



PENNSYLVANIA STATE ASSOCIATION OF BOROUGHGS

**PA Senate
Veterans Affairs &
Emergency Preparedness
Committee**

**Select Observations
On
Senate Bill 1019**

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Good Morning members of the Senate Veterans Affairs & Emergency Preparedness committee, my name is Ed Troxell and I serve as the Director of Government Affairs for the Pennsylvania State Association of Boroughs (PSAB). Since 1911 PSAB has been the voice of advocacy for the commonwealth's borough communities. In addition to legislative advocacy, PSAB provides a plethora of member benefits ranging from various insurance programs, vital education and technical training options and innovative IT services to promote broader communications and knowledge resources not only for boroughs, but for their constituents as well. Overall, our more than 100 years of service to our boroughs has provided a unique foundation to serve the interests of our members.

Today, having been invited by Senator Vulakovich to offer commentary on **Senate Bill 1019**, I would like to express my gratitude to the committee for enabling PSAB to play a role in the legislative process ultimately leading to effective changes in Title 35. I plan to offer general statements concerning particular language which will impact the communities I represent, as well as limited commentary regarding the potential outcomes resulting from these law changes. We understand that **SB1019** is just beginning its journey through the legislative process and we cannot stress enough that in order to craft any successful amendment to Title 35 a broad buy in from all stakeholders is a must. This hearing is a reflection that the committee understands this critical need to build consensus.

Beginning with a broad observation on the bill, **SB 1019** apparently seeks to build agility in the provision of disaster and emergency services while prompting uniform collaboration among those meeting emergency needs. It accomplishes this by incorporating terms that promote an elastic or dynamic approach or "*program*" versus rigid static "*plans*". The use of the term "*program*" is extensive in the bill and as a result PSAB approaches sections of the bill incorporating the term with a degree of cautious optimism. I will elaborate somewhat on those particular sections of concern later in this testimony.

However, I would first begin with an observation concerning the development or need of a “plan” as expressed in Section 7305 (c) Need for plan...”¹ under this current language any Federal or State funds available as the result of the declaration of an emergency would be withheld from a political subdivision lacking current emergency operations or hazard mitigation plans. PSAB understands this new addition to Sec. 7305 of Title 35 may not have been interpreted as a mandate concerning current plans, yet it remains our hope that should a borough be in the process of revising their existing plans they would not be subject to this provision.

PSAB applauds the creation of a “Disaster Emergency Fund” under Section 7307.2 and would anticipate an invitation to join with PEMA as it develops guidelines to ensure an effective distribution and use of any monies to address disasters unique to the commonwealth and its boroughs. There have been similar attempts in the recent past to create such a fund and it may be helpful to access those previous work sessions to reap any beneficial information. We would like to express our gratitude as well as Section 7312 renamed as “Pa Emergency Management Council” as it retains PSAB’s role on the council as well as now inviting private sector interests as well. Also, our hopes are positive for the newly enumerated “Commonwealth Disaster Recovery Task Force” under Section 7312 (j), this language will establish an important entity for proactive study and assessment tools vital to planning for future emergency events.

It is in the following sections of the bill (Sec 7313 onward) where PSAB would like to offer observations of a generalized nature resulting from new terms or language incorporated into **SB1019**. Under the “Powers and duties” Section 7313 PEMA is instructed to “develop a comprehensive emergency management and preparedness **system** for this Commonwealth...” further stating “In order develop the **system**, the agency shall: ...”. This term **system** appears indicative of a fundamental shift in the administration of emergency management by PEMA, as well as counties, cities, boroughs and townships. Language under Section 7313 (1) illustrates this shift as moving from a plan to a “program”. This may be additionally reinforced under Section 7312 (ix) where accreditation programs are implemented for county and local

¹ SB1019 (Page 27; lines 21 – 25)

emergency management programs as well as certifications for appointed emergency management coordinators. In all, under Section 7313 (1)(i-xi) the term “*plan*” has morphed into “*program*” only to remain when other commonwealth or Federal agencies have chosen not to retitle their existing emergency operations plans.

This shift in administrative perspective regarding provision of services of an emergency or natural disaster nature manifests itself in Section 7313 subsections (2) through (25) of **SB1019**. Throughout these subsections there is terminology which shifts from or modifies terms such as “*rules*” and “*regulations*” which denote clearly defined or static plans, to a more pragmatic *program* approach. The use of new terms: *standards*², *directives*³ and especially *programs*⁴, illustrates just how this shift will position the agency to aggressively manage its subordinate or collaborative agencies. PSAB remains cautiously optimistic with this approach.

