However, current law places a financial burden on municipalities, which was recognized by the SR 323 of 2010 Report on Unfunded Mandates.

PSATS supports reasonable common-sense reforms to the Right-to-Know Law, including authorization for municipalities to recover the costs of compliance, such as charging for staff time when fulfilling requests and permitting additional fees for commercial requests; protecting sensitive information, such as credit card and account numbers, and personal identification information; and reducing the pre-payment cap from the current $100.

- **Municipal pension reform:** PSATS believes that the General Assembly must address the problem of mandated municipal employee benefits to bring relief to distressed municipal pension plans. Such changes should include amending the Municipal Police Pension Law to give municipalities the option of providing a defined contribution pension plan for new officers in lieu of the current mandated defined benefit plan, as well as prohibiting further expansion of police pension benefits. Municipalities need the tools to properly fund these benefits to ensure that our police employees receive the benefits they have earned.

- **Expand townships’ advertising options:** Local governments are required to keep the public informed of meetings, bid opportunities, proposed ordinances and budgets, and more through the placement of legal advertisements in newspapers of general circulation. As residents increasingly look to electronic sources for news and information, PSATS is seeking legislation to allow townships to place the required legal ads on websites or in mass-circulation, community newspapers.

Expanding options beyond general-circulation newspapers will help townships not only reach a wider audience but also reduce advertising costs by spurring competition for these dollars.

- **Arbitration reform:** Police and fire employees should be provided with appropriate pay and benefits for their service. However, these costs must be sustainable for our communities into the future.

To achieve this, PSATS is seeking changes to Act 111 to create a level playing field for public employers and employees by requiring both parties to equally share the responsibility of paying all costs of the third, neutral arbitrator; requiring the board of arbitration to consider a municipality’s ability to pay before making any arbitration award; and providing that arbitration awards not be binding if the award would create a financial hardship, cause a municipality to be categorized as distressed, cause a municipality to borrow funds, or reduce a municipality’s bond rating.

- **Maintain natural gas impact fees:** Since its enactment in 2012, the natural gas impact fee has been directly benefiting communities across the state, both inside and outside of the affected areas. Without this well-designed fee on the industry, taxpayers will need to pay for the cleanup long after the industry is gone. The Association wants to make sure this critical local funding stream is maintained and continues to directly benefit our communities, residents, and businesses. The impact fee should not be replaced by a severance tax that would be used for non-related expenditures in the state general fund. Instead, our impacted communities must be held harmless.

- **Prevailing wage reform:** PSATS would like to see a decrease in the cost of small public infrastructure projects by expanding the $100,000 threshold to include road projects funded by the Dirt, Gravel, and Low-Volume Roads Program, as well as all other types of public works construction contracts that remain at the $25,000 threshold and to specifically exempt those road projects that historically were classified as maintenance activities from the Prevailing Wage Law.

In addition, the Prevailing Wage Law should be modified to fully increase the contract threshold to account for inflation since its inception; provide for future automatic adjustment of the threshold based on the Consumer Price Index; and make the prevailing wage more accurately reflect actual wages paid in a particular municipality.

With these changes, we can work to secure a bright future for all of Pennsylvania’s local governments and the citizens we jointly serve.

David M. Sanko
PSATS Executive Director
A Message from the President

Townships Build Relationships That Lead to Improved Services and Reduced Costs

About PSATS
The Pennsylvania State Association of Township Supervisors has been serving townships of the second class since 1921. Located in Hampden Township, Cumberland County, PSATS operates under the direction of a 13-member executive board elected by member townships. The staff of 35 has expertise in township laws and regulations, governmental affairs, environmental management, communications, and training. In addition, nine standing committees composed of township officials oversee specific aspects of Association governance.

PSATS’ mission is to preserve and strengthen township government while securing greater visibility and involvement for townships in the state and federal government arenas. In addition to representing township government before the legislature, PSATS provides township officials and employees with the information and skills they need to meet the challenges of township office through workshops, an annual conference and trade show, and award-winning publications.

About township government
Today, there are 1,454 townships in the commonwealth, which comprise 95 percent of Pennsylvania’s land area and are home to more than 5.5 million citizens — nearly 44 percent of the state’s population. Pennsylvania’s townships are diverse, ranging from rural communities with fewer than 200 residents to suburban communities with more 60,000 residents.

Townships are the oldest form of organized local government in the United States. Governed by a board of three or five supervisors who are elected at large for six-year terms, townships were originally concerned with maintaining local roads and bridges. Today, the board of supervisors is responsible for public safety, public infrastructure, from roads to sewer and water systems, and enforcement of environmental protection laws. Townships may enact land use controls, require trash and recycling collection, administer property maintenance, and provide park and recreational opportunities for their residents. Township government is flexible and allows the board of supervisors to determine which services meet the needs of their constituents, as well as the community’s ability to pay for them.

Elected by their fellow residents to carry out the day-to-day responsibilities of making their community a better place to live, work, and raise a family, township

PSATS’ mission is to preserve and strengthen township government while securing greater visibility and involvement for townships in the state and federal government arenas.
supervisors reflect the values of the people they serve. The board of supervisors is directly accessible to residents.

As the township’s legislative body, this board enacts ordinances, adopts budgets, and levies taxes. Because there is no separately elected executive, except in some home rule townships, the supervisors also perform such functions as enforcing ordinances, approving expenditures, and hiring employees.

Time and again, township officials and staff across Pennsylvania have demonstrated how to be creative and flexible when it comes to delivering the services their residents want and need on increasingly tight budgets. Township officials know what works best for their communities and are taking the initiative to cooperate with their neighbors to build the kinds of relationships that ultimately improve services and reduce costs.

**Legislative success**

The 2015–2016 legislative session saw the enactment of legislation implementing a number of PSATS resolutions, including adjustments to the annual audit report deadline; authorization of stormwater fees for the planning, management, construction, and maintenance of facilities to meet townships’ federal obligations for municipal separate storm sewer systems (MS4s); increasing the in-lieu-of tax payments to local governments for forest lands under the jurisdiction of the State Department of Conservation and Natural Resources; reducing the number of safety inspections required for motor carrier vehicles in excess of 17,000 pounds from semiannual to annual; and clarifying that transfers of conservation easements to municipalities are exempt from the state realty transfer tax.

Other beneficial legislation approved in 2015–2016 included the authorization for municipalities to provide tax credits to volunteer firefighters; the reduction of the mandated local financial assistance match threshold from 50 to 20 percent of the total cost for Green Light Go projects; the addition of 911 fees for phone service provided on all classification of phones; and greater flexibility in investment options for local funds while appropriately prohibiting risky investments.

We applaud our legislators for their support of local government and look forward to a continued partnership in the coming session.

Shirl Barnhart
PSATS President
Townships represent local self-governance in its truest and purest form. Elected by their neighbors and fellow residents to carry out the responsibilities of running the community, township supervisors reflect the values of the people they serve.

Citizen polls have indicated time and time again that people have more confidence in their local elected officials than in their state and federal representatives. Local government, the government closest to the people, can best respond to the needs and demands of its citizens.

The state legislature must grant local governments more flexibility to serve the citizens who elected them and provide townships with the authority and tools to respond to the needs of their constituents. Unfortunately, through the efforts of various special interests, the municipal codes and other statutes that govern the actions of local governments have been eroded and weakened. These changes often come at the expense of the citizens and taxpayers of townships.

Whether it be the loss of tax revenues without replacement or the weakening of township land use authority, these concessions have rendered ineffective, or eliminated altogether, many of the tools the General Assembly has granted to townships to serve their communities.

Therefore, the Association opposes any effort to erode township authority by:
- taking away a power or taxing ability without replacement;
- eliminating or transferring any local government functions to another entity;
- moving toward a larger, more centralized government;
- imposing mandates that place a fiscal burden on townships or weaken township officials’ ability to serve their constituents.

