

Nos. 15-1044, 15-1045

In the Supreme Court of the United States

PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY,
Petitioner,

v.

LEE PELE,
Respondent.

PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY,
Petitioner,

v.

UNITED STATES OF AMERICA *EX REL.* JON H. OBERG,
Respondent.

*On Petitions for Writs of Certiorari to the
United States Court of Appeals for the Fourth Circuit*

**BRIEF OF AMICI CURIAE THE SPEAKER OF THE
PENNSYLVANIA HOUSE OF REPRESENTATIVES AND
THE PRESIDENT PRO TEMPORE OF THE SENATE OF
PENNSYLVANIA IN SUPPORT OF PETITIONER**

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QUESTION PRESENTED

Whether an independent statewide agency, established by Pennsylvania law for the purpose of enhancing the educational opportunities of the citizens of the Commonwealth, for which the board of directors is made up entirely of Executive and Legislative appointees and is, without exception, treated as a “state agency” by the Commonwealth, should be considered an “arm of the state” for purposes of federal law.

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**INTEREST OF THE SPEAKER OF THE
PENNSYLVANIA HOUSE OF
REPRESENTATIVES AND THE PRESIDENT
PRO TEMPORE OF THE SENATE OF
PENNSYLVANIA¹**

Amici Curiae are the Speaker of the Pennsylvania House of Representatives and the President Pro Tempore of the Senate of Pennsylvania, and they submit this brief on behalf of the Pennsylvania General Assembly in support of Petitioner, Pennsylvania Higher Education Assistance Agency (PHEAA).

Amici Curiae's interest in this case stems from the fact that the Speaker of the House of Representatives and the President Pro Tempore of the Senate are statutorily empowered to appoint sixteen of the twenty board members of PHEAA. Further, PHEAA is a creature of state statute and all of the Agency's powers and duties are conferred on it by the Pennsylvania General Assembly. Most importantly, the Pennsylvania General Assembly is vested with the authority to appropriate funds. If PHEAA were exposed to a money judgment exceeding its ability to pay, the General Assembly would be put in the position to once again appropriate taxpayer dollars from the Pennsylvania Treasury to maintain PHEAA's

¹ Pursuant to this Court's Rule 37.6, *amici* affirm that no counsel for a party authored this brief in whole or in part, that no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief, and that no person other than *amici* and their counsel made such a monetary contribution. Pursuant to this Court's Rule 37.2, counsel of record for petitioners and respondents were timely notified of *amici's* intent to file this brief. Petitioner and all respondents have filed letters with this Court consenting to the filing of *amicus* briefs.

important state function of improved access to higher education for Pennsylvania residents. Accordingly, any decision to expose PHEAA to liability will have a direct and substantial impact on the funds available for appropriation for this and other governmental purposes.

Therefore, *Amici Curiae* believe that the Court will benefit from their perspective on this dispute.

SUMMARY OF THE ARGUMENT

Pennsylvania law unambiguously and uniformly defines PHEAA to be a state agency entitled to the immunity of the sovereign under the Eleventh Amendment. Indeed, PHEAA itself was authorized only by amendment to the Commonwealth's Constitution, PHEAA is treated by statute as a state agency (not a political subdivision), PHEAA's assets are sheltered like other state assets, and the Commonwealth's courts recognize PHEAA as a state agency enjoying immunity.

The Fourth Circuit Court of Appeals in the decisions below, however, did not afford proper deference to Pennsylvania's determination that PHEAA is an arm of the state. Rather, the Court of Appeals' analysis overlooked the real impact its decision could have on the Commonwealth's Treasury, to the detriment of Pennsylvania's taxpayers. The Fourth Circuit Court of Appeals' decision will lead to absurd results regarding the long term impact on both the Pennsylvania budget as well as on future funding for state agencies.

This Court not only should grant the writ of certiorari to resolve this flawed approach, but also to settle an outcome-determinative split among the circuit

courts regarding the appropriate test to determine whether a statewide entity is an arm of the state. The flaws reflected in the Fourth Circuit Court of Appeals' approach are compounded by a crazy-quilt of differing approaches to the "arm of the state" analysis which amount to a wide split of authority across the nation.

