

No. 1994-98

AN ACT

HB 1858

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," further providing for expenses of county row officers for attending certain meetings; creating a county operating reserve fund; further providing for the compensation of part-time district attorneys; providing for exemption amounts; further providing for authority to sell or lease real property; and making repeals.

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

Section 1. Section 443 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended December 18, 1984 (P.L.1065, No.211), is amended to read:

Section 443. Expenses of Attending Members to be Paid by County; Time Limit on Meetings.—(a) The *actual* expenses of all authorized *elected* county officers attending the annual meetings of their associations shall be paid by the several counties out of *the* general county [funds] *fund*. Each of these officers, except the county commissioners, shall be [allowed for his] *reimbursed for actual* expenses not to exceed [ninety dollars (\$90)] *one hundred ten dollars (\$110)* per day for the number of days specified in subsection (b) of this section, together with mileage going to and returning from such meeting[. The expense allowance shall be paid] *and the registration fee*.

(a.1) The actual expenses of all authorized nonelected county officers and employes attending the annual meetings of their associations may be paid by the several counties out of the county general fund. Each of these officers may be reimbursed for actual expenses in an amount not to exceed one hundred ten dollars (\$110) per day for the number of days specified in subsection (b) of this section, together with mileage going to and returning from such meetings and the registration fee.

(a.2) Every delegate attending the annual meeting shall submit to the county an itemized account of expenses incurred at the meeting. The county may authorize employes to be compensated at their regular employe rate during their attendance at the annual meeting. The actual expenses for elected officers shall, and for nonelected officers may, be paid for the number of days specified in subsection (b). In addition, elected county officers shall receive, and nonelected county officers and employes may receive, actual expenses not to exceed one hundred ten dollars (\$110) per day for each day not in excess of two in going to and returning from such meeting.

(b) The annual meeting of the association of county commissioners, county solicitors and chief clerks shall not exceed four days, that of the district attorneys shall not exceed three days, and those of all other State associations shall not exceed three days in every case, exclusive of the time spent in traveling to and from the said meetings.

Section 2. The act is amended by adding a section to read:

Section 513. Operating Reserve Fund.—(a) *The county commissioners shall have the power to create and maintain a separate operating reserve fund in order to minimize future revenue shortfalls and deficits, provide greater continuity and predictability in the funding of vital government services, minimize the need to increase taxes to balance the budget in times of fiscal distress, provide the capacity to undertake long-range financial planning and develop fiscal resources to meet long-term needs.*

(b) *The county commissioners may annually make appropriations from the general county fund to the operating reserve fund, but no appropriation shall be made to the operating reserve fund if the effect of the appropriation would cause the fund to exceed five per cent of the estimated revenues of the county's general fund in the current fiscal year.*

(c) *The commissioners may at any time, by resolution, make appropriations from the operating reserve fund for the following purposes only:*

(1) *to meet emergencies involving the health, safety or welfare of the residents of the county;*

(2) *to counterbalance potential budget deficits resulting from shortfalls in anticipated revenues or program receipts from whatever source; or*

(3) *to provide for anticipated operating expenditures related either to the planned growth of existing projects or programs or to the establishment of new projects or programs if for each project or program appropriations have been made and allocated to a separate restricted account established within the operating reserve fund.*

(d) *The operating reserve fund shall be invested, reinvested and administered in a manner consistent with the provisions of section 1706 of this act.*

Section 3. Section 1401(g) of the act, amended May 4, 1990 (P.L.167, No.39), is amended to read:

Section 1401. District Attorney; Qualifications; Eligibility; Compensation.—* * *

(g) The commissioners of any county may by ordinance fix the services of the district attorney at full time. Such determination may be made at any time, provided that the determination shall not be made between the first day for the circulation of nominating petitions for the office of district attorney and January of the subsequent year. The president judge of the court of common pleas of the judicial district and the district attorney may make recommendations at any time to the county commissioners on the advisability

of full-time service by the district attorney, but the same shall not be binding on them.

