



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA. 17120

16TH FLOOR
STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717)787-3391

LINDAL K. KELLY
ATTORNEY GENERAL

July 7, 2011

The Honorable Tom Corbett
Governor
225 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Corbett:

You have requested our opinion pursuant to Section 204(a) of the Commonwealth Attorneys Act, 72 P.S. 732-204(a), regarding the constitutionality of House Bill No. 1696, which has been passed by both houses of the General Assembly and presented to you for approval or veto. Upon careful review, and after consulting with the Office of General Counsel, we have concluded that HB1696 violates Article III, Section 32 of the Pennsylvania Constitution.

Article III, Section 32 states in part that “The General Assembly shall pass no local or special law in any case which has been or can be provided for by general law and specifically the General Assembly shall not pass any local or special law:

1. Regulating the affairs of counties, cities, townships, wards, boroughs, or school districts.”

HB1696 would bar implementation of a court-ordered countywide reassessment of real property in Washington County for the purpose of levying property taxes in said county. The moratorium would continue in effect until the later of an Act of the General Assembly adopting procedures necessary to ensure uniformity among counties in their property assessment, or November 30, 2012.

The relevant language of HB1696 reads as follows: “No county of the Fourth Class having a population, according to the 2010 United States census, greater than 185,000 but less than 210,000 may implement, effectuate or undertake the process of a court-ordered countywide reassessment of real property for purposes of levying property taxes until the later of:

- (1) The General Assembly adopts procedures necessary to ensure uniformity among counties in their property assessment systems; or
- (2) November 30, 2012.”

The Honorable Tom Corbett
July 7, 2011
Page Two

The Office of General Counsel has taken the position that HB1696 appears to violate Article III, Section 32 of the Pennsylvania Constitution. Having reviewed the matter at issue, this Office concurs with the opinion of the General Counsel.

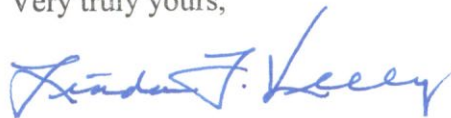
Article III, Section 32 specifically prohibits the General Assembly from enacting local or special laws. The Constitution goes even further in specifically barring local or special laws that attempt to regulate political subdivisions, including counties.

Under the criteria and definitions set out in HB1696, only one county would be covered by this law, Washington County. This narrow classification as applied to a political subdivision would appear to violate the specific prohibition contained in Article III, Section 32.

The case law supports this position. As the General Counsel points out, the Pennsylvania Supreme Court has recently addressed this question in *West Mifflin Area School District v. Zahorchak*, 4 A.3d 1042 (2010). This case involved an attempt by the legislature to regulate the performance of a local school district. In its opinion, the Court set out a test for determining when a statute violates the constitutional prohibition. The law created a closed class that would be closed or substantially closed to future membership. The Court opined that the law was intended to address affairs in one school district and thus was a per se violation of the State Constitution. See also *Heuchert v. State Harness Racing Commission*, 170 A.2d 332, 403 Pa. 440 (1961), *Perkins v. Philadelphia*, 27 A 356, 156 Pa. 539, 554, (1893).

In summary, for the reasons set out herein, it is our opinion, and you are so advised, that HB1696 violates Article III, Section 32 of the Pennsylvania Constitution. Since our opinion is rendered in aid of your decision to approve or veto HB1696, our advice is not binding.

Very truly yours,



Linda L. Kelly
Attorney General