The ability of local officials to carry forward the values of the people they have been elected to serve should not be sacrificed to political pressures of special interests. Such concessions serve only to enhance the financial prosperity of a privileged few at the expense of those who make their homes in townships.

Government by referendum

PSATS opposes any mandated referendum for local government. Just like their counterparts in the state and federal governments, township officials have been elected to represent the citizens of their communities to the best of their ability. This includes making decisions about raising revenues, spending, land use requirements, and the passage of ordinances to protect the citizens — all of which involve citizen input. It is the purest form of democracy and referendum.

The idea of conducting local, or any level, of government by referendum runs contrary to our current system of representative government, with officials elected by the people to represent the people.

Intergovernmental cooperation

The commonwealth, its agencies, and political subdivisions exist to serve the same constituency: the citizens of Pennsylvania. Therefore, it is essential that all three levels of government — federal, state, and local — forge a better cooperative partnership and work together for the benefit of the citizens they represent.
For such a cooperative relationship to become reality, the commonwealth and its agencies must recognize the need for local autonomy. They should comply with local zoning, subdivision, and other ordinances and pay all related fees and costs when they conduct activities within the boundaries of any municipality, the same as any other entity.

The majority of townships participate in an intergovernmental cooperation initiative with another local government. The Association supports voluntary cooperation as a means for local governments to creatively provide the levels of service demanded by their citizens while retaining their local autonomy. Municipalities should not, however, be forced into any multi-jurisdictional arrangement that is not supported by the local elected officials as being in the best interest of the municipality’s citizens.

Critics have suggested that local governments should be forced to regionalize municipal police departments, volunteer fire departments, sewer and water authorities, and other local services, regardless of the wishes of their citizens. PSATS opposes the mandatory regionalization of services against the will of the elected officials and their constituents. If it will benefit their residents, local officials will initiate and participate in intergovernmental cooperation.

Centralization is not necessarily better, and whether services should be provided by individual municipalities or combined through voluntary intermunicipal cooperation is a decision that must remain with each local government and its citizens.

Annexation, mergers, and consolidation

The Association believes that the justification for any boundary change, whether it is consolidation, merger, annexation, or the formation of a new municipality from all or part of an existing municipality, should be based on a demonstration of valid community interest.

Many of those who espouse mandatory regionalization and consolidation assume that the people are behind this. However, the problem they are trying to fix is one perceived by bureaucrats who are several steps removed from those who actually live and work in our system of local government every day.

State government should not take a lead role in seeking out opportunities for and pursuing local government boundary changes, and at no time should any local government be forced without citizen approval to merge, consolidate, or form regional entities to perform local functions. Such action should be initiated only by petition of the citizens of the affected municipalities or by agreement of the governing bodies, and the question should be voted on and approved by a majority of those voting in each of the affected municipalities.

The residents of all affected municipalities should make the ultimate determination on the type of government and boundary in which they live.

Regional government

The Association opposes any attempt to “right-size” municipal government by moving to a larger, more centralized form of government. Despite the contention of various special interests that there are too many local governments in Pennsylvania, no one has ever proven that bigger, centralized government is better or even more cost-effective than township government.

PSATS opposes legislation, including an amendment to the state constitution, which would diminish the critical role of municipalities by designating the county as the primary form of local government. Townships are key to the delivery of local services, and requiring residents to rely on a more distant layer of government would usurp local democracy.

The Association opposes any legislation or any state agency directive that would dissolve municipalities into unincorporated territory and give the county or state government the authority to administer this territory. County or state government should not be given additional municipal powers to administer unincorporated territory. Instead, the legislature should consider giving such powers to municipalities to help alleviate distressed financial situations.

Borough incorporation

PSATS supports the Pennsylvania Constitution provisions that require a majority of the citizens in the affected municipalities to approve any boundary change. However, PSATS opposes the creation of new boroughs from existing townships of the second class.
The state and federal governments have freely transferred to local governments the responsibility for delivering numerous goods and services to the public without the benefit of state or federal tax dollars for implementation. Local governments are currently experiencing great difficulties in adequately funding basic public services because they have been forced to shift money from already strained budgets to carry out these new mandates.

At the same time, the legislature has proposed and approved legislation that gives tax breaks to special interests or takes away or restricts tax revenues without replacement.

Unlike the state and federal governments, local governments must operate on a balanced budget every year. Therefore, when revenues are sacrificed to benefit a special interest or new costs are imposed, local governments often have no other option than to reduce services or increase taxes.

The Association strongly supports legislation that would require the state and federal governments to provide adequate and necessary funding for any mandates imposed on local governments by law, executive order, or regulation.

We commend the Senate for commissioning the SR 323 Report on Unfunded Mandates (2010), which closely examined the many unfunded state mandates faced by municipalities and made numerous recommendations for legislative changes that would relieve burdensome mandates, such as the prevailing wage, binding arbitration, legal advertising, and the Right-to-Know Law. PSATS strongly supports the report’s recommendations for specific legislative changes.

The Association also supports the SR 323 Report’s recommendations for general mandate reform, including municipal mandate impact statements for proposed legislation; requirements for state cost-sharing of new mandates that would increase expenditures or decrease revenues for local governments unless overridden by a two-thirds vote of the General Assembly; and establishment of a state local government mandates task force to perform periodic reviews of mandates and provide recommendations for relief.

In addition, PSATS supports an amendment to the Pennsylvania Constitution to prohibit the enactment of new state laws that impose costs on municipalities unless the General Assembly provides new sufficient funding for implementation.

Regulatory flexibility

Local governments are partners with the state and federal governments and should be part of a system of government that is flexible and sensitive to the limited fiscal and administrative capacities of local governments to carry out costly mandates.

To that end, any new or amended regulations handed down by the Department of Environmental Protection or any other state or federal agency should be accompanied by sufficient funding or authority for a new funding source.

In addition, PSATS strongly opposes actions or policies of the commonwealth and its departments and agencies that would transfer the cost of service responsibilities to municipalities.

Ordinance enforcement

Municipalities should be exempt from the payment of mandated court costs to enforce local ordinances and be provided with legal assistance by the state Attorney General’s Office whenever they must defend local ordinances that were adopted and enforced to comply with state laws.

Unlike the state and federal governments, local governments must operate on a balanced budget every year. Therefore, when townships must meet unfunded mandates, they often have no other option than to reduce services or increase taxes.
The Association believes that state, federal, and local government are partners in the provision of public safety services for Pennsylvania’s residents, including emergency management, fire protection, police protection, and ambulance and rescue response. As the first responder, local government plays a critical role in ensuring the delivery of these vital services.

While the commonwealth has taken important steps to improve public safety by implementing the recommendations of legislative task forces that studied emergency response and police protection, additional action is needed. The most urgent need is for the adoption of statewide volunteer benefit programs to strongly encourage the recruitment and retention of emergency service volunteers.

The General Assembly should grant local government additional tools for funding public safety services, including authorization for a special-purpose real estate tax levy of 5 mills to provide police protection. In addition, townships should be authorized to collect a municipal services fee for state and federal facilities located within their boundaries to offset the costs of public safety services.

**Emergency management**

Municipalities are responsible for emergency management planning and coordination in their communities and must be prepared to deal with natural disasters, such as flooding, as well as manmade emergencies, such as toxic spills. An all-hazards platform is ideal.

PSATS supports the Emergency Preparedness Workgroup recommendations made to Gov. Wolf’s Pipeline Infrastructure Task Force that would provide aid to local governments and local emergency responders for pipeline and other natural gas-related emergencies.