ARGUMENT

In the interest of conservation of the Court's time, this brief focuses solely on the particular questions and issues relevant to *Amici Curiae's* belief why this Court should grant Petitioner's Writs of Certiorari.

For the reasons set forth below, it is imperative that this Court review the Fourth Circuit Court of Appeals decisions in *Oberg* (using an "arm of the state" analysis as it relates to PHEAA's status as a "person" under the False Claims Act)² and *Pele* (using an "arm of the state"

² States, and state agencies, are not liable under the federal False Claims Act (FCA). *Vermont Agency of Nat. Res. v. U.S. ex rel. Stevens*, 529 U.S. 765, 788 (2000). While grounding its decision on FCA liability for state agencies in the FCA's use of "person," the *Stevens* Court explained that it "must apply to this text our longstanding interpretive presumption that 'person' does not include the sovereign." *Id.* at 780 (citations omitted). Every court of appeals which has considered the issue has held that the Eleventh Amendment's "arm of the state analysis" is the measure of such liability. *See, e.g., U.S. ex rel. Willette v. Univ. of Mass., Worcester*, 812 F.3d 35 (1st Cir. 2016); *U.S. ex rel. Oberg v. Pennsylvania Higher Educ. Assistance Agency*, 804 F.3d 646, 650 (4th Cir. 2015); *U.S. ex rel. Lesinski v. S. Florida Water Mgmt. Dist.*, 739 F.3d 598, 602 (11th Cir.) (citations omitted), *cert. denied sub nom., Lesinski v. S. Florida Water Mgmt. Dist.*, 134 S. Ct. 2312, 189 L. Ed. 2d 201 (2014).

analysis as it relates to PHEAA's Eleventh Amendment immunity).³

I. By Failing to Accord Sufficient Deference to the Decisions of Pennsylvania Regarding the Status of PHEAA as an Arm of the State, the Rulings of the Court Below are an Affront to Pennsylvania's Sovereign Dignity.

“The preeminent purpose of state sovereign immunity is to accord States the dignity that is consistent with their status as sovereign entities.” *Fed. Mar. Comm’n v. S. Carolina State Ports Auth.*, 535 U.S. 743, 760 (2002) (citation omitted). The Eleventh Amendment “is but one particular exemplification of that immunity.” *Id.* at 753 (citation omitted). If a state agency wishes to assert Eleventh Amendment immunity, courts must inquire “into the relationship between the state and the entity ... to determine whether it should be treated as an arm of the State.” *Regents of the Univ. of California v. Doe*, 519 U.S. 425, 429-30 (1997) (citations, internal quotation marks omitted). Such inquiry, however, should give due deference to state statutes and case law construing the relationship. The Fourth Circuit’s decisions in these cases barely acknowledged that Pennsylvania unquestionably treats PHEAA as a state agency and an arm of the Commonwealth.

³ The *Pele* decision relied entirely on the *Oberg* decision in holding that PHEAA is not an arm of Pennsylvania. See *Pele v. Pennsylvania Higher Educ. Assistance Agency*, No. 14-2202, slip op. at *1 (4th Cir. Oct. 21, 2015).

(A) Pennsylvania Statutory Law.

(1) PHEAA is a State Agency.

Without exception, Pennsylvania considers PHEAA an arm of the Commonwealth. PHEAA was authorized by constitutional amendment (Pa. Const. art. III, § 29; 24 P.S. § 5105.6) as a “government instrumentality” charged with “improve[ing] the higher educational opportunities of” Pennsylvanians “by assisting them in meeting their expenses of higher education...and by enabling the agency, lenders and postsecondary institutions to make loans available to students and parents for postsecondary education purposes.” 24 P.S. §§ 5101-5102. The General Assembly could not have been clearer when it stated that PHEAA “will be performing an essential government function in the exercise of the powers conferred upon it.” 24 P.S. § 5105.6.

