

Exhibit 2

HOME RULE CHARTER AND OPTIONAL PLANS LAW

Includes amendments through November 30, 2004 of the Home Rule Charter and amendments through December 19, 1996.

Also included is information for the action to establish and information concerning how the Study Commission operates.

This is a partial version of the Home Rule Charter and Optional Plans Law. The full version can be found at:

www.celdf.org (click on Home Rule Charter and Optional Plans Law)



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LOCAL GOVERNMENT SERVICES

Home Rule and Optional Plans Law

Home Rule and Optional Plan Government

53 Pa. C.S. Chapters 29 (Home Rule), 30 (Optional Plans) & 31 (Optional Plans)

Includes all amendments through the act of November 30, 2004, P.L. 1618, No. 207

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The act contained herein is believed to be correct and to contain all amendments to the act through the most recent amendatory act listed above. However, there is no guarantee, express or implied, as to accuracy of the information contained herein. The Department of Community and Economic Development assumes no responsibility for errors and omissions nor any liability for damages resulting from the use of the information contained herein. In addition, the Department of Community and Economic Development assumes no obligation to provide updates if such acts are updated, revised or repealed.

CHAPTER 29 GENERAL PROVISIONS

Subchapter

- A. Preliminary Provisions
- B. Procedure for Adoption of Home Rule Charter or Optional Plan of Government
- C. Amendment of Existing Charter or Optional Plan
- D. Conduct of Election
- E. General Powers and Limitations of Home Rule Charter Municipalities
- F. General Provisions and Limitations for Optional Plan Municipalities
- G. Miscellaneous Provisions

Enactment. Chapter 29 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A PRELIMINARY PROVISIONS

Sec.

- 2901. Short title and scope of subpart.
- 2902. Definitions.

§ 2901. Short title and scope of subpart.

- (a) Short title of subpart.--This subpart shall be known and may be cited as the Home Rule Charter and Optional Plans Law.
- (b) Scope of subpart.--This subpart applies to all municipalities except cities of the first class and counties of the first class.

§ 2902. Definitions.

Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Council." County commissioner, city council, borough council, town council, township commissioner in a township of the first class and supervisor in a township of the second class.

"Election officials." The county boards of elections.

"Electors." The registered voters of any municipality involved in proceedings relating to the adoption and repeal of optional forms of government.

"Governing body." Board of county commissioners, city council, borough or incorporated town council, commissioners of a township of the first class and supervisors of a township of the second class or their successor forms of government.

"Government study commission" or "commission." The body elected under the provisions of Subchapter B (relating to procedure for adoption of home rule charter or optional plan of government).

"Home rule charter." A written document defining the powers, structure, privileges, rights and duties of the municipal government and limitations thereon. The charter shall also provide for the composition and election of the governing body, which in all cases shall be chosen by popular elections.

"Local municipality." Municipal corporation except a city of the first class.

"Nonresident." Any person or entity not a resident within the meaning of this subpart.

"Optional forms." Includes home rule charters and optional plans.

"Optional plans." Optional municipal powers, procedures and administrative structures as provided by this subpart.

"Rate of taxation." The amount of tax levied by a municipality on a permissible subject of taxation.

"Resident." Any person or other entity living in or maintaining a permanent or fixed place of abode in a municipality or conducting or engaging in a business for profit within a municipality.

"Subject of taxation." Any person, business, corporation, partnership, entity, real property, tangible or intangible personal property, property interest, transaction, occurrence, privilege, transfer, occupation or any other levy which is determined to be taxable by the General Assembly. The term shall not be construed to mean the rate of tax which may be imposed on a permissible subject of taxation.

SUBCHAPTER B PROCEDURE FOR ADOPTION OF HOME RULE CHARTER OR OPTIONAL PLAN OF GOVERNMENT

Sec.

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Cross References. Subchapter B is referred to in sections 2902, 3094, 3171 of this title.

§ 2911. Submission of question for election of government study commission.

- (a) **General rule.**--Whenever authorized by ordinance of the governing body or upon petition of the electors to the county board of electors of the county wherein the municipality is located, an election shall be held upon one of the following questions:
 - Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of an optional form of government and to recommend whether or not an optional plan of government should be adopted?
 - Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of a home rule charter and, if advisable, to draft and to recommend a home rule charter?
 - Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of an optional form of government or a home rule charter, to recommend the adoption of an optional form of government or to draft and recommend a home rule charter?
 - (b) **Petition for election.**--The petition calling for the election shall be in the form required by subsection (e) and shall be signed by electors comprising 5% of the number of electors voting for the office of Governor in the last gubernatorial general election.
 - (c) **Ordinance authorizing election.**--Within five days after the final enactment of an ordinance authorizing the election, the municipal clerk or secretary shall file a certified copy of the ordinance with the county board of elections, together with a copy of the question to be submitted to the electors.
 - (d) **Duty of election board.**--At the next general or municipal or primary election occurring not less than the 13th Tuesday after the filing of the ordinance or the petition with the county board of elections, it shall cause the appropriate question to be submitted to the electors as other questions are submitted under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.
 - (e) **Requirements for petitions.**--A referendum petition under this section shall be filed not later than the 13th Tuesday prior to the election, and the petition and the proceedings therein shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of
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nomination petitions insofar as those provisions are applicable. No referendum petition may be signed or circulated prior to the 20th Tuesday before the election nor later than the 13th Tuesday before the election. No candidate's nomination petition may be signed or circulated prior to the 13th Tuesday before the election nor later than the tenth Tuesday before the election. Any petition under this section shall be filed on or before the tenth Tuesday before the election.

Cross References. Section 2911 is referred to in sections 2923, 2927 of this title.

§ 2912. Election of members of commission.

- (a) **General rule.**--A governmental study commission of seven, nine or eleven members, as designated in the question, shall be elected by the qualified voters at the same election the question is submitted to the electors.
- (b) **Nomination of candidates.**--Each candidate for the office of member of the commission shall be nominated and placed upon the ballot containing the question in the manner provided by and subject to the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, which relate to the nomination of a candidate nominated by nomination papers filed for other offices elective by the voters. Each candidate shall be nominated and listed without any political designation or slogan, and no nomination paper shall be signed or circulated prior to the 13th Tuesday before the election nor later than the tenth Tuesday before the election. No signature shall be counted unless it bears a date within this period.
- (c) **Instructions to electors.**--Each elector shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for the designated number of members of a government study commission who shall serve if the question is or has been determined in the affirmative.
- (d) **Insufficient number of candidates or members.**--If an insufficient number of nominating papers is filed to fill all of the designated positions on the study commission, the question of establishing a commission shall be placed on the ballot, and, unless a sufficient number of study commission members are elected by receiving at least as many votes as signatures are required to file a nominating position, then the question of creating a study commission shall be deemed to have been rejected.

§ 2913. Nomination of candidates.

- (a) **General rule.**--All candidates for the government study commission shall be electors. Each candidate shall be nominated by nomination papers signed by a number of electors equal at least to 2% of the number of electors voting for the office of Governor in the last gubernatorial general election or 200 electors, whichever is less, and filed with the county board of elections not later than the tenth Tuesday prior to the date of the election.
 - (b) **Content and signing of nomination papers.**--Each nomination paper shall set forth the name, place of residence and post office address of the candidate thereby nominated, that the nomination is for the office of government study commissioner and that the signers are legally qualified to vote for the candidate. An elector may not sign nomination papers for more candidates for the commission than he could vote for at the election. Every elector signing a nomination paper shall write his place of residence, post office address and street number, if any, on the petition.
 - (c) **Acceptance by candidate.**--Each nomination paper shall, before it may be filed with the county board of elections, contain under oath of the candidate an acceptance of the nomination in writing, signed by the candidate therein nominated, upon or annexed to the paper, or, if the same person be named in more than one paper, upon or annexed to one of the papers. The acceptance shall certify that the candidate is an elector, that the nominee consents to run as a candidate at the election and that, if elected, the candidate agrees to take office and serve.
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- (d) **Verification of nomination papers.**--Each nomination paper shall be verified by an oath of one or more of the signers, taken and subscribed before a person qualified under the laws of this Commonwealth to administer an oath, to the effect that the paper was signed by each of the signers in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, electors and that the nomination paper is prepared and filed in good faith for the sole purpose of endorsing the person named therein for election as stated in the paper.

§ 2914. Results of election.

The result of the votes cast for and against the question as to the election of a government study commission shall be returned by the election officers, and a canvass of the election had, as is provided by law in the case of other public questions put to the electors. The votes cast for members of the commission shall be counted and the result returned by the county board of electors, and a canvass of the election had, as is provided by law in the case of election of members of municipal councils or boards. The designated number of candidates receiving the greatest number of votes shall be elected and shall constitute the commission. If a majority of those voting on the question vote against the election of a commission, none of the candidates shall be elected. If two or more candidates for the last seat shall be equal in number of votes, they shall draw lots to determine which one shall be elected.

§ 2915. Oath of office of members of commission.

- (a) **Members elected on countywide basis.**--As soon as possible and in any event no later than ten days after its certification of election, the members of a government study commission elected on a countywide basis shall, before a judge of a court of common pleas, make oath to support the Constitution of the United States and the Constitution of Pennsylvania and to perform the duties of the office with fidelity.
- (b) **Other members.**--As soon as possible and in any event no later than ten days after its certification of election, the members of a government study commission elected on other than a countywide basis shall, before a magisterial district judge or a justice of the peace, make oath to support the Constitution of the United States and the Constitution of Pennsylvania and to perform the duties of the office with fidelity.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended subsec. (b). See sections 28 and 29 of Act 207 in the appendix to this title for special provisions relating to applicability and construction of law.

§ 2916. First meeting of commission.

- (a) **Procedure.**--As soon as possible and in any event no later than 15 days after its certification of election, the government study commission shall organize and hold its first meeting and elect one of its members chairman and another member vice chairman, fix its hours and place of meeting and adopt rules for the conduct of its business it deems necessary and advisable.
- (b) **Quorum.**--A majority of the members of the commission shall constitute a quorum for the transaction of business, but no recommendation of the commission shall have any legal effect unless adopted by a majority of the whole number of the members of the commission.

§ 2917. Vacancies.

In case of a vacancy in the government study commission, the remaining members of the commission shall fill it by appointing thereto some other properly qualified elector.

§ 2918. Function and duty of commission.

The government study commission shall study the form of government of the municipality to compare it with other available forms under the laws of this Commonwealth and determine whether or not in its judgment the

government could be strengthened or made more clearly responsible or accountable to the people or whether its operation could become more economical or efficient under a changed form of government.

§ 2919. Compensation and personnel.

- (a) Compensation and expenses of members.--Members of the government study commission shall serve without compensation, but shall be reimbursed by the municipality for their necessary expenses incurred in the performance of their duties. Council shall appropriate moneys necessary for this purpose.
- (b) Appointment and compensation of personnel.--Within the limits of the appropriations and other public and privately contributed funds and services made available to it, the commission may appoint one or more consultants and clerical and other assistants to serve at the pleasure of the commission and may fix reasonable compensation therefor to be paid the consultants and clerical and other assistants.

§ 2920. Hearings and public forums.

The government study commission shall hold one or more public hearings, may hold private hearings and sponsor public forums and generally shall provide for the widest possible public information and discussion respecting the purposes and progress of its work.

§ 2921. Report of findings and recommendations.

- (a) **General rule.**--The government study commission shall report its findings and recommendations to the citizens of the municipality within nine months from the date of its election except that it shall be permitted an additional nine months if it elects to prepare and submit a proposed home rule charter and an additional two months if it chooses to elect its municipal council by districts. It shall publish or cause to be published sufficient copies of its final report for public study and information and shall deliver to the municipal clerk or secretary sufficient copies of the report to supply it to any interested citizen upon request. If the commission recommends the adoption of a home rule charter or any of the optional plans of government as authorized in this subpart, the report shall contain the complete plans as recommended.
- (b) **List of resources used.**--There shall be attached to each copy of the report of the commission, as a part thereof, a statement sworn to by the members of the commission listing in detail the funds, goods, materials and services, both public and private, used by the commission in the performance of its work and the preparation and filing of the report. In addition, the list shall identify specifically the supplier of each item thereon.
- (c) **Filing copy with Department of Community and Economic Development.**--A copy of the final report of the commission with its findings and recommendations shall be filed with the Department of Community and Economic Development.
- (d) **Disposition of records.**--All the records, reports, tapes, minutes of meetings and written discussions of the commission shall, upon its discharge, be turned over to the municipal clerk or secretary for permanent safekeeping and made available for public inspection at any time during regular business hours.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (c).

Cross References. Section 2921 is referred to in section 2922 of this title.

§ 2922. Discharge of petition and amended reports.

- (a) **General rule.**--The government study commission shall be discharged upon the filing of its report, but, if the commission's recommendations require further procedure in the form of a referendum on the part of the electors, the commission shall not be discharged until the procedure has been finally concluded. At any time prior to 60 days before the date of the referendum, the commission may modify or change any recommendation set forth in the final report by publishing an amended report.
- (b) **Effect of amended report.**--Whenever a commission issues an amended report pursuant to subsection (a), the amended report shall supersede the final report and the final report shall cease to have any legal effect.
- (c) **Procedure under amended report.**--The procedure to be taken under the amended report shall be governed by the provisions of this subpart applicable to the final report of a commission submitted pursuant to section 2921 (relating to report of findings and recommendations).

§ 2923. Types of action recommended.

The government study commission shall report and recommend in accordance with the question presented to the electorate as provided in section 2911 (relating to submission of question for election of government study commission):

- (1) That a referendum shall be held to submit to the electors the question of adopting one of the optional plans of government authorized by this subpart to be specified by the commission.
- (2) That a referendum shall be held to submit to the electors the question of adopting a home rule charter as prepared by the commission and as authorized by this subpart.
- (3) That the form of government shall remain unchanged.
- (4) Such other action as it deems advisable consistent with its functions as set forth in this subpart.

§ 2924. Specificity of recommendations.

(a) **Optional plan of government.**--

- (1) If the government study commission report recommends the adoption or the amendment of any of the optional plans of government set forth in this subpart, except the optional county plan, the report of the commission may specify the following:
 - (i) That the municipal council shall consist of three, five, seven or nine members, except that under the small municipality plan and under the optional county plan the number of council members shall be as provided in sections 3073 (relating to election of council members) and 3092 (relating to county officers).
 - (ii) That the office of treasurer shall be omitted or that it shall be filled by election by the electors rather than by appointment.
 - (iii) That the office of controller shall be omitted or that it shall be filled by election by the electors rather than by appointment.
 - (2) If a commission report, initiative petition or ordinance shall recommend any optional plan, except for the optional county plan, it may specify that the then existing basis for electing council members shall be changed to an at-large or district or combination at-large and district basis.
 - (3) If a commission report, initiative petition or ordinance recommends the adoption of the council-manager form of government, it may specify that the mayor or president of council or chairman be elected directly by the electors rather than by council.
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- (4) If a commission report, initiative petition or ordinance for a county recommends the adoption of any of the optional plans, except the optional county plan, it may specify that the sheriff be elected directly by the voters of the county as provided in section 3094 (relating to additional options for election of county sheriff).
- (5) In all cases, except for the council-manager plan, the commission report, initiative petition or ordinance shall specify whether the executive (mayor) shall be called "executive" or "mayor."
- (b) **Home rule charter.**--If the commission recommends the adoption of a home rule charter, it shall specify the number to be on the municipal council, all offices to be filled by election and whether elections shall be on an at-large, district or combination district and at-large basis.
- (c) **Elections in new or revised districts.**--Notwithstanding any other provisions of this subpart, if an approved home rule charter or optional plan of government or other form of government adopted pursuant to the provisions of this subpart specifies that the election of the municipal council shall be on an at-large or district or combination district and at-large basis and the basis recommended differs from the existing basis and therefore requires eliminating districts or establishing revised or new districts, then election of municipal officials shall not take place on the new basis until the municipal election following the next primary election taking place more than 180 days after the election at which the referendum on the question of a new form of government has been approved by the electorate. The new form of government shall not go into effect until the first Monday in January following the election of municipal officials on the new basis. New or revised districts shall be established by the government study commission and included in the proposed charter.

Cross References. Section 2924 is referred to in sections 2942, 3004, 3052, 3054, 3056, 3073, 3161 of this title.

§ 2925. Form of question on form of government.

The question to be submitted to the voters for the adoption of a home rule charter or any of the optional plans of government authorized by this subpart shall be submitted in one of the following forms or such part of them as shall be applicable.

Shall the Home Rule Charter contained in the report, dated (insert date), of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the (insert type and name of municipality)?

Shall (insert name of plan), including recommendations pertaining to optional provisions contained in the report of the government study commission, dated (insert date), as authorized by the Home Rule Charter and Optional Plans Law, be adopted by the (insert type and name of municipality)?

Shall the (Home Rule Charter) (Optional Plan) of the (insert type and name of municipality) be repealed and the form of government recommended in the report of the government study commission, dated (insert date), be adopted as authorized by the Home Rule Charter and Optional Plans Law?

Shall an Optional Plan for the (insert type and name of municipality) be amended as specified in the report of the government study commission filed with the election officials of the County of (insert name of county), on (insert date), as authorized by the Home Rule Charter and Optional Plans Law?

Cross References. Section 2925 is referred to in section 2926 of this title.

§ 2926. Submission of question on form of government.

If the government study commission recommends that the question of adopting a home rule charter or one of the optional plans of government authorized by this subpart shall be submitted to the electors, the municipal

clerk or secretary shall, within five days thereafter, certify a copy of the commission's report to the county board of elections, which shall cause the question of adoption or rejection to be placed upon the ballot or voting machines at the time as the commission specifies in its report. The commission may cause the question to be submitted to the electors at the next primary, municipal or general election occurring not less than 60 days following the filing of a copy of the commission's report with the county board of elections, at the time the commission's report directs. At the election, the question of adopting that form of government recommended by the commission shall be submitted to the electors by the county board of elections in the same manner as other questions are submitted to the electors under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The commission shall frame the question to be placed upon the ballot as provided for in section 2925 (relating to form of question on form of government) and, if it deems appropriate, an interpretative statement to accompany the question.

§ 2927. Limitation on enactment of ordinance or filing of petition.