Reinforcing our perceptions of this movement to a program centered hierarchy are the alterations made to Title 35 Section 7501⁵ where clearly the language which outlines the general authority of political subdivisions removes the term “*political subdivision*” itself replacing it with “*county and local emergency management programs*”⁶. Following these changes, the bill begins to institute stronger guidance which may be interpreted as mandates guised in requisite program establishment. Section 7501 sub (a.1) places a two-year timeframe to establish a emergency management *program* “. . . as required by the agency.” Boroughs currently have clearly defined plans and structures for emergency management, their fear will be what exactly is this “*program*” they are instructed to implement, further should they need to create a program how will they acquire the resources needed to comply with PEMA?

While there may be good intentions for such a philosophical shift in an administrative approach, we fear it reflects a misinterpretation of current borough emergency management providers potentially undermining their demonstrated capacity to meet our communities

² SB1019 Section 7313 (3) p 36 lines 9, 11, 22

³ SB1019 Section 7313 (3) p 36 line 9

⁴ SB1019 Section 7313 (3) p 36 lines 14-15, 23-24, 28; p 37 line 25; p 41 line 12

⁵ SB1019 Section 7501 p 45 lines 29-30

⁶ SB1019 *ibid*

needs. PSAB would hope not. However, further language under Section 7501 of the bill gives one pause in this regard.

In particular, the process of emergency declarations recognized as well as realized at the local level may, should the suggested language remain, enact redundancies resulting in additional costs to municipalities. This observation is based on Section 7501 sub (b) “Declarations of local disaster emergency” (p46 line 17) as the procedure and even identification of a disaster emergency has been changed. Regarding procedure first is the term “elected” inserted between “chief” and “executive officer” (Page 46 line 22) creating the chief elected executive officer. The term is somewhat confusing as the exact understanding of an elected-executive remains elusive. For a borough PSAB would request that consideration of this change posit the inclusion of the mayor. This may apply as well to cities. With the creation of the new chief elected executive office further procedures and content of emergency declarations themselves have been altered by the bill.

The ability to swiftly declare and authorize action to address any emergency is vital to the health, safety and welfare of any municipality and its residents. By expanding Section 7501(b) of the existing law there are dynamics which should be considered prior to enactment of such language. The original law includes the ratification of these declarations, this would be sufficient in the authorization of these statements, PSAB would see the suggested “official action of” as an unnecessary, cumbersome edit.⁷ Other additions to the section also add requirements impeding a process that must operate with swift due diligence. Among them are Section 7501 subsections (2), (4) and (6) . While sub (2) & (4) address timing and a description of the emergency declaration, sub (6) stipulates proclamations be given “*prompt and general publicity* and shall be filed promptly with the agency through the appropriate county emergency management program.”⁸ The well-meaning phrase prompt and general publicity may lead to confusion on the declaration’s status in light of Right-to-Know law. We understand the addition of these edits but advise the removal of the terms in pursuit of clarity. Lastly, the addition of subsection (f) addressing “Intergovernmental cooperation” moves in an innovative

⁷ SB1019 Page 46; line 24

⁸ SB1019 Page 47; lines 16 - 18

and necessary direction and PSAB is supportive of this step implemented in reasonable fashion following consultation with our membership and its representatives.

In closing, PSAB hopes that by providing this brief synopsis of its perspectives regarding the amending of Title 35 demonstrates our concerns and caution on select sections of the bill. We have chosen to limit our testimony as subsequent sections of the bill regarding County and local emergency management coordinators⁹ and powers and duties of these programs¹⁰, remain problematic for our membership. We have not addressed Subchapter C Regional All-Hazards Preparedness and Emergency Management creating the “Regional Task Forces” as at this point in the legislative process many of the concerns, changes and edits recommended by PSAB will no doubt have a bearing on these yet created entities. However, in summary, PSAB is committed to assisting in the process of amending Title 35 in order to provide the citizens of the commonwealth safe, secure and thriving communities. Thank you.

⁹ SB1019 Section 7502 (Page 49; lines 1-2)

¹⁰ SB1019 Section 7503 (Page 53; lines 13 - 14)