In fact, PHEAA could not have come into existence absent an amendment to the Pennsylvania Constitution. PHEAA’s enabling legislation provided that it would only take effect—and PHEAA would thus be created—“upon the adoption by the electorate of an amendment to the Constitution of Pennsylvania authorizing grants or loans for higher educational purposes.” 24 P.S. § 5112. At the time, Pennsylvania’s constitution provided that “[n]o appropriation shall be made for ... educational ... purposes to any person or community nor to any denominational and sectarian institution.” Pa. Const. of 1874, art. III, § 18 (as amended).

On November 5, 1963, the People of Pennsylvania removed this prohibition to allow “appropriations ... in

the form of scholarship grants or loans for higher educational purposes to residents of the Commonwealth enrolled in institutions of higher learning,” *id.* art. III, § 18 (repealed and renumbered without change as art. III, § 29 in 1967), thereby resulting in PHEAA’s creation. The constitutional amendment underscores PHEAA’s status as an arm of Pennsylvania.

The Pennsylvania General Assembly has exempted all of PHEAA’s property, income and activities from taxation, including income from issued bonds and notes. 24 P.S. §§ 5105.6, 5107. PHEAA is a state “agency” under the tax exempt bond allocation provisions of the Job Enhancement Act to issue tax-exempt bonds. 73 P.S. § 400.2702. PHEAA, like other state agencies, is subject to Pennsylvania’s Administrative Agency Law, 2 Pa.C.S. § 501; Pennsylvania’s Sunshine Act, 65 Pa.C.S. § 703; its Right-To-Know Law, 65 P.S. § 67.102; the Pennsylvania Web Accountability and Transparency Act, 72 P.S. § 4664.2; the Commonwealth Documents Law, 45 P.S. § 1102, *et seq.*; and provisions of the Commonwealth Attorneys Act, 71 P.S. § 732.101, *et seq.* PHEAA has the authority to issue binding regulations under Pennsylvania’s Regulatory Review Act, 71 P.S. § 745.3, and these regulations are given great weight in the Pennsylvania courts. PHEAA has statewide subpoena power and can enter judgments of default that are valid statewide. 24 P.S. § 5104(10)-(11).

All members of PHEAA’s board of directors are either specifically designated government officials or appointed by government officials. The Commonwealth’s Secretary of Education (appointed by

the Governor) is statutorily designated as a member of the board of directors. The Governor is empowered to appoint three members of PHEAA's board. The remaining sixteen board members are members of the General Assembly; eight members appointed by the President Pro Tempore of the Pennsylvania Senate, and the remaining eight appointed by the Speaker of the Pennsylvania House of Representatives. 71 P.S. § 111.2.

Employees of PHEAA are employees of the Commonwealth of Pennsylvania who receive pay from the Commonwealth Treasury and health benefits from the Pennsylvania Employee Benefits Trust Fund. Additionally, PHEAA employees are members of and receive retirement benefits from the Pennsylvania State Employees' Retirement System. PHEAA employees are members of the state employee employment union, the American Federation of State, County and Municipal Employees. PHEAA's officers, managers and board members are considered "public officials" subject to the Pennsylvania Public Official and Employee Ethics Act. 65 Pa.C.S. § 1102.

As recently as 2015, and in direct response to this ongoing dispute, the General Assembly reaffirmed its long-held position regarding PHEAA's status as an arm of the state. House Bill 1460, approved by the Governor on December 29, 2015, unambiguously provides:

The appropriations set forth in this act to the Pennsylvania Higher Education Assistance Agency, which is an integral part and arm of the Commonwealth and which is directly controlled by the Commonwealth, shall supplement other

Commonwealth funds maintained by the Pennsylvania Higher Education Assistance Agency in order to fulfill its essential State governmental function of providing Commonwealth students with access to higher education opportunities and providing essential higher education programs for the benefit of Commonwealth students.

Act No. 10A of 2015 § 107 (General Appropriation Act of 2015).

(2) PHEAA is not a political subdivision.

