

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 573 Session of
1999

INTRODUCED BY S. MILLER, E. Z. TAYLOR, GORDNER, READSHAW,
WILLIAMS, PRESTON, STABACK, MAYERNIK, BEBKO-JONES, PESCI,
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DALEY, SCRIMENTI, MUNDY, SEYFERT, STEELMAN, KIRKLAND,
YOUNGBLOOD AND WILT, FEBRUARY 16, 1999

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, FEBRUARY 16, 1999

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," changing
4 gender-specific references to members of the governing body;
5 and making editorial changes.

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

8 Section 1. Section 234 of the act of February 1, 1966 (1965
9 P.L.1656, No.581), known as The Borough Code, is amended to
10 read:

11 Section 234. Property; Assets; Liabilities; Ordinances;
12 Wards; Election Districts and Certain Officers.--Upon the
13 formation of the borough government, all of the property and
14 assets of the city shall become the property of the borough, and
15 such change of government shall not in any way affect any
16 liabilities incurred, rights accrued or vested, obligations,
17 issued or contracted, or any suits or prosecutions pending or
18 instituted to enforce any right or penalty accrued, or punish

1 any offense committed prior to such change. All ordinances of
2 the former city shall continue in force in the new borough until
3 altered or repealed in the manner provided by law. The wards and
4 election districts of the city shall become the wards and
5 election districts of the borough until altered or changed as
6 may be provided by law. And in the election of [councilmen]
7 members of council from the several wards, two [councilmen]
8 members of council shall be elected from each ward, unless
9 thereafter changed as provided by law. All constables, aldermen
10 and election officers in office in the city, when the borough
11 government is organized, shall remain in office until the
12 expiration of their respective terms of office.

13 Section 2. Section 601 of the act, amended October 9, 1967
14 (P.L.399, No.181), is amended to read:

15 Section 601. Power of Court to Erect, Abolish and Change
16 Wards and to Adjust, Alter and Establish Lines.--The court of
17 quarter sessions, upon petition, may divide boroughs into wards,
18 erect new wards out of two or more adjoining wards or parts
19 thereof, consolidate two or more wards into one ward, divide any
20 ward already erected into two or more wards, alter the lines of
21 any two or more adjoining wards or cause the lines or boundaries
22 of wards to be ascertained or established, or abolish all wards.
23 No borough shall be divided or redivided into more than thirteen
24 wards.

25 No ward shall be created containing less than three hundred
26 registered electors therein, and all wards which now or at any
27 time hereafter shall contain less than three hundred fifty
28 registered electors therein may, in the discretion of the court,
29 be abolished and if so abolished, the territory thereof shall be
30 distributed among the remaining wards in such manner as the

1 court of quarter sessions shall direct. All other wards as
2 heretofore established shall remain as heretofore, until altered
3 or divided as provided in this article.

4 In boroughs wherein any ward shall be abolished as herein
5 provided and the number of wards shall be reduced to less than
6 five, then the [councilman] member of council or [councilmen]
7 members of council in the ward or wards abolished shall continue
8 in office for the term for which elected and shall become a
9 [councilman] member of council or [councilmen] members of
10 council at large from such borough.

11 If the latest official census of the United States shall
12 disclose that in any borough the population of any ward exceeds
13 by fifty percent or more or is fifty percent or more less than
14 the average population of all the wards of such borough, the
15 court of quarter sessions upon application of the borough
16 council or, in case of failure of the council so to apply, upon
17 petition of any citizen of the borough, shall adjust the
18 boundaries of any or all of the wards in such borough, for the
19 purpose of more nearly equalizing ward populations throughout
20 the said borough. The provisions of sections 602, 603 and 604 of
21 this act shall not apply in cases of ward boundary adjustment as
22 provided for by this paragraph.

23 Section 3. Section 805 of the act is amended to read:

24 Section 805. Election of Borough Officers When Boroughs
25 Created, Etc.--Whenever a borough is incorporated under the
26 provisions of sections 201 to 219 inclusive of this act, or
27 whenever two or more boroughs are consolidated under the
28 provisions of sections 221 to 228 of this act, or whenever a
29 borough is created from a city of the third class under the
30 provisions of sections 231 to 235 of this act, the officers of

1 the borough, provided for in section 806 of this act, shall be
2 elected at the appropriate municipal election as provided in
3 said sections and such officers shall take office on the first
4 Monday of January succeeding such election.

