



PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

Chairman Graziani and members of the State Planning Board:

Thank you for the opportunity to submit comments on behalf of the 1,454 townships represented by the Pennsylvania State Association of Township Supervisors. We want to continue this critical dialogue about Pennsylvania's future. As we stated at the hearing, the issues contained in the Governor's charge and the supporting idea papers are many and complex and there are no easy answers or one-size-fits all solutions. Instead, consideration should be given to eliminating unfunded mandates and providing local government with new and flexible tools unaccompanied by bureaucratic processes.

Intergovernmental cooperation and mergers

It is the flexibility of our system of government that gives local officials the opportunity to determine the types and levels of services desired by their residents and how to provide them. Townships currently use intergovernmental cooperation to achieve efficiencies of scale and provide uninterrupted service to their residents. In a recent PSATS survey, 83 percent of responding townships reported involvement in collaborative projects with another local government in areas as diverse as code inspections, recycling, snow removal, land use planning, equipment sharing, fire protection, joint purchasing, road maintenance, recreation, sewage treatment, ambulance services, and the list goes on. Because many of these efforts take place on an as-needed, flexible basis, these day-to-day examples are often not documented while saving millions and enhancing service delivery.

PSATS continually promotes the successful use of intergovernmental cooperation with our members and supports incentives for cooperation. At one time, the state provided millions in annual grants for cooperative efforts through the Governor's Center for Local Government Services, which we strongly supported. Local governments should be able to work together with the least possible number of hurdles. Perhaps consideration should be given to including mutual aid language to streamline many of the day-to-day cooperative efforts, particularly public works which help provide uninterrupted service to our residents.

The state does not have a monopoly on the best ideas. Local government officials have the ability to be creative in understanding the needs of their residents and must continue to be able to control their own destiny. "Right-sizing" is in the eyes of the beholder. Townships that provide the type and level of services desired by their residents **ARE** "right-sized" communities.

The Association believes that the existing consolidation and merger process is workable and is appropriately dependent on community choice. The state should provide support for this process, but should not initiate or attempt to force these efforts.

Planning process

There is a myth perpetuated in many levels of state government that municipalities can stop development and in fact, are the cause of development. However, as you well know, this is false. For this to happen, the state would have to amend the MPC to allow municipalities to prohibit or restrict development. Municipalities can plan responsibly for development, but cannot stop it. In addition, it is developers that drive development, not municipalities.

Coordination between the state and local government needs to take place earlier in the planning and development approval process. Currently, locals are often brought in late in a state approval process and when important changes are proposed, the locals are treated as though they are only slowing the process or trying to block development. Instead, the development approval process needs to be coordinated between state agencies, as well as state and local government and these efforts should begin early in the design phase so that conflicts are eliminated and don't become an issue late in the process.

PSATS agrees that tweaks are needed to the Municipalities Planning Code, however, proposals for major substantive changes will only end up bringing the many interest groups to the table with their interest-specific changes, such as the agricultural community, oil and gas industry, and builders, which stops any progress from occurring.

PSATS is a longtime supporter of the concept of concurrency, which is discussed in the infrastructure paper. Concurrency allows local government to restrict development to those areas where the needed infrastructure is in place. However, concurrency is not authorized in Pennsylvania, causing infrastructure for new development to drive up costs to existing residences and businesses.

Need for state agency coordination

The Commonwealth and its agencies need to recognize and treat local government as partners in providing services for our mutual constituents, not as a special interest or source of revenue. For example, in the recent threat by New Jersey to end its long-standing tax reciprocity agreement with Pennsylvania, the state was only concerned about the impacts that the elimination of this agreement would have on the Commonwealth. Little, if any, thought was given to the profound affect that the elimination of this agreement would have had on border municipalities and counties.

The Association believes that state and local governments are partners in providing critical infrastructure to our residents. As pointed out in the infrastructure paper, there are planning processes for state and federal transportation improvements. Municipalities must plan for sewage treatment and disposal needs and DEP ensures that these plans are adopted and implemented locally. DEP permits wastewater treatment plants and can require a municipality to build or expand existing plants when they fail to meet expected need or want by the building community.

For example, Mahoning Township, Lawrence County was told to build a \$25 million wastewater treatment facility in anticipation of a racetrack and casino. However, the Pennsylvania Gaming Control Board rejected the gaming license application, leaving the

township with a \$10 million PennVEST loan and not enough revenues to make the payments. The sewer plant the township originally proposed was \$9 million for a 160,000 gallon per day plant, less than the current loan amount. The township was convinced by then-Gov. Ed Rendell and DEP to build a larger 380,000 gallons per day plant due to the expected capacity of the racetrack and casino.

While tax incentives are greatly sought after by the business community, particularly big business, they often come at a significant cost for our residents and taxpayers. We need to ensure that when we chase after business investments and provide incentives, that the resulting benefits in terms of jobs and tax base are greater than the investment, and that we aren't simply padding the pockets of shareholders.

Development of roads and bridges encourage development, as does access to sewage treatment capacity and public water, a fact well-known to municipalities attempting to exercise their due diligence to plan for development. But are these state planning efforts, which have such an impact at the local level, coordinated at the state level? What about state permits needed for new development? There is little, if any state coordination of these critical planning efforts that have a significant impact on development at the local level. Take, for example, an area where the municipality has carefully planned for continued agricultural use and limited residential development. Decisions by DEP to allow for expanded public water access into these areas can render municipal planning void if it results in intense development pressure. This does not even take into account court decisions that reverse an approved plan that an applicant contends limits his ability to develop that land.

