

INTERMUNICIPAL COOPERATION

Intermunicipal Cooperation in Pennsylvania

The Pennsylvania Intergovernmental Act of 1972 was adopted by the general assembly amending the initial Act of 1943 and to clarify and strengthen the opportunities for local municipalities to work together to meet the needs of their citizens. In 1996, the Intergovernmental Cooperation Law (Act 177) updated and replaced the 1972 Act. The Pennsylvania Consolidated Statutes, under the terms of Act 177, now authorizes two or more *local governments* to *jointly cooperate in the exercise or in the performance of their respective governmental functions, powers or responsibilities*. Simply stated, a local municipality may cooperate with any other municipality to undertake any function the municipality is authorized to perform under the respective municipal code. (For more details see the following pages taken from the *Pennsylvania Legislator’s Municipal Deskbook* published by the Pennsylvania Local Government Commission in 2003.)

Intergovernmental cooperation under Act and statutes must be accomplished by formal agreement and the adoption of an ordinance. Historically in the Commonwealth, a considerable amount of informal cooperation has occurred. The sharing of equipment and facilities and working together on providing services such as snow removal are good examples. While such informal cooperation may be appropriate in certain cases, the more formal approach is important when local municipalities cooperate on such things a joint purchasing, police protection, zoning and other more complicated services

Susquehanna County COG

Intermunicipal cooperation has been occurring in Susquehanna County on a number of levels for many years. The Susquehanna County Council of Governments (COG) was formed in 1990 and now its membership numbers twenty-eight of the forty local municipalities in the County. Ten of the twelve NTC municipalities are members. Originally formed to share resources for sewage enforcement, the on-going sewage enforcement program has been very effective for the twenty-four municipalities that participate. In more recent years, the COG has provided code enforcement services for twenty-two of the member municipalities, and has taken a lead role in organizing for the administration of the State Uniform

Construction Code. A number of attempts have been made for the joint purchasing of road construction and maintenance materials, but the trucking costs associated with the long and variable distances for delivery to the widely spread municipalities has hampered efforts. The COG does fabricate road name signs from blanks which results in considerable savings to the member municipalities. The COG office is located in New Milford Borough and the COG employs full-time an office manager, secretary, and sewage enforcement officer; and, part-time, a code enforcement officer, a second sewage enforcement officer and two percolation test technicians.

SUSQUEHANNA COUNTY COG MEMBERS	
Ararat Township	Herrick Township Hop
Auburn Township	Bottom Borough
Bridgewater Township*	Jackson Township
Brooklyn Township	Jessup Township*
Choconut Township*	Lanesboro Borough
Dimock Township	Liberty Township*
Franklin Township*	Little Meadows Borough*
Forest City Borough	Middletown Township*
Friendsville Borough*	New Milford Borough
Gibson Township	Oakland Township
Great Bend Borough	Rush Township*
Great Bend Township	Silver Lake Township*
Harford Township	Springville Township
Harmony Township	Thompson Township
*NTC Member	

Bradford, Broome and Tioga Counties

Intermunicipal cooperation need not be limited by county boundaries. The NTC municipalities can also explore working with the adjoining communities in Bradford County, Broome County and Tioga County on sharing and providing community facilities and services. In addition, many NTC residents are employed in these counties, particularly Broome County, and this presents opportunities for regional land use, transportation and economic development planning. The NTC and the Susquehanna County Department of Planning and Development should explore these avenues of cooperation.



Intergovernmental Cooperation

*Pennsylvania General Assembly
Local Government Commission*

Generally

Introduction. Today, many municipalities utilize mechanisms made available in state law to jointly cooperate to achieve similar goals or implement specific projects; but, prior to 1968, provisions of the Pennsylvania Constitution¹ were interpreted as greatly limiting the potential for cooperation among local governments. In 1968, however, a new constitution was adopted for Pennsylvania, including a new Article IX² that, among other things, added three sections related to intergovernmental cooperation, area government, and area-wide powers. In 1972, the General Assembly adopted enabling legislation pursuant to the constitutional authorization for intergovernmental cooperation.

Intergovernmental Cooperation. The law authorizing intergovernmental cooperation, now codified in Title 53 of the Pennsylvania Consolidated Statutes, Sections 2301-2315, was originally adopted as Act 180 of 1972. Title 53 authorizes two or more “local governments” to “jointly cooperate in the exercise or in the performance of their respective governmental functions, powers or responsibilities.”³ Such cooperation is to be authorized by ordinance, which must specify the conditions, duration, purpose, manner, and extent of any financing, organizational structure, manner in which property will be acquired, managed, and disposed of, and that the entity created will be empowered to enter into certain employee-related contracts. Also, intergovernmental cooperation may be mandated by voters by initiative and referendum.