The Fourth Circuit Court of Appeals wrongly concluded that PHEAA is a “political subdivision.” *Oberg*, 804 F.3d at 677. While many Pennsylvania statutes specifically define “political subdivision” (see 24 statutory references in Appendix A), they do not include PHEAA within the definition.

Pennsylvania law is conclusive that only local entities are “political subdivisions.” See Appendix A. No one can seriously argue that PHEAA is a city, county, borough, township or some other unit of local government pursuant to the definitions of “political subdivision” in Pennsylvania law.

PHEAA is a statewide entity with a statewide mission. It engages in statewide activities, providing higher education affordability throughout Pennsylvania. Unlike a municipality or a school district, PHEAA’s activities and services are not limited to particular geographic areas within the Commonwealth. Therefore it cannot be a local “political subdivision.”

**(B) Pennsylvania Courts Recognize
PHEAA as a State Agency.**

The Pennsylvania Legislature created PHEAA in 1963. 24 P.S. § 5101. It did not take long for Pennsylvania courts to recognize the true nature of the agency by acknowledging that it is an arm of the Commonwealth. Just nine years later, the Commonwealth Court in *Richmond v. Pennsylvania Higher Ed. Assistance Agency*, 297 A.2d 544 (Pa. Cmwlth. 1972) easily assumed jurisdiction of the case under 17 P.S. § 211.401(a)(1) which states “The Commonwealth Court shall have original jurisdiction of: (1) All civil actions or proceedings against the Commonwealth...” *Richmond*, 297 A.2d at 614. Jurisdiction was proper, the Court said, because the statute further goes on to define the “Commonwealth” as including ‘departments, departmental administrative boards and commissions, officers, independent boards or commissions, authorities and other agencies of this Commonwealth,” and the Court determined that “**PHEAA is such an agency.**” *Id.* (emphasis added).

As noted above, from its inception PHEAA has been considered an arm of the Commonwealth. During the ensuing 40 plus years of Pennsylvania jurisprudence, this status has become well settled. *See Pennsylvania Higher Educ. Assistance Agency v. Xed*, 456 A.2d 725 (Pa. Cmwlth. 1983) (statute of limitations not a bar to PHEAA’s suit against a borrower on a defaulted promissory note by reason of its status as an agency of the Commonwealth); *Pennsylvania Higher Educ. Assistance Agency v. Barksdale*, 449 A.2d 688 (Pa. Super. 1982) (case transferred to the Commonwealth

Court which had exclusive jurisdiction over appeals in cases involving the Commonwealth because of PHEAA's "undeniable" status as an agency of the Commonwealth).

Finally, in determining which agencies qualify for sovereign immunity protections and which agencies are open to suit, Pennsylvania courts have continuously pointed to PHEAA. The *Barksdale* Court summed it up best when dismissing the Appellants' argument that PHEAA was not synonymous with the "Commonwealth" by pointing out that PHEAA's status as an arm of the state was at that point well settled:

We recognize that other agencies have been found by this Court not to be the "Commonwealth" despite apparently contrary language in their enabling statutes. This is not such a case. Defendant's status may be compared to the Pennsylvania Higher Education Assistance Agency (PHEAA) in [the *Richmond* case], where we found PHEAA to be the "Commonwealth" as defined in the ACJA. PHEAA was created as a public corporation and instrumentality of the Commonwealth and, like the defendant, lacks power to pledge the credit of the Commonwealth but does receive appropriations from the legislature to partially fund its operations.

Id. at 283 (internal citations omitted).

Thus, in Pennsylvania, PHEAA is the exemplar for agencies that qualify for sovereign immunity. Since *Richmond*, no Pennsylvania court has strayed from this decision.

II. The Court Below Failed to Consider the Practical Consequences of Its Arm of the State Analysis.

Given the importance of the foundational concept of states as sovereign entities, it is imperative that any analysis of immunity based on the Eleventh Amendment's "arm of the state" test consider the far-reaching impact of such a decision. The Fourth Circuit Court of Appeals opinions in *Oberg* and *Pele* failed to consider the practical consequences of its decision. A broader view is needed for the reasons that follow.