Flooding is a major threat throughout the commonwealth. As such, the Department of Environmental Protection is urged to commit permanent, recurring funding for stream restoration and stabilization programs and to modify its regulations to develop a process to expedite the emergency issuance of all general permits needed to allow municipalities to remove any stream impediment, such as fallen trees or gravel bars, which occur suddenly and for which delayed removal could contribute to local flooding.

**Fire and ambulance service**

Volunteer fire departments are the primary providers of fire protection in townships. The responsibilities of these first responders have expanded over the years to include rescue, hazardous materials response, and terrorism prevention, which has significantly increased the training needed by these volunteers and, in turn, led to the reduction in willing volunteers.

The Association believes that the General Assembly needs to address the
increased costs that municipalities have incurred due to Act 46 of 2011, the Firefighter Cancer Presumption Act. As a result of this act, most insurance providers dropped firefighters from workers’ compensation coverage, leading to an increased number of municipalities that must rely on the State Workers’ Compensation Insurance Fund to provide coverage to their volunteer firefighters. The state must require SWIF to allow municipalities to retain a portion of their premium that is not used to settle claims should the private market return and a municipality chooses to leave SWIF. Finally, a study is needed to determine how SWIF has used the premiums collected for coverage of volunteer firefighters.

Congress is urged to provide incentives for volunteerism by amending the Federal Tax Code to authorize the use of defined-contribution length-of-service appreciation programs for active volunteer firefighters and fire police; providing a federal income tax deduction for active volunteer firefighters and fire police; and offering a federal income tax deduction for employers who allow active volunteer firefighters and fire police to respond to emergencies during work hours.

The Association believes that a new study is needed to evaluate the true cost of fire protection provided by volunteer fire departments.

Senate Resolution 60 Commission

The Association supports the 2004 recommendations of the Senate Resolution 60 Commission that would help recruit and retain volunteer emergency service providers. PSATS strongly supports efforts to revisit this report and re-energize efforts to enact legislation on this critical issue. In addition, the Association believes that a new study is needed to evaluate the true cost of fire protection provided by volunteer fire departments, including the amount of taxpayer funds saved annually due to volunteer services.

PSATS strongly urges the General Assembly to implement the following recommendations from the SR 60 report:

- state tax credits or deductions for active volunteer emergency service providers;
- state tax credits or deductions for businesses that support volunteer emergency service providers;
- educational tuition credits for volunteer emergency service providers enrolled in undergraduate-level courses at a Pennsylvania university or community college; and
- a permissible benefits spending program that could be customized by volunteer emergency service providers to recruit and retain volunteers, such as a qualified plan or participation in a credit union.
PSATS believes that the commonwealth must develop and fund a plan to promote the recruitment and retention of volunteer emergency service providers, including state tax credits for volunteers, grants for response vehicles, buildings for emergency response, and incentives for employers to release volunteer emergency service providers to respond to incidents.

Volunteer fire departments struggle with adequate funding sources, and townships contributed more than $157 million to such departments in 2014. The Association supports authorizing fire companies to collect reimbursement from insurance companies for expenses incurred while responding to and cleaning up automobile accidents and other emergency incidents as an additional means of support. Also, legislation is needed to ensure that insurance payments for ambulance services are paid directly to the ambulance company, rather than the patient.

To reduce the costs of purchasing equipment, the state should provide incentives to encourage cooperative purchasing among volunteer fire companies, such as grants and low-interest loans. Unnecessary administrative requirements should be eliminated for volunteer fire departments, which should be exempt from all state and federal taxes.

In accordance with the SR 60 recommendations, the Volunteer Firemen's Relief Association program should be restructured to return to the original program goal of providing minimum protection, including basic personal protection equipment, to all volunteer emergency service providers. In addition, legislation is needed to establish criteria consistent with the intent of the act that would allow volunteer fire departments to use fire relief funds for the recruitment and retention of volunteers under the oversight of the state fire commissioner.

Volunteer fire departments are required to provide an itemized listing of expenditures of township funds before the board of supervisors may authorize additional appropriations. PSATS believes that this language should be strengthened to require volunteer fire companies that receive township funds to submit a copy of an annual audit to the township.

**Police protection**

Under current Pennsylvania law, municipalities have the option of providing for local police protection based on the will of their citizens. Largely because of the numerous state mandates for police salaries and benefits, local police protection has become prohibitively expensive for many townships. In 2014, half of townships that reported providing police protection through a municipal or regional police department on a PSATS survey reported spending at least 25 percent of their budget on police protection.

PSATS opposes any plan to mandate that townships pay for the services of the Pennsylvania State Police. This includes required per capita or similar fees for townships that do not provide police services, as well as mandated charges for crime lab services, use of the State Police helicopter, and other State Police services for any municipality. However, we do support legislation that would allow townships to voluntarily contract with the State Police for patrol and ordinance enforcement services.

As a means of funding local police protection, PSATS recommends that the fines for Vehicle Code violations be increased by $10 and the additional funding made available to help fund local police forces. Municipalities with local police should be allowed to retain fines issued by their police officers for violations on local roads.

PSATS also supports the establishment of a low-interest revolving loan program for police equipment and facilities similar to the program available to volunteer fire companies.

When police officers must take time off from their regular duty to appear in court, the parties involved in the litigation should share equally in the cost for the police officer to attend.

Local police should be given the ability to use radar to enforce speed limits. Traffic safety is increasingly cited as a major concern by township residents, and the currently authorized speed control devices are unwieldy and ineffective. Pennsylvania is the only state in the nation that has refused to give this authority to local police.
The Association believes that government at all levels has a responsibility to ensure that future generations will be able to enjoy a clean, safe, and bountiful environment. Accordingly, the Association has consistently supported local, state, and federal policies that will ensure the preservation of our environment for all Pennsylvanians without imposing an undue burden and cost on the residents.

The state Department of Environmental Protection and the U.S. Environmental Protection Agency should recognize local governments as partners and work with them in the protection of the environment. To that end, both agencies should recognize the variety of environmental problems faced by Pennsylvania’s municipalities and the need for diverse, multifaceted alternatives to meet local environmental needs.

**Stormwater & MS4s**

The expansion of municipal responsibility for the oversight of the quality and quantity of public and private stormwater discharges is an example of the continual escalation of unfunded mandates imposed by state and federal environmental regulations. The commonwealth’s changes to its erosion and sedimentation regulations are a costly mandate that is not accompanied by state or federal funding, leaving cash-strapped municipalities with few affordable options for compliance.

The Association opposes any expansion of the definition of “waters of the U.S.” that would include tributaries, ditches, and “other waters” or require new and additional permitting by the EPA and the U.S. Army Corps of Engineers. Any change to the definitions in the federal Clean Water Act must be made by Congress and not through an agency’s rulemaking process.

PSATS opposes efforts by the EPA to require all municipalities, regardless of size, to obtain an NPDES permit for their municipal separate storm sewer systems (MS4s). It also opposes EPA efforts to include private land as part of any township’s MS4 permit.

The Association has **consistently supported local, state, and federal policies** that will **ensure the preservation of our environment for all Pennsylvanians** without imposing an undue burden and cost on the residents.
for stormwater issues on state roads.

DEP should incorporate the following changes into Chapter 102 of Title 24 (Environmental Protection) of the Pennsylvania Code to alleviate the impact of these mandates:

- Reduce the engineering and permit requirements needed for low-impact land use changes, such as changing agricultural fields to athletic fields;
- Increase the amount of acreage that can be disturbed before an NPDES permit is needed from one acre to five acres; and
- Simplify the NPDES permit application for single lots.

The Association continues to work with DEP and the EPA to determine how to best meet the upcoming water quality standards that the EPA will impose on the commonwealth to clean up the Chesapeake Bay. We believe that a flexible menu of cost-effective options is needed to maximize the reduction in pollutants and sediments being deposited into our waterways without bankrupting our communities and shutting down economic growth. This menu should give municipalities the freedom to work together creatively to share the burden of compliance.