When the determination by the county commissioners to require a full-time district attorney becomes effective and operative, he shall be compensated at one thousand dollars (\$1,000) lower than the compensation paid to a judge of the court of common pleas in the respective judicial district. It is the legislative intent that all provisions of this subsection requiring full-time service shall be unenforceable until such time as the accompanying salary provisions take effect.

Once the determination for a full-time district attorney is made, it shall not thereafter be changed except by referendum of the electorate of the said county. Such referendum may be instituted by the county commissioners or on petition by five per cent of the electors voting for the office of Governor in the last gubernatorial general election. Such referendum may be held at any election preceding the year in which the district attorney shall be elected. Such district attorney shall devote full time to the office. The district attorney while in office, shall not derive any other income as a result of honorariums, profit shares or divisions of income from any firm with which the district attorney was associated prior to election. This limitation shall not be construed, however, to preclude payment of fees earned for legal work done prior to, but not concluded until after his election as district attorney. In addition the district attorney shall not engage in any private practice and must be completely disassociated with any firm with which the district attorney was affiliated prior to election, nor shall the district attorney-elect accept any civil or criminal cases after being elected to the office. Furthermore, the district attorney shall be subject to the canons of ethics as applied to judges in the courts of common pleas of this Commonwealth in so far as such canons apply to salaries, full-time duties and conflicts of interest.

Any complaint by a citizen of the county that a full-time district attorney may be in violation of this section shall be made to the Disciplinary Board of the Supreme Court of Pennsylvania, for determination as to the merit of the complaint. If any substantive basis is found, the board shall proceed forthwith in the manner prescribed by the rules of the Supreme Court and make such recommendation for disciplinary action as it deems advisable, provided, however, that if the Supreme Court deems the violation so grave as to warrant removal from office, the prothonotary of the said court shall transmit its findings to the Speaker of the House of Representatives for such action as the House deems advisable under Article VI of the Constitution of the Commonwealth of Pennsylvania.

Where no such determination to require a full-time district attorney is made, the district attorney shall be permitted to have an outside practice[, and his salary shall be as set forth in the act of November 1, 1971 (P.L.495, No.113)].

Notwithstanding the provision of any other statute, the annual salaries of part-time district attorneys shall be as follows: In counties of the third

or fourth class, the salary shall be sixty per cent of the annual salary payable to the judge of the court of common pleas of the judicial district of the county; in a county of the fifth or sixth class, the salary shall be fifty per cent of the annual salary payable to the judge of the court of common pleas of the judicial district of the county; and in a county of the seventh or eighth class, the salary shall be forty per cent of the annual salary payable to the judge of the court of common pleas of the judicial district of the county.

Section 4. Section 1770 of the act, amended July 3, 1985 (P.L.136, No.38) and December 7, 1990 (P.L.633, No.163), is amended to read:

Section 1770. Tax Levies.—No tax shall be levied on personal property taxable for county purposes where the rate of taxation thereon is fixed by law other than at the rate so fixed. The county commissioners shall fix, by resolution, the rate of taxation for each year. No tax for general county purposes in counties of the third, fourth, fifth, sixth, seventh and eighth classes, exclusive of the requirements for the payment of rentals to any municipal authority, shall in any one year exceed the rate of twenty-five mills on every dollar of the adjusted valuation, unless the county commissioners by majority action shall, upon due cause shown by resolution, petition the court of common pleas, in which case the court may order a rate of not more than five mills additional to be levied: Provided, however, That the rate of taxation for payment of interest and principal on any indebtedness incurred pursuant to the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," or any prior or subsequent act governing the incurrence of indebtedness of the county shall be unlimited. Tax for payment of rentals to any municipal authority shall not exceed the rate of ten mills on every dollar of the adjusted valuation and shall be in addition to the twenty-five mill limitation for general county purposes. In fixing the rate of taxation, the county commissioners, if the rate is fixed in mills, shall also include in the resolution a statement expressing the rate of taxation in dollars and cents on each one hundred dollars of assessed valuation of taxable property.