5 At any such election, if the borough is not divided into
6 wards, of the seven [councilmen] members of council to be
7 elected, three or four [councilmen] members of council, as the
8 case may be, shall be elected for terms of two years each, and
9 three or four [councilmen] members of council, as the case may
10 be, shall be elected for terms of four years each, to coincide
11 with the number of [councilmen] members of council elected at
12 such election in existing boroughs under the provisions of
13 section 811 of this act.

14 In the case of the consolidation of two or more boroughs into
15 one borough, or the creation of a borough from a city of the
16 third class, and where in either event two [councilmen] members
17 of council are to be elected from each ward, one [councilman]
18 member of council shall be elected from each ward for a term of
19 two years and one [councilman] member of council shall be
20 elected from each ward for a term of four years.

21 In all boroughs coming within the provisions of this section,
22 three auditors shall be elected, one for a term of two years,
23 one for a term of four years, and one for a term of six years.

24 All other officers of the borough shall be elected at such
25 election for terms of two or four years, as the case may be, to
26 coincide with the terms of officers elected under this act at
27 such election in the existing boroughs.

28 Section 4. Section 806 of the act, amended March 30, 1988
29 (P.L.309, No.40), is amended to read:

30 Section 806. Officers to be Elected.--It shall be lawful for

1 the electors of the borough to elect:

2 (1) In boroughs not divided into wards, seven [councilmen]
3 members of council, one mayor, one assessor, except in those
4 boroughs where, under the applicable county assessment law, the
5 office of elected assessor in boroughs shall have been
6 abolished; a tax collector and three auditors or one controller
7 except in such boroughs where there shall be an appointed
8 auditor in lieu of elected auditors or controller. In any
9 borough with population, as determined by the latest official
10 census, of less than three thousand, the total number of
11 [councilmen] members of council may be reduced from seven to
12 five or to three upon petition to the court of common pleas, as
13 provided in section 818 of this act.

14 (2) In boroughs divided into wards, at least one, and not
15 more than two [councilmen] members of council in each ward,
16 except in boroughs where prior to the passage of this act three
17 [councilmen] members of council were elected in each ward. In
18 such boroughs, the number of [councilmen] members of council is
19 fixed at three in each ward until such number is reduced in the
20 manner provided by this act. [Councilmen] Members of council
21 shall be residents of the ward from which they are elected, and
22 chosen by the electors of the ward; also a mayor, a tax
23 collector and three auditors or a controller, except in such
24 boroughs where there shall be an appointed auditor in lieu of
25 elected auditors or controller, and an assessor, except in those
26 boroughs where, under the applicable county assessment law, the
27 office of elected assessor shall have been abolished who shall
28 be chosen by the electors of the boroughs at large.

29 Section 5. The heading of subdivision (b) of Article VIII of
30 the act is amended to read:

1 (b) [Councilmen] Members of Council

2 Section 6. Section 811 of the act, amended February 24, 1967
3 (P.L.1, No.1) and October 9, 1967 (P.L.399, No.181), is amended
4 to read:

5 Section 811. Election of [Councilmen] Members of Council.--

6 At the municipal election to be held in the year 1967, there
7 shall be elected in each borough a sufficient number of

8 [councilmen] members of council to equal one-half of the entire
9 number of which such council is legally composed, to serve for a
10 term of four years from the first Monday of January next

11 succeeding, and, where such entire number is seven, nine, or
12 eleven, then sufficient to constitute three, four, or five, as

13 the case may be; the aforesaid [councilmen] members of council,
14 to be elected in the year 1967, being successors to those

15 elected in the year 1963, whose terms, as heretofore provided by
16 law, expire on the first Monday of January, 1968. All

17 [councilmen] members of council whose terms expire on the first
18 Monday of January, 1970 shall continue to hold their office

19 until the first Monday of January, 1970, as now provided, and
20 their successors shall be elected at the municipal election in

21 the year 1969, to serve for a term of four years, from the first
22 Monday of January next succeeding. If for any reason

23 [councilmen] members of council are not elected as hereinabove
24 provided, [councilmen] members of council whose terms end on the

25 same date shall cast lots to determine who shall serve for a
26 two-year term and who shall serve for a four-year term. The

27 secretary of the borough shall certify the results to the

28 appropriate county board of elections. Biennially thereafter, at
29 the municipal election, a sufficient number of [councilmen]

30 members of council shall be elected, for a term of four years

1 from the first Monday of January next succeeding, to fill the
2 places of those whose terms, under the provisions of this act,
3 shall expire on the first Monday of January next following such
4 election.

