

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 66 Session of 2011

INTRODUCED BY ARGALL, JANUARY 12, 2011

REFERRED TO LOCAL GOVERNMENT, JANUARY 12, 2011

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," in powers  
4 and duties of elected borough officials, further providing  
5 for powers of council, for salary of mayor limited, for  
6 general powers of mayor and for duties of mayor; and, in  
7 powers, duties and rights of appointed officers and employes,  
8 further providing for appointment, suspension, reduction,  
9 discharge powers and mayor to have control and for suspension  
10 by mayor.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 1005 of the act of February 1, 1966 (1965  
14 P.L.1656, No.581), known as The Borough Code, is amended by  
15 adding paragraphs to read:

16 Section 1005. Powers of Council.--The council of the borough  
17 shall have power:

18 \* \* \*

19 (10) To consider, advise upon and consent by majority vote  
20 upon any litigation proposed to be filed, defended or  
21 participated in by the mayor in the mayor's official capacity or  
22 on behalf of the borough.

1     (11) To take additional action, by and through the  
2     solicitor, by way of mediation or through the filing or  
3     defending of litigation, to seek additional reimbursement from  
4     the mayor in the mayor's personal capacity for expenses of  
5     litigation which are initiated, defended or participated in by  
6     the mayor without the advice and consent of the council and  
7     which expenses exceed the amount withheld from the mayor's  
8     salary as provided in section 1025(b).

9     Section 2. Section 1025 of the act, amended March 22, 2002  
10    (P.L.207, No.17), is amended to read:

11     Section 1025. Salary of Mayor Limited.--(a) The salary of  
12    the mayor shall be established by ordinance and shall not  
13    exceed, in boroughs with a population of less than five  
14    thousand, a maximum of two thousand five hundred dollars (\$2500)  
15    a year; in boroughs with a population of five thousand or more  
16    but less than ten thousand, a maximum of five thousand dollars  
17    (\$5000) a year; in boroughs with a population of ten thousand or  
18    more but less than fifteen thousand, a maximum of seven thousand  
19    five hundred dollars (\$7500) a year. In any borough with a  
20    population in excess of fifteen thousand, the salary of the  
21    mayor shall not exceed five hundred dollars (\$500) per annum per  
22    thousand population or fraction thereof, the population to be  
23    determined by the latest official census figures. Such salaries  
24    shall be payable monthly or quarterly for the duties imposed by  
25    the provisions of this act. Benefits provided to the mayor under  
26    section 1202(37) shall not be considered pay, salary or  
27    compensation, but payment for all or a part of the premiums or  
28    charges for the benefits shall be in accordance with section  
29    1202(37).

30     (b) If the mayor initiates, defends or participates in

1 litigation in the mayor's official capacity without the formal  
2 advice and consent of the borough council, expenses incurred by  
3 the borough in the litigation may be withheld from the salary of  
4 the mayor up to the maximum provided in subsection (a).

5 Section 3. Section 1028(a) of the act, amended November 29,  
6 2004 (P.L.1337, No.170), is amended and the section is amended  
7 by adding a subsection to read:

8 Section 1028. General Powers of Mayor.--(a) The mayor shall  
9 have power:

10 (1) To administer oaths and affirmations in matters  
11 pertaining to borough affairs.

12 (2) To initiate, defend and participate in litigation in the  
13 mayor's official capacity or on behalf of the borough, after  
14 receiving the advice and consent of the borough council.

15 \* \* \*

16 (c) The terms of a proclamation issued under subsection (b)  
17 and initiated in the form of litigation may only be enforced  
18 after the mayor receives the advice and consent of the borough  
19 council.

20 Section 4. Section 1029 of the act, amended May 9, 1980  
21 (P.L.120, No.47) and December 12, 1980 (P.L.1194, No.220), is  
22 amended to read:

23 Section 1029. Duties of Mayor.--[It] (a) Subject to the  
24 provisions in subsection (b), it shall be the duty of the mayor:

25 (1) To preserve order in the borough, to enforce the  
26 ordinances and regulations, to remove nuisances, to exact a  
27 faithful performance of the duties of the officers appointed,  
28 and to perform such other duties as shall be vested in his  
29 office by law or ordinance.

30 (2) Except as provided in section 1006(3), to sign such

1 papers, contracts, obligations and documents as may be required  
2 by law.

3 (3) To keep correct accounts of all moneys received by him,  
4 to render to the council at least once a month an itemized  
5 statement of all such moneys so received since the last such  
6 statement, with the date at which and the purpose for which and  
7 the names of the persons from whom the same was received, and to  
8 pay all such moneys into the borough treasury, to report to the  
9 council from time to time on the state of the borough and to  
10 make recommendations to the council on matters of borough  
11 concern. The borough shall furnish the mayor with such books and  
12 forms as are necessary for the conduct of his office. Such books  
13 and forms shall be and remain the property of the borough and  
14 shall be surrendered to his successor in office.