- (a) **General rule.**--An ordinance may not be passed and a petition may not be filed for the election of a government study commission pursuant to section 2911 (relating to submission of question for election of government study commission) while proceedings are pending under any other petition or ordinance filed or passed under the authority of this subpart nor on the same question if it has been defeated within four years after an election has been held pursuant to any such ordinance or petition passed or filed.
- (b) **Time for commencement of proceedings.**--For the purpose of this section, proceedings shall be considered as having started:
 - (1) In the case of an ordinance, upon the final vote of council in favor of the ordinance, notwithstanding the fact that the ordinance cannot take effect until a certain number of days thereafter.
 - (2) In the case of a petition, as soon as it is properly signed by one-third of the number of registered voters required for the petition and written notice thereof filed in the office of the county board of elections and in the office of the municipal clerk or secretary, who shall cause the notice to be immediately posted in a conspicuous place in the office, open to public inspection.

§ 2928. Time when change of form of government takes effect.

Whenever the electors by a majority of those voting on the question vote in favor of adopting a change in their form of government pursuant to this subpart, the proposed form shall take effect according to its terms and the provisions of this subpart.

§ 2929. Limitation on changing new form of government.

The voters of any municipality which has adopted a home rule charter or an optional plan of government pursuant to this subpart may not vote on the question of changing the form of government until five years after the home rule charter or optional plan became effective.

§ 2930. Status of forms of government provided in subpart.

For the purposes of this subpart, each of the optional forms of government provided by this subpart and each of those optional forms as modified by any available provisions concerning size of council, election of municipal officials and the basis for electing councilmen is hereby declared to be a complete and separate form of government provided by the General Assembly for submission to the electors.

**SUBCHAPTER C
AMENDMENT OF EXISTING CHARTER OR OPTIONAL PLAN**

Sec.

- 2941. Procedure for amendment of charter or optional plan.
- 2942. Initiation of amendment by electors or council.
- 2943. Petition for referendum or ordinance proposing amendment.
- 2944. Time and manner of submission of question.

§ 2941. Procedure for amendment of charter or optional plan.

- (a) **Procedure.**--The procedure for amending a home rule charter or optional plan of government shall be through the initiative procedure and referendum or ordinance of the governing body as provided for in this subpart.
- (b) **Changes in method of election.**--Changes in the method of election of a municipal governing body from at-large elections to elections by district, maintain at-large elections or a combination of at-large elections and elections by district may be implemented by amending a home rule charter or optional plan without creation of a government study commission.
- (c) **Conflict in the question.**--If two or more questions appear on the ballot at the same election and such questions are in conflict and more than one receives the approval of the voters, the question which receives the largest number of affirmative votes shall prevail over the others.
- (d) **Initial apportionment.**--If the referendum on the question results in the approval by the voters to amend the home rule charter or optional plan to provide for the election of the governing body either by districts or partially by districts and partially at large or in a change in the number of members of the governing body, the initial apportionment of the districts shall be made by an apportionment commission consisting of seven members, all of whom shall reside in such municipality. Two members of the apportionment commission shall be appointed by the mayor. Two members of the apportionment commission shall be appointed by the governing body, one shall be appointed by the mayor from a list of at least three qualified persons recommended by the municipal committee of the political party whose mayoral candidate received the highest number of votes cast in the most recent mayoral election and one shall be appointed by the mayor from a list of at least three qualified persons recommended by the municipal committee of the political party whose mayoral candidate received the second highest votes in the most recent mayoral election. The seventh member of the commission shall be elected at large by a majority vote of the other six members and shall serve as chairman of the commission.

§ 2942. Initiation of amendment by electors or council.

A referendum on the question of amendment of a home rule charter or an optional plan of government may be initiated by petition of the electors or such a referendum may be initiated by an ordinance of the governing body. A proposal for amendment of an optional plan shall be limited to the additional options provided for in section 2924 (relating to specificity of recommendations).

Cross References. Section 2942 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

§ 2943. Petition for referendum or ordinance proposing amendment.

- (a) **Filing.**--A petition containing a proposal for referendum on the question of amending a home rule charter or an optional plan of government signed by electors comprising 10% of the number of electors voting for the office of Governor in the last gubernatorial general election in the municipality or an
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ordinance of the municipal governing body proposing amendment of a home rule charter or an optional plan shall be filed with the election officials not later than the 13th Tuesday prior to the next primary, municipal or general election. The petition and the proceedings therein shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions insofar as such provisions are applicable, except that no referendum petition shall be signed or circulated prior to the 20th Tuesday before the election nor later than the 13th Tuesday before the election. The name and address of the person filing the petition shall be clearly stated on the petition.

- (b) **Review and disposition of petition.**--The election officials shall review the initiative petition as to the number and qualifications of signers. If the petition appears to be defective, the election officials shall immediately notify the persons filing the petition of the defect. When the election officials find that the petition as submitted is in proper order, they shall send copies of the initiative petition without signatures thereon to the governing body and to the Department of Community and Economic Development. The initiative petition as submitted to the election officials, along with a list of signatories, shall be open to inspection in the office of the election officials.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (b).

Cross References. Section 2943 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

§ 2944. Time and manner of submission of question.

A referendum on the question of the amendment of a home rule charter or an optional plan of government shall be held when the election officials find that the initiative petition or ordinance of the governing body is in proper order. The referendum shall be governed by the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The election officials shall cause the question to be submitted to the electors at the next primary, general or municipal election occurring not less than the 13th Tuesday following the filing of the initiative petition or ordinance with county board of elections. At the election, the question shall be submitted to the voters in the same manner as other questions are submitted under the Pennsylvania Election Code. The county board of elections shall frame the question to be placed upon the ballot.

Cross References. Section 2944 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

**SUBCHAPTER D
CONDUCT OF ELECTION**

Sec.

2951. Conduct and results of election.

2952. Notice of election.

§ 2951. Conduct and results of election.

All elections provided for in this subpart shall be conducted by the election officials for such municipality in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The election officials shall count the votes cast and make return thereof to the county board of elections. The results of the election shall be computed by the county board of elections in the same manner as is provided by law for the computation of similar returns. Certificates of the results of the election shall be filed by the county board of elections with the municipal council or board, the Department of State and the Department of Community and Economic Development.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2952. Notice of election.

At least 30 days' notice of each election provided for under this subpart shall be given by the clerk or secretary of the municipality. A copy of the notice shall be posted at each polling place on the day of the election and shall be published in at least one newspaper of general circulation in the municipality once a week for three consecutive weeks during the period of 30 days prior to the election.

SUBCHAPTER E

GENERAL POWERS AND LIMITATIONS OF HOME RULE CHARTER MUNICIPALITIES

Sec.

- 2961. Scope of powers of home rule.
- 2962. Limitation on municipal powers.
- 2963. Exercise of municipal powers by home rule county.
- 2964. General powers of municipalities.
- 2965. Recording and filing of charter.
- 2966. Continuation of office of existing elective officials.
- 2967. Repeal of home rule charter.

§ 2961. Scope of powers of home rule.

A municipality which has adopted a home rule charter may exercise any powers and perform any function not denied by the Constitution of Pennsylvania, by statute or by its home rule charter. All grants of municipal power to municipalities governed by a home rule charter under this subchapter, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

§ 2962. Limitation on municipal powers.

- (a) **Powers granted by statute.**--With respect to the following subjects, the home rule charter shall not give any power or authority to the municipality contrary to or in limitation or enlargement of powers granted by statutes which are applicable to a class or classes of municipalities:
 - (1) The filing and collection of municipal tax claims or liens and the sale of real or personal property in satisfaction of them.
 - (2) The procedures in the exercise of the powers of eminent domain and the assessment of damages and benefits for property taken, injured or destroyed.
 - (3) Boundary changes.
 - (4) Regulation of public schools.
 - (5) The registration of electors and the conduct of elections.
 - (6) The fixing of subjects of taxation.
 - (7) The fixing of the rates of nonproperty or personal taxes levied upon nonresidents.
 - (8) The assessment of real or personal property and persons for taxation purposes.
 - (9) Defining or providing for the punishment of any felony or misdemeanor.
 - (10) Municipal planning under the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.
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- (b) **Taxing power.**--Unless prohibited by the Constitution of Pennsylvania, the provisions of this subpart or any other statute or its home rule charter, a municipality which has adopted a home rule charter shall have the power and authority to enact and enforce local tax ordinances upon any subject of taxation granted by statute to the class of municipality of which it would be a member but for the adoption of a home rule charter at any rate of taxation determined by the governing body. No home rule municipality shall establish or levy a rate of taxation upon nonresidents which is greater than the rate which a municipality would have been authorized to levy on nonresidents but for the adoption of a home rule charter. The governing body shall not be subject to any limitation on the rates of taxation imposed upon residents.
- (c) **Prohibited powers.**--A municipality shall not:
- (1) Engage in any proprietary or private business except as authorized by statute.
 - (2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.
 - (3) Be authorized to diminish the rights or privileges of any former municipal employee entitled to benefits or any present municipal employee in his pension or retirement system.
 - (4) Enact or promulgate any ordinance or regulation with respect to definitions, sanitation, safety, health, standards of identity or labeling pertaining to the manufacture, processing, storage, distribution and sale of any foods, goods or services subject to any Commonwealth statutes and regulations unless the municipal ordinance or regulation is uniform in all respects with the Commonwealth statutes and regulations thereunder. This paragraph does not affect the power of any municipality to enact and enforce ordinances relating to building codes or any other safety, sanitation or health regulation pertaining thereto.
 - (5) Enact any provision inconsistent with any statute heretofore enacted prior to April 13, 1972, affecting the rights, benefits or working conditions of any employee of a political subdivision of this Commonwealth.
- (d) **Reduction of police force.**--Notwithstanding any provision of this subpart or any other statute to the contrary, any municipality that is or was a city of the second class A may reduce its police force or its firefighting force for economic reasons, as determined by ordinance.
- (e) **Statutes of general application.**--Statutes that are uniform and applicable in every part of this Commonwealth shall remain in effect and shall not be changed or modified by this subpart. Statutes shall supersede any municipal ordinance or resolution on the same subject.
- (f) **Regulation of business and employment.**--A municipality which adopts a home rule charter shall not determine duties, responsibilities or requirements placed upon businesses, occupations and employers, including the duty to withhold, remit or report taxes or penalties levied or imposed upon them or upon persons in their employment, except as expressly provided by statutes which are applicable in every part of this Commonwealth or which are applicable to all municipalities or to a class or classes of municipalities. This subsection shall not be construed as a limitation in fixing rates of taxation on permissible subjects of taxation.
- (g) **Regulation of firearms.**--A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms.
- (h) **Levying taxes.**--This section does not limit or take away any right of a municipality which adopts a home rule charter from levying any tax which it had the power to levy had it not adopted a home rule charter.
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- (i) **Establishment of rates of taxation.**—No provision of this subpart or any other statute shall limit a municipality which adopts a home rule charter from establishing its own rates of taxation upon all authorized subjects of taxation except those specified in subsection (a)(7).
- (j) **Retroactive fee increase prohibited.**—A municipality which adopts a home rule charter may not retroactively increase any fee or charge for any municipal service which has been provided.

§ 2963. Exercise of municipal powers by home rule county.

A county which has adopted a home rule charter shall not at any time thereafter exercise within any municipality in the county a power or function being exercised by that municipality, except under all of the following conditions:

- (1) The exercise of such power or function by the county shall be authorized by ordinance of the governing body of the county, which ordinance, in addition to such other filings as may be required by law, shall be filed with the clerk or secretary of each local municipality within the county within 30 days of its enactment.
 - (2) The transfer of a power or function to the county from any local municipality within the county, as authorized by the ordinance, shall not become effective for at least 15 months from the date of adoption of the ordinance.
 - (3) Within 120 days from the adoption of the ordinance, the governing body of any local municipality, exercising on the date of the adoption of the ordinance any power or function authorized by ordinance of the county to be exercised by the county, may elect by ordinance to be excluded from the county's exercise of the power or function. Within 60 days after the date of adoption by the governing body of a local municipality of an ordinance excluding the local municipality from the exercise by the county of a power or function or in the absence of any action of the governing body, the qualified electors of the local municipality may initiate a petition requiring that the question of inclusion or exclusion from the exercise of the power or function by the county be submitted to a referendum of the electorate at the election held on the date of the next ensuing primary, municipal or general election not less than 60 days after the filing of the initiative petition with the county board of elections. The initiative and referendum procedures set forth in this subchapter or Subchapter F (relating to general provisions and limitations for optional plan municipalities) shall be followed, except where the same may be inconsistent with any of the provisions of this section. In the event the county determines there is insufficient interest or that it is not feasible to establish the proposed municipal function or power as provided for in the ordinance passed by the county, the county may repeal the county ordinance prior to the effective date of the ordinance.
 - (4) The governing body of any local municipality may by ordinance, subsequent to the time limit for action as set forth in paragraph (3), request the county to be included in a municipal power or function being exercised by the county. However, the county may specify the terms and conditions for acceptance or denial of the power or function requested by the local municipality to be exercised by the county, which shall be subject to court review if the local municipality determines that the terms and conditions as set forth by the county are unreasonable.
 - (5) No assessment, tax, fee or levy in the nature thereof made by the governing body of a county in support of the exercise of a power or function as authorized by ordinance of the county shall be applicable in any local municipality within the county which is providing the same municipal power or function.
 - (6) If the electors of a local municipality by referendum vote to exclude the local municipality from the exercise of a power or function by the county, a petition may not be initiated nor may a referendum be held on the same question more often than every five years thereafter.
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- (7) A local municipality may, by action of the governing body or by initiative and referendum, withdraw from a power or function which it was exercising at the date of the adoption of the county home rule charter which it transferred to a county, provided it again assumes and exercises the power or function, but may not vote on the question of withdrawing sooner than four years from the time the county assumed the power or function of the local municipality.

§ 2964. General powers of municipalities.

Municipalities adopting a home rule charter shall have the power to:

- (1) Sue and be sued.
- (2) Have a corporate seal.
- (3) Contract and be contracted with.
- (4) Buy, sell, lease, hold and dispose of real and personal property.
- (5) Appropriate and expend moneys.
- (6) Adopt, amend and repeal any ordinances and resolutions as may be required.

§ 2965. Recording and filing of charter.

The municipal clerk or secretary shall have the new charter as approved by the qualified electors recorded in the ordinance books and shall also file a certified copy of the charter with the Department of State, the Department of Community and Economic Development and the county board of elections.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2966. Continuation of office of existing elective officials.

All elective officials in office at the time of the adoption of a home rule charter shall continue in office until their terms expire.

§ 2967. Repeal of home rule charter.

- (a) **General rule.**--The procedure for repeal of a home rule charter shall be the same as for adoption of a home rule charter. Whenever the electors, by a majority vote of those voting on the question, vote in favor of repeal of a home rule charter and the establishment of a particular form of government, the municipality shall be governed under the form of government selected by the electors from the first Monday of January following the municipal election at which the elective officials of the form of government selected by the electors shall have been elected. The government study commission shall provide in its report for the new form of government to be established.
- (b) **Election of new officials.**--The elective officials under a new form of government selected by the electors shall be elected at the first municipal election held after the referendum on the repeal of a home rule charter or at a later date as may be specified by the commission in its report.

SUBCHAPTER F

GENERAL PROVISIONS AND LIMITATIONS FOR OPTIONAL PLAN MUNICIPALITIES

Sec.

2971. Law applicable to optional plan.
 2972. Recording and filing of plan.
 2973. Scope of powers of optional plan.
 2974. Limitation on powers of optional plan.
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Cross References. Subchapter F is referred to in sections 2963, 3001, 3031, 3041, 3051, 3071, 3091, 3095 of this title.

§ 2971. Law applicable to optional plan.

Upon the adoption by the electors of any of the optional plans of government as set forth in this subpart, the municipality shall thereafter be governed by the plan adopted and by the provisions of general law applicable to that class or classes of municipality except as otherwise provided in this subpart. Until the municipality adopts another form of government, the plan adopted and the provisions of general law applicable to that class or classes of municipality shall be law. All statutes affecting the organization, government and powers of the municipality which are not inconsistent or in conflict with this subpart shall remain in full force until modified or repealed.

§ 2972. Recording and filing of plan.

The municipal clerk or secretary shall immediately cause the new plan of government as adopted to be recorded in the ordinance book of the municipality and shall also file a certified copy thereof with the Department of State, the Secretary of Community and Economic Development and the county board of elections.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2973. Scope of powers of optional plan.

The general grant of municipal power under this subpart is intended to confer the greatest power of self government consistent with the Constitution of Pennsylvania and with the provisions of and the limitations prescribed by this subpart. Any specific enumeration of municipal powers contained in this subpart or in other statutes does not limit the general description of power contained in this subpart. Any specifically enumerated municipal powers are in addition and supplementary to the powers conferred in general terms by this subchapter. All grants of municipal power to municipalities governed by an optional plan under this subpart, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

§ 2974. Limitation on powers of optional plan.

The optional plan of any municipality adopted in accordance with this subpart shall not give any power or authority to diminish any rights or privileges of any present municipal employee in his pension or retirement system. No municipality shall exercise any powers or authority beyond the municipal limits except those conferred by statute, and no municipality shall engage in any proprietary or private business except as authorized by the General Assembly.

**SUBCHAPTER G
MISCELLANEOUS PROVISIONS**

Sec.

- 2981. Limitation on local municipality.
- 2982. Retention of existing form of government.
- 2983. Retention of existing form of government when electors disapprove proposal.
- 2984. Assumption of functions previously assumed by other municipality.

§ 2981. Limitation on local municipality.

No local municipality within a county shall supersede or exercise any power, function or service presently exercised by the county.

§ 2982. Retention of existing form of government.

Each municipality which does not adopt a home rule charter or an optional plan under this subpart shall retain its existing form of government as otherwise provided by law.

§ 2983. Retention of existing form of government when electors disapprove proposal.

In case the electors of any municipality disapprove a proposal to adopt a home rule charter or an optional plan of government, the municipality shall retain its existing form of government.

§ 2984. Assumption of functions previously assumed by other municipality.