5 Section 7. Sections 812, 813, 814, 816 and 817 of the act
6 are amended to read:

7 Section 812. Election of [Councilmen] Members of Council
8 Where New Wards Created.--Whenever the [court of quarter
9 sessions] court of common pleas shall divide any borough into
10 wards, erect new wards out of two or more wards or parts
11 thereof, divide a ward already erected into two or more wards,
12 or create a new ward out of annexed territory, and when the
13 report, in such case, is confirmed by the court, it shall, at
14 the same time, decree the election of an equal number of
15 [councilmen] members of council, in each of the wards, in such
16 manner as not to interfere with the terms of those theretofore
17 elected. Where a borough is first divided into wards, the court
18 shall fix the number of [councilmen] members of council in each
19 ward at not more than two. In decreeing such election, when the
20 entire number of council shall be composed of an even number,
21 the decree shall be so made that one-half of the entire number
22 shall thereafter be elected at each municipal election. When the
23 entire number of council shall be an odd number, the court shall
24 divide such council into two classes, and shall make its decrees
25 so that one-half of the entire number of [councilmen] members of
26 council, less one, shall, as soon as possible, take their office
27 in a year divisible by four, and the remaining number of
28 [councilmen] members of council shall take their office in an
29 even-numbered year not divisible by four. The apportionment
30 shall be so made by the court that there shall be equal or as

1 nearly equal as possible, representation by wards in each class.
2 Biennially thereafter, at each municipal election, a sufficient
3 number of [councilmen] members of council shall be elected, for
4 the term of four years from the first Monday of January next
5 succeeding, to fill the places of those whose terms shall expire
6 on the first Monday of the January next following such election.

7 Section 813. Fixing Number of [Councilmen] Members of
8 Council When Wards Created.--Whenever upon the division of any
9 borough into wards, or the creation of a new ward or wards, the
10 number of [councilmen] members of council cannot be equally
11 divided among the wards of the boroughs, it shall be lawful for
12 the court, in decreeing such division or creation, to increase
13 the number of council to, and not exceeding, such number as will
14 enable the court to make an equal apportionment of the same
15 among the several wards of such borough. But where a borough is
16 first divided into wards, the number of [councilmen] members of
17 council provided for a ward shall not exceed two.

18 Section 814. Increase in Number of [Councilmen] Members of
19 Council.--The [court of quarter sessions] court of common pleas,
20 having fixed the number of [councilmen] members of council, as
21 provided in section 812 of this article, may, upon petition of
22 at least five percent of the registered electors of the borough,
23 increase the same to any number not exceeding two for each ward.
24 The sufficiency of the number of signers to any such petition
25 shall be ascertained as of the date when the petition is
26 presented to court.

27 Section 816. Election of [Councilmen] Members of Council
28 Where Wards Abolished.--Whenever the [court of quarter sessions]
29 court of common pleas shall abolish all wards in any borough and
30 when the report in such case is confirmed by the court, it

1 shall, at the same time, decree the election of seven
2 [councilmen] members of council at large for the borough in such
3 manner as not to interfere with the terms of those ward
4 [councilmen] members of council theretofore elected. In
5 decreeing such election, where there were theretofore:

6 (1) Seven [councilmen] members of council, the decree shall
7 be so made that, at the first municipal election thereafter the
8 electors shall elect three or four [councilmen] members of
9 council, as the case may be, the number to be elected to be that
10 which, when added to the number of [councilmen] members of
11 council already in office whose terms are not about to expire,
12 shall bring the membership of the council to seven. Such newly
13 elected [councilmen] members of council shall serve for terms of
14 four years from the first Monday of January next succeeding such
15 first municipal election, except that, in any case where the
16 election of four [councilmen] members of council shall be
17 required to bring the membership of council to its full
18 complement of seven, and only three [councilmen] members of
19 council are elected at such municipal election in the other
20 boroughs of the State not divided into wards, three [councilmen]
21 members of council shall be elected for four-year terms and one
22 for a two-year term. Thereafter, at every succeeding municipal
23 election, the electors shall elect three or four [councilmen]
24 members of council, as the case may be, each to serve for a term
25 of four years from the first Monday of January following such
26 municipal election.

