

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1637 Session of  
1993

INTRODUCED BY McNALLY, TRELLO, GIGLIOTTI AND PETRONE,  
MAY 25, 1993

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 25, 1993

AN ACT

1 Amending the act of July 28, 1953 (P.L.723, No.230), entitled,  
2 as amended, "An act relating to counties of the second class  
3 and second class A; amending, revising, consolidating and  
4 changing the laws relating thereto," further providing for  
5 the collection of tax and municipal claims by suit, for the  
6 retirement board, for eligibility for retirement allowances  
7 and for requirements for credit for previous service; and  
8 providing for deputy fire marshals.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Section 109.1 of the act of July 28, 1953  
12 (P.L.723, No.230), known as the Second Class County Code, added  
13 October 5, 1990 (P.L.519, No.125), is amended to read:

14 Section 109.1. Collection of Tax and Municipal Claims by  
15 Suit; Limitations.--(a) In addition to the remedies provided by  
16 law for the collection of tax and municipal claims, the county  
17 may proceed for the recovery and collection of any tax or  
18 municipal claim against any owner or owners of the property  
19 owing such tax or municipal claim by a civil action or other  
20 appropriate remedy. To each judgment obtained for such taxes or

1 municipal claim, there shall be added a penalty of ten per cent,  
2 interest at the prevailing legal rate and costs of suit. Upon  
3 judgment, execution may be issued without any stay or benefit of  
4 any exemption law.

5 (b) The right of the county to collect unpaid taxes or  
6 municipal claims under the provisions of this section shall not  
7 be affected by the fact that such tax or municipal claims have  
8 or have not been entered as liens in the office of the  
9 prothonotary.

10 (c) A civil action brought to recover unpaid taxes or  
11 municipal claims shall be commenced within twenty years after  
12 the tax is due or after the completion of the improvement from  
13 which said claim arises.

14 (d) The remedy granted under this section shall be applied  
15 retroactively.

16 Section 2. Section 1703 of the act is amended to read:

17 Section 1703. Retirement Board.--The retirement system shall  
18 be under the sole direction of a board, which shall consist of  
19 the county commissioners, the treasurer, the controller, and two  
20 persons elected by ballot from among the members of the  
21 retirement system, one to serve for two years and one for four  
22 years. Following the completion of the initial terms, the stated  
23 terms of such members shall be four years. Ballots shall be  
24 mailed or distributed to each member of the retirement system at  
25 least twenty (20) days prior to the date of the election. A  
26 vacancy occurring during the term of any member of the board  
27 shall be filled for the unexpired term by the appointment or  
28 election of a successor in the same manner as his predecessor. A  
29 majority of the members of the board shall constitute a quorum  
30 for the transaction of any business.

1       Section 3.   Section 1715(a) of the act, amended December 14,  
2   1989 (P.L.631, No.75), are amended to read:

3       Section 1715.   Reinstatement and Requirements for Credit for  
4   Previous Service.--(a)   No county employe shall be permitted to  
5   withdraw his or her contributions as paid into the retirement  
6   fund upon transfer from one office, department or agency to  
7   another. Any person who has ceased to be a county employe and  
8   whose contributions as paid into the retirement fund, have been  
9   refunded by the board, if such person has been reemployed by the  
10   county or county institution district and desires to be given  
11   credit for previous service as a county employe, he or she  
12   shall[, within two years of the effective date of this  
13   amendatory act, or for those who are reemployed after the  
14   effective date of this amendatory act, within two years of the  
15   date of reemployment,] make payment in full of the amount  
16   refunded, with interest at the legal rate, the said interest to  
17   be computed from the date of the refund to the date of  
18   repayment. [Upon application of the employe desiring to be given  
19   credit for previous service as a county employe at least sixty  
20   days prior to the expiration of the period of two years from the  
21   effective date of this amendatory act or the date of  
22   reemployment, such employe shall be permitted to make payment in  
23   full of the amount refunded, with interest at the legal rate,  
24   within an additional period of one year.] Both principal and  
25   interest shall be paid into the retirement fund at one time and  
26   in one amount, or, upon approval of the board, both principal  
27   and interest shall be consolidated into one amount and paid in  
28   twenty-four or less equal monthly installments, plus interest  
29   payment on monthly balances. [Whenever the time for payment in  
30   full has been extended for an additional period of one year, the