Councils of Governments. In addition to the many single purpose entities created through intergovernmental cooperation, councils of governments (COGs) represent a type of intergovernmental cooperation that is more general or multipurpose in nature. COGs need not be created for a specific purpose and are typically established as a coordinating organization. “[T]he organization, form and procedures of a COG are determined by the participating municipalities.”⁴

¹These are the provisions now set forth in Pa. Const. Art. III, Section 31, prohibiting the General Assembly from delegating the power to perform municipal functions to any special commission, private corporation or association.

²Article IX, Section 5 provides: “A municipality may...cooperate or agree in the exercise of any function, power or responsibility with, or delegate or transfer any function, power or responsibility to, one or more other governmental units including other municipalities or districts, the Federal government, any other state or its governmental units, or any newly created governmental unit.”

³53 Pa. C.S. § 2303(a).

⁴*Intergovernmental Cooperation Handbook*, 5th ed., Governor’s Center for Local Government Services, Pennsylvania Department of Community and Economic Development, Harrisburg, Pa., 2002, p. 12.

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Other Forms of Municipal Cooperation

Joint Authorities. The Municipality Authorities Act⁵ authorizes the creation of municipal authorities by two or more local governments.⁶ These entities are typically created when large capital expenditures are required for projects such as sewage treatment, water supply, airports, and bus transit systems.⁷

Planning and Zoning. Articles VIII-A and XI of the Pennsylvania Municipalities Planning Code⁸ contain provisions for joint planning and zoning. A joint planning commission may be created without implementing joint zoning. Joint zoning, however, cannot be implemented without a joint comprehensive plan.

Tax Collection. Section 10(a) of the Local Tax Enabling Act (Act 511 of 1965) provides that “any political subdivisions imposing taxes under authority of this act are authorized to make joint agreements for the collection of such taxes or any of them. The same person or agency may be employed by two or more political subdivisions to collect any taxes imposed by them under authority of this act.”⁹ Section 10(b) provides for a single tax collector in coterminous municipalities and school districts when the school district imposes an earned income tax.¹⁰

Transportation Development Districts. The Transportation Partnership Act¹¹ allows municipalities to cooperate with one or more local governments or municipal authorities to establish transportation development districts for the purpose of planning, acquiring, developing, constructing, and operating transportation facilities or services in the district. A municipal authority may not join unless it first obtains the approval, by way of ordinance, of the municipalities organizing the authority. Projects undertaken may be either facility projects, i.e., construction or acquisition of roads, streets, buses, stations, airports and parking areas, or service projects, i.e., systems of public transportation by any mode and the salaries and costs associated therewith.

Environmental Improvement Compacts. The Environmental Improvement Compact Act¹² authorizes municipalities, through initiative and referendum, to agree on the structure of government and powers concerning one or more municipal functions. Also authorized is a board “for the purpose of acquiring, holding, constructing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, for any government function

⁵ 53 Pa.C.S. § 5601 et seq.

⁶ Although municipal authorities are not considered “local governments” for purposes of the law relating to intergovernmental cooperation, as a practical matter, municipal authorities do have broad authority to contract with municipalities, even those which are not members of the authority.

⁷ See *Deskbook* article entitled, “Municipal Authorities,” *infra* page 29.

⁸ 53 P.S. §§ 10801-A-10821-A; 53 P.S. §§ 11101-11107.

⁹ 53 P.S. § 6910.

¹⁰ *Id.*

¹¹ 53 P.S. § 1621 et seq.

¹² 53 Pa.C.S. § 2501 et seq.

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of two or more municipalities.”¹³ The board of an Environmental Improvement Compact is elected by the voters, has the power to levy taxes up to two mills, and has corporate powers similar to a municipality, including the power of eminent domain.

Other Laws. Various specialized intergovernmental cooperation laws exist in municipal codes and elsewhere in state law beyond the predominant forms listed above. For example, joint municipal cooperation for purposes of acquiring recreational land is authorized in several codes.¹⁴ Municipalities may create environmental advisory councils.¹⁵ Cities and counties may cooperate for the building, acquisition, and maintenance of auditoriums, libraries, memorial buildings, municipal buildings, and monuments.¹⁶ The consolidated city/county of Philadelphia may contract with other municipalities for joint highway improvements.¹⁷

¹³ 53 Pa.C.S. § 2555.

¹⁴ See, e.g., 53 P.S. § 47711 (“The Borough Code,” Section 2711); 53 P.S. § 67205 (“The Second Class Township Code,” Section 2205); 16 P.S. § 2505 (“The County Code,” Section 2505).

¹⁵ See 53 Pa. C.S. §§ 2322-2329.

¹⁶ See 53 P.S. §§ 1331-1336.

¹⁷ See 53 P.S. §§ 1831-1836.

