



PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES

**PA House Local
Government Committee**

**Testimony on
House Bill 1405**

February 13, 2018

Presented by
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Pennsylvania State Association of Boroughs on House Bill 1405

Good Morning members of the House Local Government Committee. My name is Ed Troxell and I serve the Pennsylvania State Association of Boroughs as the Director of Government Affairs. For over a century PSAB has represented and advocated for the 950+ boroughs in the commonwealth. Today I am appearing before the committee regarding **House Bill 1405** an unnecessary amendment to The Borough Code (Title 8) which holds the potential to cripple resources required for the delivery of other crucial borough services. The bill before the committee, **HB 1405** (PN1765) may seem to have broad support throughout the House, yet PSAB insists that when you put the bill in the fiscal and governmental contexts of those boroughs who provide and manage public electric power the implications are indeed *consequential*.

Introduced as a narrowly tailored consumer protection measure whose apparent sole purpose is to only affect borough residents who purchase electric power from their boroughs. PSAB and its membership strongly disagree, the bill as currently written will mandate an environment leading to *increases in local property taxes and reductions in vital local services such as police, fire and infrastructure*. To develop a reasoned perspective regarding the provision of electrical services within our commonwealth's boroughs a review of the genesis of The **Borough Code's – Chapter 24A** entitled "*Manufacture and Supply of Electricity*" is warranted.

The Pa General Assembly in **Act 90 of 1891** certified a special private franchise for boroughs. Later this franchise was later affirmed in a **1894** Pa Supreme Court decision *Linn et al. v Borough of Chambersburg* 160 Pa 511. Decades later in **1924** John Robert Jones, Pa Deputy Attorney General in an examination of the commonwealth's jurisprudence on the subject stated, "If this power is granted to a borough or city, it is a special private franchise, made as well for the private emolument and advantage of the city as for the public". Plainly, when a borough provides public electric power (its special private franchise), it is performing a corporate function with the *interests of both the borough and its residents*. In doing so, a borough's role as a public power utility provides electric to the public while providing resources to the borough which in turn uses them for local government services. Providing local services to enhance the quality of life for its residents, boroughs have used this special private franchise to benefit their communities.¹

Unfortunately, these tireless efforts to move HB 1405 forward are misguided and fraught with unintended consequences, which sadly PSAB has witnessed in the past over its years of advocacy! In the isolated incident prompting this measure, interests took hold of the occurrence to move their agendas forward. However, PSAB and its century plus relationship with its borough members recognizes that **House Bill 1405** is a cloaked effort

¹ See attached "Public Power in Pennsylvania" infographic

to bring big government regulatory mechanisms to bear on independent & innovative boroughs. Claiming a consumer interest, the bill will diminish or even erase resources needed for boroughs to provide valuable services to its citizenry. Additionally, boroughs who are public power providers use this century's long franchise to provide jobs in their communities as well, not to mention the quality of local customer response time and service due to this fact!

Lastly, as the measure forces **big government regulatory schemes** onto borough governments, it hamstringing innovation in providing local services supported through these public power utilities. In this particular case, one borough's misfortune has been manipulated to threaten not only 34 existing public power boroughs, but it creates an unstable, unpredictable dynamic for additional public power providers such as *rural electric cooperatives and the like*. Recognizing the danger of this language, last year PSAB membership enacted its **Resolution 2017-15** expressing its opposition to the measure, it reads:

Resolution 2017-15

BE IT RESOLVED, that PSAB support, protect and defend those boroughs of the commonwealth that own, operate and maintain not for profit community electric systems from any federal, state or county legislation leading to burdensome, unnecessary and expensive regulation; and be it further **RESOLVED**, that PSAB vigorously oppose any legislative, regulatory or policy measure that seeks to manage the internal affairs, finances and interests of locally elected borough officials and their communities.

The association is saddened that this unfortunate and isolated circumstance impacting of one of our members has occurred. However, to manipulate circumstances in a way to threaten valuable resources needed for struggling borough communities is unconscionable.

It is with great respect for the members of this committee that PSAB requests the House Local Government Committee to **reject House Bill 1405** and in doing so prompt and promote local solutions enacted by local governments for the benefits of their residents and really – their neighbors!

Thank you once again to the committee for allowing PSAB and its members to offer their observations on this measure and I am available for any questions you may have.

