

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 22

Session of
1981

INTRODUCED BY FRYER, A. C. FOSTER, JR., LEVI, GAMBLE, DUFFY,
MICOZZIE, SIRIANNI, LIVENGOD, TRELLO AND WAMBACH,
JANUARY 7, 1981

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, SEPTEMBER 14, 1981

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," further
4 providing for filling of vacancies in certain borough
5 offices.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 901, act of February 1, 1966 (1965
9 P.L.1656, No.581), known as "The Borough Code," amended June 15,
10 1978 (P.L.473, No.68), is amended to read:

11 Section 901. Filling Vacancies in Elective Borough

12 Offices.--(A) If any vacancy shall occur in the office of the <—

13 mayor, member of council, EXCEPT AS PROVIDED IN SECTION 901.1, <—

14 auditor, controller, assessor, or tax collector, by death,

15 resignation, removal from the borough, or from a ward in the

16 case of a ward office, or by failure to take the required oath

17 or to give bond as provided by law or ordinance, or in any other

18 manner whatsoever, [the borough council shall fill such vacancy <—

1 within thirty days] SUCH VACANCY SHALL BE FILLED BY THE <—
2 CITIZENS' VACANCY BOARD. THIS BOARD SHALL CONSIST OF SEVEN
3 REGISTERED ELECTORS WHO RESIDE IN THE BOROUGH. THESE MEMBERS
4 SHALL BE APPOINTED AT-LARGE FROM WITHIN THE BOROUGH BY THE
5 EXISTING MEMBERS OF COUNCIL THEN IN OFFICE AT THE COUNCIL'S
6 FIRST MEETING EACH CALENDAR YEAR. COUNCIL SHALL ALSO APPOINT ONE
7 MEMBER TO SERVE AS CHAIRMAN OF THE CITIZENS' VACANCY BOARD.
8 WHENEVER A VACANCY OCCURS, THE CITIZENS' VACANCY BOARD SHALL
9 SUBMIT TO COUNCIL WITHIN FIFTEEN DAYS OF THE VACANCY THE NAMES
10 OF THREE REGISTERED ELECTORS OF THE BOROUGH TO FILL THE VACANCY.
11 THE MEMBERS OF THE CITIZENS' VACANCY BOARD ARE PROHIBITED FROM
12 SUBMITTING THE NAME OF ANY EXISTING MEMBER OF THE CITIZENS'
13 VACANCY BOARD TO FILL A VACANCY. THE FROM THIS LIST THE COUNCIL <—
14 SHALL FILL THE VACANCY WITHIN FIFTEEN DAYS OF RECEIVING THE LIST <—
15 OF NAMES FROM THE CITIZENS' VACANCY BOARD by appointing, by
16 resolution, a registered elector of the borough, or of the ward
17 in case of a ward office, to hold such office, if the term
18 thereof continues so long, until the first Monday in January
19 after the first municipal election occurring more than sixty
20 days after the vacancy occurs, at which election an eligible
21 person shall be elected to the office for the remainder of the
22 term.

23 The person appointed shall give bond if required by law or
24 ordinance.

25 In cases where the person elected to the office shall fail to
26 give bond, if any, required or to take the required oath, the
27 borough council, before making the appointment, shall declare
28 the office vacant.

29 ~~If the council of any borough shall refuse, fail or neglect,~~ <—
30 ~~or be unable, for any reason whatsoever, to fill any vacancy~~

1 ~~within thirty days after the vacancy happens, as provided in~~
2 ~~this section, then the vacancy shall be filled within fifteen~~
3 ~~additional days by [a] the vacancy board. [to] Such board shall~~
4 ~~consist of the borough council exclusive of the mayor, and one~~
5 ~~registered elector of the borough who shall be [elected]~~
6 ~~appointed by the borough council at [each reorganizational~~
7 ~~meeting of the council] the council's first meeting each~~
8 ~~calendar year or as soon thereafter as practical and who shall~~
9 ~~act as chairman of the vacancy board. The board shall appoint a~~
10 ~~registered elector of the borough, (or ward in the case of a~~
11 ~~ward office), to hold such office, if the term thereof continues~~
12 ~~so long, until the first Monday in January after the first~~
13 ~~municipal election occurring more than sixty days after the~~
14 ~~vacancy occurs, at which election an eligible person shall be~~
15 ~~elected to the office for the remainder of the term.~~