(A) The Long Term Impact on the Pennsylvania Budget.

The fatal conceit of the analysis by the Fourth Circuit Court of Appeals, developed in *Oberg* and adopted by reference in *Pele* (*Pele* at *1), is the assumption that there will be no impact on the state treasury as a result of the judgment in a discrete case. As discussed by the Court in *Oberg*, in the past, PHEAA relied solely on state appropriations. *Oberg*, 804 F.3d at 665 ("PHEAA has received no appropriations to support its operations since 1988").

While statutory changes in the 1980's, combined with the leadership and financial acumen of the state-level PHEAA appointees, have temporarily alleviated the Commonwealth's taxpayers of this burden,⁴ this

⁴ "PHEAA absorbs the costs of administering the [State Grant] program, however, and disburses 100% of the appropriated funds to students. In 2005, PHEAA contributed \$25 million of its earnings to supplement the State Grant Program, and it has made contributions ranging from \$45—75 million in many, but not all, of the years since." *Oberg*, 804 F.3d at 655.

does not eliminate the very real potential that such appropriations will be necessary in the future.

The *Oberg* Court noted that it was called upon to consider the “practical effect on the state treasury of a judgment against the entity.” *Oberg*, 804 F.3d at 651. The practical effect, however, cannot be considered within the narrow scope of just one judgment or one year. *See generally Ernst v. Rising*, 427 F.3d 351, 362 (6th Cir.2005). (“the proper inquiry is not whether the state treasury would be liable in *this* case, but whether, hypothetically speaking, the state treasury would be subject to potential legal liability *if* the retirement system did not have the money to cover the judgment.” (citations and internal quotations omitted)). Such myopic consideration would be, to use a colorful turn of a phrase found in the *Oberg* decision, “dead-fish wrong.” *Oberg*, 804 F.3d at 658 n.6.

If immunity is not available, the end result of PHEAA’s potential liability is that PHEAA will require appropriations from the Commonwealth’s General Fund to remain operational. *See generally Regents of the Univ. of California v. Doe*, 519 U.S. 425, 431 (1997) (“[I]t is the entity’s potential legal liability, rather than its ability ... to discharge the liability in the first instance, that is relevant.”). This is exactly what the Chairman of PHEAA—and Chair of the House Appropriations Committee of the Pennsylvania General Assembly—testified to in these cases. Inexplicably, however, the Fourth Circuit gave this undisputed testimony the back of its hand, deeming it conclusory and inconsistent with the marginal facts it cited.

Put another way, if the Fourth Circuit Court of Appeals’ decisions stand, Pandora’s box will be open.

It is not, however, just one or two judgments that will fly out (although it is worth noting that the Fourth Circuit issued opinions in *Oberg* and *Pele* the same day). In the end, when PHEAA's funds are exhausted, the only "hope" that will remain is a state appropriation of taxpayer dollars in order to keep PHEAA viable. Whether today or tomorrow, the "functional" result of a finding that PHEAA does not enjoy Eleventh Amendment immunity will hit the taxpayers of Pennsylvania in the wallet. It is a long term perspective that is missing from the Fourth Circuit's analysis.

(B) The Long Term Impact on Funding for State Agencies.

The *Oberg* Court seemed particularly focused on PHEAA's current account balances. In fact, the Court insisted that "PHEAA's access to its substantial corporate wealth was relevant to the functional-liability question." *Oberg*, 804 F.3d at 666.

There is a lesson for Pennsylvania and other states to draw from the Court's inordinate focus on current account balances. It is that profligacy equals immunity. The Court's decision incentivizes government spending for the sake of spending. This short term view discourages holding any capital in reserve. That does not reflect either prudent financial planning or the respect owed a joint sovereign under the American constitutional scheme.

III. The Court Should Grant Certiorari In Order To Resolve A Conflict Among The Circuit Courts As To The Proper Test For Determining Whether A Statewide Entity Is An Arm Of The State.