27 (2) Eight or more [councilmen] members of council, the
28 decree shall be so made that, at the first municipal election
29 thereafter the electors shall elect a sufficient number of
30 [councilmen] members of council that, when added to the number

1 of [councilmen] members of council already in office whose terms
2 are not about to expire, will bring the membership of the
3 council to seven. Such newly elected [councilmen] members of
4 council shall serve for terms of four years from the first
5 Monday of January next succeeding such first municipal election.
6 At the second municipal election after such decree, the electors
7 shall elect a sufficient number of [councilmen] members of
8 council, that, when added to the number of [councilmen] members
9 of council elected at the previous municipal election, shall
10 bring the membership of council to its full complement of seven,
11 some of such [councilmen] members of council elected at such
12 second municipal election to serve for a four-year term
13 following the first Monday of January next succeeding, the
14 remainder to serve for a two-year term, the number in each case
15 to be that required to bring the number of [councilmen] members
16 of council to be elected in such borough in succeeding municipal
17 elections into conformity with the number elected in the other
18 boroughs of the Commonwealth not divided into wards. In the
19 third and all subsequent municipal elections following such
20 decree of court, the electors shall elect three or four
21 [councilmen] members of council, as the case may be, each to
22 serve for a term of four years from the first Monday of January
23 following such municipal election.

24 In any such borough where, under the ward system of electing
25 [councilmen] members of council, the council shall have been so
26 large that there shall be seven or more [councilmen] members of
27 council whose terms shall not expire on the first Monday of
28 January following the first municipal election after such
29 decree, no [councilmen] members of council shall be elected at
30 such first municipal election, and the [councilmen] members of

1 council remaining in office shall constitute such borough
2 council until the first Monday of January following the second
3 municipal election following such decree. At such second
4 municipal election, seven [councilmen] members of council shall
5 be elected in such borough, some to serve for a four-year term
6 of office from the first Monday of January following such second
7 municipal election, the remainder to serve for a two-year term,
8 the number in each case to be such as to bring the number of
9 [councilmen] members of council to be elected in such borough in
10 succeeding elections into conformity with the number elected in
11 other boroughs of the Commonwealth not divided in towards.
12 Thereafter, at the third and all subsequent municipal elections
13 following such decree, the electors shall elect three or four
14 [councilmen] members of council, as the case may be, each to
15 serve for a term of four years from the first Monday of January
16 following such subsequent municipal election.

17 (3) Six or fewer [councilmen] members of council, the decree
18 shall be made so that at the first municipal election
19 thereafter, the electors shall elect a sufficient number of
20 [councilmen] members of council that, when added to the number
21 of [councilmen] members of council already in office whose terms
22 are not about to expire, will bring the membership of council to
23 its full complement of seven. Of such newly elected [councilmen]
24 members of council, either three or four, as necessary to bring
25 the number of [councilmen] members of council to be elected in
26 such borough in succeeding municipal elections into conformity
27 with the number elected in other boroughs of the Commonwealth
28 not divided into wards, shall be elected for four-year terms of
29 office, beginning the first Monday of January following such
30 first municipal election, and the balance shall be elected for

1 two-year terms. Thereafter, at the second municipal election
2 following such decree and at all subsequent municipal elections,
3 the electors shall elect three or four [councilmen] members of
4 council, as the case may be, to serve for a term of four years
5 from the first Monday of January following such subsequent
6 municipal election.

7 In any case where a vacancy may occur, at any time following
8 such decree, in the office of a [councilman] member of council
9 originally elected or appointed from a particular ward, the
10 person appointed to fill such vacancy need not be a resident of
11 the area formerly comprising such ward, but need only be a
12 registered elector of the borough.

13 Section 817. Vacancies Created After a Primary Election.--
14 Whenever a decree of court is made after a primary election and,
15 as a result thereof, a vacancy is created in the office of
16 [councilman] member of council, it may be filled by nomination
17 made by such committee as is authorized by the rules of the
18 party to make nominations in the event of vacancies on the party
19 ticket.

20 Section 8. Section 818 of the act, amended March 30, 1988
21 (P.L.309, No.40), is amended to read:

22 Section 818. Decrease in Number of [Councilmen] Members of
23 Council.--The court of common pleas may, upon petition of at
24 least five percent of the registered electors of any borough,
25 which, according to the latest official census, had a population
26 of not more than three thousand, reduce the total number of
27 [councilmen] members of council for such borough from seven to
28 five or to three. The sufficiency of the number of signers to
29 any such petition shall be ascertained as of the date when the
30 petition is presented to court.