1 principal and interest may be paid in a total of not more than  
2 thirty-six equal monthly installments.] Upon application to the  
3 board, an employe shall be permitted to pay the principal and  
4 interest in thirty-six or less equal monthly installments, plus  
5 interest payment on monthly balances. Full payment thereof shall  
6 be a condition precedent to the county employe being eligible to  
7 receive the benefits of the retirement allowance plus a service  
8 increment, if any. Such county employe shall make monthly  
9 payments into the retirement fund in accordance with the  
10 provisions of section 1708.

11 If any person who hereafter becomes a county employe and  
12 thereafter ceases to be a county employe and his or her  
13 contributions as paid into the retirement fund are refunded by  
14 the board, is reemployed by the county or county institution  
15 district and he or she desires to be given credit for previous  
16 service as a county employe, he or she shall within two years of  
17 the date of reemployment, make payment in full of the amount  
18 refunded, with interest at the legal rate, the said interest to  
19 be computed from the date of refund to the date of repayment.  
20 Upon application of any person who hereafter becomes a county  
21 employe and desires to be given credit for previous service as a  
22 county employe, at least sixty days prior to completion of a  
23 period of two years from the date of reemployment, such employe  
24 shall be permitted to make payment in full of the amount  
25 refunded, with interest at the legal rate, within an additional  
26 period of one year. Both principal and interest shall be paid  
27 into the retirement fund at one time and in one amount, or, upon  
28 approval of the board both principal and interest shall be  
29 consolidated into one amount and paid in twenty-four or less  
30 equal monthly installments, plus interest payments on monthly

1 balances. Whenever the time for payment in full has been  
2 extended for an additional period of one year the principal and  
3 interest may be paid in a total of not more than thirty-six  
4 equal monthly installments. Full payment thereof shall be a  
5 condition precedent to the county employe being eligible to  
6 receive the benefits of the retirement allowance plus a service  
7 increment, if any. Such county employe shall make monthly  
8 payments into the retirement fund in accordance with the  
9 provisions of section 1708. Any person who is a county employe  
10 on the effective date of this act may make payments into the  
11 retirement fund which shall cover a period of time within which  
12 such person was a county employe but was not a member of the  
13 retirement system because such membership was not compulsory.

14 \* \* \*

15 Section 4. Section 3101 of the act, amended October 5, 1990  
16 (P.L.519, No.125), is amended to read:

17 Section 3101. Appointments; Qualifications; Salaries; Duties  
18 of [Assistant] Deputy Fire Marshals.--The county commissioners  
19 shall, on the fourth Monday of March, in the year one thousand  
20 nine hundred forty-three, and every fourth year thereafter,  
21 appoint a citizen of such county to serve as fire marshal  
22 [thereof for the term of four years or until his successor shall  
23 be appointed,] and such number of citizens of said county as the  
24 county commissioners may deem necessary to serve as [assistant]  
25 deputy fire marshals [thereof for terms of four years or until  
26 their successors shall be appointed. In making such  
27 appointments, the county commissioner representing the minority  
28 political party in the county shall name one of the assistant  
29 fire marshals, and as vacancies occur the commissioner  
30 representing the minority party shall name the successor to any

1 assistant fire marshal selected by a commissioner representing  
2 the minority party]. The fire marshal and deputy fire marshals  
3 shall serve at the pleasure of the board of county  
4 commissioners. The fire marshal shall report to and be subject  
5 to the supervision of the superintendent of county police or his  
6 authorized designee. The deputy fire marshals shall report to  
7 and be subject to the supervision of the fire marshal. No person  
8 shall be appointed fire marshal unless he shall have had ten  
9 years active service as a member of a fire department, and no  
10 person shall be appointed an assistant fire marshal unless he  
11 has had five years experience as an active member of a fire  
12 department. The salary of the fire marshal and the assistant  
13 fire marshals appointed under the authority of this act shall be  
14 fixed by the salary board and shall be in lieu of all other  
15 salary or compensation from any source whatsoever. The  
16 [assistant] deputy fire marshals appointed as aforesaid shall  
17 have the same powers and shall perform the same duties as those  
18 prescribed for the fire marshal.