Any effort to impose reductions in nutrient or sediment discharges should equitably allocate responsibility between the state’s point and nonpoint sources on a proportionate basis and include state or federal funding to help local governments implement these reductions. Finally, townships need new funding sources to comply with these mandates, such as dedicated real estate tax levies.

DEP needs to streamline its stormwater permitting process for local governments by taking into consideration existing conditions pertaining to a project, cost of the project, and the potential negative impact on the public traveling the roads.

**Sewage**

In many areas of the state, DEP has determined that the soils are unsuitable for traditional onlot sewage disposal systems. This halts growth and closes the door on economic development for more and more municipalities and limits property owners’ ability to provide adequate sewage disposal.

Given the commonwealth’s large rural population, central collection systems are both economically and technically impractical for many municipalities because there is insufficient population density to provide such systems at a reasonable cost to the residents. Also, federal funding for the construction of sewage systems has been eliminated, and available state funding sources do not meet the needs of municipalities.

State funding for the construction and maintenance of sewage systems must be available to communities across the commonwealth. Act 13 of 2012 provided the first new, recurring funding source for the construction of sewer systems in a very long time. However, more is needed to meet the mandates to install or provide sewer service that have been imposed by DEP.

PSATS urges the legislature to restore funding to the Sewage Facilities Enforcement Grants Program at a level sufficient to provide at least 50 percent reimbursement for local agency sewage enforcement activities. In addition, the state needs to provide funding to reimburse townships for 50 percent of the costs incurred to prepare or update Act 537 plans as mandated by DEP for current costs, as well as for the previous five years. This program is a partnership between the state and local government to protect the health of our citizens.

Funding for these programs was eliminated over a decade ago and has created an unfunded mandate.

The General Assembly should amend the state’s Sewage Facilities Law to increase the $25 maximum fee for verification of siting requirements for 10-acre septic system exemptions and allow municipalities to set a fee to cover their costs to verify these exemptions.

Also, DEP has mandated upgrades to sewage treatment systems without regard to the cost of these significant capital improvements. It is our position that DEP must provide partnership funding to municipalities that are mandated to upgrade sewage treatment. The magni-

PSATS believes that the state Department of Environmental Protection should provide partnership funding to townships that are mandated to upgrade sewage treatment. The magnitude of such initiatives as the Chesapeake Bay Tributary Strategy and future watershed implementation plans cannot be borne alone by local government or its taxpayers.
The Association supports the development of flexible and affordable safe drinking water standards that will enable small systems to implement all necessary health protection measures without financially burdening the system.
ing water standards that will enable small systems to implement all necessary health protection measures without financially burdening the system. Above all, the Association believes that water resource planning should remain in the hands of local officials and not take place at the county level.

**Solid waste**

The Association continues to believe that local governments must have a strong voice in the siting of all waste disposal facilities in the commonwealth, including hazardous, solid, and low-level radioactive waste facilities.

PSATS supports the implementation of siting distance requirements, stronger facility performance requirements, and greater authority over waste shipped through and/or disposed of in a municipality.

Federal interstate commerce laws do not allow Pennsylvania to prohibit or limit the importation of out-of-state waste. PSATS supports changes to federal law to impose such restrictions.

The Association supports the notion that counties and municipalities can work together to develop effective solid waste management plans under Act 101 of 1988 that address their mutual concerns. However, municipalities must continue to have a voice in solid waste management decisions made at the county level.

**Recycling**

The Association has been a leading advocate of establishing and maintaining recycling programs to reduce the volume of trash disposed of in landfills.

To continue the successful operation of municipal recycling programs, the Association urges the development of markets for recycled goods, increased funding for existing recycling programs, and incentives for businesses that produce goods with recycled content and consumers who purchase such goods.

PSATS supports the continuation of the state Recycling Fund and the elimination of the sunset provision for the fund because the market is not yet developed to the point of being self-sufficient. Without both start-up funding and performance grants, many townships will not be able to financially meet their mandate to recycle, and voluntary recycling programs will be eliminated. The Association opposes the transfer of funds from the state's recycling program for unrelated purposes, which weakens support for local recycling programs.

DEP should not create policies that limit municipal flexibility to determine how to enforce recycling ordinances and should not punish a municipality that fails to comply with department policy that has not gone through the regulatory process by withholding grant funding.
Since 2012, more than $1 billion in natural gas impact fees have been distributed inside and outside the Marcellus Shale region. This funding has been an enormous benefit for municipalities and their residents who have lived with significant impacts from the industry that changed their communities, particularly in the hard-hit southwest and northcentral areas of the state.

While natural gas drilling brought many positives to the affected communities, including new jobs, higher wages, business growth, and royalties for gas leases, these communities saw first-hand the negative effects of natural gas drilling and the related industries, including traffic jams on, and damage to, small rural roads caused by hundreds of heavy trucks headed to drilling sites with water, stone, and equipment, challenges to emergency responders, and concern over water supplies.

### Fee directly benefits community

Since its enactment in 2012, the natural gas impact fee has been directly benefitting communities across the state, both inside and outside of the affected areas.

The natural gas impact fee, which is levied based on wells drilled since the inception of the current play, is designed to directly benefit the citizens and businesses impacted by the energy industry. Approximately 60 percent of the collected funds go directly to communities impacted by drilling, with those hosting the most wells receiving the greatest portion of the funds. Today, municipalities are using the revenues for a range of eligible projects – from road and bridge infrastructure and public safety to environmental programs and planning for the future.

Local officials are cautiously using these funds to make well-thought-out investments in their communities. Local roads and bridges are being improved, while often-ancient road and public safety equipment is being replaced; support for volunteer fire companies is being increased; local parks are seeing upgrades; sewer project costs are being offset; and local police departments are being retained, expanded, or started. To significantly reduce reliance on debt, local officials are using capital reserve funds to responsibly save all or a portion of these funds for major projects, such as roads, bridges, and sewer systems, as well as for a day when the industry is gone but impacts remain.

The remaining 40 percent of the impact fee funding is being distributed throughout the commonwealth. In fact, every county in Pennsylvania has received funding to repair structurally deficient bridges, support county conservation districts, and undertake environmental and recreational projects. In addition, every municipality is eligible for funding to clean up the environment, convert vehicle fleets to natural gas, and install water and sewer lines in areas that desperately need them.

### Critical local funding stream

The Association wants to make sure this critical local funding stream is preserved and continues to directly benefit our communities, residents, and businesses. The impact fee should not be replaced by a severance tax that would be used for non-related expenditures by the state. Instead, our impacted communities must be held harmless.

This impact fee is being invested directly in our communities, increasing the quality of life of our residents and easing property tax burdens. Without this well-designed fee on the industry, taxpayers will need to pay for the cleanup long after the industry is gone.

Although the industry has reduced its activities due to economic factors, expansion will take place with increased demand.

### A new day

The arrival of the impact fee signaled a new day in Pennsylvania, one where we turned away from a past where natural resource booms destroyed those communities directly impacted by the removal of natural resources and no tools were provided for recovery. Moving forward, the new jobs and expanded economic opportunities must continue. At the same time, the industry must continue to pay for the impacts it is causing, both now and in the future.
SATS believes that the General Assembly must address the problem of mandated municipal employee benefits to bring relief to distressed municipal pension plans. Such changes should include amending the Municipal Police Pension Law to give municipalities the option of providing a defined contribution pension plan for new officers in lieu of the current mandated defined benefit plan, as well as prohibiting further expansion of police pension benefits. Municipalities need the tools to properly fund these benefits to ensure our police employees receive the benefits they have earned.