In the absence of clear guidance from this Court, the Circuit Courts have developed their own multifactor balancing tests to determine whether a statewide entity is an arm of the state for purposes of federal law. Those tests vary not only in the number of factors considered – from as few as two to as many as six factors – but also in the weight given to each factor.

Importantly for the present petition, the differences in the various balancing tests can be decisive, as the tests vary significantly with regard to what weight (if any) to give to the treatment of the entity under state law. While some of the Circuit Courts give great deference to a state's determination of an entity's legal status, other courts give no consideration whatsoever. In the present cases, Pennsylvania law unquestionably treats PHEAA as an arm of the state entitled to sovereign immunity. While, for example, that may be sufficient to settle the matter for purposes of federal law in the First Circuit, under the test used in other circuits, PHEAA's status under Pennsylvania law would not even be considered.

Ultimately, the disarray among the Circuit Courts can be traced to the fact that this Court has only examined arm of the state questions in the context of multistate bodies or local bodies, not statewide entities. This absence of a clear standard has left the Circuit Courts on their own to formulate balancing tests out of the existing arm of the state cases. Consequently,

Courts may give weight to factors which may be appropriate to multistate bodies or local bodies, but not to statewide entities such as PHEAA. The resulting lack of uniformity among the Circuits leads to inconsistent treatment of entities depending upon the Circuit in which an action is brought. This results in utter confusion in this area of law, and highlights the necessity for this Court to grant *certiorari* and to establish a uniform test for determining when a statewide entity is an arm of the state under federal law.

CONCLUSION

The lack of respect afforded the Commonwealth's clear enunciation of PHEAA's status as an arm of the state and the potential for absurd results which flows from the Fourth Circuit's decisions in *Oberg* and *Pele*, combined with split in the Circuit Courts, necessitate review by this Court.

Respectfully submitted,

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Appendix A Pennsylvania Statutory References to
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APPENDIX A

“Political subdivision.” Any county, city, borough, incorporated town, township, school district, vocational school district and county institution district. 1 Pa.C.S.A. § 1991 (Rules of Construction, Definitions of Words and Phrases)

(m) The term **“political subdivision”** means any county, city, borough, incorporated town or township of this Commonwealth. 43 P.S. § 954 (Pennsylvania Human Relations Act, Definitions)

“Political subdivision.” A county, city, borough, township, town or school district with taxing jurisdiction in a defined geographic area within this Commonwealth. 72 P.S. § 9903-C (Tax Reform Code, Strategic Development Areas)

“Political subdivision.” A county, city, borough, township, town or school district with taxing jurisdiction in a defined geographic area within this Commonwealth. 73 P.S. § 820.103 (Keystone Opportunity Zones, Definitions)

(c) **“Political subdivision”** includes a city, borough, incorporated town, township, county, county institution district, school district, vocational school district, municipal authority, and any instrumentality or agency of the Commonwealth, or one or more of its political subdivisions or of the Commonwealth and one or more of its political subdivisions, but only if such instrumentality or agency is an entity which is legally separate and distinct from the Commonwealth or

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political subdivision, and only if its employees are not by virtue of their relation to such legal entity employees of the Commonwealth or political subdivision; except that the limitations upon instrumentalities or agencies of political subdivisions shall not apply in the case of joint-county departments of health. There shall be included in a political subdivisions, as defined herein, any department, agency, board or other means heretofore or hereafter created for the charge or the administration by the political subdivision, of property and estates dedicated to charitable uses to trusts, now or which shall hereafter become vested in or confided to the political subdivision. 65 P.S. § 202 (Public Officer and Employee Social Security Contribution Law, Definitions)

“Political subdivision.” Any county, city, borough, town, township, school district, vocational school district and county institution district. 10 P.S. § 373 (Institutions of Purely Public Charity Act, Definitions)

“Political subdivision” shall mean any county, city, borough, incorporated town, township, school district, vocational school district, county institution district, local authority or any joint or cooperative body of political subdivisions having the power to enter into contracts. 72 P.S. § 1602-C (Political Subdivisions Procurement Interest Payments, Definitions)