- (a) **Assumption of indebtedness.**--A municipality assuming a function previously performed by another municipality under the terms of this subchapter shall also assume all the indebtedness and obligations of the municipality relating to the function. If property, indebtedness or obligations of another municipality not within the boundaries of the municipality assuming the function is involved, the governing bodies of the respective municipalities shall make an adjustment and apportionment of all public property involved.
- (b) **Procedure for adjustment and apportionment.**--The adjustment and apportionment shall be reduced to a written agreement which shall be filed with the court of common pleas of the county and the Department of Community and Economic Development.
- (c) **Petition for adjustment and apportionment.**--In case the municipalities cannot make an amicable adjustment and apportionment of the property, obligations and indebtedness within six months after the function is assumed, any of the municipalities may present a petition to the court of common pleas. The court shall then appoint three disinterested commissioners, all residents and taxpayers of the county, but none residing in or owners of real property in any of the municipalities. After hearing, notice of which shall be given to the municipalities as the court shall direct, the commissioners shall file a report with the court making an adjustment and apportionment of all the property as well as the obligations or indebtedness. The report shall state the amount that shall be due and payable from each municipality, the forms of payment and the amount of obligations and indebtedness that shall be assumed by each.
- (d) **Notice to municipalities.**--The commissioners shall give the municipalities at least five days' written notice of the filing of their report. Unless exceptions are filed to the report within 30 days after the date of the filing, the report shall be confirmed by the court absolutely. Any sum awarded by the report shall be a legal and valid claim in its favor against the municipality charged. Any real or personal property given to a municipality shall become its property. Any claim or indebtedness charged against the municipality may be collected from it.
- (e) **Exceptions to report.**--If exceptions are filed to the report of the commissioners, the court shall dispose of them, taking testimony if it deems advisable. The court shall enter its decree confirming the award of the commissioners or modifying the same as appears just and proper.
- (f) **Compensation to commissioners.**--The commissioners shall be allowed any compensation and expenses for their services as the court shall fix. The costs of the proceedings, including the compensation and expenses of the commissioners, shall be apportioned by the court between the municipalities as it deems proper.
- (g) **Jurisdiction of court.**--If a municipality or part of a municipality is located in two or more counties, the court of common pleas of the county where the larger part of the municipality assuming the function is located shall have exclusive jurisdiction over the proceedings.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (b).

CHAPTER 30
TYPES OF OPTIONAL PLANS OF GOVERNMENT

Subchapter

- A. Executive (Mayor) - Council Plan A
- B. Executive (Mayor) - Council Plan B
- C. Executive (Mayor) - Council Plan C
- D. Council-Manager Plan
- E. Small Municipality Plan
- F. Optional County Plan

Enactment. Chapter 30 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A
*** EXECUTIVE (MAYOR) - COUNCIL PLAN A**

Sec.

- 3001. Designation and applicability of plan.
- 3002. Officers and employees.
- 3003. Election and term of office of officials.
- 3004. Election and term of office of council members.
- 3005. First election of council members.
- 3006. Legislative power vested in council.
- 3007. Organization of council.
- 3008. Powers of council concerning officers and agencies.
- 3009. Appointment and duties of municipal clerk or secretary.
- 3010. Executive power vested in executive.
- 3011. Powers and duties of executive.
- 3012. Approval or veto of ordinances.
- 3013. Mayor, departments and department heads.
- 3014. Department of administration.
- 3015. Budget.
- 3016. Form and adoption of budget.
- 3017. Amended budget.
- 3018. Council amendments to budget.

Cross References. Subchapter A is referred to in sections 3031, 3041 of this title.

§ 3001. Designation and applicability of plan.

The form of government provided in this subchapter shall be known as the "Executive (Mayor) - Council Plan A" and shall, together with the laws applicable to that class of municipality and Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Chapter 31 (relating to general provisions common to optional plans), govern any municipality the electors of which have adopted it under this subpart.

§ 3002. Officers and employees.

* Each municipality under this subchapter shall be governed by an elected council, an elected executive who may be called mayor, as determined by the government study commission, an elected district attorney in the case of counties and, when recommended by the commission and adopted by the voters, an elected treasurer, an elected controller and by such other officers and employees as may be duly appointed pursuant to this subchapter or other applicable law.

§ 3003. Election and term of office of officials.

The executive (mayor), the treasurer, if elected, the district attorney in the case of counties and the controller, if elected, shall be elected by the electors at a regular municipal election and shall serve for a term of four years beginning on the first Monday of January next following his election.

§ 3004. Election and term of office of council members.

* The council shall consist of five members unless, under the authority granted under section 2924 (relating to specificity of recommendations), the municipality shall be governed by a council of three, seven or nine members. Members of the council shall be elected at large by the electors unless, under the authority granted pursuant to section 2924, members shall be elected on a district basis in which each district is as equal in population as is feasible, or on a combination at-large and district basis as determined by the government study commission, or as specified in an initiative petition or ordinance of the governing body under the provisions of sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question) at a regular municipal election and shall serve for a term of four years, except as otherwise provided in this subchapter, beginning on the first Monday of January next following their elections.

§ 3005. First election of council members.

At the first municipal election following the adoption of this plan, council members shall be elected and shall serve for the terms as provided in section 3162 (relating to status and term of office of officials).

§ 3006. Legislative power vested in council.

The legislative power of the municipality as provided by laws applicable to that class of municipality shall be exercised by the municipal council, except as may otherwise be provided for under this subpart.

* **§ 3007. Organization of council.**

On the first Monday of January following the regular municipal election, the members of council shall assemble at the usual place of meeting, organize and elect a president from among its members who shall preside at its meetings and perform such other duties as council may prescribe and a vice president who shall preside in the absence of the president. If the first Monday is a legal holiday, the meeting shall be held on the next day.

§ 3008. Powers of council concerning officers and agencies.

The council, in addition to other powers and duties as may be conferred upon it by general law, may require any municipal officer to prepare and submit sworn statements regarding the performance of the officer's official duties and may otherwise investigate the conduct of any department, office or agency of the municipal government.

§ 3009. Appointment and duties of municipal clerk or secretary.

A municipal clerk or secretary shall be appointed in the manner set forth in the administrative ordinance as provided pursuant to section 3146 (relating to passage of administrative ordinance). The municipal clerk or secretary shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this subpart requires and perform such functions as may be required by law or by local ordinance. The municipal clerk shall, prior to the appointment, have been qualified by training or experience to perform the duties of the office.

§ 3010. Executive power vested in executive.

The executive power of the municipality shall be exercised by the executive (mayor).

§ 3011. Powers and duties of executive.

* The executive (mayor) shall enforce the plan and ordinances of the municipality and all general laws applicable to them. The executive shall, annually, report to the council and the public on the work of the previous year and on the condition and requirements of the municipal government and shall from time to time make these recommendations for action by the council as he deems in the public interest. He shall supervise the departments of the municipal government and shall require each department to make annual and other reports of its work as he deems desirable.

Cross References. Section 3011 is referred to in section 3041 of this title.

§ 3012. Approval or veto of ordinances.

- (a) **General rule.**--Ordinances adopted by the council shall be submitted to the executive (mayor) who shall, within ten days after receiving any ordinance, either approve the ordinance by affixing his signature thereto or veto the ordinance by delivering it to the municipal clerk together with a statement setting forth his objections. The clerk shall immediately notify the council of the veto. No ordinance or any item or part thereof shall take effect without the executive's (mayor's) approval unless the executive (mayor) fails to return an ordinance to the clerk within ten days after it has been presented to him or unless council upon reconsideration of the veto on or after the third day following its return by the executive (mayor) shall override the executive's (mayor's) veto by a vote of a majority plus one of the members. *
- (b) **Attendance at meetings of council.**--The executive (mayor) may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

§ 3013. Mayor, departments and department heads.

- (a) **Inability of executive to perform duties.**--The executive (mayor) shall designate any department head to act as executive (mayor) whenever the executive (mayor) shall be prevented, by absence from the municipality, disability or other cause, from attending to the duties of his office. During such time, the person so designated by the executive (mayor) shall possess all the rights, powers and duties of the executive (mayor). Whenever the executive (mayor) has been unable to attend to the duties of his office for a period of 60 consecutive days for any of the reasons stated in this subsection, a member of council shall be appointed by the council as acting executive (mayor), who shall succeed to all the rights, powers and duties of the executive (mayor) or the then acting executive (mayor), until he shall return or his disability ceases.
- (b) **Establishment and exercise of functions of department.**--* The municipality may have a department of administration and shall have such other departments as council may establish by ordinance. All of the administrative functions, powers and duties of the municipality, other than those vested in the office of the clerk, treasurer, if elected, and controller, shall be assigned among and within the departments. *

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- (c) **Appointment and term of department heads and solicitor.**--Each department shall be headed by a director who shall be appointed by the executive (mayor) with the advice and consent of the council. Each municipality shall also have a solicitor who shall be appointed by the executive (mayor) with the advice and consent of the council. Each department head and the solicitor shall serve during the term of office of the executive (mayor) appointing him and until the appointment and qualification of his successor. No member of municipal council shall head a department.
 - (d) **Removal of department head.**--The executive (mayor) may remove any department head after notice and an opportunity to be heard. Prior to removing a department head, the executive (mayor) shall first file written notice of his intention with the council. The removal shall become effective 20 days after the filing of the notice.
 - (e) **Department officers and employees.**--Department heads shall appoint subordinate officers and employees within their departments under procedures established in section 3122 (relating to appointment of subordinate officers and employees).

Cross References. Section 3013 is referred to in section 3031 of this title.

§ 3014. Department of administration.

- (a) **Department heads.**--Where a department of administration is established, it shall be headed by a director. The director shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in or his knowledge of accepted practice in respect to the duties of his office. At the time of appointment, the director need not be a resident of the municipality or this Commonwealth. He shall have, exercise and discharge the functions, powers and duties of the department.
- (b) **Department functions.**--The department, under the direction and supervision of the executive (mayor), shall have the following powers and duties:
 - (1) To assist in the preparation of the budget.
 - (2) To administer a centralized purchasing system.
 - (3) To establish and administer a centralized personnel system.
 - (4) To establish and maintain a centralized accounting system which shall be so designed as to accurately reflect the assets, liabilities, receipts and expenditures of the municipality.
 - (5) To perform any other duties as council may prescribe through the administrative ordinance or as the executive (mayor) may direct.

Cross References. Section 3014 is referred to in section 3032 of this title.

§ 3015. Budget.

The municipal budget shall be prepared by the executive (mayor) with the assistance of the director of the department of administration or other officer designated by the executive (mayor).

§ 3016. Form and adoption of budget.

The budget shall be in the form required by council and shall have appended to it a detailed analysis of the various items of expenditure and revenue. The budget as submitted and adopted shall be balanced. Council may reduce any item or items in the executive's (mayor's) budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of a majority plus one of the members of council. Council shall, upon the introduction of the proposed budget, fix a date for adoption which shall except as otherwise provided be not later than December 31 immediately following.

Cross References. Section 3016 is referred to in section 3017 of this title.

§ 3017. Amended budget.

During January next following any municipal election, the executive (mayor) may submit an amended budget to council. Council shall consider it in the same manner as provided in section 3016 (relating to form and adoption of budget), but final consideration of the amended budget shall be completed by February 15 of the same year.

§ 3018. Council amendments to budget.

Council may amend the budget during January next following any municipal election. Final adoption of the amended budget shall be completed by February 15 of the same year.

SUBCHAPTER B

EXECUTIVE (MAYOR) - COUNCIL PLAN B

Sec.

- 3031. Designation and applicability of plan.
- 3032. Departments.
- 3033. Mandatory department of administration.

§ 3031. Designation and applicability of plan.

The form of government provided in this subchapter shall be known as the "Executive (Mayor) - Council Plan B" and shall, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities), Subchapter A of Chapter 30 (relating to executive (mayor) - council plan A) and Subchapter A of Chapter 31 (relating to officers and employees), with the exception of section 3013(b) (relating to mayor, departments and department heads), govern any municipality the voters of which have adopted it pursuant to this subpart.

§ 3032. Departments.

* The municipality shall have a department of administration and shall have such other departments as council may establish by ordinance. The administrative functions, powers and duties of the municipality, other than those vested in the office of the clerk, treasurer and controller, if provided for, shall be allocated and assigned among and within the departments except that the functions specified in section 3014 (relating to department of administration) shall be assigned to the department of administration.

§ 3033. Mandatory department of administration.

Under Executive (Mayor) - Council Plan B a department of administration shall be established.

SUBCHAPTER C

EXECUTIVE (MAYOR) - COUNCIL PLAN C

Sec.

- 3041. Designation and applicability of plan.
- 3042. Powers and duties of executive.
- 3043. Appointment and duties of managing director.

§ 3041. Designation and applicability of plan.

The form of government provided in this subpart shall be known as the "Executive (Mayor) - Council Plan C" and shall, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities), Subchapter A of Chapter 30 (relating to executive (mayor) - council plan A) and

Subchapter A of Chapter 31 (relating to officers and employees), with the exception of section 3011 (relating to powers and duties of executive), govern any municipality the voters of which have adopted it pursuant to this subpart.

§ 3042. Powers and duties of executive.

✧ The executive (mayor) shall enforce the plan and ordinances of the municipality and all general laws applicable thereto. The executive shall, annually, report to the council and the public on the work of the previous year and on the condition and requirements of the municipal government and shall from time to time make those recommendations for action by the council he deems in the public interest.

§ 3043. Appointment and duties of managing director.

(a) **General rule.**--The executive (mayor) shall appoint, with the advice and consent of the council, a managing director who shall supervise the departments of government and who shall be the contact officer between the mayor and the departments. The managing director shall make periodic reports with those recommendations as he deems appropriate to the executive (mayor) concerning the affairs of municipal government and particularly of the departments.

(b) **Removal.**--The executive (mayor) may remove a managing director after notice and an opportunity to be heard. Prior to removing a managing director, the executive (mayor) shall first file written notice of his intention with the council. The removal shall become effective 20 days after the filing of the notice.

**SUBCHAPTER D
COUNCIL-MANAGER PLAN**

Sec.

- 3051. Designation and applicability of plan.
- 3052. Officers and employees.
- 3053. Election and term of office of elected officials.
- 3054. Election and term of office of council members.
- 3055. First election of council members.
- 3056. Selection of mayor, council president or chairman.
- 3057. Appointment and duties of municipal clerk or secretary.
- 3058. Powers and duties of council.
- 3059. Qualifications of municipal manager.
- 3060. Removal of municipal manager from office.
- 3061. Inability of municipal manager to perform duties.
- 3062. Powers and duties of municipal manager.
- 3063. Preparation and adoption of budget.
- 3064. Amended budget.

§ 3051. Designation and applicability of plan.

The form of government provided in this subchapter shall be known as the "Council-Manager Plan" and shall, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Subchapter A of Chapter 31 (relating to officers and employees), govern any municipality the voters of which have adopted this plan pursuant to this subpart.

§ 3052. Officers and employees.

Each municipality under this subchapter shall be governed by an elected council, one member of which shall be the mayor or president of council or chairman chosen under sections 2924 (relating to specificity of recommendations) and 3056 (relating to selection of mayor, council president or chairman), an elected district attorney in the case of counties and an appointed municipal manager, and, if so provided under the plan, an elected treasurer, an elected controller and by those other officers and employees as may be duly appointed pursuant to this subchapter, general law or ordinance.

§ 3053. Election and term of office of elected officials.

The district attorney in the case of counties and the treasurer and controller, if provided for and if elected, shall be elected by the electors at a regular municipal election and shall serve for a term of four years beginning the first Monday of January next following the election.

§ 3054. Election and term of office of council members.

The municipal council shall consist of five members unless, under the authority granted pursuant to section 2924 (relating to specificity of recommendations), the municipality shall be governed by a council of three, seven or nine members. Members of the municipal council shall be elected at large by the electors unless, pursuant to the authority granted under section 2924, members shall be elected on a district basis in which each district is as equal in population as is feasible, or on a combination at-large and district basis as determined by the charter study commission or as specified in an initiative petition or ordinance of the governing body under the provisions of sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question), at a regular municipal election. The members shall serve for a term of four years, except as provided in this subchapter, beginning on the first Monday of January next following their election.

§ 3055. First election of council members.

At the first municipal election following the adoption by a municipality of this charter plan, council members shall be elected and shall serve for the terms as provided in section 3162 (relating to status and term of office of officials).

§ 3056. Selection of mayor, council president or chairman.

- (a) **General rule.**--On the first Monday of January following the municipal election, the members of the municipal council shall assemble at the usual place of meeting, organize and elect one of their number as mayor or president of council or chairman unless otherwise provided. The mayor or president of council or chairman shall be chosen by ballot by majority vote of all members of the municipal council. If the members shall be unable, within five ballots to be taken within two days of the organization meeting, to elect a mayor or president of council or chairman, then the member who in the election for members of the municipal council received the greatest number of votes shall be the mayor, president of council or chairman. If that person declines to accept the office, then the person receiving the next highest vote shall be the mayor, president of council or chairman and so on until the office is filled. The mayor or president of council or chairman shall preside at all meetings of the municipal council and shall have a voice and vote in its proceedings.
- (b) **Election of mayor.**--On the recommendation of the government study commission as provided under section 2924 (relating to specificity of recommendations) or as specified in an initiative petition or ordinance of the governing body as authorized by sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question), the mayor shall be elected directly by the electors at the regular municipal election in lieu of being chosen as provided in subsection (a).

Cross References. Section 3056 is referred to in section 3052 of this title.

§ 3057. Appointment and duties of municipal clerk or secretary.

A municipal clerk or secretary shall be appointed in the manner set forth in the administrative ordinance as provided in section 3146 (relating to passage of administrative ordinance). The municipal clerk or secretary shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this subpart requires and perform any functions as may be required by law or ordinance. The municipal clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

§ 3058. Powers and duties of council.