1 The court shall give notice of the filing of such petition by
2 advertisement in the legal journal of the county, if one is
3 published in the county, and in one newspaper of general
4 circulation in the borough, and in such notice shall fix a day
5 and time for hearing. After such hearing, the court may decrease
6 the number of [councilmen] members of council elected in such
7 borough from seven to five or three, as requested in the
8 petition.

9 At the municipal election following the decrease in the
10 number of [councilmen] members of council in such borough, from
11 seven to five, if four [councilmen] members of council would
12 otherwise have been elected, there shall instead be elected
13 three [councilmen] members of council; if three [councilmen]
14 members of council would otherwise have been elected there shall
15 instead be elected two [councilmen] members of council. At the
16 second municipal election following the decrease in the number
17 of [councilmen] members of council in such borough, if four
18 [councilmen] members of council would otherwise have been
19 elected, there shall instead be elected three [councilmen]
20 members of council; if three [councilmen] members of council
21 would otherwise have been elected, there shall be elected two
22 [councilmen] members of council. At all following municipal
23 elections, there shall be elected the proper number of
24 [councilmen] members of council to correspond to the number of
25 [councilmen] members of council whose terms are to expire the
26 first Monday of the following January.

27 At the municipal election following the decrease in the
28 number of [councilmen] members of council in such borough from
29 seven to three, if four [councilmen] members of council would
30 otherwise have been elected there shall instead be elected two

1 [councilmen] members of council; if three [councilmen] members
2 of council would otherwise have been elected there shall instead
3 be elected one [councilman] member of council. At the second
4 municipal election following the decrease in the number of
5 [councilmen] members of council in such borough, if four
6 [councilmen] members of council would otherwise have been
7 elected, there shall instead be elected two [councilmen] members
8 of council; if three [councilmen] members of council would
9 otherwise have been elected, there shall be elected one
10 [councilman] member of council. At all the following municipal
11 elections, there shall be elected the proper number of
12 [councilmen] members of council to correspond to the number of
13 [councilmen] members of council whose terms are to expire the
14 first Monday of the following January.

15 In any borough where, under the provisions of this section,
16 the number of [councilmen] members of council shall be reduced,
17 the [councilmen] members of council then in office shall remain
18 in office until the end of their respective terms. If any such
19 borough shall thereafter attain a population in excess of three
20 thousand, according to the latest official census, the number of
21 [councilmen] members of council shall automatically be increased
22 from three or five to seven, following the reverse of the
23 procedure set forth in the third or fourth paragraph of this
24 section, as the case may be.

25 Section 9. Sections 903 and 904 of the act are amended to
26 read:

27 Section 903. Right of Council to Declare Seat of
28 [Councilmen] Member Vacant for Failure to Qualify.--If any
29 person, elected or appointed as a member of council, who has
30 been notified of [his] election or appointment, shall refuse or

1 neglect to qualify as such member of council within ten days
2 next succeeding the beginning of [his] the person's term of
3 office, unless prevented by sickness or prevented by necessary
4 absence from the borough, the borough council, acting without
5 such person, may declare [his] the person's office as member of
6 council vacant, and may fill such vacancy as provided in section
7 901 of this act. For such actions a majority of the remaining
8 members of the council shall constitute a quorum.

9 Section 904. Right of Council to Declare Seat of
10 [Councilman] Member Vacant for Failure to Attend Meetings,
11 Etc.--If any person, having qualified as a member of council,
12 shall neglect or refuse to attend two successive regular
13 meetings unless detained by sickness, or prevented by necessary
14 absence from the borough, or if in attendance at any meetings
15 shall neglect or refuse to vote or by [his] withdrawal from
16 council or otherwise refuse to act in [his] the person's
17 official capacity as a member of council, the borough council,
18 acting without such person, may declare [his] the person's
19 office as a member of council vacant, and may fill such vacancy
20 as provided in section 901 of this act. For such actions a
21 majority of the remaining members of the council shall
22 constitute a quorum.

23 No such office shall be declared vacant for failure to attend
24 meetings of the council until the holder thereof shall have been
25 given opportunity of hearing before the remaining members of the
26 council, at which time he shall show cause why he shall not be
27 removed. He shall be given at least ten days' written notice of
28 the time and place of such hearing.