PSATS opposes the establishment of a single, state pension system for municipal employees with mandatory participation. Such a program takes away the ability of local officials to make benefit decisions on behalf of their employees.

**Arbitration**

The SR 323 Report on Unfunded Mandates found arbitration to be one of the most burdensome mandates for municipalities. PSATS supports the following reforms to relieve this mandate.

When collective bargaining negotiations go to arbitration, PSATS believes that both parties should equally bear the responsibility of paying all costs of the third, neutral arbitrator and all other expenses incurred by the board. These expenses are currently borne solely by the local government. The third arbitrator should be a resident of the same county in which the municipality is located.

The board of arbitration should be required to consider a municipality’s financial status, budget, ability to raise revenues, and the potential effect on its bond rating before making any arbitration award. Any award that would create a financial hardship for the municipality should be declared invalid, reduced, or modified by the court on appeal, and implementation of an award should be held in abeyance during the appeals process. Further, an arbitration award should not be binding if it would:

- cause a municipality to borrow funds or increase taxes above statutory limits;
- cause a municipality to become distressed; or
- cause a municipality to suffer a reduction in its established bond rating.

PSATS supports the creation of a Bipartisan Arbitrator Compliance Committee to review awards to verify that the arbitrators are acting in the best interest of all parties involved.

**Employee wages and benefits**

The Association believes that municipalities are best equipped to determine the wages and benefits of their employees. Over the years, however, the state has mandated wages, benefits, pensions, and other unfunded costs that must be borne by the local taxpayers. In many cases, these mandated benefits far exceed those provided in private-sector employment.

PSATS opposes legislation that would allow the state to establish or liberalize benefit mandates without regard to their fiscal impact on municipalities.

**Prevailing wages**

Act 89 of 2013 made the first reform to this unfunded mandate since the 1960s. Townships must now pay the state prevailing wage on any road or bridge public works construction contract over $100,000, which was increased from $25,000. While this change is a major step forward, the Association maintains that the $100,000 threshold should be expanded to include road projects funded by the state’s Dirt, Gravel, and Low-Volume Roads Program, as well as all other types of public works construction contracts that remain at the $25,000 threshold and to specifically exempt those road projects that historically were classified as maintenance activities from the Prevailing Wage Law.

In addition, the law should be modified to fully increase the contract threshold to account for inflation since its inception; provide for future automatic adjustment of the threshold based on the Consumer Price Index; and make the prevailing wage more accurately reflect actual wages paid in a particular municipality. PSATS also supports repeal of this act altogether or making it optional.

Prevailing wages generally approximate union-scale wages for a metropolitan area and oftentimes far exceed comparable wages paid in the locality for the same type of work. The SR 323 Report found the prevailing wage to be one of the most burdensome mandates for municipalities, which can increase the cost of public projects by 20 to 30 percent.

PSATS also supports the repeal of the federal Davis-Bacon Act, which requires townships to pay prevailing wages on contracts over $2,000 using federal money.

**Mandated union fees**

The Association believes that no township employee should be forced to join a union or pay the equivalent of union dues if he or she chooses not to. The Association believes that it is the responsibility of a particular union, and not a municipality, to raise its own funds and conduct its own membership drive.

**Occupational safety**

The Association opposes any effort to enact a state Occupational Safety and Health Act that would mandate compliance by political subdivisions or require political subdivisions to come under the federal law.
Citizen participation is an essential component of local government and should be encouraged and facilitated to the greatest extent possible.

The Association believes that citizens have the right to attend public meetings at which business is discussed and acted upon and to view public documents. In general, the current law strikes a reasonable balance between the public’s right to know and the need for private discussions by local officials on sensitive issues.

It should be noted that local elected and appointed public officials are subject to far more stringent requirements for open meetings and public participation than the state legislature and commonwealth agencies.

Today, there is very little that a local governing body can do except at a publicly advertised meeting. Any further restrictions on local government activities would create an untenable situation where local officials would become unable to perform their mandated responsibilities without violating the Sunshine Law.

In addition, demands on local governments for public information have, in some instances, been extended to the disclosure of legal matters and agreements during the course of a lawsuit or investigation and other sensitive information. These liberalizations of the law, we believe, go far above and beyond the law in providing access by the public to their local government activities and only serve to impede the ability of local officials to operate efficiently and effectively.

PSATS maintains that these laws must be fair and equitable for all parties involved, without imposing an undue burden on municipalities.

Right-to-Know Law

While PSATS supports the public’s right to view and obtain copies of municipal public documents, current law places a financial burden on municipalities, which was recognized by the SR 323 Report on Unfunded Mandates.

PSATS supports reforms to the Right-to-Know Law, including authorization for municipalities to recover the costs of compliance, such as charging for staff time when fulfilling requests and permitting additional fees for commercial requests or the ability to reject requests that will be used for resale, business solicitation, or financial gain; protecting sensitive information, such as credit card and account numbers; exempting personal identification information from disclosure, such as personal tax information, benefit participation, employee home addresses, and dependent information; limiting record access by inmates; and reducing the prepayment cap from the current $100.
Local roads and bridges and state highways, along with air, rail, and the mass transit system, comprise a single transportation network for the commonwealth's traveling public. Pennsylvania has more than 117,000 total road miles, and two-thirds of these, along with thousands of local bridges, are owned and maintained by local government.

These local roads and bridges are a vital link in our transportation network and provide children with safe transport to school, workers with reliable access to jobs, patients with transportation to doctors, and farmers with a means to move food to consumers across the state and country. As such, the Association believes that local government is an essential partner with the state in maintaining our roads and bridges.

**Funding of roads**

PSATS commends the General Assembly for the passage of Act 89 of 2013 and for providing new, meaningful, and permanent transportation funding for municipalities. The Association believes that the commonwealth must maintain a predictable and reliable funding method for the state and local governments to properly maintain a sound and comprehensive transportation system.

Local roads and bridges, as well as state highways and bridges, form the framework of the state's surface transportation network. Municipalities are overburdened with the maintenance cost for their portion of our transportation network. A Transportation Advisory Commission study released in 2011 concluded that municipalities spend approximately $1.3 to $1.5 billion per year on their roads and bridges. Even with the significant increase in funding from Act 89, which is expected to raise the annual distribution to $500 million, municipalities are left with approximately $2.5 billion in unmet transportation needs.

Municipalities should receive a fair share of state liquid fuels funds to adequately maintain the local road portion of the entire Commonwealth system. PSATS supports the use of a blend of revenue sources, including the oil franchise tax, registration fees, and public-private partnerships, to fund the state and local highway and bridge systems.

Under the current liquid fuels allocation formula, 50 percent of the funds are distributed based on population, and...
50 percent are based on road mileage. The Association believes that the current formula is fair to all municipalities and opposes any change in the formula that would tip the balance in favor of one class of municipality over another.

**Safety**

PennDOT should not be able to abdicate its financial responsibility for maintaining state highways and rights of way, including the placement and maintenance of signs, pavement markings, drainage, and stormwater management facilities to municipalities, as recommended by the SR 323 Report on Unfunded Mandates. Municipalities are faced with expensive mandates for MS4s on local roads and should not be held responsible for MS4s on state roads.

As such, PennDOT must be responsible for all stormwater facilities located within its right-of-way or enter directly into agreements with developers and property owners for the maintenance of these facilities. Municipalities should not be required to enter into such agreements on behalf of developers or property owners as a condition of a state highway occupancy permit.

Municipalities should be able to reduce the speed limit on unmarked roads from the default speed limit of 55 mph to 40 mph for safety reasons without the need for a traffic and engineering study.