16 ~~If the vacancy is not filled by the vacancy board within~~
17 ~~fifteen days, the chairman shall or in the case of a vacancy in~~
18 ~~the chairmanship the remaining members of the vacancy board~~
19 ~~shall petition the court of common pleas to fill the vacancy by~~
20 ~~the appointment of a registered elector of the borough (or ward~~
21 ~~in the case of a ward), to hold such office, if the term thereof~~
22 ~~continues so long, until the first Monday in January after the~~
23 ~~first municipal election occurring more than sixty days after~~
24 ~~the vacancy occurs, at which election an eligible person shall~~
25 ~~be elected to the office for the remainder of the term. In the~~
26 ~~case where there are vacancies in more than a majority of the~~
27 ~~offices of council, the court of common pleas shall fill such~~
28 ~~vacancies upon presentation of petition signed by not less than~~
29 ~~fifteen registered electors of the borough.~~

30 [IF THE COUNCIL OF ANY BOROUGH SHALL REFUSE, FAIL OR NEGLECT, <—

1 OR BE UNABLE, FOR ANY REASON WHATSOEVER, TO FILL ANY VACANCY
2 WITHIN THIRTY DAYS AFTER THE VACANCY HAPPENS, AS PROVIDED IN
3 THIS SECTION, THEN THE VACANCY SHALL BE FILLED WITHIN FIFTEEN
4 ADDITIONAL DAYS BY A VACANCY BOARD, TO CONSIST OF THE BOROUGH
5 COUNCIL EXCLUSIVE OF THE MAYOR, AND ONE REGISTERED ELECTOR OF
6 THE BOROUGH WHO SHALL BE ELECTED BY THE BOROUGH COUNCIL AT EACH
7 REORGANIZATIONAL MEETING OF THE COUNCIL AND WHO SHALL ACT AS
8 CHAIRMAN OF THE VACANCY BOARD. THE BOARD SHALL APPOINT A
9 REGISTERED ELECTOR OF THE BOROUGH, (OR WARD IN THE CASE OF A
10 WARD OFFICE), TO HOLD SUCH OFFICE, IF THE TERM THEREOF CONTINUES
11 SO LONG, UNTIL THE FIRST MONDAY IN JANUARY AFTER THE FIRST
12 MUNICIPAL ELECTION OCCURRING MORE THAN SIXTY DAYS AFTER THE
13 VACANCY OCCURS, AT WHICH ELECTION AN ELIGIBLE PERSON SHALL BE
14 ELECTED TO THE OFFICE FOR THE REMAINDER OF THE TERM.

15 IF THE VACANCY IS NOT FILLED BY THE VACANCY BOARD WITHIN
16 FIFTEEN DAYS, THE CHAIRMAN SHALL PETITION THE COURT OF COMMON
17 PLEAS TO FILL THE VACANCY BY THE APPOINTMENT OF A REGISTERED
18 ELECTOR OF THE BOROUGH (OR WARD IN THE CASE OF A WARD), TO HOLD
19 SUCH OFFICE, IF THE TERM THEREOF CONTINUES SO LONG, UNTIL THE
20 FIRST MONDAY IN JANUARY AFTER THE FIRST MUNICIPAL ELECTION
21 OCCURRING MORE THAN SIXTY DAYS AFTER THE VACANCY OCCURS, AT
22 WHICH ELECTION AN ELIGIBLE PERSON SHALL BE ELECTED TO THE OFFICE
23 FOR THE REMAINDER OF THE TERM.]

24 (B) WHENEVER THE COUNCIL SHALL FAIL TO FILL A VACANCY WITHIN
25 FIFTEEN DAYS OF RECEIVING THE LIST OF NAMES FROM THE CITIZENS'
26 VACANCY BOARD, THE LIST SHALL BE SUBMITTED BY THE CITIZENS'
27 VACANCY BOARD TO THE COURT OF COMMON PLEAS. FROM THIS LIST THE
28 COURT SHALL APPOINT A REGISTERED ELECTOR OF THE BOROUGH (OR WARD
29 IN THE CASE OF A WARD OFFICE), TO HOLD SUCH OFFICE, IF THE TERM
30 THEREOF CONTINUES SO LONG, UNTIL THE FIRST MONDAY IN JANUARY

1 AFTER THE FIRST MUNICIPAL ELECTION OCCURRING MORE THAN SIXTY
2 DAYS AFTER THE VACANCY OCCURS, AT WHICH ELECTION AN ELIGIBLE
3 PERSON SHALL BE ELECTED TO THE OFFICE FOR THE REMAINDER OF THE
4 TERM.

