



Senate Box 203078
Harrisburg, PA 17120-3078
(717) 787-7680
Fax (717) 772-4524
www.lgc.state.pa.us

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Act 53 of 2017

SB 690 (Printer's No. 848) Analysis

Date: October 30, 2017

**Amending Title 53 of the Pennsylvania Consolidated Statutes –
Initial apportionment of home rule or optional plan municipality, without a mayor,
dividing into wards**

Prime Sponsor: Senator Eichelberger

A. Synopsis of Bill

This bill establishes a statutory mechanism for the initial apportionment of any home rule or optional plan municipality without a mayor that will be dividing into wards either partially or totally. The current mechanism only applies to home rule or optional plan municipalities with a mayor.

B. Summary and Analysis of Bill

This bill amends section 2941 of the Home Rule Charter and Optional Plans Law in Title 53 of the Pennsylvania Consolidated Statutes (Municipalities Generally). Section 2941 provides a procedure to amend a municipality's home rule charter or optional plan. Specifically, this bill amends subsection (d) of section 2941 to provide a mechanism for the initial apportionment of any home rule charter or optional plan municipality without a mayor that will be dividing into wards either partially or totally or changing the number of members of the governing body.

This mechanism provides that the initial apportionment is made by the members of the governing body of the municipality consistent with section 903 (relating to reapportionment by governing body) of the Municipal Reapportionment Act (53 Pa.C.S. Ch. 9). Even a municipality with a mayor could use this procedure at its option. Then, since subsection (d) relates to an *initial* apportionment, a new subsection (e) provides a mechanism for *subsequent* apportionments by cross-referencing 53 Pa.C.S. Ch. 9 (relating to municipal reapportionment). This is a cross-reference only and no substantive change is made in regard to subsequent reapportionments.

Upon enactment, the law will take effect in 60 days.

C. Relevant Current Law

Under the Home Rule Charter and Optional Plans Law, if a referendum to amend the home rule charter or optional plan of government passes, the initial apportionment of the districts is made by an apportionment commission consisting of seven members, all of whom must reside in the municipality (*see* section 2941(d)). The mayor appoints two members to the apportionment commission, plus one appointment 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 appointment 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 number of votes cast in the most recent mayoral election. The members of the governing body make two appointments to the apportionment commission. These six appointees (four by the mayor and two by the governing body) elect by a majority vote the seventh member of the commission who serves as the chairperson of the commission. If the municipality in question does not have a mayor, there is no statutory mechanism for the initial apportionment.

D. Background of Bill

The need for this bill became apparent when a home rule municipality that was previously a second class township wished to apportion into wards, but was without a statutory mechanism for its initial apportionment since it did not have a mayor.

Prior to consolidation, the Home Rule Charter and Optional Plans Law was amended by Act 144 of 1986 (S.B. 1145) to amend what is now section 2941. The legislative journal for S.B. 1145 (of 1985) shows that the bill was meant to address an issue in Pittsburgh where the constituency wanted to get on the ballot the issue of whether council membership is elected at large or by ward or partially by both without having to establish a government study commission. The reference to “mayor” in subsection (d) is likely from the original intent of the bill although the bill had been amended to expand it from just applying to a home rule municipality that had formerly been a city of the second class to any home rule municipality that was formerly any classification of municipality. Pittsburgh, of course, has since divided into wards.

Roughly two-thirds of home rule municipalities have wards and about one-third do not have wards. Most of those without wards are municipalities that were formerly townships.

E. Effect of Bill

The effect of the bill is to provide a statutory mechanism for the initial apportionment of any home rule or optional charter municipality without a mayor that will be dividing into wards either partially or totally, or changing the number of members of the governing body. This mechanism provides that municipalities without a mayor will have the members of the governing body do the initial apportionment into districts to be composed of compact and contiguous territory as nearly equal in population as practicable consistent with 53 Pa.C.S. § 903. Any home rule or optional charter municipality with a mayor may, at its option, may also have the members of the governing body make the initial apportionment without setting up an apportionment commission consisting of mayoral and governing body appointees.

F. Issues, Policy Questions and Stakeholder Feedback

This proposal has been presented to the following agency and municipal associations for their feedback and they have no issues with the bill:

- Department of Community and Economic Development (DCED)
- Pennsylvania State Association of Township Supervisors (PSATS)
- Pennsylvania Municipal League (PML)
- Pennsylvania State Association of Boroughs (PSAB)

The Majority and Minority Executive Directors of the House and Senate Local Government Committees were provided with a copy of this bill for their review, feedback and suggestions. No issues with the substance of the bill were raised.