- * (a) **General rule.**--All powers as provided by laws applicable to that class of municipality shall be vested in the municipal council, except as otherwise provided by this subchapter, and the council shall provide for the exercise thereof and for the performance of all duties imposed on the municipality by law.
- (b) **Adoption of administrative ordinance.**--The council shall by ordinance adopt an administrative ordinance defining the responsibilities of the municipal departments and agencies as it deems necessary and proper for the efficient conduct of municipal affairs.
- (c) **Appointment of municipal manager.**--The municipal council shall appoint a municipal manager. The office of municipal manager and municipal clerk or secretary may be held by the same person.
- (d) **Investigations.**--The council may make investigations into the affairs of the municipality and the conduct of any municipal department, office or agency.
- λ (e) **Administrative departments, boards and offices.**--The municipal council shall continue or create and determine and define the powers and duties of any executive and administrative departments, boards and offices, in addition to those provided for in this subpart, as it deems necessary for the proper and efficient conduct of the affairs of the municipality, including the office of deputy manager. Any department, board or office so continued or created may be abolished by the municipal council. No member of municipal council shall head an administrative department.
- (f) **Additional powers and limitations.**--It is the intention of this subchapter that the municipal council shall act in all matters as a body, and it is contrary to the spirit of this subchapter for any of its members to seek individually to influence the official acts of the municipal manager or any other officer, or for the council or any of its members to direct or request the appointment of any person to or his removal from office, or to interfere in any way with the performance by the officers of their duties. The council and its members shall deal with the administrative service solely through the municipal manager and shall not give orders to any subordinates of the municipal manager, either publicly or privately. This subchapter does not prevent the municipal council from appointing committees of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of the municipality, and delegating to those committees such powers of inquiry as the municipal council deems necessary.

* **§ 3059. Qualifications of municipal manager.**

The municipal manager shall be chosen by the council on the basis of his executive and administrative qualifications. At the time of his appointment, he need not be a resident of the municipality or this Commonwealth. The municipal manager shall not hold any elective governmental office.

§ 3060. Removal of municipal manager from office.

The municipal manager shall be appointed for an indefinite term and may be removed by a majority vote of the council. At least 30 days before the removal becomes effective, the council shall notify the municipal manager of its decision to remove him from office, by a majority vote of its members, stating the reasons for his removal. The municipal manager may reply in writing and may request a public hearing which shall be held not

earlier than 20 days nor later than 30 days after the filing of the request. After the public hearing, if one is requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution, the council may suspend the municipal manager from duty but may in any case cause to be paid immediately any unpaid balance of his salary and his salary for the next three calendar months.

§ 3061. Inability of municipal manager to perform duties.

The municipal manager may designate a qualified administrative officer of the municipality to perform his duties during his temporary absence or disability. In the event of his failure to make a designation or if the absence or disability continues more than 30 days, the council may appoint an officer of the municipality to perform the duties of the manager during the absence or disability until the manager returns or his disability ceases.

§ 3062. Powers and duties of municipal manager.

The municipal manager shall have the following powers and duties:

- (1) To be the chief executive and administrative official of the municipality.
- (2) To execute all laws and ordinances.
- (3) To appoint and remove department heads and the deputy manager, if one is authorized by council, and appoint subordinate officers and employees under procedures established in section 3122 (relating to appointment of subordinate officers and employees).
- (4) To negotiate contracts for the municipality, subject to the approval of the municipal council, make recommendations concerning the nature and location of municipal improvements and execute municipal improvements as determined by the municipal council.
- (5) To assure that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed and, upon knowledge of any violation, to call the same to the attention of the municipal council.
- (6) To prepare the agenda for and attend all meetings of the municipal council with the right to take part in the discussions, but without the right to vote.
- (7) To make such recommendations to the council concerning policy formulation as he deems desirable and keep the council and the public informed as to the conduct of municipal affairs.
- (8) To prepare and submit the annual budget to the council together with such explanatory comment as he deems desirable and to administer the municipal budget.
- (9) To perform such other duties as may be required of the municipal manager by ordinance or resolution of the municipal council.
- (10) To be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the municipality within the jurisdiction of the council.

§ 3063. Preparation and adoption of budget.

The municipal manager shall submit to council his recommended budget, together with any explanatory comment or statement he deems desirable. The budget shall be in such form as is required by council for municipal budgets and shall in addition have appended thereto a detailed analysis of the various items of expenditure and revenue. The budget as submitted and adopted shall be balanced. Council shall upon introduction of the proposed budget fix a date for adoption thereof which shall be not later than December 31 immediately following submission.

Cross References. Section 3063 is referred to in section 3064 of this title.

§ 3064. Amended budget.

During January next following any municipal election, council may request the manager to submit an amended budget to council which shall consider it in the same manner as provided in section 3063 (relating to preparation and adoption of budget), except that final adoption of the amended budget shall not be later than February 15 of the same year.

**SUBCHAPTER E
SMALL MUNICIPALITY PLAN**

Sec.

- 3071. Designation and applicability of plan.
- 3072. Officers.
- 3073. Election of council members.
- 3074. Organization of council.
- 3075. Powers and duties of council.
- 3076. Municipal clerk or secretary, solicitor and agencies.
- 3077. Powers and duties of executive.
- 3078. Appointment of officers and employees by executive.
- 3079. Preparation and adoption of budget.
- 3080. Amended budget.

§ 3071. Designation and applicability of plan.

The form of government provided in this subchapter shall be known as the "Small Municipality Plan." It may be adopted by any municipality having a population of less than 7,500 inhabitants by the last Federal census. The plan, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Subchapter A of Chapter 31 (relating to officers and employees), shall govern any municipality the voters of which have adopted it pursuant to this subpart.

§ 3072. Officers.

Each municipality shall be governed by an elected executive (mayor) and council members, an elected district attorney in the case of counties and, if so provided under the plan, an elected treasurer or elected controller and any other officers as shall be appointed pursuant to this subchapter, general law or ordinance.

§ 3073. Election of council members.

The council shall consist of the executive (mayor), who shall be elected at large, and two council members unless pursuant to the authority granted under section 2924 (relating to specificity of recommendations) the municipality is governed by an executive (mayor) and four council members, an executive (mayor) and six council members or an executive (mayor) and eight council members. Members of the council shall be elected at large unless the plan provides that members shall be elected on a district basis in which each district is as equal in population as is feasible or on a combination at-large and district basis as determined by the government study commission or as specified in an initiative petition or ordinance of the governing body under the provisions of sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question) at a regular municipal election by the voters of the municipality. The members of the council shall serve a term of four years beginning on the first Monday in January next following their election, except as provided in this subpart.

Cross References. Section 3073 is referred to in section 2924 of this title.

§ 3074. Organization of council.

On the first Monday of January following the regular municipal election, the members of the council shall assemble at the usual place of meeting and organize. The executive (mayor) shall preside at all meetings of the council and shall have a voice and vote on its proceedings. The council shall select from among its members a president of the council who shall serve in place of the executive (mayor) in the event of his absence or disability.

§ 3075. Powers and duties of council.

The legislative power of the municipality shall be exercised by the council, except as may be otherwise provided by general law. A majority of the whole number of the council shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time.

§ 3076. Municipal clerk or secretary, solicitor and agencies.

- (a) **Municipal clerk or secretary.**--A municipal clerk or secretary shall be appointed in the manner set forth in the administrative ordinance, as provided pursuant to section 3146 (relating to passage of administrative ordinance). The municipal clerk or secretary shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this subpart requires and perform any functions as may be required by law. The clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.
- (b) **Solicitor and agencies.**--The council may, consistent with statutes applicable to that class of municipality, provide for the manner of appointment of a solicitor, any planning board, zoning board of adjustment, zoning hearing board or personnel board in the municipality and may create commissions and other bodies with advisory powers.

§ 3077. Powers and duties of executive.

The executive power of the municipality shall be exercised by the executive (mayor). The executive shall see that all laws and ordinances in force and effect within the municipality are observed. He shall address the council and report to the residents, annually and at any other times as he deems desirable, on the condition of the municipality and upon its problems of government. The executive (mayor) shall also appoint a finance committee of the council, which shall consist of one or more council members, and may appoint and designate other committees of council of similar composition.

§ 3078. Appointment of officers and employees by executive.

The executive (mayor) shall appoint subordinate officers and employees with the advice and consent of council under procedures established in section 3122 (relating to appointment of subordinate officers and employees), except that, in counties, the office of prothonotary and clerk of courts, register of wills and clerk of orphans court shall be filled by appointment by the president judge of the appropriate court with advice and consent of a majority of the council.

§ 3079. Preparation and adoption of budget.

The municipal budget shall be prepared by the executive (mayor) and shall be submitted to council in the form required by council. The budget as submitted and adopted shall be balanced. Council shall, upon introduction of the proposed budget, fix a date for adoption thereof which shall be not later than December 31 immediately following.

Cross References. Section 3079 is referred to in section 3080 of this title.

§ 3080. Amended budget.

During the month of January next following any municipal elections, the executive (mayor), upon his own initiative or at the request of council, may submit an amended budget to council which shall consider it in the same manner as provided in section 3079 (relating to preparation and adoption of budget), except that final adoption of the amended budget shall not be later than February 15 of the same year.

**SUBCHAPTER F
OPTIONAL COUNTY PLAN**

Sec.

- 3091. Designation and applicability of plan.
- 3092. County officers.
- 3093. Powers.
- 3094. Additional options for election of county sheriff.
- 3095. Approval of plan.

Cross References. Subchapter F is referred to in sections 3111, 3131, 3151, 3153, 3163 of this title.

§ 3091. Designation and applicability of plan.

The form of government provided in this subpart shall be known as the "Optional County Plan" and shall, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Subchapter A of Chapter 31 (relating to officers and employees), govern any county the voters of which have adopted this plan pursuant to this subpart. This option shall be available only to counties.

Cross References. Section 3091 is referred to in section 3095 of this title.

§ 3092. County officers.

(a) **Enumeration.**—The county officers shall be as follows:

- (1) County commissioner.
- (2) Controller or auditor.
- (3) District attorney.
- (4) Public defender.
- (5) Treasurer.
- (6) Sheriff.
- (7) Register of wills.
- (8) Recorder of deeds.
- (9) Prothonotary.
- (10) Clerk of the courts.

(b) **Election and term of office.**—County officers, except for public defenders, who shall be appointed as provided by law, shall be elected at the municipal election and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors are duly qualified. Vacancies shall be filled in the manner provided by law.

- (c) **Salaries and fees.**--County officers shall be paid only by salary as provided by law for services performed for the county or any other governmental unit. Fees incidental to the conduct of any county office shall be payable directly to the county or the Commonwealth or as otherwise provided by law.
- (d) **County commissioners.**--Three county commissioners shall be elected in each county. In the election of these officers, each qualified elector shall vote for not more than two persons, and the three persons receiving the highest number of votes shall be elected.
- (e) **Coroner or medical examiner.**--The coroner or medical examiner shall be a statutory office elected at the municipal election and shall hold the office for the term of four years, beginning on the first Monday of January next after election, and until his successor is duly qualified. He shall be paid only by salary as provided by law. Vacancies shall be filled in the manner provided by law.
- (f) **Jury commissioners.**--Jury commissioners shall be statutory officers and shall be elected at the municipal election and shall hold their office for the term of four years, beginning on the first Monday of January next after election, and until their successors are duly qualified. The salary board shall fix the salary of the jury commissioners. Vacancies in the office of jury commissioner shall be filled by the president judge of the court of common pleas.

Cross References. Section 3092 is referred to in section 2924 of this title.

§ 3093. Powers.

All county officers may exercise those powers granted by general law to county offices of the class of county to which it belongs.

§ 3094. Additional options for election of county sheriff.

A government study commission created and constituted as provided in Subchapter B of Chapter 29 (relating to procedure for adoption of home rule charter or optional plan of government) for counties or an initiative petition or ordinance of the governing body as authorized by sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question) may recommend and cause to be placed on the ballot, as a part of the question submitted to the voters for approval, additional options as part of the optional plans as set forth in this chapter providing for the election of the county sheriff.

Cross References. Section 3094 is referred to in section 2924 of this title.

§ 3095. Approval of plan.

If the optional plan, including an additional option or options as provided in section 3091 (relating to designation and applicability of plan), is approved by the voters, the county shall be governed by the provisions of the subchapter providing the basic optional plan and by the provisions of Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Subchapter A of Chapter 31 (relating to officers and employees), except that the elected sheriff shall be subject to the provisions pertaining to that office as provided in this subchapter.

**CHAPTER 31
GENERAL PROVISIONS COMMON TO OPTIONAL PLANS**

Subchapter

- A. Officers and Employees
 - B. Treasurer
 - C. Appointment Power and Personnel
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- D. Filling Vacancies in Elected Office
- E. Legislation by Council
- F. Audit and Control
- G. Transition to Optional Plan Government
- H. Repeal of Optional Plan

Enactment. Chapter 31 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

Cross References. Chapter 31 is referred to in section 3001 of this title.

SUBCHAPTER A OFFICERS AND EMPLOYEES

Sec.

- 3101. Adverse interest in contracts for purchase or services.
- 3102. Acceptance of services at more favorable terms.
- 3103. Gift or promise of thing of value to influence political support.
- 3104. Refusal or failure to appear or testify before court.

Cross References. Subchapter A is referred to in sections 3031, 3041, 3051, 3071, 3091, 3095 of this title.

§ 3101. Adverse interest in contracts for purchase or services.

- (a) **General rule.**--If a municipal officer or official elected or appointed knows or by the exercise of reasonable diligence should know that he is interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any personal property for the use of the municipality or for any services to be rendered for the municipality involving the expenditure of more than \$300 in any year, he shall notify council. Any such contract shall not be passed and approved by council except by an affirmative vote of at least three-fourths of the members. If the interested officer is a member of council, he shall refrain from voting upon the contract.
- (b) **Exception.**--This section does not apply to cases where the officer or official is an employee of the person, firm or corporation to which money is to be paid in a capacity with no possible influence on the transaction and in which he cannot possibly be benefitted either financially or in any other material manner.
- (c) **Penalties.**--Any officer or official who knowingly violates this section shall be liable to the municipality upon his bond, if any, or personally, to the extent of the damage shown to be sustained by the municipality, and to ouster from office and commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not exceeding \$500, or imprisonment not exceeding one year, or both.

§ 3102. Acceptance of services at more favorable terms.

An officer or employee shall not accept or receive, directly or indirectly, from any person operating within the territorial limits of a municipality any interurban railway, bus line, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket or free service or accept or receive, directly or indirectly, from any person any other service upon terms more favorable than is granted to the public generally, except that the prohibition of free transportation shall not apply to police officers or firefighters in uniform. Free service to the municipal officials provided by any franchise or ordinance shall not be affected by this section.

§ 3103. Gift or promise of thing of value to influence political support.

- (a) **General rule.**--A candidate for office, appointment or employment or an officer, appointee or employee in any municipality shall not, directly or indirectly, give or promise to any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person.
- (b) **Penalty.**--Any person who violates subsection (a) shall be disqualified to hold the office or employment to which he may be or may have been elected or appointed.

§ 3104. Refusal or failure to appear or testify before court.

Any person elected or appointed to any office or position in a municipality governed under this subpart who, after lawful notice or process, willfully refuses or fails to appear before any court, any legislative committee or the Governor, or having appeared refuses to testify or to answer any question regarding the property, government or affairs of the municipality or regarding his nomination, election, appointment or official conduct on the ground that his answer would tend to incriminate him, or refuses to waive immunity from prosecution on account of any matter in relation to which he may be asked to testify, may be removed from office by the council of the municipality.

**SUBCHAPTER B
TREASURER**

Sec.

3111. Selection and duties of municipal treasurer.

§ 3111. Selection and duties of municipal treasurer.

- (a) **General rule.**--Under any of the optional plans as set forth in this subpart, except for the plan set forth in Subchapter F of Chapter 30 (relating to optional county plan), the office of municipal treasurer may be omitted or may be filled by appointment or by election, as provided in the plan. If the office of municipal treasurer is to be filled by appointment, the appointment shall be made in accordance with the appointment procedures for other department heads.
- (b) **Powers and duties of elected treasurer.**--The municipal treasurer, if elected, shall perform the functions and duties and have the powers relating to the collection, receiving, safekeeping and payment over of public moneys, including municipal, county, institution district and school district taxes, as provided by law and shall have any other functions, powers and duties assigned to him by the executive of the municipality.

**SUBCHAPTER C
APPOINTMENT POWER AND PERSONNEL**

Sec.

3121. Appointment of members of boards and commissions.

3122. Appointment of subordinate officers and employees.

§ 3121. Appointment of members of boards and commissions.

The appointment power of the chief executive of the municipality under any of the plans authorized by this subpart shall include the appointment of members of boards and commissions authorized by this subpart, by law or by action of municipal council. All such appointments shall be with the advice and consent of a majority of municipal council.

§ 3122. Appointment of subordinate officers and employees.

- (a) **General rule.**--Appointments and promotions of subordinate officers and employees within departments shall be made by the department head on the basis of a personnel system which shall
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include written procedures for appointment and promotion based on merit and fitness as demonstrated by examination or other evidence of competence for the position.

- (b) **Personnel rules.**--The personnel system shall be governed by personnel rules which shall be prepared by the executive (mayor) or manager and submitted to the municipal council which shall adopt them with or without amendments unless otherwise provided for or arrived at by collective bargaining. The personnel rules may provide for:
- (1) The classification of all municipal positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by change of circumstances.
 - (2) A pay plan for all municipal positions.
 - (3) Methods for determining the merit and fitness of candidates for appointment or promotion.
 - (4) The policies and procedures regulating reduction in force and disciplinary action, including suspension and removal of employees.
 - (5) The hours of work and provisions for sick and vacation leave and holidays and overtime compensation.
 - (6) Grievance procedures, including procedures for the hearing of grievances.
 - (7) Other practices and procedures necessary to the administration of the municipal personnel system.

Cross References. Section 3122 is referred to in sections 3013, 3062, 3078 of this title.

SUBCHAPTER D FILLING VACANCIES IN ELECTED OFFICE

Sec.

3131. Applicability of subchapter.

3132. Manner of filling vacancies in office.

§ 3131. Applicability of subchapter.

This subchapter shall apply to the filling of vacancies in elected office in all optional plans and options except those set forth in Subchapter F of Chapter 30 (relating to optional county plan).

§ 3132. Manner of filling vacancies in office.

(a) **Members of council.**--

- (1) If a vacancy exists in the municipal council, the municipal council shall, by a majority of its remaining members, fill the vacancy within 30 days thereafter by electing a qualified person to serve until that first Monday of January when his successor is duly sworn into office for the remainder of the term of the person originally elected to the office. The successor shall be elected at the next municipal election occurring at least 50 days after the vacancy begins.
 - (2) In case vacancies should exist whereby the offices of a majority or more members of the municipal council become vacant, the remaining members shall fill the vacancies, one at a time, giving each new appointee reasonable notice of his appointment as will enable him to meet and act with the then qualified member or members of the municipal council in making further appointments until a bare majority of members of municipal council members have been qualified. At that time these members shall appoint persons to fill the remaining vacancies at a meeting attended by the majority members of municipal council, such appointees to receive a
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majority of the votes of the members present at the meeting. Each person selected to fill the vacancy or vacancies shall hold his office as provided in this subsection.