29 Section 10. Section 1001 of the act, amended October 31, 1995
30 (P.L.346, No.58), is amended to read:

1 Section 1001. Organization of Council; Quorum; Compensation;
2 Eligibility.--The borough council shall organize on the first
3 Monday of January of each even-numbered year, by electing one of
4 their number as president and one of their number as vice-
5 president, who shall hold such offices at the pleasure of the
6 council. If the first Monday is a legal holiday, the meeting and
7 organization shall take place the first day following. Any
8 action taken by any borough council at any time between 12:01
9 o'clock ante meridian on January 1 of an even-numbered year and
10 the organization of council in that year shall be subject to
11 reconsideration by the new council at any time within ten days
12 after such organization. The council may at the organization
13 meeting elect such other officers as may be provided for by law
14 or ordinance, or as may be deemed necessary for the conduct of
15 affairs of the borough and may transact such other business as
16 may come before the meeting. The president, and during [his] the
17 president's absence or incapacity the vice-president, shall
18 preside over the meetings of council and perform such other
19 duties as are prescribed by this act or by ordinance. A majority
20 of the membership of council then in office shall constitute a
21 quorum. [Councilmen] Members of council may receive compensation
22 to be fixed by ordinance at any time and from time to time as
23 follows: In boroughs with a population of less than five
24 thousand, a maximum of eighteen hundred seventy-five dollars
25 (\$1875) a year; in boroughs with a population of five thousand
26 or more but less than ten thousand, a maximum of two thousand
27 five hundred dollars (\$2500) a year; in boroughs with a
28 population of ten thousand or more but less than fifteen
29 thousand, a maximum of three thousand two hundred fifty dollars
30 (\$3250) a year; in boroughs with a population of fifteen

1 thousand or more but less than twenty-five thousand, a maximum
2 of four thousand one hundred twenty-five dollars (\$4125) a year;
3 in boroughs with a population of twenty-five thousand or more
4 but less than thirty-five thousand, a maximum of four thousand
5 three hundred seventy-five dollars (\$4375) a year; and in
6 boroughs with a population of thirty-five thousand or more, a
7 maximum of five thousand dollars (\$5000) a year. Such salaries
8 shall be payable monthly or quarterly for the duties imposed by
9 the provisions of this act.

10 The population shall be determined by the latest available
11 official census figures. In no case shall the compensation for
12 any [councilman] member of council exceed that of the mayor in
13 any given borough: Provided, however, That wherever the mayor's
14 compensation exceeds that authorized by this section for
15 [councilmen] members of council, the president of council may
16 receive compensation not to exceed that of the office of mayor.

17 Section 11. Sections 1002, 1003, 1004 and 1005(7) of the act
18 are amended to read:

19 Section 1002. Oath of (Councilmen] Members of Council.--
20 Before entering upon the duties of their office, the
21 [councilmen] members of council shall take and subscribe an oath
22 or affirmation to support the Constitution of the United States
23 and of the Commonwealth of Pennsylvania and to perform the
24 duties of their office with fidelity, together with such loyalty
25 oath as is prescribed and required by law. The oath or
26 affirmation may be taken before any judge or justice of the
27 peace of the county, or before the mayor of the borough when he
28 has qualified, and shall be filed with the borough secretary and
29 be preserved among the records of the borough for a period of
30 six years.

1 Section 1003. When the Mayor May Preside Over Council and
2 Vote; Attendance of Mayor at Council Meetings; Breaking Tie
3 Votes.--The mayor shall preside over the organization of the
4 council, until it is organized as provided in section 1001, and
5 he shall be deemed a member of council at the organization
6 meeting if his membership becomes necessary to constitute a
7 quorum, but he shall not vote thereat unless his vote shall, for
8 any reason whatsoever, be required to effect the organization of
9 council, or to elect any officer who is required to be or may be
10 elected at the organization meeting. In case of the absence of
11 the mayor at the organization meeting, one of the members of
12 council, chosen by the members present at the meeting, shall
13 preside.