19 The salary herein authorized shall be provided for by the  
20 county commissioners and paid semi-monthly out of the county  
21 treasury.

22 Section 5. Sections 3102, 3103, 3105, 3106, 3107, 3108 and  
23 3109 of the act are amended to read:

24 Section 3102. Offices and Supplies.--The county  
25 commissioners shall provide the fire marshal and [his  
26 assistants] deputy fire marshals with suitable offices, and  
27 shall pay or cause to be paid out of the treasury all the costs  
28 of maintenance thereof, including clerk and stenographic hire,  
29 and all necessary supplies, stationery, postage and other  
30 incidental expenses.

1       Section 3103. Oath of Office and Bond.--Before entering on  
2 the duties of his office, the fire marshal and [his assistants]  
3 deputy fire marshals shall take an oath of office and furnish  
4 bond as is now provided by law in the case of other county  
5 officers. The bond of the fire marshal shall be in the sum of  
6 ten thousand dollars (\$10,000) and the bonds of the [assistant]  
7 deputy fire marshals shall be in the sum of five thousand  
8 dollars (\$5000).

9       Section 3105. [Arrests and Commitment or Bail]  
10 Investigation, Transfer to County Police for Prosecution.--If,  
11 in any investigation, it shall appear to the fire marshal or  
12 [one of his assistants] deputy fire marshal, from the evidence  
13 [before him] presented or obtained, that any building or other  
14 property in the county has been wilfully set on fire by any  
15 person or persons, [he shall, in such case, have the same power  
16 to issue a warrant, directed to any constable of any ward,  
17 borough or township of the county, for the arrest of such person  
18 or persons and their accessories and to commit them for trial or  
19 take bail for their appearance, as a justice of the peace of the  
20 county would have upon information made before him setting forth  
21 the same facts as appear in evidence before the marshal, and in  
22 such case, the said fire marshal shall proceed in the same  
23 manner as a justice of the peace is required by law to do and  
24 with the same powers as he would have after an information duly  
25 made before him.] the fire marshal or deputy fire marshal shall  
26 transfer the evidence presented or obtained during the course of  
27 the investigation to the county police evidence room technician,  
28 along with a recommendation to the superintendent of county  
29 police for criminal prosecution of the person or persons  
30 responsible for setting the fire.

1       Section 3106. Administration of Oaths; False Testimony;  
2 Subpoena and Attachment; Refusal to Testify or Produce  
3 Documents.--The fire marshal or [either of his assistants]  
4 deputy fire marshal, in order to enable [him] them to discharge  
5 the duties required [of him] in the foregoing section, shall  
6 have power to administer oaths and affirmations in the discharge  
7 of the duties of his office, and a wilful violation of any oath  
8 or affirmation so administered by him, or wilfully and knowingly  
9 giving false testimony before him, shall be perjury; and he  
10 shall have power to compel the attendance of any person whom he  
11 may desire to examine in relation to any fire by subpoena and  
12 attachment; and if any person shall refuse to be sworn or  
13 affirmed or to testify in relation to any of the matters in  
14 regard to which it is the duty of the fire marshal to make  
15 investigation, or shall refuse to produce before the fire  
16 marshal any books, papers or documents in their possession which  
17 the said marshal may deem necessary to enable him to ascertain  
18 the truth in any investigation then being made by him, the said  
19 marshal shall [have power to commit such person to the county  
20 jail until such person shall be willing to and shall be sworn or  
21 affirmed or testify or produce the books, papers and documents,  
22 as the case may be, and no longer] have the power, upon the  
23 approval of the superintendent of county police and the  
24 authorized representative of the district attorney's office, to  
25 commit such person to the county jail until such person shall be  
26 willing to and shall be sworn or affirmed or testify or produce  
27 the books, papers and documents, as the case may be, and no  
28 longer: Provided, That no testimony taken under oath or  
29 affirmation before the fire marshal, as aforesaid, shall be used  
30 in evidence against the party giving it in any civil or criminal