**Federal mandates**

The state has adopted the federal Manual on Uniform Traffic Control Devices by reference. However, this one-size-fits-all approach does not work in Pennsylvania. Provisions that mandate all mowing operations to have a shadow vehicle unless located on a road with fewer than 10,000 vehicles a day and the mower is completely off the road, as well as prohibitions on the use of single yellow lines on rural and mountainous roads, do little to enhance safety while imposing unfunded mandates on municipalities.

**Dirt and gravel roads**

With the additional funding provided to the Dirt and Gravel Road Program by Act 89, many more dirt and gravel roads will be upgraded and properly maintained. However, to get the most out of the available funding, the act must be amended to raise the prevailing wage threshold to $100,000 for road work funded through the Dirt, Gravel, and Low-Volume Roads Program.

**Road bonding**

The Association strongly urges PennDOT to increase the maximum road bonding amounts. Road bonding allows municipalities to recoup costs for road repairs from an entity whose overweight vehicle(s) damaged it. However, the maximum bonding amounts of $6,000 per mile for unpaved roads and $12,500 per mile for paved roads cover only a fraction of the current costs of road reconstruction.

In addition, PSATS supports legislation that would allow municipalities to post weight limits by axle weight or gross weight.

**Federal Highway Fund**

The Association strongly opposes any effort to use a portion of federal gasoline taxes, which are really user fees, for any purpose other than for highway expenditures.

Currently, the federal government does not recognize townships for the purpose of providing federal highway funds, although they do recognize them when it comes to mandates. Townships should be included as partners in the federal highway funding program.

**Turnback of roads**

The Association believes that the state’s Turnback of Roads Program has proven to be a highly successful joint venture for state and local governments and motorists alike. Currently, however, few municipalities are willing to accept these roads at the current low maintenance payment rate of $4,000 per mile. This reimbursement amount should be increased to $8,000 per mile to reflect current road maintenance costs.

The Association supports the continuation of the turnback program provided it remains voluntary.
Agricultural preservation

The Association believes that the preservation of agriculture and prime agricultural land is a wise investment in the future of the commonwealth.

The Association believes that the agricultural resources of Pennsylvania’s communities are essential to our economic vitality and quality of life. Agricultural enterprises use and conserve renewable natural resources and open space, and their continued presence maintains Pennsylvania’s rural culture, lifestyles, and traditional economy.

The Association believes that the preservation of agriculture and prime agricultural land is a wise investment in the future of the commonwealth. Economic opportunity, environmental protection, community infrastructure, and quality of life are among the most compelling reasons to preserve farms and farmland. Agricultural preservation is an investment in community infrastructure.

Agricultural operations

The Association recognizes the vital role agriculture plays in the economic and social vitality of the commonwealth. We also recognize that global competition, increased regulation, and declining profits are changing the nature of farming and agriculture. Advanced farms can often provide traditional farms with an additional and predictable source of income and reduction of risk and also serve as a farmland preservation tool.

The industry must recognize its relationship to local government and the communities in which they operate. Current methods of raising livestock and poultry frequently concentrate animals inside buildings or feedlots. As production agriculture continues to evolve toward fewer farms with more animals on fewer acres and as citizens continue to move to rural areas, the potential for conflict will increase.

The agriculture industry, local officials, and citizens must be willing to enter into a dialogue over concerns raised by agricultural operations, and all agricultural producers need to know and understand their obligations under regulatory programs.

In Pennsylvania, state and federal law and regulation govern many aspects of an agricultural operation. However, the authority for determining land use in Pennsylvania resides at the municipal level. Because land use decisions are made at the local level in Pennsylvania, the sitting of a livestock operation in a community is frequently a major local concern. The Association recognizes that agricultural activities are an appropriate land use.

PSATS recommends that township officials be included in the discussion of any legislation the General Assembly may consider on the siting and operation of agricultural activities.

Concentrated animal feeding operations

The Association recognizes that concentrated animal feeding operations are a legitimate farming activity. However, to protect the health and safety of the community and the integrity of the environment, these operations must meet the requirements of all applicable federal, state, and local laws and regulations.

Also, PSATS supports the authority of local government to adopt reasonable siting regulations for these operations.

Because land use decisions are made at the local level in Pennsylvania, township officials must be included in the discussion of any legislation affecting the siting and operation of agricultural activities.
Pennsylvania townships continue to grow faster in population than any other type of municipal government in Pennsylvania. With 95 percent of the state’s land area, townships have more land available for new growth and development. In part, the growth is emanating from the urban areas, where citizens are migrating outward into suburban and rural townships.

The phenomenal residential growth experienced by townships in the last 40 years has created formidable challenges for township governments and their current residents in meeting the demands of new residents for paved roads, sewage systems, police and fire protection, recreation, and many other services.

Studies have consistently shown that residential growth does not pay for itself in the generation of new local tax revenues. In most cases, the cost of new growth results in higher taxes to pay for services and facilities to serve a growing population.

Contrary to popular opinion, township officials cannot stop growth and development nor should they.

PSATS will continue to work with the legislature to address land use issues, including concurrency and impact fees.

**Local control**

Critical to the future ability of townships to manage growth is the retention of municipal control of planning, zoning, subdivision, and other land use decisions. Such decisions cannot and should not be made by the county, state, or federal governments, nor should these levels of government be given the authority to veto local land use decisions.

By distancing land use decisions from the people who are directly affected, the citizens of the commonwealth will lose their voice in determining the course of future growth and development in their own communities.

PSATS opposes any legislation that would reduce or eliminate local authority to make land use decisions or pre-empt existing municipal authority to regulate land use through zoning and subdivision and land development ordinances, including amendments to the Coal and Non-Coal Surface Mining and Conservation Act and the Oil and Gas Act.

Land development policies must balance the rights of the community and the legitimate interests of developers and other commercial and industrial interests and not sacrifice the rights of residents and local governments to benefit special interests.

***Critical to the future ability of townships to manage growth is the retention of control of planning, zoning, subdivision, and other land use decisions. In fact, PSATS believes that these decisions cannot – and should not – be made or vetoed by the county, state, or federal governments.***
**Fair-share zoning**

Under the Municipalities Planning Code, each municipality must zone for every conceivable use within its borders. Acts 67 and 68 of 2000 created a measure of relief from this requirement for municipalities that choose to participate in a multimunicipal comprehensive plan. Participating municipalities are relieved of their “fair-share zoning” requirement to provide for every type of land use within their borders as long as the use is adequately provided for within the area of the multimunicipal plan.

However, it should not stop here. PSATS maintains that all municipalities should be able to benefit from this concept if a use is already adequately provided for within a reasonable area. Once a particular land use has reached the level provided for in a municipality’s comprehensive plan, the municipality should have the authority to limit further development of that type of use. Otherwise, the municipal comprehensive plan has no meaning.

Further, the MPC should be amended to recognize agricultural zoning as a legitimate zoning classification in Pennsylvania.

**Incentives for cooperation and consistency**

PSATS supports voluntary participation in multimunicipal comprehensive plans. Further, PSATS strongly supports the continuation of the general consistency requirements between local and county comprehensive plans and between municipal comprehensive plans and all other local land use ordinances.

The Association supports the use of positive incentives to encourage and promote joint planning and zoning as long as it is voluntary. A municipality should not be penalized by the withholding of unrelated state funding on the basis that it does not participate in a multimunicipal land use arrangement or does not have generally consistent land use ordinances.

However, the Association opposes legislation that would place increased emphasis on the comprehensive plan relative to the zoning ordinance or that would require a municipality to make findings of fact that its ordinances are generally consistent with its comprehensive plan before the municipality could take action on land uses.

**Concurrency**

In some states, local governments have the authority to control the timing of property development and population growth — known as concurrency — to ensure that the public facilities and services needed to serve new residents are constructed and made available simultaneously with the impact of new development.

