

Tax Collection Committee

By-Laws Analysis

KEY FACTORS TO CONSIDER WHEN REVIEWING THE PENNSYLVANIA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS (PASBO) DRAFT BY-LAWS FOR THE ACT 32 TAX COLLECTION COMMITTEE

- » Number and appointment of board delegates/alternates
 - Operation with full number of board delegates will result in TCCs ranging from 4 to 91 delegates.
 - Governance by a large group of delegates could be unwieldy.
- » TCC governance can be simplified and streamlined by reducing the number of delegates or eliminating weighted voting.
 - Reduction in the number of delegates could be achieved by the municipalities comprising a school district designating one delegate to represent all communities within the school district collectively.
 - Selection of a collective municipal representative could either be by majority vote of the municipalities selecting the collective representative or by a weighted vote amongst the municipalities if the municipalities are significantly different in size or in the amount of EIT collected.
 - Reduction in the number of delegates can also be accomplished by requiring all school districts within the TCC to appoint a single delegate to represent the school districts' collective interests and all municipalities within the TCD appointing a single delegate to represent the municipalities collective interests; then, the two appointed delegates can choose a third delegate and all three delegates will have an equal vote.
 - Caution should be exercised in considering options which reduce the number of delegates as Act 32 does not expressly authorize by-laws that mandate a reduced delegate number although such arrangements could be implied from Act 32.
- » The TCC must decide whether to continue with a weighted voting system or implement a one person – one vote system with each delegate on the board having one equally weighted vote.
- » TCC governance can be simplified by delegating duties to a management committee or executive director.
 - If operation is delegated to a management committee or an executive director, the TCC must identify those duties delegated and those which will be retained by the board of delegates as a whole.
 - The TCC must identify those offices or positions that will comprise the management committee.
 - The management committee can be given the duty to analyze issues and only make recommendations to the full board.
 - Alternatively, the board can delegate final decision making authority to a management committee on certain matters.
 - If a management committee is created, the by-laws should specify the frequency of management committee meetings, what constitutes a quorum, what votes are required for action, and the specific powers and duties of the management committee.
 - Operation under an executive director raises additional potential complications and requirements in terms of personnel policies, payroll and other issues.
- » The proposed by-laws identify 18 major decisions which are retained by the board of delegates as a whole.

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- Major decisions may require the affirmative vote of the majority of all delegates either as a whole or only those present.
 - A 2/3 super majority vote may be required on specific items, including a by-law amendment, merger of the TCC with another TCC, approval to purchase or sell real estate, approval of the TCC annual budget and other key matters as the TCC determines to be necessary.
- » TCC operating budgets and expense allocations/payments.
- It is important to distinguish between the allocation of TCC operating expenses and the allocation of tax collection costs.
 - Act 32 leaves the board of delegates the decision of the manner in which tax collection costs will be allocated.
 - TCC operating expenses may be funded with up front cash payments from taxing authorities, periodic payments from taxing authorities or by borrowing money that will later be repaid by the taxing authorities.
 - TCC operating expenses must be shared by all taxing authorities that impose an income tax.
 - A taxing authority's share of the expenses is allocated based on income tax revenues collected within the taxing authority compared to revenues collected within the entire TCD.

Maiello, Brungo & Maiello, LLP Municipal Law Team

As an ongoing service to Municipalities in Western Pennsylvania, the Municipal Law Team of Maiello, Brungo & Maiello, LLP is available to respond to your questions, comments or concerns. You may contact any member of our Municipal Law Team at 412.242.4400 or acm@mbm-law.net

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