Additional Opportunities

- Road Materials - Several municipalities in close proximity may save on road materials by eliminating the trucking cost differential.
- Cooperative Zoning - Provides opportunities for cost efficiency on ordinance preparation and administration, and allocating land uses on a planning area instead of individual municipal basis. (See *Cooperative Zoning* in the Subdivision and Land Development Ordinances and Zoning Ordinances Section.)
- Police Services - If a local municipality determines police protection is necessary, contracting with an existing local police department or forming a joint department may be viable options. (See *Police Protection* in the Community Facilities and Services Section.)
- Sharing of Equipment and Manpower - One nearby municipality may be able to trade for the use of equipment or manpower from another municipality. (See *Intermunicipal Cooperation* in the Community Facilities and Services Section.)

Municipal Consolidation and Merger

The Municipal Consolidation and Merger Act (Act 29 of 2003) provides the methods by which municipalities may consolidate or merge. “Consolidation” is defined as “the combination of two or more municipalities which results in the termination of the existence of each of the municipalities . . . and the creation of a new municipality.” “Merger” is defined as “the combination of two or more municipalities which results in the termination of the existence of all but one . . . with the surviving municipality absorbing and assuming jurisdiction over the municipalities which have been terminated.” The governing bodies of the municipalities may agree to merge or consolidate, after which the question is placed on the ballot in all municipalities involved. An alternate method is available whereby electors may initiate a merger or consolidation action.¹

A statewide survey conducted by Penn State’s Department of Agricultural Economics and Rural Sociology in 2001 addressed the issue of local

¹*Pennsylvania Legislator’s Municipal Deskbook*, Pennsylvania Local Government Commission, 2003, p. 19.

government cooperation and consolidation.² The survey report provides considerable insight into the idea of consolidation and merger which is often cited as a means of improving small local governments . . .

One of Pennsylvania's claims to fame is its large number of local governments and governmental jurisdictions—the second largest number of such units of any state in the U.S. The majority of Pennsylvania's 2,567 municipalities (which include boroughs, townships, and cities) are relatively small; thirty percent have less than 1,000 residents, and another 29 percent have between 1,000 and 2,500 residents. The sheer number and small size of municipalities means local government in Pennsylvania is relatively close to citizens, allowing residents easy access and opportunity to make their voices heard. On the other hand, this patchwork quilt of governments sometimes makes coordination difficult for issues with regional impact, such as urban sprawl, water quality and supply, transportation, and land use. Some small governments have difficulty finding enough volunteers to serve on essential government boards and commission.

There have been suggestions that Pennsylvania local governments would be more effective and efficient if there were fewer of them, allowing better coordination of public services, larger-scale planning, and avoiding duplication of services. In addition, many important public issues facing Pennsylvania communities cannot be addressed solely at the municipal level because they cross municipal boundaries; these include growth management, water quality and quantity, transportation infrastructure, economic development, and emergency preparedness. General discussions about the benefit of having fewer but larger local governments particularly have occurred in relation to land use issues, such as growth management and farmland preservation.

Pennsylvania law allows municipalities voluntarily to merge together in a process called consolidation, but this occurs very infrequently. It requires a general plan for how to merge the affected governments, with final approval from the voters in each of the municipalities. Typically, only one or two such consolidations are even considered a year in

Pennsylvania.

There are other less formal methods of coordinating policy responses to improve cost efficiency and to address multi-community and regional issues than consolidation. Indeed, many Pennsylvania local governments already voluntarily cooperate with neighboring municipalities in the provision of police, fire protection, and road services. Greater cooperation and coordination across municipal boundaries can provide many of the same cost savings possible with consolidation without the loss of local autonomy.

It is important to consider how Pennsylvanian's view local government cooperation and consolidation. The limited number of consolidations that occur might suggest either that taxpayers and citizens do not view consolidation favorably, or that local officials are loathe to give up power and hence rarely give their citizens a formal choice about consolidating with neighboring municipalities.

About one-half of the survey respondents were in favor of municipal consolidation, about one-fourth disagreed and the final quarter were undecided. Respondents living in urban areas were most supportive of consolidation while rural residents were less likely to support it; but, even in rural areas more respondents were in favor of consolidation than in opposition. However, when asked about their own local government only eleven percent supported consolidation, twenty percent thought their local government should be totally separate and independent, and fifty percent thought their municipality should cooperate with neighboring municipalities to provide facilities and services.

Cooperation vs. Consolidation

While all of the NTC municipalities are small in population, and the two Borough's are also small in land area, there is no critical need to consider consolidation or merger. None of the municipalities is in a distressed financial state and all have the ability to raise additional real estate tax revenues if necessary to meet unanticipated expenses. Also, as found by the Penn State survey, there is likely little electorate support for any consolidation or merger. Continued intermunicipal cooperation is certainly the sensible approach to providing community facilities and services, with consolidation or merger considered an option of last resort.

²*Citizens' ViewPoint*, The Penn State University Department of Agricultural Economics and Rural Sociology, 2001.