Pennsylvania local governments do not have this critical tool and, all too often, new development is allowed to occur despite the lack of adequate infrastructure and services to accommodate the new residents. The result is traffic gridlock, overburdened sewage systems, and water contamination problems.

Stopping new growth is not the answer, but local officials must have the ability to plan any improvements to infrastructure to serve new development in accordance with their financial capacity to pay for them.

**Impact fees**

The state’s Impact Fee Law (Act 209 of 1990, as amended) imposes prohibitive costs on township residents for extensive studies required to justify the imposition of an impact fee. This law must be simplified to give townships the flexibility to minimize the financial burden on their taxpayers to pay for the transportation infrastructure needed to accommodate new development.

A municipality should be allowed to use its existing comprehensive plans and maps to satisfy the requirement under the law to prepare a transportation capital improvement plan.

Planners and other experts have been saying that infrastructure needs should not be an afterthought to new development and that needed improvements should precede new development. Choices must be made.

Either the township must be allowed to require new development to concur with its timetable for infrastructure improvements in accordance with its financial capabilities or developers must be willing to help finance these improvements through direct contributions or impact fees.

Fair and flexible legislation is needed to authorize municipalities to require
compensation from developers when new development will adversely affect existing off-site public facilities. Development projects should not be approved unless the infrastructure improvements needed to serve the residents are provided for.

**Compliance with local zoning**

The commonwealth and all of its agencies and political subdivisions must recognize and abide by township land use requirements and all local zoning and land use ordinances, without exception. PennDOT must involve municipalities early in its highway occupancy approval process to avoid a situation where a municipality would be faced with signing the HOP as a co-permittee. Also, private water companies should be required to comply with all local zoning and land use regulations and should participate in infrastructure planning.

**Curative amendments**

PSATS supports changes to fully restore fairness and equity to the curative amendment process. These changes should include a requirement for the courts to consider the suitability of an applicant’s site before granting site-specific relief; an option to allow the municipality to accept a landowner’s curative amendment or adopt an alternative amendment to cure the defect; and a mandatory waiting period before additional substantive challenges may be filed.

**Takings**

The U.S. Constitution prohibits government from taking or seizing private property without just compensation. Private property rights activists would like to apply this provision to all government restrictions on the use of private property, including legitimate zoning and environmental regulations. For the most part, the courts have supported governmental restrictions that have a reasonable bearing on the public good.

PSATS opposes legislation to require local government to reimburse property owners for any perceived financial loss in the use of their property when exercising valid public health, welfare, and police powers granted to them by the state or federal governments.

Furthermore, PSATS opposes legislation to permit developers and landowners to sue a municipality in federal court under the guise of a takings claim before exhausting all local and state administrative remedies.

**Planning commission**

Municipalities should not be required to submit subdivision plans to the county planning agency for review if a township has its own planning commission.

**Collocation and coordination of infrastructure**

PSATS supports the collocation and coordination, where appropriate, of utilities, natural gas lines, cable and broadband, telecommunications, sewer, water, and other infrastructure to reduce the proliferation of lines, ensure compliance with best practices, and minimize surface disruptions. The location of these lines should be coordinated with local officials for planning and emergency response purposes.

**Pipelines**

PSATS supports the creation of a regulatory environment for siting pipelines not currently administered by the Federal Energy Regulatory Commission or the Pennsylvania Public Utility Commission. This should include a notification framework that would require pipeline companies to provide written notice to municipalities, counties, easement-holding non-government entities, and property owners where pipeline activities are planned. Such written notice must be provided to these entities before submissions are made to a regulatory agency for review or approval.

PSATS supports the Local Government Workgroup recommendation to Gov. Wolf’s Pipeline Infrastructure Task Force that would require industry participants to foster cooperation, collaboration, and coordination with municipalities early and often in the pipeline development process and strongly urge the governor and DEP to prioritize this important local collaborative effort as a “top tier initiative” from the Task Force Report.

**Cable**

PSATS opposes state and federal legislation that would eliminate a township’s capacity to negotiate with any cable or telecommunications provider, usurp a township’s authority to protect and maintain its rights of way, or eliminate items currently subject to franchise fees.
At all levels, government’s role is to provide facilities, programs, and services that individuals cannot otherwise provide for themselves and that the private sector cannot or will not provide. Like that of the state and federal governments, local government’s funding to deliver these services is primarily generated by taxes. However, unlike the federal and state governments, local government’s taxing capacity is limited to the authority granted by the state government.

PSATS opposes the reduction or elimination of any local government revenues or taxing authority unless these revenues are replaced dollar for dollar. Whenever the state takes away a local revenue source without replacement or supersedes a local taxing authority, local governments are forced to either increase property taxes or reduce or cut services to their residents. In addition, the Association strongly believes that the use of funds derived from any general-purpose tax should not be limited or restricted by the General Assembly but should be left to the township’s discretion.

For local officials to respond adequately to the needs and demands of their citizens, they must have the authority and flexibility to tailor their tax structure to best meet these needs. Local governments must be able to choose the proper mix of taxes to generate sufficient tax revenues to meet the needs of the community and ensure that the tax burden is shared equitably among all categories of taxpayers, including individuals, businesses, and industry. This tax structure must include property, revenue, and income taxes.

Any reform or restructuring of the local tax system must establish a broad-based, long-term solution. To that end, local tax reform must be comprehensive and provide a full, optional menu of taxes for townships, including but not limited to, an income tax, business privilege tax, amusement tax, local services tax, property tax, and sales taxes.

**Property tax**

The current system requires local governments to rely on the property tax, which has been shown time and time again to be an unfair burden on those with limited incomes. Part of the problem is that three local taxing jurisdictions — the municipality, county, and school district — must rely on the same property tax base for a major portion of their revenues.

Many townships rely heavily on the property tax as a reliable source of revenue. Although the earned income tax can be a greater source of revenue, it varies due to economic conditions. Also, many bedroom communities, particularly in border counties, have few tax options and could not continue to operate without the property tax. As such, PSATS must oppose the complete elimination of the property tax.

The Association supports fair and flexible options to reduce the property tax burden on residential property. While municipalities may implement the Homestead Amendment to maintain a balance between the residential and business tax burden, without a new source of revenue, such as the authority to levy a higher income tax, few townships have the financial means to do so.

**Earned and personal income tax**

The earned income tax is the biggest source of tax revenue for many townships.
Because it is based on income, the earned income (wage) tax is generally perceived to be more equitable, and therefore, more politically acceptable.

Although the statutory limit on this tax for townships is 1 percent, the tax must be shared with the school district, so in reality, the cap is ½ of 1 percent. The sharing provision prevents the earned income tax from becoming a more important and equitable source of revenue for most townships.

The sharing provisions between the school district and municipalities for the earned income and other Act 511 taxes should be eliminated by giving each taxing jurisdiction its own exclusive tax base. Further, townships should be authorized to levy a higher earned or optional personal income tax, thereby giving them the flexibility to reduce their reliance on the property and nuisance taxes if they so desire.

**Sterling Act**

PSATS has long supported amendments to the Sterling Act to authorize municipalities that levy the earned income tax to collect and retain earned income taxes from municipal residents who work in Philadelphia, as well as to require Philadelphia to provide offsetting credits for income taxes paid to an individual’s home municipality.

In addition, PSATS supports the apportionment procedure for calculating the Philadelphia tax credit, whereby a tax collection committee, appeals board, and tax collector honor credits for wage taxes paid to Philadelphia to the extent that such credits are accurately calculated using apportionment. The Philadelphia tax credit should not be used to reduce earned income tax owed to a municipality on income not earned within Philadelphia.

**Realty transfer tax**

The sharing provision on the 1 percent portion of the realty transfer tax between the municipality and school district should be eliminated to allow the municipality to levy a full 1 percent on the sale of real estate.