(4) “Political subdivision” means any county, city, borough, town or township of the Commonwealth, or any official agency created by the foregoing units of government under the laws of the Commonwealth; Provided, That any of the actions of such official agency taken under the authority of this act must be first approved by the participating local governing bodies in

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such agency. 72 P.S. § 3946.3 (Land Acquisition and Borrowing Act, Definitions)

“Political subdivision.” A county, city, borough, township, town or school district with taxing jurisdiction in a defined geographic area within this Commonwealth. 72 P.S. § 9903-C (Strategic Development Areas, Definitions)

“Political subdivision.” A city, county, borough, incorporated town, township, institution district or any newly created governmental unit. 43 P.S. § 1102.2 (Public Employee Fair Share Law, Definitions)

(6) **“Political subdivision”** means any county, city, borough, town or township or any official agency created by the foregoing units of government under the laws of the Commonwealth: Provided, That any of the actions of such official agency taken under the authority of this act shall be first approved by the participating local governing bodies in such agency. 32 P.S. § 5103 (Land and Water Conservation and Reclamation, Definitions)

“ Political subdivision.” As defined in 1 Pa.C.S. § 1991 (relating to definitions). 53 Pa.C.S.A. § 8401 (Taxation and Assessments, Definitions)

“Political subdivision.” Any county, city, borough, incorporated town, township, school district, vocational school district, intermediate unit, municipal authority, home rule, optional plan or optional charter municipality, and any agencies, boards, commissions, committees, departments, instrumentalities, or entities thereof designated to act in behalf of a political subdivision either by statute or appropriation. 43 P.S. § 1312 (Public Employee Pension forfeiture Act)

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“Political subdivision.” Any county, city, borough, incorporated town or township. 35 Pa.C.S.A. § 7102 (Emergency Management Services, Definitions)

“Political subdivision.” Any county, city, borough, incorporated town or township. The term shall include any council of governments established among any of the above. 35 Pa.C.S.A. § 7332 (Intrastate Mutual Aid, Definitions)

“Political subdivision.” Any county, city, borough, incorporated town, township, school district or home rule municipality. 53 P.S. § 4001.1 (Political Subdivision Recyclable Material Sale Bid Exemption Law, Definitions)

“Political subdivision” shall mean any county, city, borough, incorporated town and township. 35 P.S. § 2002 (Air Raid Precautions Act, Definitions)

The term **“political subdivision,”** as used in this act, means county, city, other than city of the first class, borough, town, township, poor district, institution district and school district within the Commonwealth. 53 P.S. § 7231 (Setting Off Municipal Claims Against Municipal Obligations, Definitions)

“Political subdivision.” Any county, city, borough, incorporated town, township, school district, intermediate unit, vocational school district or county institution district. 65 Pa.C.S.A. § 703 (Open Meetings, Definitions)

Political subdivision.” Every city, borough, incorporated town, township and county in this

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Commonwealth. 71 P.S. § 966.1 (Municipalities, Reports and Definitions)

“Political subdivision.” A city of the first class or a school district of the first class. 53 P.S. § 18200.103 (First Class Cities Economic Development District Act, Definitions)

(e) **“Political subdivision”** includes counties, cities, towns, townships, and boroughs. 71 P.S. § 779.3 (Emergency Interim Executive and Judicial Succession Act of 1959, Definitions)

(4) **“Political subdivision”** means any county, city, borough, town or township of the Commonwealth, or any official agency created by the foregoing units of government under the laws of the Commonwealth; Provided, That any of the actions of such official agency taken under the authority of this act must be first approved by the participating local governing bodies in such agency. 72 P.S. § 3946.3 (Project 70 Land Acquisition and Borrowing Act, Definitions)

“Political subdivision.” Any county, city, borough, incorporated town, township, school district, vocational school, county institution district, and any authority, entity or body organized by the aforementioned. 65 Pa.C.S.A. § 1102 (Ethics Standards and Financial Disclosure, Definitions)