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PUBLIC POWER IN PENNSYLVANIA

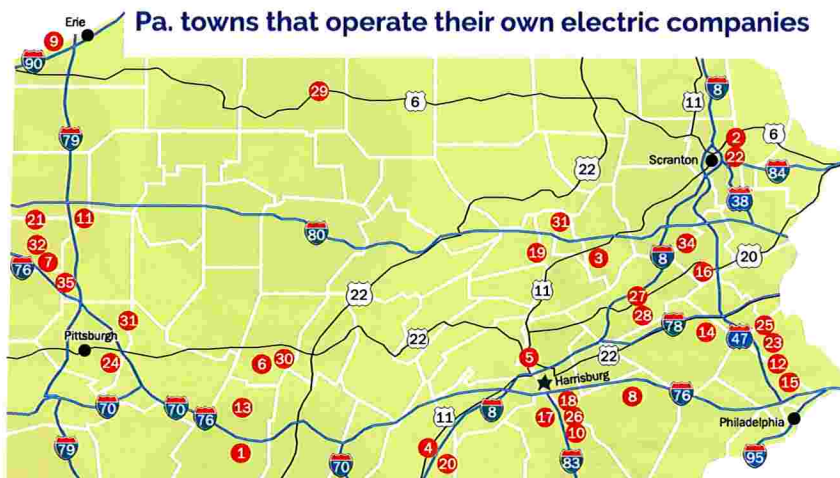


35

boroughs in

Pennsylvania operate
public power utilities

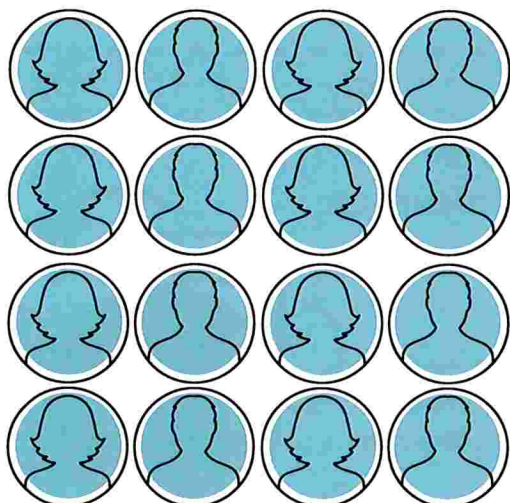
Pa. towns that operate their own electric companies



- | | | | | | |
|-------------------|-----------------|------------------|--------------------|----------------------|-----------------|
| 1. Berlin | 7. Ellwood City | 13. Hooversville | 19. Mifflinburg | 25. Quakertown | 31. Tarentum |
| 2. Blakely | 8. Ephrata | 14. Kurtztown | 20. Mont Alto | 26. Royallton | 32. Wampum |
| 3. Catawissa | 9. Girard | 15. Lansdale | 21. New Wilmington | 27. St. Clair | 33. Watsonstown |
| 4. Chambersburg | 10. Goldsboro | 16. Lehighton | 22. Olyphant | 28. Schuylkill Haven | 34. Weatherly |
| 5. Duncannon | 11. Grove City | 17. Lewisberry | 23. Perkasie | 29. Smethport | 35. Zelenople |
| 6. East Conemaugh | 12. Hatfield | 18. Middletown | 24. Pitscaim | 30. Summerhill | |

SOURCE: PENNSYLVANIA MUNICIPAL ELECTRIC ASSOCIATION

COURTESY THE TIMES-TRIBUNE / KEVIN O'NEILL / STAFF ARTIST



and provide
electricity to

MORE THAN
165,000
PENNSYLVANIANS

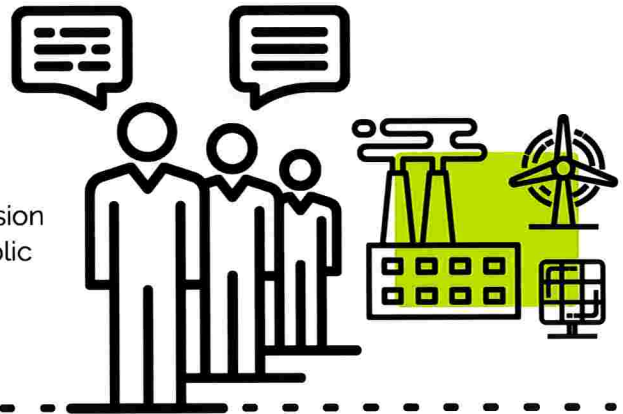
COMMUNITY-OWNED

LOCAL, NOT-FOR-PROFIT

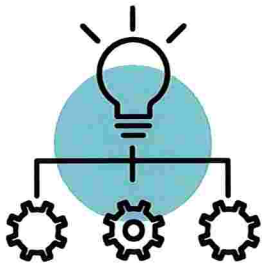


Run as a division of **LOCAL** government — governed by the borough council

Give community residents a **DIRECT VOICE** in utility decision making through public council meetings



RELIABLE



We restore power **FASTER** when there are outages as a result of natural events



AVERAGE OUTAGE TIME FOR PENNSYLVANIA ELECTRICITY CUSTOMERS



COMMUNITY OWNED UTILITY



PRIVATELY OWNED UTILITY



COMMUNITY OWNED UTILITY



BACK TO THE COMMUNITY



CREATE LOCAL JOBS AND SUPPORT LOCAL COMMERCE

Offer voluntary payments in lieu of taxes

Help to keep property taxes **43% LOWER** than boroughs without public power

CONTRIBUTE to sustaining police, fire, and EMS services in the community



Address community infrastructure improvements **WITHOUT** burdening taxpayers

SUPPORT local libraries and community parks

