

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1052 Session of 2022

INTRODUCED BY HUTCHINSON, J. WARD, DUSH, SCHWANK AND KEARNEY, FEBRUARY 3, 2022

SENATOR DUSH, LOCAL GOVERNMENT, AS AMENDED, JUNE 7, 2022

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in general provisions, further
3 providing for scope of subchapter, providing for definitions,
4 further providing for establishment and designation,
5 providing for emergency meetings by authorized
6 telecommunications device, repealing provisions relating to
7 exercise of powers and functions, further providing for
8 declaration of policy and for definitions, repealing
9 provisions relating to enabling authority for emergency
10 interim successors for local offices, further providing for
11 emergency interim successors for local officers and for
12 succession period and repealing provisions relating to term
13 and removal of designees.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 1121 of Title 53 of the Pennsylvania
17 Consolidated Statutes is amended to read:

18 § 1121. Scope of subchapter.

19 This subchapter applies to all [political subdivisions]
20 municipalities.

21 Section 2. Title 53 is amended by adding a section to read:

22 § 1121.1. Definitions.

23 The following words and phrases when used in this subchapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Authorized telecommunications device." The term includes
4 any device which permits, at a minimum, audio communication
5 between individuals.

6 "Emergency." A disaster emergency declared under 35 Pa.C.S.
7 § 7301 (relating to general authority of Governor) or 7501
8 (relating to general authority of political subdivisions) that
9 directly impacts a municipality's ability to provide services or
10 hold a regular or special meeting of the governing body of the
11 municipality.

12 Section 3. Section 1122 of Title 53 is amended to read:

13 § 1122. Establishment and designation.

14 Whenever, due to an emergency [resulting from the effects of
15 enemy attack or the anticipated effects of a threatened enemy
16 attack, it becomes imprudent, inexpedient or impossible to
17 conduct the affairs of local government at the regular or usual
18 place, the governing body of each political subdivision of this
19 Commonwealth may meet at any place within or without the
20 territorial limits of the political subdivision.] it is unsafe,
21 hazardous to human health or impossible to conduct a regular or
22 special meeting at the location where the municipality's
23 meetings are regularly held, the governing body of each
24 municipality of this Commonwealth may meet at any place within
25 the territorial limits of the municipality, within the
26 territorial limits of an adjacent municipality or another
27 location as near the municipality as practical. The meeting may
28 be held on the call of the presiding officer or any two members
29 of the governing body and shall proceed to establish and
30 designate, by ordinance, resolution or other manner, alternate

1 or substitute sites or places as the emergency temporary
2 location or locations of government where all or any part of the
3 public business may be transacted and conducted during the
4 emergency situation. These sites or places may be within or
5 without the territorial limits of the [political subdivision]
6 municipality and may be within or without this Commonwealth.

7 EXCEPT IN THE CASE WHEN IT IS UNSAFE, HAZARDOUS TO HUMAN HEALTH <--
8 OR IMPOSSIBLE, THE GOVERNING BODY SHALL POST INFORMATION ON HOW
9 TO ACCESS THE MEETING AT THE ENTRANCE OF THE LOCATION WHERE THE
10 MUNICIPALITY'S MEETINGS ARE REGULARLY HELD.

11 Section 4. Title 53 is amended by adding a section to read:
12 § 1122.1. Emergency meetings by authorized telecommunications
13 device.

14 (a) Authorization.--Whenever the governing body of a
15 municipality is required to establish a quorum of members
16 physically present to conduct hearings, meetings, proceedings or
17 other business, the governing body may conduct its business
18 through the use of an authorized telecommunications device
19 during an emergency if the conditions that have rendered a
20 meeting with the physical presence of the participants unsafe,
21 hazardous to human health or impossible would be alleviated
22 through the use of an authorized telecommunications device.

23 (b) Quorum.--Notwithstanding any other provision of law, a
24 hearing, meeting, proceeding or other business conducted through
25 an authorized telecommunications device under this subsection
26 shall not require the physical presence at a meeting location of
27 a quorum of the participating members if a quorum is otherwise
28 established by the participating members through the authorized
29 telecommunications device.

30 (c) Advance notice.--The UNLESS PROHIBITED BY EXIGENT <--

1 CIRCUMSTANCES, THE governing body of a municipality shall post
2 no less than ~~12~~ 24 hours advance notice of each meeting <--
3 conducted under subsection (a) on the entity's publicly
4 accessible Internet website, if any, or in an advertisement in a
5 newspaper of general circulation, or both. Public notice shall
6 include the date, time, technology to be used and public
7 participation information as provided under subsection (d). The
8 governing body shall comply with any other notification
9 requirement of 65 Pa.C.S. Ch. 7 (relating to open meetings) to
10 the extent practicable. EXCEPT IN THE CASE WHEN IT IS UNSAFE, <--
11 HAZARDOUS TO HUMAN HEALTH OR IMPOSSIBLE, THE GOVERNING BODY
12 SHALL POST INFORMATION ON HOW TO ACCESS THE MEETING UNDER
13 SUBSECTION (A) AT THE ENTRANCE OF THE LOCATION WHERE THE
14 MUNICIPALITY'S MEETINGS ARE REGULARLY HELD.