- (3) If, by reason of a tie vote or otherwise, the vacancy shall not have been filled by the remaining members of municipal council within the time as limited in this subsection, the court of common pleas upon the petition of ten or more qualified electors shall fill the vacancy by the appointment of a qualified person for the portion of the unexpired term as provided in this subsection.

(b) **Other officers.--**

- (1) If a vacancy occurs in the office of executive (mayor), municipal treasurer, if elected, municipal controller, if elected, county district attorney or county sheriff, if elected, the municipal council shall fill the vacancy within 30 days thereafter by choosing an executive (mayor), a municipal treasurer, a municipal controller, a county district attorney or a county sheriff, as the case may be, to serve until his successor is elected by the qualified electors at the next municipal election occurring at least 50 days after the vacancy occurs and is duly sworn into office. The person so elected shall serve from the first Monday of January next succeeding his election for the remainder of the term of the person originally elected to the office.
- (2) If, by reason of a tie vote or otherwise, a vacancy in the office of executive (mayor), treasurer, controller, county district attorney or county sheriff has not been filled by council within the time as limited in this subsection, the court of common pleas, upon petition of ten or more qualified electors, shall fill the vacancy by the appointment of a qualified person for the portion of the unexpired term as provided in this subsection.

**SUBCHAPTER E
LEGISLATION BY COUNCIL**

Sec.

- 3141. Regular and special meetings of council.
- 3142. Procedure and functions of council.
- 3143. Adoption of ordinances.
- 3144. Recording and compilation of ordinances and resolutions.
- 3145. Filing and publication of rules and regulations.
- 3146. Passage of administrative ordinance.

§ 3141. Regular and special meetings of council.

The council shall, by ordinance or resolution, designate the time of holding regular meetings which shall be at least monthly. The executive (mayor) or the president of council may and, upon written request of a majority of the members of the council, shall call a special meeting of the council. In the call, he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The municipal clerk or secretary shall keep a journal of its proceedings and record the minutes of every meeting.

§ 3142. Procedure and functions of council.

- (a) **Rules of procedure.**—Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, and no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.
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- (b) **Adoption of ordinances and resolutions.**--Each ordinance or resolution shall be presented and considered as determined by council rules of procedure. The vote upon every motion, resolution or ordinance shall be taken by roll call, and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the officer presiding at the meeting and by the municipal clerk or secretary.
- (c) **Administrative ordinance.**--Council shall adopt by ordinance an administrative ordinance which shall provide for the establishment and filling of additional administrative offices which it deems necessary and shall provide for administrative procedures not otherwise provided for in this subpart or by general law.
- (d) **Compensation of controller and treasurer.**--The compensation of the controller and treasurer shall be fixed by the council.

§ 3143. Adoption of ordinances.

- (a) **General rule.**--Except as may otherwise be provided in this subpart, all ordinances shall be adopted and published as provided by law. Any ordinance may incorporate by reference any standard technical regulation or code, official or unofficial, which need not be so published whenever ten copies of the regulations or code have been placed on file in the office of the municipal clerk or secretary and in the office of the body or department charged with the enforcement of the ordinance.
- (b) **Effective date.**--No ordinance, other than the local budget ordinance, shall take effect less than ten days after its final passage by council and approval by the executive (mayor) where that approval is required, unless the council adopts a resolution declaring an emergency and at least a majority plus one of all the members of the council vote in favor of the resolution.

§ 3144. Recording and compilation of ordinances and resolutions.

The municipal clerk or secretary shall record all ordinances and resolutions adopted by council and, at the close of each year, with the advice and assistance of the municipal solicitor, shall bind, compile or codify all the ordinances and resolutions or true copies thereof which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

§ 3145. Filing and publication of rules and regulations.

No rule or regulation made by any department, officer, agency or authority of the municipality, except as it relates to the organization or internal management of the municipal government or a part thereof, shall take effect until it is filed either with the municipal clerk or secretary or in any other manner provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

§ 3146. Passage of administrative ordinance.

The council shall prepare and pass an administrative ordinance which shall provide for the manner of appointment of a solicitor, clerk or secretary, may create commissions and other bodies with advisory powers and may include additional provisions relating to the internal structure of the municipality as long as the provisions of the administrative ordinance are not in conflict with this subpart.

Cross References. Section 3146 is referred to in sections 3009, 3057, 3076 of this title.

**SUBCHAPTER F
AUDIT AND CONTROL**

Sec.

- 3151. Exercise of financial management control functions.
 - 3152. Post audits by independent auditor.
 - 3153. Selection of controller.
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§ 3151. Exercise of financial management control functions.

The council shall provide by separate ordinance or in the administrative ordinance for the exercise of a control function in the management of the finances of the municipality by the municipal controller or an independent auditor or, in the case of the optional plan set forth in Subchapter F of Chapter 30 (relating to optional county plan), by the controller or auditors.

§ 3152. Post audits by independent auditor.

The council may provide for annual post audits of all accounts by an independent auditor who shall be a certified public accountant registered in this Commonwealth or a firm of certified public accountants registered in this Commonwealth.

§ 3153. Selection of controller.

Under any of the optional plans as set forth in this subpart, except for the plans set forth in Subchapter F of Chapter 30 (relating to optional county plan), the office of controller may be omitted or it may be filled by election by the electors rather than by appointment when recommended by the government study commission and adopted by the electors. If the office of controller is to be filled by appointment, a controller shall be appointed for an indefinite term by a majority of the members of the governing body.

**SUBCHAPTER G
TRANSITION TO OPTIONAL PLAN GOVERNMENT**

Sec.

- 3161. Applicability of plan.
- 3162. Status and term of office of officials.
- 3163. Compensation of elected officials.
- 3164. Status of existing ordinances and resolutions.
- 3165. Abolishment of existing appointive offices.
- 3166. Pending actions and proceedings.

§ 3161. Applicability of plan.

Whenever the electors of a municipality adopt any of the optional plans provided by this subpart at any election for that purpose, the municipality shall be governed under the provisions of that plan, the provisions of law applicable to that class of municipality and this subpart from the first Monday in January following the municipal election occurring after the next succeeding primary election, except as provided in section 2924 (c) (relating to specificity of recommendations).

Cross References. Section 3161 is referred to in section 3162 of this title.

§ 3162. Status and term of office of officials.

- (a) **Existing elected official.**--Any elected municipal official in office at the time of the adoption of any optional plan provided by this subpart shall continue in office only until the new plan of government goes into effect as provided in section 3161 (relating to applicability of plan), except as otherwise provided in subsections (c) and (d).
 - (b) **Members of council.**--At the municipal election next succeeding the adoption of one of the optional plans provided for in this subpart, if four or fewer council members are elected, they shall serve for terms of four years. If five are elected, the four successful candidates receiving the highest percentage of the votes cast for the office to which they are elected shall serve for terms of four years, and the candidate receiving the next highest percentage of votes shall serve for a term of two years. If six or
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more council members are elected, the five candidates receiving the highest percentage of the votes cast for the office to which they are elected shall serve for terms of four years, and the remaining successful candidates receiving the next highest percentage of votes shall serve for terms of two years. Thereafter, all council members shall be elected for terms of four years. Where the term of office for council members under the adopted plan is different from the term of office for council members under an existing form of government, the terms of office for council members so elected shall be established so that, at each subsequent municipal election at which council members are elected, the number of council members to be elected shall be as nearly equal as possible to the number of council members to be elected at every other regular municipal election at which council members are elected.

- (c) **Treasurer, controller, district attorney and sheriff.**--If an elected municipal treasurer or elected municipal controller, elected county district attorney or elected county sheriff is in office at the time of the adoption of an optional plan under the provisions of this subpart, a treasurer, controller, district attorney or sheriff, as the case may be, shall not be elected or appointed to take office until after the resignation, death, removal or expiration of the term of the incumbent in the office. At the expiration of the term of the incumbent, a treasurer, controller, district attorney or sheriff, as the case may be, shall be elected or appointed for the full term for the office as provided by the optional plan adopted.
- (d) **Continuation of existing members of council in office.**--Any member of a municipal governing body in office at the time of the adoption of an optional plan shall remain in office, continuing as an at-large or district council member, as the case may be, until the expiration of this term in office and shall receive the compensation provided by law at that time:
 - (1) If that council member was elected on an at-large basis, the newly adopted optional plan provides for a total number of at-large council members equal to or exceeding the total number of at-large council members under the existing form of government.
 - (2) If that council member was elected on a district basis, the district from which that council member was elected remains unchanged and continues to encompass the exact same geographical area under the newly adopted optional plan as under the existing form of government and the number of council members to be elected from that district under the newly adopted optional plan is equal to or exceeds the number elected from that district under the existing form of government.

Any council member may, by writing filed with the municipal treasurer, direct that any portion of his annual compensation for serving in office be returned to the municipal treasury. For the purpose of this section, an executive or mayor who is also a member of the council under an existing plan shall be considered as a member of the council, and, after the new plan goes into effect, his duties shall be only those of a member of council as prescribed by the new plan.

- (e) **Number of members of council to be elected.**--At the municipal election next succeeding the adoption of one of the optional plans provided for in this subpart, the number of council members prescribed by the terms in the plan less the number of council members then in office whose terms do not expire on the first Monday of January next following, as may be determined by subsection (d), shall be elected.
- (f) **Filling vacancies on council existing prior to election.**--If there are vacancies in council occurring by reason of resignation, death or removal 90 days or more before the election, they shall be filled for the remainder of the term of the person originally elected to that office.

Cross References. Section 3162 is referred to in sections 3005, 3055 of this title.

§ 3163. Compensation of elected officials.

- (a) **Officials elected prior to transition year.**--The annual compensation of the executive (mayor) and council members elected to their offices in the year prior to the transition year under any of the optional plans, except the plan set forth in Subchapter F of Chapter 30 (relating to optional county plan), adopted pursuant to this subpart shall be established by the commission as part of its recommendations or by the initiative petition or ordinance of the governing body authorized by sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question).
- (b) **Officials elected subsequent to transition.**--The compensation of the executive (mayor), council members, controller and treasurer elected to their offices subsequent to the transition to any of the optional plans set forth in this subpart, except for the plan set forth in Subchapter F of Chapter 30, shall be fixed by ordinance of council adopted at least two days prior to the last day fixed by law for candidates to withdraw their names from nomination previous to the municipal election. After the compensation is fixed by ordinance, only an increase or decrease thereof need be fixed by the ordinance.

§ 3164. Status of existing ordinances and resolutions.

On the effective date of an optional plan adopted pursuant to this subpart, all ordinances and resolutions of the municipality to the extent that they are not inconsistent with the provisions of this subpart shall remain in full force and effect.

§ 3165. Abolishment of existing appointive offices.

- (a) **General rule.**--On the effective date of an optional plan adopted pursuant to this subpart, all appointive offices then existing in such municipality shall be abolished and the terms of all appointed officers shall immediately cease and terminate. This section does not abolish the office or terminate the terms of office of any alderman or constable or of any official or employee now protected by any tenure of office or civil service law or of any police officer or firefighter whether or not protected by a tenure of office law.
- (b) **Use of resolution to govern interim proceedings.**--Provisions for officers and for the organization and administration of the municipal government under the optional plan may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than 60 days after the effective date of the optional plan.

§ 3166. Pending actions and proceedings.

All actions and proceedings of a legislative, executive or judicial character, pending upon the effective date of an optional plan, may continue. The appropriate officer or employee under the optional plan shall be substituted for the officer or employee exercising or discharging the function, power or duty involved in the action or proceeding before the effective date.

**SUBCHAPTER H
REPEAL OF OPTIONAL PLAN**

Sec.

3171. Repeal of optional plan and establishment of new form of government.

§ 3171. Repeal of optional plan and establishment of new form of government.

- (a) **General rule.**--The procedure for repeal of an optional plan shall be the same as for adoption of an optional plan as provided in Subchapter B of Chapter 29 (relating to procedure for adoption of home rule charter or optional plan of government), excluding the procedure provided in sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or
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ordinance proposing amendment) and 2944 (relating to time and manner of submission of question). Whenever the electors, by a majority vote of those voting on the question, vote in favor of repeal of an optional plan and the establishment of a particular form of government, the municipality shall be governed under the form of government selected by the electors. The form of government so approved shall take effect on the first Monday of January following the municipal election at which the elective officials of the form of government selected by the electors shall have been elected. The government study commission shall provide in its report for the new form of government to be established.

- (b) **Amendment procedure.**--This section does not prohibit or limit the procedure provided in sections 2942, 2943 and 2944 to amend an optional plan.

II. Beginning Government Study Commission Process

The decision of whether or not to study a municipal government and consider the advisability of change is made by the voters. At the same time this decision is made, the voters elect a group of citizens to conduct the study and report their recommendations back to the electorate for final decision. The entire process can be begun either by the governing body of the municipality, or by a group of citizens through the initiative process.

Placing the Government Study Commission Question on the Ballot

The Home Rule Law provides two alternate methods for placing the question of having a government study commission on the ballot. The question may be initiated either by (1) an ordinance of the municipal governing body or (2) a petition of the registered voters of the municipality. The ordinance or petition must designate one of the three questions permitted by the Home Rule Law.

Government Study Commission Questions. The Home Rule Law contains three questions — one must be selected to be placed on the ballot in drawing up the ordinance or petition. The choice of the question will restrict the government study commission to a consideration of an optional plan, a home rule charter, or allow it to choose either an optional plan or a home rule charter. The text of the questions as set forth in the Home Rule Law follows.¹

- (1) "Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality; to consider the advisability of the adoption of an optional form of government and to recommend whether or not an optional plan of government should be adopted?"
- (2) "Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of a home rule charter; and if advisable, to draft and to recommend a home rule charter?"
- (3) "Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality; to consider the advisability of the adoption of an optional form of government or a home rule charter; to recommend the adoption of an optional form of government, or to draft and recommend a home rule charter?"

In addition to choosing one of the three questions, the petition or ordinance must designate whether the proposed government study commission is to have seven, nine or eleven members.

Initiation by Ordinance. An ordinance to place a government study commission on the ballot must be adopted by the governing body of the municipality, that is, the county commissioners, city council, borough council, or township commissioners or supervisors. There is no required form for the ordinance. However, it must specify one of the three questions to be placed on the ballot and designate the number of members to be elected to the government study commission.

Within five days after the final enactment of an ordinance, the municipal clerk or secretary must file a certified copy of the ordinance with the county board of elections, together with a copy of the question to be submitted to the voters. The county board of elections will submit the question to the voters at the next primary, municipal or general election occurring not less than the thirteenth Tuesday after the ordinance is filed. The deadline for filing an ordinance to appear on the next election is thirteen weeks before the date of the election.²

Initiation by Petition. The question of having a government study commission may also be put on the ballot by petition. The petition must specify one of the three questions provided in the Home Rule Law and designate the number of members for the proposed government study commission. The petition must be signed by a sufficient number of registered voters of the municipality to equal at least five percent of the number of persons voting for the office of governor in the last gubernatorial general election within the municipality.³ No petition may be signed or circulated prior to the twentieth Tuesday before the election.⁴

After the petition has been properly signed by one third of the number of registered voters required, written notice of this fact should be filed by the circulators in the office of the county election board and the office of the municipal secretary.⁵ A copy of the notice is then posted in each of these offices.

Individuals signing the petition must give their occupation, place of residence and the date of signing.⁶ Petitions may be composed of more than one sheet of paper. Each sheet must be accompanied by an affidavit of the circulator.⁷ The referendum petition must be filed by the thirteenth Tuesday prior to the primary, municipal or general election where the question is to appear on the ballot.⁸

When Question Prohibited. No question for election of a government study commission may be initiated either by ordinance or by petition while proceedings are pending under any other ordinance or petition filed subject to the Home Rule Law. Proceedings are considered to have begun on the date of the governing body's final vote passing the ordinance or when one third of the required number of signatures for the petition have been obtained.⁹

A referendum on a question for election of a government study commission cannot be held on the same question within four years after the question has been defeated.¹⁰ However, referendum on one of the other two questions may be held within the four year period. Also, a government study commission can be elected within five years after a proposed charter or optional plan proposed by a preceding government study commission was defeated at the polls.¹¹

References

1. 53 Pa.C.S. 2901(a); Home Rule Charter and Optional Plans Law.
2. 53 Pa.C.S. 2911(e); Home Rule Charter and Optional Plans Law.
3. 53 Pa.C.S. 2911(b); Home Rule Charter and Optional Plans Law.
4. 53 Pa.C.S. 2911(e); Home Rule Charter and Optional Plans Law.
5. 53 Pa.C.S. 2911(c); Home Rule Charter and Optional Plans Law.
6. 25 P.S. 2868; Pennsylvania Election Code, Section 908.
7. 25 P.S. 2869; Pennsylvania Election Code, Section 909.
8. 53 Pa.C.S. 2911(e); Home Rule Charter and Optional Plans Law.
9. 53 Pa.C.S. 2927(b); Home Rule Charter and Optional Plans Law.
10. 53 Pa.C.S. 2927(a); Home Rule Charter and Optional Plans Law.
11. *Commonwealth ex rel. Baker v. Lackawanna County Board of Elections*, C.P. Lackawanna Co., No. 316, March Term, 1975.

Electing Members of the Government Study Commission

At the same election where the question of having a government study commission is on the ballot, voters are also asked to elect the designated number of members for the commission. Even voters opposing having a government study commission are to vote for members of the commission.

The Home Rule Charter and Optional Plans Law establishes a detailed procedure for simultaneously presenting to the electors two related questions – the first, whether a home rule study should be undertaken and secondly, the election of members to a study commission if the vote is favorable to such a study.¹

Eligibility. The only eligibility requirement for candidates for the office of study commissioner is that they be registered voters of the municipality.² Current officeholders, including local, school, county and state officials are eligible to serve as members of government study commissions. As the office is nonpartisan, persons covered by local or state civil service regulations are also eligible to serve.