14 The mayor may attend any or all regular and special meetings
15 of council and may take part in the discussions of the council
16 on matters pertaining to borough affairs, subject to any
17 restrictions applicable to [councilmen] members of council
18 contained in the rules of order or bylaws of the council. In all
19 cases where, by reason of a tie or split vote, the council of
20 any borough shall be unable to enact or pass any ordinance,
21 resolution, or motion, or to declare or fill any vacancy in its
22 membership, or in any other borough office, or to take any
23 action on any matter lawfully brought before it, the mayor, if
24 in attendance at the meeting, may at his option cast the
25 deciding vote, or request that the matter be tabled until a
26 special meeting of council to be held within not less than five
27 days or more than ten days at which time the matter shall be
28 reconsidered by council and, if a tie or split vote still
29 exists, it shall be the duty of the mayor at that time to cast
30 the deciding vote. If such a tie or split vote shall occur at

1 any meeting when the mayor is not in attendance the matter shall
2 be tabled to a special meeting to be held within not less than
3 five days or more than ten days as set by the president of
4 council, and the mayor shall be given at least five days' notice
5 of such meeting, at which meeting it shall be the duty of the
6 mayor to cast the tie-breaking vote.

7 Section 1004. Failure of Council to Organize.--If the
8 council of any borough shall fail to organize within ten days
9 from the time prescribed in this article, the court of [quarter
10 sessions] common pleas, upon the petition of at least ten
11 registered electors of the borough verified by the affidavit of
12 one of the petitioners, shall issue a rule upon the delinquent
13 [councilmen] members of council to show cause why their seats
14 should not be declared vacant. The rule shall be returnable not
15 less than five days from the time of its issue and, after
16 hearing, the court may declare the seats of such [councilmen]
17 members of council, as are responsible for such failure to
18 organize, vacant, and shall thereupon appoint others in their
19 stead, who shall hold office for the respective unexpired terms.

20 Section 1005. Powers of Council.--The council of the borough
21 shall have power:

22 * * *

23 (7) To provide by ordinance passed by a two-thirds vote of
24 the entire number of [councilmen] members of council elected,
25 for the appointment of an independent auditor who shall be a
26 certified public accountant, registered in Pennsylvania, a firm
27 of certified public accountants so registered or a competent
28 public accountant or a competent firm of public accountants.
29 Where such an ordinance has been so adopted, an independent
30 auditor shall be appointed, annually, by resolution before the

1 close of a fiscal year, to make an independent examination of
2 the accounting records of the borough for such fiscal year and
3 such independent auditor shall also perform the other duties and
4 exercise the powers as conferred upon him by subdivision (k) of
5 article XI of this act. When an independent auditor is appointed
6 as herein provided, the office of elected borough auditor or
7 controller, as the case may be, is thereby abolished although
8 the borough auditors, or controller, then in office shall
9 continue to hold their office during the term for which elected
10 and the borough auditors or controller shall not audit, settle,
11 or adjust the accounts audited by such independent auditor but
12 shall perform the other duties of their office.

13 Whenever any borough has provided by ordinance for the audit
14 of its accounts by an appointed auditor, the borough shall have
15 the right at any time to repeal said ordinance, and thereupon
16 the office of appointed auditor shall be abolished, as of the
17 date set in such ordinance and said borough shall have the
18 further right at the next municipal election following the
19 repeal of said ordinance to elect three auditors, one for a term
20 of two years, one for a term of four years, and one for a term
21 of six years, from the first Monday of January succeeding such
22 election, which auditors so elected shall succeed the appointed
23 auditor and shall have and possess all the powers and perform
24 all the duties provided in this act for elected auditors. If at
25 any time after the effective date of any such ordinance
26 abolishing the office of appointed auditor, there shall be a
27 vacancy in the office of elected auditor, council shall fill
28 such vacancies in the manner prescribed in section 901 of this
29 act.

30 * * *

1 Section 12. Section 1030 of the act, amended December 17,
2 1990 (P.L.739, No.184), is amended to read:

3 Section 1030. When President or Vice-President of Council to
4 Act as Mayor.--Whenever the mayor is absent or incapacitated, or
5 there is a vacancy in the office, the duties of the office shall
6 be discharged by the president of council, or in the absence or
7 incapacity of the president of council, or where there is a
8 vacancy in the office, by the vice-president of council. While
9 discharging the duties of mayor, the president or vice-president
10 of council shall be entitled to the same salary as the mayor
11 would receive, and, during the time such salary is paid to the
12 president or vice-president of council as acting mayor, the
13 mayor shall not be paid compensation. The president or vice-
14 president of council, when acting as mayor, shall have power to
15 veto any proposed ordinance or to break a tie, but shall not
16 have power to vote as [councilman] a member of council.