We contend that the State Planning Board is uniquely positioned to examine these statewide planning coordination issues, as well as fragmentation of policy between and within state agencies that impact local decision-making and infrastructure.

State Agency Fragmentation

PennDOT and DEP are the state agencies that our members interact with regularly. One of the major complaints is the lack of coordination, even fragmentation, between each agency's regional and central offices. One example is PennDOT's Highway Occupancy Permit Stormwater Policy, which requires new development to retain stormwater on the property or that the municipality accept responsibility for the new connections to a state highway drainage system. While we have concerns with this policy in general, if it worked as intended and the districts required that designs submitted by the developers keep stormwater drainage from entering the highway drainage system, it would alleviate most concerns. However, this has not been the case and many municipalities have been told at the end of the process that they had to accept this responsibility or the development could not move forward.

Another example of lack of state agency coordination could be seen during the Pipeline Infrastructure Task Force, where there was no coordination between federal, state, and local government on the siting of pipelines. PEMA and DEP did not coordinate on emergency response to pipeline-related incidents or with county or local agencies. In fact, the Environmental Workgroup dedicated an entire recommendation to the need for coordination of permitting between state and federal oversight entities.

Another example of the lack of coordination between state agencies is the use of salt brine for winter snow maintenance. PennDOT has been promoting the use of salt brine for years and has trained local governments on its use. However, due to an oversight, rules for the use of liquid fuels funds were not updated to include specific authorization to use these funds for purchasing or making salt brine. When the Auditor General discovered this oversight, instead of notifying PennDOT or bringing it to their attention, municipalities were required to pay back any funds used for salt brine as an unapproved expenditure. We worked with our members to bring this discrepancy to the attention of PennDOT officials, who worked to update the liquid fuels rules and allow salt brine as an approved use.

Stormwater

Yet another example is the oversight of stormwater by DEP. Today, there are separate rules and local responsibilities for Act 167 stormwater management planning, which affects all municipalities, and MS4s, which affect medium-sized and larger communities. The Commonwealth should combine or at least coordinate these two separate stormwater responsibilities.

MS4 communities are currently gearing up for expected escalation of these mandates for 2018 implementation, but many questions remain about what to expect and whether the EPA will look at measured improvement to water quality or simply lengthen the list of required actions that are required regardless of outcome. A community can improve water quality, but be fined during an audit if it did not check-off activities on its bureaucratic list. This is creating uncertainty in the affected communities.

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. It is easy to mandate, but harder to find funding!

Unfunded Mandates

The paper on struggling communities correctly identifies unfunded mandates that are creating immense financial pressures on communities. The most significant mandate, collective bargaining for police and paid fire services, leads to exorbitant pension and healthcare benefits that are not financially sustainable. Defined benefit pensions are currently required for public safety employees, while defined contribution plans should be authorized as options for public safety employees, similar to non-uniform employees.

Pensions and legacy costs significantly hinder intergovernmental cooperation, stopping some concepts dead in their tracks. The truth of the matter is that if one or more police departments are proposed to merge, the resulting contract will contain the very best, and most expensive, benefits from each of the existing contracts.

Our Association has long supported reform of the arbitration process that would place local elected officials and the citizens that they represent in a more balanced position to negotiate collective bargaining agreements. Even if a township has the tax base to raise taxes to pay for the

expanded terms of an award, that doesn't mean the residents are able or willing to shoulder a doubling or tripling of their property taxes to provide for a substantial benefit. In addition, new or increased benefits that are bargained for or awarded in one bargaining cycle become the base for the next cycle.

In addition, the Police Pension Act dictates that municipalities must provide very specific, and generous, pension benefits to our police. Subjecting pension benefits to arbitration means that any awards will be on top of these mandated benefits that communities must fund regardless of the outcome of negotiations. A cap on existing pension benefits is the only hope of bringing these costs under control and giving local governments the ability to adequately fund benefits currently owed to our police.

There are many other unfunded mandates, the most burdensome of which were examined by the recent Senate Resolution 323 of 2010 Report, which we urge you to review. In fact, the Local Government Commission has a database of 6,508 mandates placed on counties and municipalities. The Commonwealth has imposed many of these mandates over the years for various reasons, many of which are no longer applicable but continue to drive up the costs.

While the creativity of local officials can occasionally mitigate the impacts of unfunded mandates, the fact that expensive mandates continue to be implemented by both the state and federal government compounds their negative effects on our communities and their citizens and forces the redirection of limited resources. The MS4 mandates mentioned earlier are burdensome now and are expected to continue to grow as implementation continues. Even PennDOT has seen its resources diverted to face this incredible expense.

Tax Reform

Finally, let's face the fact that the Commonwealth has avoided the critical need for local tax reform for decades. All levels of local government – municipal, school, and county – must rely on the same tax base, making it exceptionally difficult to fund services and mandates. Local governments must be able to choose the proper mix of taxes to generate sufficient revenue to meet the needs of the community, ensure that the tax burden is shared equitably among all categories of taxpayers, including individuals, businesses, and industry, and not rely overwhelmingly on the property tax. Any solution must look at the burden that tax-exempt entities place on communities and whether they should pay fees for critical services. And the schools must be part of this discussion, as the issue of school funding is part of the Governor's charge.

As part of the tax reform discussion, it is important to keep in mind that the property tax is a stable tax base and that border counties and municipalities do not have other tax options unless there is reciprocity with the neighboring state. In addition, business and industry must pay a fair share of the tax burden and the property tax is the only current method to achieve this balance.

In closing, there are many diverse and complex issues that impact local government and few have simple solutions. We look forward to working with you on these issues.