1 proceedings whatsoever, except in prosecutions against such  
2 party for perjury.

3 Section 3107. Disobedience of Orders; Refusal to Execute  
4 Warrant; Hindering or Obstructing Marshal.--Any constable,  
5 policeman, watchman or citizen who shall refuse or neglect to  
6 obey the orders or directions of the fire marshal when called  
7 upon by him to aid or assist in saving or protecting any  
8 property at any fire[, or any constable who shall refuse or  
9 neglect to execute any warrant of the fire marshal directed to  
10 him for the arrest of any person for the crime of arson], or any  
11 person or persons who shall wilfully hinder or obstruct or  
12 attempt to hinder or obstruct the fire marshal in the  
13 performance of his duties, shall be guilty of a misdemeanor,  
14 and, upon conviction thereof in the court of quarter session of  
15 the county, shall be punished by a fine not exceeding fifty  
16 dollars (\$50) and imprisonment in the county jail for a term not  
17 exceeding one (1) year.

18 Section 3108. Examination of Buildings and Structures;  
19 Notice to Alter, Remove or Amend.--[It shall be the duty of the  
20 marshal or one of his assistants] Upon written request of the  
21 governing body of any municipality located within the county,  
22 the fire marshal or a deputy fire marshal shall have the power  
23 to examine the dwelling houses and any other buildings and  
24 structures in the county for the purpose of ascertaining  
25 whether, by reason of age or dilapidated condition or  
26 accumulation of waste, rubbish, debris, explosive or inflammable  
27 substance, or existence of any other fire hazard, such buildings  
28 or structures are especially liable to fire, and upon finding  
29 any of them defective or dangerous, said marshal [or his  
30 assistants] shall direct the owner or occupants, either by

1 printed or written notice, to alter, remove or amend the same,  
2 in such manner or within such reasonable time as they may deem  
3 necessary, and in case of neglect or refusal to do so, the party  
4 offending shall forfeit and pay, upon conviction thereof before  
5 any justice of the peace, alderman or police magistrate of the  
6 county, any sum not exceeding twenty-five dollars (\$25), for the  
7 use of the county, to be collected as fines and forfeitures are  
8 collected by law.

9 Section 3109. Expense of Removal, Alteration or Amendment;  
10 Combustible or Explosive Matter.--The expense of any removal,  
11 alteration or amendment, as aforesaid, shall be paid in the  
12 first instance by the occupant, but shall be chargeable against  
13 the owner of such dwelling house or other building and shall be  
14 deducted from the rent of the same, unless such expenses be  
15 rendered necessary by the act or default of such occupant or  
16 unless there is a special agreement to the contrary between the  
17 parties, and said marshal or [his assistants] deputy marshal or  
18 either of them are hereby empowered at any and all times to  
19 enter into and examine all buildings, structures or places where  
20 any combustible or explosive matter may be lodged and give such  
21 directions, in writing, in the premises as may be deemed  
22 necessary relative to the removal thereof, and in case of  
23 neglect or refusal on the part of the possessor of such  
24 combustible materials or any of them to remove or secure the  
25 same within the time and manner directed, the party offending  
26 shall forfeit and pay, in addition to any penalty hereinbefore  
27 imposed, the sum of twenty-five dollars (\$25), to be collected  
28 as heretofore provided for in this act.

29 Section 6. This act shall take effect in 60 days.