Nomination Papers. Candidates are nominated by filing nomination papers. The nomination papers must include the name and address of the candidate, identify the person as a candidate for the office of government study commissioner, and state the signers are legally qualified to vote for the candidate.³ The nomination papers may not carry any political party designation or slogan.⁴

Nomination papers may be circulated and signed within a time period between the thirteenth and the tenth Tuesday before the election. Candidates must obtain signatures of registered voters equal to at least two percent of the number of votes cast for governor in the last gubernatorial general election within the municipality, or two hundred registered voters whichever is less.⁵ Each voter signing a nominating paper must list their occupation and residence, including street number and post office address. Each voter may sign nominating papers for as many candidates as the number of members proposed for the government study commission.⁶

Each nomination paper must be accompanied by an affidavit of one or more of the signers, affirming the paper was signed by each signer in their proper handwriting, that to the best of the signer's knowledge all signers are registered voters of the municipality, and that the purpose of the paper is to endorse the candidate named for the office of government study commissioner.⁷

Filing Nomination Papers. Nomination papers must be filed no later than the tenth Tuesday prior to the date of the election.⁸ Each nomination paper must have attached an affidavit signed by the candidate, consenting to stand as a candidate at the election, and promising to take office and serve, if elected.⁹ Candidates filing nomination papers for government study commissioner do not have to pay a filing fee since they serve without compensation.¹⁰

Ethics Law Disclosure Statement. The State Ethics Commission has ruled candidates for government study commission must file ethics law disclosure statements.¹¹ Forms are available from the county board of elections.

Campaign Finance Reports. Candidates for government study commissioner are subject to campaign finance reporting requirements.¹² Most candidates for government study commission will have minimal, if any, campaign receipts or expenditures. Candidates spending less than \$250 are required only to file a notarized statement attesting that fact with the county board of elections. When candidates file their nomination papers, they will be given the appropriate form by the board of elections.¹³

References

1. 53 Pa.C.S. 2914; Home Rule Charter and Optional Plans Law; *Reese v. County Board of Elections of Lancaster County*, 308 A.2d 154, 10 Pa.Cmwlth. 448, at 453, 1973.
 2. 53 Pa.C.S. 2913(a); Home Rule Charter and Optional Plans Law.
 3. 53 Pa.C.S. 2913(b); Home Rule Charter and Optional Plans Law.
 4. 53 Pa.C.S. 2912(b); Home Rule Charter and Optional Plans Law.
 5. 53 Pa.C.S. 2913(a); Home Rule Charter and Optional Plans Law.
 6. 53 Pa.C.S. 2913(c); Home Rule Charter and Optional Plans Law; 25 P.S. 2911(c). Pennsylvania Election Code, Section 951.
 7. 53 Pa.C.S. 2913(d); Home Rule Charter and Optional Plans Law.
 8. 53 Pa.C.S. 2912(b); Home Rule Charter and Optional Plans Law.
 9. 53 Pa.C.S. 2913(b); Home Rule Charter and Optional Plans Law.
 10. 25 P.S. 2873; Pennsylvania Election Code, Section 913.
 11. 65 Pa.C.S. 1104(b); State Ethics Commission Opinion #80-029.
 12. 25 P.S. 3246; Pennsylvania Election Code, Section 1626.
 13. 25 P.S. 2912; Pennsylvania Election Code, Section 952.
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Election Procedures

All elections held under the authority of the Home Rule Charter and Optional Plans Law are to be conducted in accordance with the Pennsylvania Election Code.¹ Provisions of the Election Code are to be followed unless specifically superseded by the Home Rule Law.

Advertising Elections. Both the county board of elections and the municipal clerk or secretary must legally advertise the election on the question of a government study commission. The county board of elections must include the question in its official notice of the election.² In addition, the municipal clerk or secretary must post a notice of the election in each polling place on the day of election and publish a notice in at least one newspaper of general circulation in the municipality once a week for three consecutive weeks during the period of 30 days prior to the election.³

Courts have held notice requirements in election laws are mandatory rather than directory. In a case involving Unity Township, the Westmoreland County Court of Common Pleas held failure to give notice as required by the Home Rule Law constituted sufficient grounds for striking a question on electing a government study commission from the ballot.⁴ A referendum on a government study commission in the City of Meadville was invalidated for failure to give proper notice. In this case, the court directed the question to be placed on the ballot at the next available election without the need to recirculate and refile petitions. However, candidates interested in serving on the commission were required to refile nominating petitions.⁵ The Pennsylvania Supreme Court has upheld the right of courts to keep questions off the ballot for failure to comply with advertising and notice requirements.⁶

For each referendum appearing on a county or municipal ballot, the county board of elections is to prepare an explanation of the ballot question.⁷ This statement must be in plain English. It is to indicate the purpose, limitations and effects of the ballot question to the people. The statement is to be included in the notice of the election and three copies are to be posted at each polling place.

Ballot Instructions. Voters are to be instructed to vote for members of the government study commission, regardless of how they voted on the question of having a study commission.⁸ Each voter is to vote for the designated number of members of the commission. The Commonwealth Court has held placing these instructions on the ballot is a mandatory procedure. Because of the failure of the board of elections to put required instructions on the ballot, it invalidated the election of a government study commission in Lancaster County.⁹

Election Contests. The Commonwealth Court also held that elections of government study commissioners are subject to election contests under the Pennsylvania Election Code.¹⁰ No contest provision exists for a referendum question, but the validity of a referendum may be challenged in equity if some material requirement of the law is ignored.

Results. Results of the voting are canvassed in the same manner as for other municipal offices and questions. If a majority of those voting on the question of having a government study commission approve the proposal, then the designated number of commissioners receiving the largest number of votes are elected and constitute the government study commission. If two or more candidates for the last seat draw an equal number of votes, then they must draw lots to determine whom is elected. If the voters do not approve the question of establishing a government study commission, then no study commissioners are elected and the procedure is ended.¹¹

If an insufficient number of persons have filed nominating papers by the deadline to fill all the positions on the government study commission, the question is still placed on the ballot. However, if additional persons are not elected to the study commission by receiving at least as many write-in votes as signatures required for the nomination paper, then the question is deemed to be defeated.¹² Even if a majority approve having the commission, a full slate of commission members must be elected before the question is considered approved.

Certification. The county board of election must certify the results of the election to the municipal governing body, the Secretary of the Commonwealth and the Secretary of Community and Economic Development.¹³

References

1. 53 Pa.C.S. 2912(b); Home Rule Charter and Optional Plans Law.
 2. 25 P.S. 3041; Pennsylvania Election Code, Section 1201.
 3. 53 Pa.C.S. 2952; Home Rule Charter and Optional Plans Law.
 4. *Chenet v. County Board of Elections of Westmoreland County*, 56 West. 195, 1974.
 5. *Early v. Board of Elections of Crawford County*, 3 D.&C.4th 98, 1988, C.P. Crawford Co.
 6. *Mount Lebanon v. County Board of Elections of Allegheny County*, 368 A.2d 648, 470 Pa.317, 1977.
 7. 25 P.S. 2621.1; Pennsylvania Election Code, 201.1.
 8. 53 Pa.C.S. 2911(c); Home Rule Charter and Optional Plans Law.
 9. *Reese v. County Board of Elections of Lancaster County*, 308 A.2d 154, 10 Pa.Cmwlth. 448, 1973.
 10. *Ibid*, at 455.
 11. 53 Pa.C.S. 2914; Home Rule Charter and Optional Plans Law.
 12. 53 Pa.C.S. 2912; Home Rule Charter and Optional Plans Law.
 13. 53 Pa.C.S. 2951; Home Rule Charter and Optional Plans Law.
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III. Operations of a Government Study Commission

Once elected, the members of the government study commission serve as representatives of the community at large in examining the current local government, considering alternatives, reaching decisions on how the local government might best be run, and presenting their recommendations to the voters. The process is a local process; although outside help is available, local citizens do the bulk of the work, and the decisions reached are their responsibility. The process is also a citizen process. The commissioners are elected by the citizens and are to conduct their affairs with the maximum feasible public involvement and discussion.

The role of the government study commission has been summed up very aptly by the Ferguson Township Government Study Commission.

1. To conduct an in-depth study of municipal government.
2. To probe deeply into procedures and inter-relationships of different parts of government so as to discover weaknesses or defects.
3. To look outside the municipality to discover improved practices that might be applied and adopted.
4. To evolve from its studies an arrangement for better government.
5. Upon the development of the major elements to set them down in a clear, logical and consistent form as a Charter.
6. To conduct its affairs in a manner which will win the respect of the citizens and educate and stimulate citizens groups and officials to get the Charter adopted.

Membership in a Study Commission does not necessarily imply expertness. Wisdom, practical judgment and amateur enthusiasm are as fundamental to a successful Charter Commission as are legal, social and political expertise.¹

Role of the Government Study Commission

Candidates elected to a government study commission have an important and serious task to perform. In some ways, commission members will be performing for their community many of the functions traditionally exercised by the General Assembly. Pennsylvania courts hold home rule charters have the force and status of legislative enactments.² The seriousness and commitment the commissioners bring to their deliberations will greatly determine the impact of their recommendations.

The commissioners must be aware their work is likely to have a long-term influence on the affairs of their community. They are not being asked to examine trivial matters relating only to a narrow scope of activity, nor are they making recommendations with no direct opportunity for implementation. They are charged with the task of comprehensively reviewing, studying and analyzing the very governmental structure for their own community. But it is not just a study, because the commission's recommendations are promptly placed before the voters for decision.

Governments do not ordinarily subject themselves to comprehensive self-examination; they are too busy with daily activities. The government study commission process affords municipalities the opportunity to initiate the kind of governmental review not otherwise possible. Divorced from needs to operate the government or to position for partisan advantage, the citizen members of the government study commission can turn their full attention to the improvement of governmental machinery.

Pennsylvania local government structures are based in the distant past, embellished by accretions mandated over the years by the General Assembly or created locally to meet a pressing need. The government study commission often makes the first complete review of this structure. The results of their study, analysis and decision making will form a proposal to be either ratified or rejected by the voters. Seen in this perspective, the work of the government study commission may be one of the most formative acts in the life of the community.

Government study commissions have often been likened to constitutional conventions. Just as state conventions are occasionally called to revise, amend or rewrite the basic body of law for the state government, so also are municipal government study commissions charged with reviewing the governmental structure of their municipality and making recommendations for basic change.

In this role, study commissioners are asked to "represent" all citizens in the community. Since each voter cannot take the time to study the complete governmental operation of their municipality, the study commission plays an important representative role. In a true sense, the commissioners are acting not for themselves, or their colleagues on the commission, but for all citizens living within the community.

Each government study commission assumes a character unique to itself, and the operations of one are not strictly comparable to the work of another. Such variability is inevitable, for commissions will differ according to types of individual member, organizational style, community values and the kinds of problems unique to each municipality. Government study commissions will work within the community's municipal traditions, the local political culture and the vision for the future. Communities will employ different attitudes and resources in coping with physical, social or economic change. The very size and breadth of governmental activity will greatly determine the scope of the commission's work.

Study. The first substantive task of the government study commission is a thorough review of the structure and operation of the existing form of government. Each commissioner must gain familiarity with the current administrative organization and methods of operation. The initial fact-finding process is important, for the commissioners should not begin their deliberations with any preconceived notions. They should neither support change for the sake of change, nor oppose change simply because it is change. The commissioners must base their deliberations on the information they gather, and the initial fact-finding process is an important stage in their work. Part of the information gathering is examining alternative approaches used in other areas or new structural proposals to meet emerging needs.

Deliberation. The Home Rule Law specifies the kinds of questions the study commissioners ought to ask as they collect information on the existing form of government.³ The commission is charged with comparing the municipality's government with other forms available under law. The commission has the duty to judge whether or not the municipality's government could be strengthened and made more clearly responsible or accountable to the people, or whether its operation could become more economical or efficient under a changed form of government. Definition of these terms, and thus definition of their charge, is left to the members of each commission. Local values will determine the definition of a strong, responsible, accountable, economical and efficient local government.

In meeting this responsibility, the commission must look for structural and operational weaknesses and review those areas where improvement appears desirable. In this process, the commission can look to other municipalities whose experiences may provide some useful guides. In all cases, the commission must try to determine the kind of government which will best suit the unique needs of their own community. It must balance the desirability of change against the advantages of continuity and familiarity.

Drafting. As elected delegates to the functional equivalent of a municipal constitutional convention, the study commissioners drafting a home rule charter undertake a task likely to have long-range implications for the functioning of their community. With only eighteen months to accomplish their work, the study commissioners are charged with producing the single most important document regulating the government of their municipal-

ity. The work of study commissioners is not easy. They are forced to make choices to ultimately determine their municipal government's capability to operate and respond to the wishes of its citizens.

The success of the study commissioners in meeting their task greatly depends on the amount of information and assistance they seek. The study commissioners cannot hope to write a home rule charter without tapping the resources and information others have to offer. The Department of Community and Economic Development, the local government associations and local educational institutions provide information resources the study commission can tap. The study commissioners should consider engaging the services of local government and legal experts early in their deliberations. A consultant can advise on what a sound charter should contain, and also on the pace and schedule of work for the commission if recommendations are to be made before the statutory deadline. The study commissioners should always actively seek out the judgments of present and past municipal officials, as well as the views of all individuals and groups wishing to make a contribution to the charter drafting process. Often, neighboring communities contain individuals with valuable experience in the study commission process.

The commissioners are being asked to recommend a system of local government designed to serve its citizens more efficiently and responsibly than the existing system. Since each community is likely to have its own unique needs and traditions, the precise shape of a charter will differ from all other charters, even though basic elements are common to many. The real task the study commissioners face is to produce a workable home rule charter to enable the local government to respond to the needs of its own citizens with flexibility and economy. Drafting the charter will be a challenging task, but the rewards municipal self-government offer will more than compensate the efforts of the study commission. The Youngsville Borough Government Study Commission has ably stated the nature of this task.

Our aim has been to ensure that our form of municipal government is modern, able to assume all the powers available to it, and organized in such a way that it can use those powers to the fullest extent necessary to maintain democratic, efficient, economical and progressive action consistent with the needs and will of the community.

We recognize that what we are proposing is in fact a blueprint of the machinery of government for tomorrow. Although we have no crystal ball to tell us what changes and problems may arise in the next ten, twenty or fifty years, we have attempted to develop a formula that is flexible, adaptable, broad without being vague, and precise without being restrictive.⁴

References

1. *Ferguson Township Local Government Study Commission Final Report*, March 14, 1974, p. 6.
2. *Mount Lebanon v. County Board of Elections of Allegheny County*, 368 A.2d 648, 470 Pa. 317, at 320, 1977; *Commonwealth v. Bellis*, 472 A.2d 194, 324 Pa.Super. 506, at 518, 1984.
3. 53 Pa.C.S. 2918; Home Rule Charter and Optional Plans Law.
4. *A Report of the Activities and Findings of the Youngsville Government Study Commission and a Proposed Home Rule Charter for the Borough of Youngsville*, August 30, 1974, p. 2.

Organizing the Government Study Commission

Oath. Within ten days after official certification of their election, members of the government study commission must make an oath or affirmation to support the Constitution of the United States and the Constitution of Pennsylvania, and to perform the duties of their office with fidelity. Those elected to a county government study commission must take the oath before a judge of the court of common pleas. Municipal study commission members take their oath before a district justice.¹ This ceremony can be done either at the organization meeting or at the office of the district justice or judge.

The Home Rule Law requires the commission to organize and hold its first meeting as soon as possible and no later than fifteen days after certification of its election.² The law does not specify who is to call the meeting, but the elected members should work this out with the municipal secretary. The first meeting should be advertised as required by the Sunshine Law, and the municipal secretary is the appropriate person to do this.³

Officers. The Home Rule Law does not provide much detail on the organizational arrangements for a government study commission. At the organizational meeting, one of the members is to be elected chairman and one vice-chairman. Additional offices have been those of secretary and treasurer. There should be no problem choosing officers in a small town, but in a large municipality or county, some effort should be made by the members to become acquainted with their colleagues before officers are chosen.

The specific duties of officers are left to the discretion of the study commission. Commissions generally follow precedents set by other organizations within their communities. In the case of the secretary, duties greatly depend on the amount of paid help available. Generally, personnel expenditures rise with the size of the local government being studied. One of the first costs incurred for even the smallest communities is employment of stenographic and typing assistance, so no member of the commission is saddled with these tasks.

Procedural Rules. At the same organization meeting, commission members should agree on procedural rules to guide their work. While some rules are necessary, no set of procedures will guarantee smooth operation. Mutual courtesy, tact and common sense are essential to lubricate the deliberative process. Formal votes may be taken on major issues, but the commission will find informal cooperation among the members is a necessary ingredient for productive work. In general, rules should reflect familiar local patterns set by other community organizations.

A majority of the members constitutes a quorum for the conduct of the commission's business, and the law further requires the recommendation of the commission to be adopted by a majority of the whole number of the members of the commission.⁴ Workshop sessions, research activities and committee meetings can be conducted with less than a quorum of the full commission.

Vacancies. If any vacancy occurs in the commission, the remaining members must fill it by appointing a properly qualified voter to the position.⁵ If a vacancy does occur, the remaining members should fill the position as promptly as possible so the work of the commission can continue without interruption.

Vacancies have occurred in more than one out of five government study commissions, with commissions replacing up to four of their original elected members due to deaths, resignations and persons moving out of the community. The Baldwin Borough Government Study Commission filled its two vacancies by advertising them in the local paper, then selecting new members from the applications received.⁶ Other commissions chose persons who had run for the office and received the next highest vote after those elected.

A number of government study commissions appointed alternates. Alternates attended meetings and took part in the commission's activities, but did not vote. Alternates were then available to fill any vacancies, providing the commission a replacement with experience and knowledge of the commission's work.

References

1. 53 Pa.C.S. 2915(b); Home Rule Charter and Optional Plans Law.
 2. 53 Pa.C.S. 2916(a); Home Rule Charter and Optional Plans Law.
 3. 65 Pa.C.S. 709; Sunshine Act.
 4. 53 Pa.C.S. 2916(b); Home Rule Charter and Optional Plans Law.
 5. 53 Pa.C.S. 2917; Home Rule Charter and Optional Plans Law.
 6. *Home Rule Charter, Report of the Government Study Commission, Baldwin Borough, May 2, 1974, p. iii.*
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Meetings

At the organization meeting, the government study commission is required to fix its hours and place of meeting.¹ A regular and well-publicized time and place for commission meetings is important for encouraging citizen attendance. Commissions usually meet in the municipal building or some other public place with adequate facilities. Public hearings are often scheduled for a sizeable hall or are held at scattered locations throughout the community to facilitate attendance.