15 (d) Public participation.--To the extent practicable, the
16 governing body of a municipality shall allow for public
17 participation in a meeting, hearing or proceeding through an
18 authorized telecommunications device.

19 (e) Extended emergency meeting authorizations prohibited.--
20 The authorization to conduct meetings by authorized
21 telecommunications device under this section shall expire after
22 the 21st consecutive day following the emergency declaration
23 unless the governing body of the municipality establishes by
24 resolution that meeting by authorized telecommunications device
25 is essential to comply with a disaster emergency declaration or
26 proclamation of the Governor as extended by the General
27 Assembly.

28 Section 5. Section 1123 of Title 53 is repealed:

29 [§ 1123. Exercise of powers and functions.

30 During the period when the public business is being conducted

1 at the emergency temporary location or locations, the governing
2 body and other officers of a political subdivision of this
3 Commonwealth shall exercise at the location or locations all of
4 the executive, legislative and judicial powers and functions
5 conferred upon the governing body and officers by law. These
6 powers and functions may be exercised in the light of the
7 exigencies of the emergency situation without regard to time-
8 consuming procedures and formalities prescribed by law and
9 pertaining to them, and all acts of the governing body and
10 officers shall be as valid and binding as if performed within
11 the territorial limits of their political subdivision.]

12 Section 6. Section 1132 of Title 53 is amended to read:

13 § 1132. Declaration of policy.

14 [Because of the existing possibility of attack upon the
15 United States of unprecedented size and destructiveness and in
16 order, in the event of such an attack, to] To assure continuity
17 of government through legally constituted authority and
18 responsibility in offices of the municipalities of this
19 Commonwealth, to provide for the effective operation of
20 government during an emergency and to facilitate the early
21 resumption of functions temporarily suspended, it is found and
22 declared to be necessary to provide for emergency interim
23 succession to offices of the municipalities of this Commonwealth
24 in the event the incumbents and their deputies authorized to
25 exercise all of the powers and discharge the duties of these
26 offices, referred to in this subchapter as deputies, are
27 unavailable to exercise the powers and perform the duties of
28 these offices.

29 Section 7. The definition of "attack" in section 1133 of
30 Title 53 is amended and the section is amended by adding a

1 definition to read:

2 § 1133. Definitions.

3 The following words and phrases when used in this subchapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 ["Attack." Any attack on the United States which causes or
7 may cause substantial damage or injury to civilian persons or
8 property in any manner by sabotage or by the use of bombs,
9 missiles or shellfire or by atomic, radiological, chemical,
10 bacteriological or biological means or other weapons or
11 processes.]

12 "Emergency." A disaster emergency declared under 35 Pa.C.S.
13 § 7301 (relating to general authority of Governor) or 7501
14 (relating to general authority of political subdivisions).

15 * * *

16 Section 8. Section 1134 of Title 53 is repealed:

17 [§ 1134. Enabling authority for emergency interim successors
18 for local offices.]

19 With respect to local offices for which the legislative
20 bodies of municipalities may enact resolutions or ordinances
21 relative to the manner in which vacancies will be filled or
22 temporary appointments to office made, the legislative bodies
23 are authorized to enact resolutions or ordinances providing for
24 emergency interim successors to offices. The resolutions and
25 ordinances shall not be inconsistent with this subchapter.]

26 Section 9. Sections 1135 and 1137 of Title 53 are amended to
27 read:

28 § 1135. Emergency interim successors for local officers.

29 [This section is applicable to officers of municipalities not <--
30 included in section 1134 (relating to enabling authority for

1 emergency interim successors for local offices).] Each officer[, <--
2 subject to any regulations as the executive head of the
3 municipality may issue, shall] may designate by title[, if
4 feasible, or by named person] one or more emergency interim
5 successors and specify their order of succession. The officer
6 shall review and revise, as necessary, designations made
7 pursuant to this subchapter. [The officer will designate a
8 sufficient number of persons so that there will be not less than
9 three deputies or emergency interim successors or any
10 combination of them.] If any officer or deputy of any
11 municipality is unavailable, the powers of the office shall be
12 exercised and the duties discharged by his designated emergency
13 interim successors in the order specified. The emergency interim
14 successors, in the order specified, shall exercise the powers
15 and discharge the duties of the office to which designated until
16 the vacancy is filled in accordance with the Constitution of
17 Pennsylvania or statutes or until the officer, or his deputy or
18 a preceding emergency interim successor, ceases to be
19 unavailable.

20 § 1137. Succession period.

21 Emergency interim successors may exercise the powers and
22 discharge the duties of an office as authorized in this
23 subchapter only [after an attack has occurred. The General
24 Assembly, by concurrent resolution, may terminate the] during an
25 emergency. The authority of the emergency interim successors to
26 exercise the powers and discharge the duties of office as
27 provided under this subchapter shall terminate on the selection,
28 appointment or election of a permanent successor as required by
29 law.

30 Section 10. Section 1138 of Title 53 is repealed:

1 [§ 1138. Term and removal of designees.

2 Until the persons designated as emergency interim successors
3 are authorized to exercise the powers and discharge the duties
4 of an office in accordance with this subchapter, including
5 section 1137 (relating to succession period), these persons may
6 be removed or replaced by the designating authority at any time,
7 with or without cause.]

8 Section 11. This act shall take effect in 60 days.