5 (C) WHENEVER THE CITIZENS' VACANCY BOARD FAILS TO SUBMIT A
6 LIST OF REGISTERED ELECTORS TO COUNCIL WITHIN FIFTEEN DAYS THE
7 COURT OF COMMON PLEAS SHALL FILL THE VACANCY UPON PRESENTATION
8 OF A PETITION SIGNED BY NOT LESS THAN FIFTEEN REGISTERED
9 ELECTORS OF THE BOROUGH. THE COURT OF COMMON PLEAS SHALL FILL
10 THE VACANCY BY THE APPOINTMENT OF A REGISTERED ELECTOR OF THE
11 BOROUGH TO HOLD SUCH OFFICE IF THE TERM CONTINUES SO LONG, UNTIL
12 THE FIRST MONDAY IN JANUARY AFTER THE FIRST MUNICIPAL ELECTION
13 OCCURRING MORE THAN SIXTY DAYS AFTER THE VACANCY OCCURS, AT
14 WHICH ELECTION AN ELIGIBLE PERSON SHALL BE ELECTED TO THE OFFICE
15 FOR THE REMAINDER OF THE TERM.

16 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

17 SECTION 901.1. EMERGENCY ACTION; VACANCIES OF A MAJORITY
18 NUMBER OF COUNCIL.--(A) WHERE THERE ARE VACANCIES IN MORE THAN
19 A MAJORITY OF THE OFFICES OF COUNCIL, THE VACANCIES SHALL BE
20 FILLED BY THE CITIZENS' VACANCY BOARD. THE BOARD SHALL SUBMIT TO
21 THE EXISTING MEMBERS OF COUNCIL THEN IN OFFICE THE NAME OR NAMES
22 OF A REGISTERED ELECTOR OR ELECTORS OF THE BOROUGH TO FILL THE
23 VACANCY OR VACANCIES. THE NUMBER OF NAMES SUBMITTED BY THE BOARD
24 SHALL EXCEED BY TWO THE NUMBER OF APPOINTEES NECESSARY TO FILL
25 THE VACANCIES. FROM THIS LIST THE EXISTING MEMBERS OF COUNCIL
26 THEN IN OFFICE SHALL FILL VACANCIES BY APPOINTING BY RESOLUTION
27 REGISTERED ELECTORS OF THE BOROUGH TO HOLD SUCH OFFICES, IF THE
28 TERM THEREOF CONTINUES SO LONG, UNTIL THE FIRST MONDAY IN
29 JANUARY AFTER THE FIRST MUNICIPAL ELECTION OCCURRING MORE THAN
30 SIXTY DAYS AFTER THE VACANCIES OCCUR, AT WHICH ELECTION AN

1 ELIGIBLE PERSON SHALL BE ELECTED TO THE OFFICE FOR THE REMAINDER
2 OF THE TERM.

3 (B) IF THE EXISTING MEMBERS OF COUNCIL THEN IN OFFICE SHALL
4 FAIL TO FILL THE VACANCIES WITHIN FIFTEEN DAYS OF RECEIVING THE
5 LIST FROM THE CITIZENS' VACANCY BOARD, THE LIST SHALL BE
6 SUBMITTED BY THE BOARD TO THE COURT OF COMMON PLEAS AND THE
7 VACANCIES FILLED AS PROVIDED IN SUBSECTION (B) OF SECTION 901.

8 (C) WHENEVER THERE ARE NO EXISTING MEMBERS OF COUNCIL IN
9 OFFICE TO APPOINT A CITIZENS' VACANCY BOARD, THE COURT OF COMMON
10 PLEAS SHALL FILL SUCH VACANCY OR VACANCIES AS PROVIDED IN
11 SUBSECTION (C) OF SECTION 901.

12 (D) WHENEVER THE CITIZENS' VACANCY BOARD FAILS TO SUBMIT A
13 LIST OF REGISTERED ELECTORS TO COUNCIL WITHIN FIFTEEN DAYS, THE
14 COURT OF COMMON PLEAS SHALL FILL THE VACANCIES AS PROVIDED IN
15 SUBSECTION (C) OF SECTION 901.

16 Section 2 3. This act shall take effect in 60 days.

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