In drawing up a time schedule for meetings, tentative plans must be made for the commission's work. At the initial meeting or another early date, the commission should hear an expert explain its powers and duties and the scope of its activities. The Department of Community and Economic Development regional offices can provide such individuals, or veteran members of government study commissions may be available from neighboring communities.

Meeting frequency varies with the manner each commission organizes its work. Weekly or biweekly meetings are most commonly chosen. If a commission chooses to do much of its work through committees, monthly formal meetings may suffice. Often commissions have found it necessary to alter the frequency of meetings, especially meeting more often during the charter-drafting phase.

The time for meetings should be set for the maximum convenience of members. Accessibility for the public should also be considered. Evening meetings are most usual. The commission can consider definite time limits to meetings. Commissions usually experience little difficulty in carrying their business forward from one meeting to the next. Concern for getting through a meeting agenda should be balanced against the desirability of full discussion of issues to each member's satisfaction and allowing for maximum input from the public.

Meetings of the government study commission must be advertised; it is an agency within the meaning of the Sunshine Law.² All deliberations and formal actions must be taken at a previously advertised public meeting. The Home Rule Law requires the commission to provide for the widest possible public information and discussion on the purpose and progress of its work.³

Government study commissions must hold at least one public hearing. Public hearings are used to explain the commission's activities to the public and obtain public reaction, comment and suggestions. At least three useful occasions arise for a public hearing. The first is early in the commission's life to gather citizen views on the existing government and generate public support and attention for the commission's activities. The second is at the point the commission is ready to make a decision on the nature of its recommendation — whether to proceed to draft a charter, select an optional plan or recommend no change. The third arises with the formulation of the final recommendation, whether an optional plan or a preliminary draft of a home rule charter. About half the commissions have held one or two public hearings. Three to five public hearings are the most usual range. Some commissions have held more than twenty public hearings in an effort to bring their activities to all parts of a county or large municipality.

Meetings should be planned in advance, either by one of the officers or a program committee. Each meeting should have a worthwhile activity — speakers, interviews, special reports, policy debates, reviews of drafts or public presentations. The work of the study commission is considerable. Skillful planning can help ensure the time spent by the commission is productive. Past government study commissions have averaged around fifty meetings, with some holding up to one hundred. Commission members will be required to devote hundreds of hours of their time to meetings, workshops and hearings with many more spent in private study and research.

References

1. 53 Pa.C.S. 2916(a); Home Rule Charter and Optional Plans Law.
 2. 65 Pa.C.S. 703; Sunshine Act.
 3. 53 Pa.C.S. 2920; Home Rule Charter and Optional Plans Law.
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Committees

Government study commissions have the choice of operating as a single group or delegating some of their tasks to committees composed of several members. In most cases, commissions have operated without formally organized committees, although tasks may have been assigned to individuals or ad hoc groups. In some cases, citizen members were added to committees to gain expertise or broaden community involvement in the process.

Committees were established on both a permanent and temporary basis. In Scranton, subcommittees for bylaws and finance operated briefly in the initial period of the commission. The Plymouth Township Government Study Commission employed two separate sets of committees. During the research phase, subcommittees were assigned for studying the current government, optional plans, home rule charter, New Jersey optional forms experience and financial affairs. After the commission voted to draft a home rule charter, three committees were formed: charter drafting, transitional plan and report drafting. A citizen advisory committee of 27 members was appointed to help review initial charter drafts. During the charter drafting process, both Bellevue Borough and Radnor Township Government Study Commissions assigned the task of drafting preliminary articles of the charter to subcommittees whose work was then reviewed by the full commission.

Committees used by study commissions fall into three broad areas. Administrative committees deal with the operations of the commission in areas such as program, budget, personnel, auditing and public relations. Research committees study various governmental forms and options open for recommendation. Charter drafting committees have responsibility for furnishing initial drafts of particular parts of charters.

Because most commissions are small, the most frequent size being only 7 members, the majority did not work through committees. In this way, all members of the commission participated in all facets of its activity. In larger jurisdictions, hiring of professional staff or retaining consultants was the preferred method of dealing with the burden of the workload.

Work Schedule

In addition to electing officers and determining rules of procedure, the commission at its first meeting ought to start planning out a tentative schedule of its work. In all probability, this schedule will have to be refined as the work progresses and the commission settles on a mutually agreeable pace. Adhering to a written schedule or outline of activities is a good idea so the commission does not get bogged down in any particular phase of its work. It also helps keep the commission's ultimate purpose in the forefront. Time limits for commission activity are established in the Home Rule Law.¹ Schedules must be fitted within these deadlines.

If the referendum question has limited the commission to examining optional plans, it has nine months to complete its work. It might spend the first two months reviewing the existing governmental structure and gathering information on areas needing improvement. The next several months the commission can consider each of the optional plans and weigh their desirability for the community. By the seventh month the commission should have completed the major portion of its review and come to the point of making its recommendation so it can designate one or more members to begin work on writing the report. None of these tasks can be neatly sealed off from the others, and the exact form of scheduling may vary with each study commission. The tentative schedule established by the commission at the beginning should become increasingly specific as the deadline date for the recommendation approaches.

For commissions drafting home rule charters, the work is much more complex. Even though such commissions are given 18 months to complete their work, they must be aware writing a charter is a time-consuming task. After initial study and review, the commission ought to begin drafting a rough version of the charter by the sixth month or so of its deliberations. To provide sufficient time to make necessary revisions, public hearings

on a tentative draft ought to be held by about the twelfth month. Scheduling work will depend on the way the commission chooses to write the charter, but some tentative timetable will be necessary to guide the commission's work.

The activities of government study commissions fall into a general pattern, although variation is the rule rather than the exception. The first step is orientation. This includes the organization meeting, learning its powers and duties, working out a budget and planning its work.

The second step is research. The existing form of government is studied and local officials are interviewed. The commission also explores potential alternatives. They may interview officials from other types of municipalities, attend workshops and training courses on local government, visit other communities and study literature on local government structure.

The third step is a decision of direction – home rule, optional plan or no change. Testing public opinion through public hearings, citizen questionnaires or sample surveys may precede this decision.

The fourth step (assuming home rule is chosen) is drafting a charter. This may involve retaining local government experts or legal counsel. Drafts or sections are reviewed and placed in a tentative charter.

The fifth step is review and public discussion on the draft charter. This usually involves public hearings for citizen input, meeting with officials, submission to legal or local government experts and review by the members themselves.

The sixth step is writing the final report, printing and proofreading the charter and report, and submitting the report to the municipal secretary and the voters.

The final step is the period of voter education up to the time of the referendum. The commission has a duty to maximize public information and discussion on its work.² It is not finally discharged until after the referendum.

In Cambridge Springs Borough, the Government Study Commission organized its work in four stages. For the first five months they gathered information on the structure and operation of the present government, investigated the adequacy and workability of the Borough Code, explored the meaning and implications of the Home Rule Law and weighed the attitudes and opinions of borough residents on local government. The next two months were a period of deliberation when they evaluated their information, considered the options and decided to write a home rule charter. The next seven months were consumed with the task of writing the charter. The final two-month period was occupied with proofreading and printing the charter and drafting and printing the final report.³

The Ferguson Township Government Study Commission began its work with a two-month training period learning state laws and local government in general. For the next two months, they interviewed elected and appointed officials and representatives of civic groups. Three public meetings were held to gather citizen views before the commission decided to write a home rule charter. Preparation of the charter draft consumed six months. During the next three months the draft was viewed by a retained consultant, the commission's legal advisor and Department of Community and Economic Development staff and the final report was written. Another series of public hearings was held on the final version of the charter. The final three months were occupied in publication and distribution of the charter and voter education prior to the referendum.⁴

The first months of the government study commission in Hermitage were spent in organizing and orientation. For the next two months, members studied forms of local government by interviewing officials of other municipalities, attending workshops and meeting with other government study commissions. Township officials were interviewed for the next two-month period, and members studied printed materials. A series of weekly work meetings was held to draft the charter. For the next month, the commission reviewed the charter. For two more

months the commission met with township officials for their reaction, and a second series of open meetings gathered public reaction on the draft. During the last three months, the charter was finalized and the report prepared and submitted.⁵

References

1. 53 Pa.C.S. 2921(a); Home Rule Charter and Optional Plans Law.
2. 53 Pa.C.S. 2920; Home Rule Charter and Optional Plans Law.
3. *Final Report of Government Study Commission of Cambridge Springs, Pennsylvania*, March 16, 1974, pp. 2-3.
4. *Ferguson Township Local Government Study Commission Final Report*, March 14, 1974, pp. 2-4.
5. *Township of Hickory Government Study Commission Final Report*, March 13, 1974, pp.4-5.

Finances

Funding the operations of the government study commission is the responsibility of the local governing body.¹ The Home Rule Law does not provide any specific guidelines for the amount of expenses, merely employing the terms necessary and reasonable. It is the responsibility of the commission to work up a budget and present it to the governing body. The amount finally appropriated is subject to negotiation between the two groups. It is important to remember the activities of a commission writing a home rule charter will be spread over at least two fiscal years of the local government.

Often the municipality will offer the commission services without charge. This almost always includes a meeting room or office, and sometimes includes telephone service, office supplies or clerical assistance. School districts, churches or fire companies will also provide places for public hearings in outlying neighborhoods.

Members serve without compensation, but have the right to be reimbursed for necessary expenses. These can include registration fees for training courses and workshops, travel expenses, study materials and meals in certain instances. In a commission writing a charter, the members will contribute hundreds of hours of their own time and the use of their personal talents over a two-year period.

Major expenses for a commission will fall in the areas of secretarial assistance, legal fees and printing costs. Minor expenses will be incurred for office supplies, postage, telephone, advertising and member expenses. Commissions may retain local government experts as consultants for the charter drafting process. In the largest jurisdictions, full-time professional staff has been hired for the duration of the commission's existence.

The Home Rule Law allows the commission to accept privately contributed funds and services. Where these occur, they are usually in the form of donated services such as consulting activity, office supplies or meeting rooms. Cash donations have been rare indeed.

The commission must keep a strict accounting of its funds. The Home Rule Law requires the final report of the commission to include a sworn statement by the members listing in detail the funds, goods, materials and services, both public and private, used by the commission in the discharge of its duties.² Since the report is filed before the final discharge of the commission, the financial statement should include all encumbered and anticipated expenditures. A final financial report should be made to the municipality upon the termination of the commission.

Costs of Government Study Commissions. In a study conducted in early 1981, the Department of Community and Economic Development examined the financial reports of 120 government study commissions. While financial figures are not strictly comparable, they do offer some idea of the cost of operating government study commissions. Amounts are stated in current dollars; no effort has been made to account for inflation. Please be aware that between 1972 and 1980 the consumer price index increased 97.1% and between 1980 and 1999 it went up another 99.4%. A number of the financial reports failed to include final printing costs, somewhat lowering total average figures.

Average Expenditures of Government Study Commissions, 1972-80

Population Range	Average Number of GSCs	Expenditure
under 5,000	26	\$ 979.66
5,000 - 9,999	19	2,027.85
10,000 - 14,999	18	3,464.54
15,000 - 24,999	15	5,199.32
25,000 - 39,999	13	6,455.83
40,000 - 99,999	11	8,637.68
100,000 - 399,999	11	24,719.76
over 400,000	7	70,914.75

Expenditures clearly escalated with the size of the jurisdiction involved. Expenditures within the same population bracket tended to be higher in the Philadelphia and Pittsburgh metropolitan areas than in other parts of the state.

Expenditures were classed into six major categories. Average expenditures for each category, separating county and municipal government study commissions, is shown below.

Average Expenditure of Government Study Commissions, 1972-80

Classification	101 Municipal GSCs	19 County GSCs
Legal assistance	\$539.34	\$2,468.37
Clerical assistance	1,052.85	3,093.72
Consultants/research	988.05	14,320.72
Travel/training	78.45	1,567.81
Operational expenses	916.08	4,910.02
Printing	1,234.67	11,606.20
TOTAL	\$4,809.47	\$37,966.86

References

1. 53 Pa.C.S. 2919; Home Rule Charter and Optional Plans Law; *McDermott v. Board of Commissioners*, 74 D.&C.2d 167, at 174, 1974.
 2. 53 Pa.C.S. 2921(b); Home Rule Charter and Optional Plans Law.
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Consultants

One of the first actions of the government study commission will be to look about for help. Help is readily available in various degrees and kinds. The Home Rule Law specifically allows a commission to retain consultants.¹ Available local resources and the complexity of the government being studied help determine the need for outside assistance.

In large jurisdictions with complex administrative structures, it has been the practice for government study commissions to hire full-time professional staff. The Pittsburgh Government Study Commission hired a staff of six; executive director, solicitor-legislative drafter, office manager, clerk-typist, organizer-researcher and public information consultant. The Erie County Government Study Commission paid staff consisted of an executive director, two secretaries, three interns and legal consultants.

In cases where full-time staff is unnecessary or undesirable, a commission may retain a consultant or firm for specific tasks. Six months into its operation, the Upper Darby Township Government Study Commission retained the Fels Center of Government at the University of Pennsylvania as consultant. Staff from Fels conducted a study of the existing government, helped with discussion of alternatives and assisted in drafting the charter. Haverford Township Government Study Commission engaged the Pennsylvania Economy League to assist in drafting their charter. The vast majority of study commissions paid legal advisors to assist in drafting or to review their charter drafts.

For communities where financial limitations or small size preclude professional staff or paid consulting assistance, considerable help is available to allow the commission members to discharge their duties on their own. Assistance is sometimes free; a college professor served the Mansfield Borough Government Study Commission as a free consultant and the borough solicitor acted as legal counsel at no cost. For purposes of orientation, the Department of Community and Economic Development has expert staff in its central and regional offices to outline the duties of the commission and explain the nature of its work. Members of government study commissions who served neighboring communities can also give valuable assistance.

During the period of study and research, much help is available. Past and present officeholders can provide invaluable information on the actual operations of the existing government. Colleges or universities in the region may have experts on municipal government. Local chapters of the League of Women Voters may have studied facets of the governmental structure or operations. Local librarians can research bibliographies and help commission members obtain printed materials on local government. Officials from municipalities with differing structures can be interviewed on their experiences.

In drafting and review of home rule charters, commissions usually pay for some legal advice. Sometimes the municipal solicitor provides it or a firm with local government expertise is retained. Both the Department of Community and Economic Development and the Pennsylvania Economy League have assisted in reviewing drafts. College faculty members specializing in local government have also assisted, sometimes donating their services and sometimes working on a retainer. The Upper Providence Township Government Study Commission enlisted the aid of resident attorneys to help evaluate charter drafts.

The record of government study commissions elected in Pennsylvania is testimony to the fact citizens elected by their neighbors can adequately discharge their duties, usually with a minimum of assistance. The Home Rule Law provides each commission flexibility to arrange its operations to fit its own needs and meet community expectations.

Reference

1. 53 Pa.C.S. 2919(b); Home Rule Charter and Optional Plans Law.
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Records

Handling and organizing written material will be a major concern for government study commissions. Members should be provided with folders or binders to hold minutes, reports, studies and drafts of charter articles in an organized fashion.

Minutes must be taken of all public meetings of the commission and promptly recorded.¹ These minutes are classified as a public record and must be open for inspection by any citizen.² Many commissions make copies of their minutes available to local news media, send copies to local officials or place them in the library or municipal building for easy access by citizens.

After the discharge of the commission, all records, tapes, minutes of meetings and written discussions of the commission must be turned over to the municipal clerk or secretary for permanent safekeeping.³ Under the Records Retention and Disposition Schedule for Municipalities, government study commission hearing transcripts and reports must be preserved for a minimum of five years.⁴ Minutes and formal records, including the final report and recommendation of the commission, are permanent records.

Accuracy is important, especially in dealing with various drafts of a home rule charter. The commission should be sure the final version of the proposed home rule charter is letter perfect and all copies are identical. Varying versions of the McKeesport Home Rule Charter raised difficulties when it came time to implement the charter by electing officers.⁵

References

1. 65 Pa.C.S. 706; Sunshine Act.
2. 65 P.S. 66.2; Open Records Act.
3. 53 Pa.C.S. 2921(d); Home Rule Charter and Optional Plans Law.
4. 46 Pa.Code 15.53.
5. *Winters v. Papadakos*, Allegheny County Court of Common Pleas, GD 75-2478, 1975.

Public Relations

Communication with the public is necessarily a critical element of the government study commission's activities. Because the commission is to study the local government and consider recommendations for change, the widest possible input of citizen opinion and information will be needed to help guide the commission's work. If the commission's recommendations are to receive a fair and informed hearing, they must keep the voters apprised of their ongoing activities. The Home Rule Law requires each commission to hold at least one public hearing and to provide for the widest possible public information and discussion on the purpose and progress of its work.¹

Regular meetings of commissions are open to the public and efforts are made to encourage attendance. These include publicizing meetings in the local papers, sending requests to community organizations asking for representatives to testify and setting aside a time period for the general public to offer comments. In geographically large jurisdictions, meetings are sometimes rotated into different neighborhoods. In spite of these efforts, commissions usually experience very low attendance from the general public.

Public hearings and public forums are usually better attended, but here again turnout is usually disappointing. Sometimes preliminary material is either mailed to households or printed in local newspapers immediately before public hearings. Public hearings should include a planned presentation along with a discussion period. Outside speakers, local officials and representatives of organizations can be invited to speak.

Except in the very smallest communities, government study commissions will have to rely on the media to reach out to the public. Often local newspapers or broadcasting stations are supplied with agendas of upcoming meetings and copies of minutes. Many commissions report very substantial coverage by the media. Some public hearings in Pittsburgh were even televised live. In Carbondale, the commission made weekly five-minute reports on local radio and members appeared on three half-hour radio shows. Establishing and maintaining satisfactory relations with the local media is the basis for fulfilling the commission's mandate to maximize public information and discussion.