17 Section 13. Section 1104 of the act, amended March 28, 1990
18 (P.L.82, No.18), is amended to read:

19 Section 1104. Appointments; Incompatible Offices.--Unless
20 there is incompatibility in fact, any elective or appointive
21 officer of the borough shall be eligible to serve on any board,
22 commission, bureau or other agency created by or for the
23 borough, or any borough office created or authorized by statute
24 and may accept appointments thereunder, but no mayor or
25 [councilman] member of council shall receive compensation
26 therefor. No elected borough official of a borough with a
27 population of 3,000 or more may serve as an employe of that
28 borough. Where there is no incompatibility in fact, and subject
29 to the foregoing provisions as to compensation, appointees of
30 council may hold two or more appointive borough offices, but no

1 mayor or member of council may serve as borough manager or as
2 secretary or treasurer. No person holding the office of justice
3 of the peace may at the same time hold the office of borough
4 treasurer. The offices of secretary and treasurer may be held by
5 the same person when so authorized by ordinance. Nothing herein
6 contained shall affect the eligibility of any borough official
7 to hold any other public office or receive compensation
8 therefor. All appointments to be made by the council or the
9 corporate authorities shall be made by a majority of the members
10 of council attending the meeting at which the appointment is
11 made, unless a different vote is required by statute.

12 Section 14. Sections 1194 and 1404 of the act are amended to
13 read:

14 Section 1194. Penalty.--Any [councilman] member of council
15 who, by his vote, causes to be appointed any person to the
16 police force or as a fire apparatus operator contrary to the
17 provisions of this subdivision, or any [councilman] member of
18 council or member of the commission who wilfully refuses to
19 comply with, or conform to, the provisions of subdivision (j) of
20 this article, shall be deemed guilty of a misdemeanor, and upon
21 conviction thereof, shall be sentenced to pay a fine not
22 exceeding one hundred dollars (\$100), or suffer imprisonment not
23 exceeding three months, or both.

24 Section 1404. Penalty for Personal Interest in Contracts or
25 Purchases.--Except as otherwise provided in this act, no borough
26 official either elected or appointed, who knows or who by the
27 exercise of reasonable diligence could know, shall be interested
28 to any appreciable degree either directly or indirectly in any
29 purchase made or contract entered into or expenditure of money
30 made by the borough or relating to the business of the borough,

1 involving the expenditure by the borough of more than one
2 thousand dollars (\$1000) in any calendar year, but this
3 limitation shall not apply to cases where such officer or
4 appointee of the borough is an employe of the person, firm or
5 corporation to which the money is to be paid in a capacity with
6 no possible influence on the transaction, and in which he cannot
7 be possibly benefited thereby either financially or otherwise.
8 But in the case of a [councilman] member of council or mayor, if
9 he knows that he is within the exception just mentioned he shall
10 so inform council and shall refrain from voting on the
11 expenditure or any ordinance relating thereto, and shall in no
12 manner participate therein. Any official or appointee who shall
13 knowingly violate the provisions of this section shall be
14 subject to surcharge to the extent of the damage shown to be
15 thereby sustained by the borough and to ouster from office, and
16 shall be guilty of a misdemeanor, and upon conviction thereof
17 shall be sentenced to pay a fine not exceeding one thousand
18 dollars (\$1000), or not exceeding one hundred eighty days'
19 imprisonment, or both.

20 Section 15. Section 3103 of the act, amended October 9, 1967
21 (P.L.399, No.181), is amended to read:

22 Section 3103. Oaths of Members, Secretary and Health
23 Officer; Organization; Bonds.--The members of the board shall
24 severally take and subscribe to the oath prescribed for borough
25 [councilmen] members of council together with such loyalty oath
26 as is prescribed and required by law; and shall annually
27 organize by electing a president from among the members of the
28 board, a secretary who may or may not be a member of the board,
29 and a health officer shall receive such salary as may be fixed
30 by the board, and ratified by the borough council, and shall

1 serve for a period until such time as their successors may be
2 elected and qualified. If the borough council shall so require,
3 they shall severally give bond to the borough in such sums as
4 council shall prescribe for the faithful discharge of their
5 duties. They shall take and subscribe to the oaths required of
6 members of the board.

7 Section 16. This act shall take effect in 60 days.