**Hotel occupancy tax**

Townships should be authorized to levy a hotel occupancy tax. The majority of hotel occupants are non-residents, and revenues from the hotel occupancy tax should be used to benefit tourism and other travelers through the preservation of open space, improved infrastructure, and the provision of public safety.

**Business privilege and mercantile tax**

The authority for local governments to levy the business privilege and mercantile taxes that were repealed with the enactment of Act 145 of 1988 (Local Tax Reform Act) should be restored to provide greater balance between the local tax burden borne by residents and the business community.

**Amusement tax**

PSATS opposes any legislation that would reduce or eliminate the amusement tax. This tax is a user fee that pays for infrastructure used primarily by nonresidents. If this tax were eliminated without replacement revenues, townships would be forced to increase property taxes on their residents.

**Special-purpose taxes**

Real estate taxes levied and used exclusively for specific township services are a
fair way to assess the cost of these services directly on those who benefit. Townships should be given more flexibility to levy these taxes at a millage rate sufficient to fund the actual cost of the service and should be given authority to levy special-purpose taxes for police, libraries, stormwater, and emergency response services.

The levying of special-purpose taxes directs the tax dollars to the service the government is providing. If these services are demanded by the people and the limitations of the general taxing authority do not enable funding for these services, townships should have the authority to adopt special tax levies targeted to that particular service.

### Tax-exempt properties

Fair and equitable taxation is based on the premise that everyone pays his fair share of taxes. Responding to political pressures from special-interest groups, the legislature granted exemptions to various entities from the payment of local taxes.

For instance, townships do not receive any real estate tax revenue or payments in lieu of taxes for the municipal services provided to schools, churches, hospitals, colleges, and government-owned buildings. Consequently, fewer taxpayers are supporting more expensive services, and the burden on these taxpayers continues to increase to the benefit of the tax-exempt special interests.

The Association believes that federal and state governments should not be allowed to adopt legislation to exempt any entity from the payment of local taxes without adequate reimbursement from the state.

If the state exempts an entity from local taxes, it should provide in-lieu-of-tax payments to the municipality to compensate for the loss of tax revenue or authorize the municipality to collect a municipal services fee from tax-exempt property owners to cover the costs of municipal services, as recommended by the SR 323 Report on Unfunded Mandates (2010).

Tax-exempt properties on the rolls should be recertified periodically to ensure that their use warrants their tax-exempt status.

PSATS opposes a constitutional amendment that would exclude any property from paying its fair share of tax liability.

### Referendum

Township supervisors are elected by their residents to make revenue-raising and expenditure decisions on behalf of their electors, just like members of the General Assembly. By requiring taxing decisions to be made by referendum, the legislature would tie the hands of local officials and make it difficult, if not impossible, to raise the revenues needed for local governments to continue to provide the services demanded by their citizens. PSATS opposes referendum requirements for local tax increases.

One growing threat has been special tax concessions for profit-making interests. For example, ski resorts, bowling alleys, golf courses, and businesses have successfully sought exemptions or reductions in local taxes through the legislative process. The Association opposes the granting of special exemptions from such taxes by the legislature.

### Assessment reform

Without changes to the assessment process, the effect of any local tax reform will be greatly diminished. The Association supports a task force to examine and facilitate the implementation of recommendations that would modernize the state’s assessment system to ensure that assessed values are determined fairly.

Some counties have not reassessed property for decades. In others, the assessment ratios remain artificially low and the same millage rate brings in decreasing tax revenue. When the disparity in assessed values exceeds a reasonable balance or uniformity in property assessments, it results in an unfair tax burden for some property owners while others do not pay their fair share.

Further, the county assessment laws should be amended to require the assessed value of all property in the county to better reflect the changing market values over time. Townships in those counties with unrealistically low assessment ratios should have the authority to make periodic adjustments to their statutory limits on real estate taxes. The result will be that the actual millage limits and effective revenue bases are more equitable, regardless of the county in which a township is located.
The Association believes that all public officials and employees should be of the highest ethical caliber and above reproach. However, no code of conduct should be so burdensome that it discourages qualified citizens from participating in government, particularly local government, where the spirit of volunteerism and a sense of civic duty far outweigh any expectation of financial gain.

Local government officials should not have their personal and professional integrity called into question by frivolous complaints made to the Ethics Commission. The Association believes that action should be taken to encourage individuals not to make frivolous and unfounded complaints. Also, public officials should be given the same rights under the Ethics Law as under the judicial system, which means they would be considered innocent until proven guilty.

The Association believes investigations by the Ethics Commission should be conducted in strict compliance with judicial jurisprudence and provide for the disclosure of the individual(s) who filed the complaint with the Ethics Commission; the right to confront and cross-examine the complainant(s); the investigation, the hearing, and deliberation to be conducted by separate agencies; the recovery of legal fees and a statement clearing the official’s name when found not guilty; timely and reasonable access to evidence by the accused; and a strict 90-day time limit on Ethics Commission investigations.

In addition, the Association believes that public officials should be afforded the basic right of privacy by not disclosing the name of any subject under investigation until the Ethics Commission or a court of law makes a final decision.

The Association also believes that the state Ethics Commission, in administering the Ethics Law, should not be overzealous in the pursuit of the goals of the law, nor should the Ethics Commission be permitted to act unilaterally beyond the intent and spirit of the law. The Ethics Commission should recognize and abide by the Second Class Township Code and other laws pertaining to townships and not give advice that runs counter to the provisions of these laws.

↓ PSATS is urging lawmakers to amend the Ethics Law to encourage individuals not to make frivolous and unfounded complaints against municipal officials. Likewise, public officials facing an ethics complaint should be considered innocent until proven guilty.
Governmental immunity

Government is immune from liability except in cases of proven negligence and should be protected from frivolous litigation. PSATS opposes any attempt to lessen the protections currently provided for local governments, including the caps on award damages, under the Political Subdivision Tort Claims Act. And to keep legal and court costs down for all parties, changes should be made to enable the courts to process cases more expeditiously.

However, the sovereign immunity provided to local government is not applicable in federal court. There have been alarming cases filed against townships under the federal Civil Rights Act that resulted in unreasonably high awards. These lawsuits do not punish the township; they punish the residents of the township, who will be forced to pay much higher taxes to fund these “awards.”

Immunity for local officials

We also have seen an increasing number of lawsuits filed under the federal Civil Rights Act aimed at forcing township officials into taking a certain action. Under this law, township officials may be sued as individuals, potentially exposing each to personal liability for damages.

Although many of these lawsuits do not materialize or succeed, the threat of personal liability is enough to impede the actions of the board of supervisors and act as a deterrent to those considering running for office.

Reforms are needed to empower the courts to assess penalties against anyone who ties up the courts’ time by pressing a lawsuit that is determined to be frivolous. Also, the costs of defense of elected officials acting in their capacity as elected officials should not be borne personally.

And finally, township insurance policies should cover the defense costs and all damages of officials acting in their official capacity as representatives of the township, including wrongful termination and demotion, discrimination, improper discipline, sexual harassment, improper bidding, zoning or permit improprieties, the issuance or denial of licenses, failure to provide services, and unnecessary expenses.

Deputy attorney general for municipal litigation

The Association strongly supports the establishment of the position of deputy attorney general for municipal litigation in the state Attorney General’s Office to provide legal counsel and assistance to municipalities in actions that challenge an ordinance or regulation adopted in compliance with state law.

The commonwealth should provide municipalities, as instrumentalities of the commonwealth, with the necessary financial support and legal assistance to defend local ordinances that are adopted and enforced to comply with state laws and regulations.

PSATS opposes any attempt to lessen the protections currently provided for local governments, including the caps on award damages, under the Political Subdivision Tort Claims Act.
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