15 (b) In any case where, in the performance of the duties  
16 specified in subsection (a), the mayor determines to initiate,  
17 defend or participate in litigation, the mayor may do so only  
18 after receiving the advice and consent of the borough council.

19 Section 5. Section 1121 of the act is amended to read:

20 Section 1121. Appointment, Suspension, Reduction, Discharge,  
21 Powers; Mayor to Have Control.--(a) Borough council may,  
22 subject to the civil service provisions of this act, if they be  
23 in effect at the time, appoint and remove, or suspend, or reduce  
24 in rank, one or more suitable persons, citizens of the United  
25 States of America, as borough policemen, who shall be ex officio  
26 constables of the borough, and shall and may, within the borough  
27 or upon property owned or controlled by the borough or by a  
28 municipal authority of the borough whether such property is  
29 within or outside the limits of the borough, without warrant and  
30 upon view, arrest, and commit for hearing any and all persons

1 guilty of breach of the peace, vagrancy, riotous or disorderly  
2 conduct or drunkenness, or who may be engaged in the commission  
3 of any unlawful act tending to imperil the personal security or  
4 endanger the property of the citizens, or for violating any  
5 ordinance of the borough for the violation of which a fine or  
6 penalty is imposed, and notwithstanding any statute pertaining  
7 to the same or similar offenses. Any person so arrested shall be  
8 received for confinement by the keepers of the jails, lockups,  
9 or station houses within the county.

10 (b) The borough council may designate one of said policemen  
11 as chief of police. The mayor of the borough shall have full  
12 charge and control of the chief of police and the police force,  
13 and he shall direct the time during which, the place where and  
14 the manner in which, the chief of police and the police force  
15 shall perform their duties, except that council shall fix and  
16 determine the total weekly hours of employment that shall apply  
17 to the policemen.

18 (c) Policemen shall have authority to serve and execute all  
19 criminal process for the violation of borough ordinances which  
20 may be issued by the mayor, and shall charge the same fees and  
21 costs as constables of the borough, but such fees and costs  
22 shall be collected by the mayor and by him paid into the borough  
23 treasury.

24 (d) (1) The borough may, by ordinance establish a police  
25 department consisting of chief, captain, lieutenant, sergeants,  
26 or any other classification desired by the council, and council  
27 may, subject to the civil service provisions of this act, if  
28 they be in effect at the time, designate the individuals  
29 assigned to each office[, but the].

30 (2) Subject to the provisions of paragraph (1) and section

1 1124(c), the mayor shall continue to direct the manner in which  
2 the persons assigned to the office shall perform their duties.  
3 The mayor may, however, delegate to the chief of police or other  
4 officers supervision over and instruction to subordinate  
5 officers in the manner of performing their duties. The mayor may  
6 appoint special policemen during an emergency in which the  
7 safety and welfare of the borough and the public is endangered  
8 and auxiliary policemen may be appointed as provided by general  
9 law.

10 (e) The borough council may assign the chief of police or  
11 any member of the police force to undergo a course of training  
12 at any training school for policemen established and made  
13 available by the State or Federal government, and may provide  
14 for the payment by the borough of his expenses while in  
15 attendance in such school.

16 (f) In any case in which a borough has heretofore appointed  
17 policemen or established a police department by action of  
18 council but not by or pursuant to an ordinance regularly  
19 enacted, such action shall be deemed to have been a valid  
20 exercise of the legislative power of the borough for all  
21 purposes the same as though an ordinance had been enacted, and  
22 all policemen appointed thereunder shall occupy the same status  
23 and shall have the same rights and privileges as in the case of  
24 policemen appointed under authority of an ordinance.

25 Section 6. Section 1124 of the act, amended June 15, 1977  
26 (P.L.9, No.7), is amended to read:

27 Section 1124. Suspension by Mayor.--[In] (a) Subject to the  
28 provisions of subsection (c) and in addition to the powers of  
29 council to suspend policemen, the mayor may, for cause and  
30 without pay, suspend any policemen until the succeeding regular

1 meeting of the council, at which time or thereafter the council  
2 may, subject to the civil service provisions of this act, if  
3 they be in effect at the time, suspend, discharge, reduce in  
4 rank or reinstate with pay, such policemen[: Provided, however,  
5 That a]

6 (b) (1) A policeman suspended by the mayor may not be  
7 reinstated by council at a date earlier than ten working days  
8 from the date fixed by the mayor for the suspension to commence.

9 (2) In any case where the council has reinstated a  
10 policeman, after having been suspended by the mayor, the mayor  
11 shall not thereafter suspend such policeman for reasons arising  
12 from the same act for which the first suspension was made, or  
13 for reasons that the council, in reinstating such policeman,  
14 shall have determined not to be grounds for suspension.

15 (c) In any case where the mayor violates the provisions of  
16 subsection (b) (2), the council shall direct the manner in which  
17 such policeman or, by resolution of the council, all policemen  
18 shall perform their duties until such time as another person  
19 serves as mayor.

20 Section 7. This act shall take effect in 60 days.