Additional methods of public contact have been employed by several commissions. In Peters Township, commission members participated in nineteen neighborhood coffees where the informal setting encouraged citizens to express their views. Plymouth Township Government Study Commission appointed citizens to membership on subcommittees. In Coatesville, Marple, Haverford and Radnor, citizen advisory boards were appointed to assist the commissions in reviewing charter drafts and participate in public information efforts.

Questionnaires and voter surveys were used in a large number of cases. They serve a dual purpose, gathering citizen opinion on local government and generating public interest in the government study commission's activities. Questionnaires printed in newspapers had the lowest return rates. Mail-out and mail-back surveys had somewhat better response. The best response occurred when there was personal contact through individual interviews or where community organizations assisted in delivering and collecting questionnaires.

Copies of the final report are usually mailed or delivered to every household in small communities. In larger jurisdictions, they are sometimes printed as a supplement to newspapers or summaries are mailed with instructions on how to obtain the complete report.

Warren Borough Government Study Commission held two public hearings. They published a synopsis of the present form and options for change in the local paper before the first hearing. The completed charter draft was published before the second hearing. Commission members appeared in over 20 speaking engagements before local organizations. A questionnaire printed in the paper elicited 150 responses.²

The Chester County Government Study Commission conducted an extensive public relations program. Commission members wrote articles on aspects of their work in a regular program of weekly press releases to county newspapers. Public hearings were held in each of the county's 11 school districts. A brochure on the meaning of the Home Rule Law and the work of the commission was written and more than 23,000 copies were distributed. The commission conducted 4 separate public opinion surveys. A newspaper survey asked for citizen input on basic issues. Questionnaires were distributed to those attending public hearings. The West Chester University Department of Political Science conducted a random telephone poll. A survey of planning issues was sent to local elected officials, planning commission members and planning officers. Student projects or presentations by commission members were conducted in 8 senior high schools.³

In Murrysville, a questionnaire asking opinions on all phases of local government was mailed to 12% of the registered voters and printed in the local paper. Two public hearings were held. The preliminary draft of the charter was printed and delivered to all households before the second public hearing. To help the commission keep the public informed on the progress of the charter, a citizen advisory commission was appointed, composed of 42 people representing local civic, social, political and religious organizations. Commission members spoke to civic organizations and high school social studies classes.⁴

References

1. 53 Pa.C.S. 2920; Home Rule Charter and Optional Plans Law.
 2. *Final Report and Proposed Home Rule Charter*, Warren Borough Government Study Commission, March 10, 1975, pp. 7-8.
 3. *Final Report and Recommendation of the Chester County Government Study Commission*, February 13, 1974, pp. 11-13.
 4. *Home Rule Charter and Report for the Municipality of Franklin*, February 17, 1976, p. 45.
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Final Report

The most critical element of the commission's relationship with the public is writing and distributing the commission's final report. The final report is the summation of the commission's work. Because the public will consider the commission's recommendations, the importance of this document cannot be overemphasized. The commissioners will spend most of their time considering various viewpoints, discussing the advantages and disadvantages of various governmental mechanisms and deliberating on the recommendations they will make. The final report constitutes the end result of this activity.

The final report is important for at least two reasons. The first stems from the very purpose for the study commission. Since the study commissioners represent the voters, the commission has a responsibility to report its activities to the people. A second reason for the report springs from the necessity for the voters to consider the commission's recommendations. If the commission's recommendations are to go into effect, the voters must first give their approval. This means the commission's final report plays a central role in informing the voters on the choice they must make.

The commission's final report should be a document of information and explanation. Before making their recommendations, the commissioners will have spent months reviewing the present government and gathering information on possible changes. The final report should summarize the commission's experience in this process. Since the voters themselves cannot assume the task of gathering information on the local government, the commission's final report is the tool to transmit this information to the voters.

Since it is meant for wide distribution among the community's residents, the commission's final report should be written with this audience in mind. Above all else, the report should be written in a style easily readable to the average voter. Communities include people with many different backgrounds, occupations and interests. The commission should strive to reach as many of these individuals as possible with the final report.

Most voters do not have the time or patience to wade through a massive, complex document. The final report should be logical, clear, readable and as brief as possible without ignoring essential elements. After reading the report, local voters should have sufficient knowledge and information to make an informed decision on the recommendation to be placed before them.

Contents of Final Report. The study commission recommending a home rule charter must produce two documents.¹ The first is the home rule charter itself, and the second is the commission's accompanying report explaining its findings and the reasons for its proposal to change the local government. The commission recommending an optional plan of government or no change need produce only a final report. In any event, the final report should follow a basic format. The study commission may want to review final reports produced by commissions in other municipalities as examples. The basic elements appearing in most reports are listed below.

1. A table of contents.
 2. A cover letter from the study commissioners to the voters and the local governing body.
 3. The summary of the commission's recommendations including the date for the referendum on the recommended change and the effective date of the new form if it is approved by the voters.
 4. A brief explanation of the purpose of the commission under the Home Rule Law.
 5. The organization and activities of the study commission, including the date of the commission's election and a listing of the commissioners. The report on the commission's activities can include the number and types of meetings, organization of the commission and its style of operation, and the individuals and groups tapped for advice.
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6. A summary of the commission's findings on the present form of government.
7. Organization charts of both the present governmental form and the structure recommended by the commission.
8. An explanation of the recommended form and the advantages it will confer.
9. A survey of the areas of municipal government to remain unchanged under the new form.
10. Recommendations for establishing a committee to review problems of transition to the new form of government.
11. Relevant extracts from the Home Rule Law.
12. The required statement of the funds, materials and services used by the commission, and the suppliers of such resources.

These elements do not have to appear in the order listed, but the final report should give sufficient attention to each of them to give the voters a comprehensive review of the commission's work and an explanation of its recommendations.

The opening letter of transmittal should be a brief statement from the commission to the voters and the members of the governing body. The letter should outline the general purpose of the commission. Following this opening letter should be a summary of the commission's recommendations and an explanation of the values forming the basis for the commission's decisions.

The report should include the text of the question, as specified by the Home Rule Law, to be placed on the ballot and the date of the election. If the study commission wants to put an interpretive statement explaining the question on the ballot, then it should also be added. The interpretive statement should succinctly describe the new form of government resulting from a "Yes" vote. A "No" vote is to retain the existing form of government. The report should also specify the date the new form of government will go into effect if the change is approved by the voters.

Subsequent sections of the report should describe the activities of the commission, as well as offer justifications or the recommendations the commission proposes. As background to the commission's work, the report might briefly discuss the Home Rule Law. The report should then outline the establishment of the commission and list the commission members.

The way the commission arrived at its recommendation may be as significant as the recommendations themselves, so the final report should give sufficient attention to the organization and activities of the commission. A discussion of matters such as the number, frequency and types of commission meetings and the methods of deliberation will increase the voter's knowledge and appreciation of the commission's work. The commission will have spent much time searching for information; and the procedures and sources used in this search should be discussed in the final report.

The commission's conclusions concerning the present form of government and the reasons for suggesting a change will constitute perhaps the most important section of the report. The commission must justify any change it recommends to the voters. The commission should outline in detail what it considers are the shortcomings in the present governmental form and the way they will be remedied if a change is approved.

If the commission recommends a home rule charter, the final report should clearly outline the advantages this charter will offer over the present form of government. The report should clearly define the nature of home rule and indicate changes the home rule charter will allow and why such changes are desirable. If the commission recommends an optional plan of government, the final report should discuss the advantages of the recommended plan over the present form of municipal government. The final report should contain organization

charts of both the current and the recommended structure of government. Accompanying text should clearly indicate the differences between both structures and a reasoned analysis of the advantages found in the recommended form.

The final report should also note those areas of municipal government to remain unchanged if the commission's recommendations are accepted by the voters. Voters should know the legislated limitations on home rule powers as well as limitations written into the charter. In addition, many charters continue a large percentage of current governmental arrangements.

If the voters approve the recommended change, plans will have to be made for transition to the new form. For example, an administrative code should be drafted before the newly adopted plan goes into effect. In its final report, the study commission should recommend the governing body appoint a committee to deal with matters of transition to the new form.

Two additional elements must be included in the final report. The Home Rule Law requires the final report to contain the complete plans as recommended. For example, if a council-manager optional plan is recommended, the report must contain those excerpts from the Law in any way relating to the operation of the plan. These excerpts would include the text of the plan itself, the general provisions and limitations for optional plan municipalities, and the general provisions common to optional plans. If a home rule charter is recommended, the final report should include the complete text of the proposed charter.

Finally, the Home Rule Law requires the commission's report include a financial statement, sworn to by members of the commission.² It must list in detail the funds, goods, materials and services, both public and private, used by the commission in the performance of its work and the preparation and filing of the report. The list must specifically identify the supplier of each item noted.

Other Recommendations. The language of the Home Rule Law authorizes the government study commission to recommend "... such other action as it may deem advisable consistent with its function..."³ This clause is used most commonly to recommend creation of a transition committee if the voters approve change. It has been used by government study commissions recommending no change. These commissions feel change to home rule or an optional plan is not necessary. However, their study of the present form of government has disclosed areas where changes are desirable and can be accomplished within the present system.

Most frequent among such recommendations have been hiring a professional manager or expanding the manager's duties, establishing better communications and response to the public, adopting administrative codes and personnel policies, and including long-range capital planning in the budgeting process. Admittedly, these steps are often central features of home rule charter proposals, but some commissions feel these changes are best instituted in the context of the current government form.

Some recommendations fall in functional rather than structural areas. These have included building a township building, instituting an historic preservation program, establishing a police department and pressing for improved public transportation.

Some commissions have recommended placing another government study commission question on the ballot at a later date. The first Bethel Park study commission was restricted by its ballot question to considering optional plans of government. After completing its study, the commission found the borough needed a home rule charter, so it recommended no change from the present form and the election of second government study commission with the power to draft a home rule charter.⁴

The Scranton Government Study Commission has been unique in submitting an administrative code to the voters along with the proposed home rule charter. The charter stipulated the administrative code became effective on the effective date of the charter, but could be amended in the future by ordinance of council.⁵ All other

study commissions have decided against drafting an administrative code. They have either recommended a transition committee to draft this document, or provided in the proposed charter for the new governing body to draft and adopt an administrative code.

The second government study commission in Franklin City examined the operation of the city government under the home rule charter adopted in 1974. The government study commission report proposed a series of amendments to the existing charter.⁶ Twenty-three paragraphs of the charter were affected by the proposal, including provisions for the election of council members, appointment of a city clerk, alteration of the initiative and referendum procedures and limiting terms for appointed members of boards and commissions. The amendments were presented to the voters as a single proposal to adopt the recommendations of the study commission.

Amending the Final Report. A government study commission recommending a home rule charter or an optional plan is not discharged until after the referendum. At any time up until 60 days before the election, the commission can modify or change any recommendation by publishing an amended report.⁷ Any amended report issued supersedes all prior final reports.

The Upper Dublin Township Government Study Commission published its first draft charter in the local newspaper in February 1974, then held three public hearings to receive comments on the draft. After making numerous changes, the commission published its report and proposed charter in April. A copy was mailed to each household. The commission called on the public for further recommendations and held four more public forums and two meetings with the board of commissioners. The proposed charter was revised and an amended report issued in August with the referendum scheduled for November.⁸

In Radnor Township, the government study commission filed its final report in May 1976 to meet the 18-month deadline in the Home Rule Law. The report was widely distributed and four public meetings were held in July and August. The commission voted to amend the proposed charter in several minor respects and issued an amended final report in August.⁹ The amended version of the charter was approved by the voters in the November election.

Minority Reports. Often adoption of the final recommendation of the government study commission is by a less than unanimous vote. The Home Rule Law requires the recommendation to be adopted by a majority of the whole number of members.¹⁰ A number of study commissions have included statements by dissenting members within their final reports. The Chester County Court of Common Pleas found, "It is undisputed that Act No. 62 neither directs nor even contemplates the publishing or filing of 'minority' reports or of the individual views or comments of each member of a government study commission."¹¹ The court found inclusion of a minority report in the final report of the Chester County Government Study Commission was discretionary with the commission, and not mandated by the Home Rule Law.

In Chester County, 6 of the 9 members of the government study commission recommended adoption of the council-manager optional plan. This proposal was placed before the voters. The final report included statements from each of the 3 dissenting members, two urging home rule and the other supporting no change.¹² In Ross Township, the majority of the commission recommended no change. The final report included as an addendum an 11-page position statement favoring adoption of a home rule charter signed by 4 of the 11 members.¹³ In Warminster Township, the commission majority proposed a home rule charter. The final report included a minority report by one member opposing the charter and a concurring report by two members agreeing with placing the charter before the voters, but expressing reservations on specific provisions.¹⁴

Printing and Distributing Report. The Home Rule Law directs each government study commission to publish or cause to be published sufficient copies of its final report for public study and information, and to deliver sufficient copies to the municipal clerk or secretary to be supplied to any interested citizen on request.¹⁵ Study commissions have taken various approaches to this mandate. Some have printed complete reports and distributed them to each registered voter or each household, either by mail or by hand with the cooperation of a

local civic group. Others have printed the final report as an insert in a local newspaper circulating within the jurisdiction with additional copies available on request. Some have made the complete report available at the municipal office, local library or other location while mailing a summary brochure or statement to the voters. In Chester County, printing and mailing 80,000 summary brochures of the commission report was found by the court to be consistent with the requirements found in the Home Rule Law.¹⁶

In most cases, printing and distributing the final report has been a responsibility of the government study commission and funded from its budget. In a few instances, the local governing body has undertaken the cost of printing and distributing the report.

References

1. 53 Pa.C.S. 2921(a); Home Rule Charter and Optional Plans Law.
2. 53 Pa.C.S. 2921(b); Home Rule Charter and Optional Plans Law.
3. 53 Pa.C.S. 2923; Home Rule Charter and Optional Plans Law.
4. *Plan for Progress in Bethel Park; A Report of the Government Study Commission*, August 7, 1973, p. 14.
5. Home Rule Charter of the City of Scranton, 335 Pa.Code 11.13-1301.
6. *Final Report of the Second Franklin Government Study Commission*, June 28, 1982, p.12.
7. 53 Pa.C.S. 2922; Home Rule Charter and Optional Plans Law; *McDermott v. Board of Commissioners*, 74 D.&C.2d 167, at 173, 1974, C.P. Chester Co.
8. *To Improve Our Township Government; Recommended Home Rule Charter for Upper Dublin Township*, Amended Report of the Government Study Commission, August 28, 1974, p. xii.
9. *Proposed Home Rule Charter for Radnor Township*; Final Report, Government Study Commission of Radnor Township, August 18, 1976, As Amended, pp. iii and xv.
10. 53 Pa.C.S. 2916(b); Home Rule Charter and Optional Plans Law.
11. *McDermott, supra*, at 175.
12. *Chester County Government Study Commission Final Report and Recommendations*, February 13, 1974, pp. 32-34a.
13. *Report to the Citizens and Commissioners of Ross Township of the Government Study Commission*, February 26, 1974, Addendum II, pp. I-xi.
14. *Township of Warminster Final Report and Proposed Home Rule Charter of the Government Study Commission*, February 3, 1979, p. 10.
15. 53 Pa.C.S. 2921(a); Home Rule Charter and Optional Plans Law.
16. *McDermott, supra*, at 174.

Discharge of the Commission

If a commission recommends no change, it is discharged on filing its final report. If the commission recommends a home rule charter or optional plan, it is not discharged until after the referendum.¹ Before its discharge, the commission should prepare a final financial report for the appropriate officer of the local government if there are any additions to the report included in the published final report. All records, tapes, reports, minutes or other written documents must be turned over to the custody of the municipal clerk or secretary.²

References

1. 53 Pa.C.S. 2922(a); Home Rule Charter and Optional Plans Law.
2. 53 Pa.C.S. 2921(d); Home Rule Charter and Optional Plans Law.

Personal Experience of Commission Members

A study of the home rule experience in 7 Pennsylvania jurisdictions in 1973 and 1974¹ found study commissioners tended to be long-term residents of their communities. Although they represented a wide range of occupations, most were above average levels for their community in educational attainment, occupational status and

income. Members were heavily involved in civic organizations and one third had held some appointed or elected position in local government.

Government study commission members spent an average of 10 hours a week on commission work, with some spending 20 hours or more per week. Study commissions tended to be dependent on a portion of their members for leadership and expertise on local government matters. In general, there was little disagreement on procedural matters and members felt their commission was well organized and deliberations were focused on the most important issues.

The expectations of what was to be gained from the study commission process focused on the potential for restructuring the local government with very little concern directed to the potential for increased local discretion and autonomy. Differences of opinion were most common over proposals for marked departure from the current structure. Commission members were most likely to divide over the method of electing the governing body where possible gains or losses for particular groups or areas were perceived.

Many members did not realize the magnitude of work involved in the government study commission process, the potential for conflict and political implications or the difficulty in generating public support for the commission's activities.² Almost half the commission members interviewed felt it was very difficult to assimilate all the testimony and information collected and use it to develop recommendations for change. Members of county government study commissions had a greater problem dealing with technical issues than those studying municipal governments.

The greatest disappointment expressed by commission members was the low level of public involvement and interest in the commission's activities. Many study commissions reported meager turnouts at both regularly scheduled meetings and specially advertised public hearings. There was also some dissatisfaction arising from the need to sacrifice full discussion of all issues to the need to meet the deadline for making the commission's report.

Study commissioners felt the most valuable aspect of their service was the experience of compromise and consensus building. They also found hearing candid testimony on local government matters satisfying. Most indicated they would repeat the experience if they had to do it over.

In giving some Dutch uncle advice to prospective study commission members, the National Civic League lists particular do's and don'ts for commission members.³ These focus on keeping an open mind, being willing to compromise and getting feedback on ideas from individuals experienced in local government operations.

References

1. Larry Gamm, Joseph James and Joseph Karlesky, *Home Rule and Local Government Change Efforts: A Comparative Study of Seven Pennsylvania Communities*, State College: The Pennsylvania State University, College of Human Development, 1974.
 2. Larry Gamm, "Pa. Local Government Study: Observations by Commissioners," *National Civic Review*, September, 1975, p. 400.
 3. *A Guide for Charter Commissions*, New York: National Municipal League, 1972, p. 20.
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