The rate of taxation fixed for any occupation tax levied by a county of the fourth, fifth, sixth, seventh or eighth class shall not in any one year exceed twenty mills. The county commissioners may, by resolution, abolish the levy and collection of occupation taxes for county purposes.

The county commissioners of counties of the fourth, fifth, sixth, seventh and eighth classes may levy and collect an annual per capita tax on persons for county purposes.

Any county of the fourth, fifth, sixth, seventh or eighth class which shall become a county of the third class may collect for a period of four years after such status has been certified a per capita tax from any person not in any one year to exceed a total of five dollars (\$5) for county purposes.

No tax shall be levied and collected for county purposes on offices and posts of profits, or on professions, trades and occupations at the same time

during which a per capita tax on persons is levied and collected for county purposes.

Any per capita taxes levied upon and collected from any person shall not in any one year exceed a total of five dollars (\$5) for county and institution district purposes.

Any county may, by ordinance or resolution, exempt any person whose total income from all sources is less than [**five thousand dollars (\$5,000)**] **ten thousand dollars (\$10,000)** per annum from any per capita tax levied under this act.

Section 5. Section 2306 of the act, amended April 29, 1982 (P.L.359, No.100), is amended to read:

Section 2306. Authority to Sell or Lease Real Property.—(a) The board of commissioners may sell for not less than the fair market value or lease, either as lessor or lessee, any real property belonging to the county or to others where the county is lessee. If the commissioners know or have reason to believe that the property to be sold contains oil, gas, coal, stone, timber or other mineral or forest products of commercial value, such knowledge or belief shall be advertised together with the description of the land in at least two newspapers, in said county, of general circulation, once a week for three consecutive weeks. The fair market value of real property in the case of a sale shall be determined by the county commissioners in consultation with the county assessor and two licensed real estate brokers doing business within the county. In the case of any lease of county property hereunder, such property, with any and all improvements or additions thereon or thereto, shall, in the hands of the lessee, be subject to taxation by such county and any other political subdivision therein, in the same manner as other real estate located in the county. Such taxes shall be levied and assessed against and paid by the lessee. This section shall not apply to leases or sales of county property or other property which are otherwise specifically provided for by law.

(b) *The provisions of subsection (a) shall not be mandatory where county real property is to be sold to any of the following:*

(1) *A city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the county.*

(2) *A municipal authority pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."*

(3) *A nonprofit corporation engaged in community industrial development for its exclusive use for industrial development.*

(4) *A person for his exclusive use in an industrial development program.*

(5) *A nonprofit corporation organized as a public library for its exclusive use as a library.*

(6) *A nonprofit medical service corporation for its exclusive use as a site for a medical service facility.*

(7) A nonprofit housing corporation for its exclusive use for housing for the elderly or for low-income housing.

(8) The Federal Government.

(9) The Commonwealth.

When the real property is to be sold or leased to a qualified entity under this subsection, the board of commissioners may elect to accept such nominal consideration for such sale as it shall deem appropriate. Real property sold pursuant to this subsection to any entity under this subsection, other than a city, borough, town, township, institution district, school district, municipal authority pursuant to the "Municipality Authorities Act of 1945," located within the county, the Federal Government or the Commonwealth shall be subject to the condition that when the property is not used for the purposes of the entity the property shall revert to the county.

Section 6. (a) Section 5 of the act of November 1, 1971 (P.L.495, No.113), entitled, as amended, "An act providing for the compensation of county officers in counties of the second through eighth classes, for compensation of district attorneys in cities and counties of the first class, for the disposition of fees, for filing of bonds in certain cases and for duties of certain officers," is repealed.

(b) Section 10.1 of the act of November 1, 1971 (P.L.495, No.113), entitled, as amended, "An act providing for the compensation of county officers in counties of the second through eighth classes, for compensation of district attorneys in cities and counties of the first class, for the disposition of fees, for filing of bonds in certain cases and for duties of certain officers," is repealed insofar as it relates to district attorneys.

Section 7. This act shall take effect immediately.

APPROVED—The 23rd day of November, A.D. 1994.

ROBERT P. CASEY