

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 77

Session of
2003

INTRODUCED BY HERMAN, BAKER, BELFANTI, CAPPELLI, COSTA,
CREIGHTON, DeLUCA, GEIST, HARHAI, HARPER, HENNESSEY,
LESCOVITZ, MACKERETH, MELIO, R. MILLER, NAILOR, NICKOL,
RUBLEY, SANTONI, SAYLOR, SOLOBAY, STERN, T. STEVENSON, SURRA,
TIGUE, WILT, YOUNGBLOOD, YUDICHAK, THOMAS, SATHER, FREEMAN,
FRANKEL, HORSEY, LEWIS AND CURRY, JANUARY 29, 2003

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, SEPTEMBER 24, 2003

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions
3 relating to consolidation or merger, for initiative of
4 electors seeking consolidation or merger without home rule;
5 providing for initiative of electors seeking consolidation or
6 merger with a new home rule charter; further providing for
7 conduct of referenda and for consolidation or merger
8 agreement; and making editorial changes.

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

11 Section 1. The definition of "initiative" in section 732 of
12 Title 53 of the Pennsylvania Consolidated Statutes is amended
13 and the section is amended by adding definitions to read:

14 § 732. Definitions.

15 The following words and phrases when used in this subchapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Commission." A board of members elected under the

1 provisions of section 735.1 (relating to initiative of electors
2 seeking consolidation or merger with new home rule charter) to
3 consider the advisability of the adoption of a new home rule
4 charter for the proposed consolidated or merged municipality
5 and, if advisable, to draft and recommend a new home rule
6 charter to the electorate.

7 * * *

8 "Electors." The registered voters of a municipality involved
9 in proceedings relating to the adoption and repeal of optional
10 forms of government.

11 * * *

12 "Initiative." The filing with applicable election officials
13 of a petition containing a proposal for a referendum to be
14 placed on the ballot of the next election. The petition shall
15 be:

16 (1) Filed not later than the 13th Tuesday prior to the
17 next election in which it will appear on the ballot.

18 (2) Signed by voters comprising 5% [of the persons] of
19 the number of electors voting for the office of Governor in
20 the last gubernatorial general election in the municipality
21 where the proposal will appear on the ballot.

22 (3) Placed on the ballot by election officials in a
23 manner fairly representing the content of the petition for
24 decision by referendum at the election.

25 (4) Submitted not more than once in five years.

26 * * *

27 "New home rule charter." A written document that defines the
28 powers, structure, privileges, rights and duties of the proposed
29 consolidated or merged municipality, the limitations thereon and
30 that provides for the composition and election of the governing

1 body chosen by popular elections.

2 * * *

3 Section 2. Sections 734(b)(4) and 735 of Title 53 are
4 amended to read:

5 § 734. Joint agreement of governing bodies.

6 * * *

7 (b) Elements.--The joint agreement shall include, but not be
8 limited to:

9 * * *

10 (4) Whether a consolidated or merged municipality shall
11 be governed solely by the code and other general laws
12 applicable to the kind and class of the consolidated or
13 merged municipality; whether it shall be governed by a home
14 rule charter or optional plan of government previously
15 adopted pursuant to ~~the act of April 13, 1972 (P.L.184,~~ <—
16 No.62), known as the Home Rule Charter and Optional Plans
17 Law,~~+~~ OR Subpart E of Part III (relating to home rule and <—
18 optional plan government), by one of the municipalities to be
19 consolidated or merged; or whether it shall be governed by a
20 home rule charter or optional plan of government that has not
21 been previously adopted in accordance with ~~the Home Rule~~ <—
22 Charter and Optional Plans Law~~+~~ OR Subpart E of Part III by <—
23 any of the municipalities to be consolidated or merged, but
24 which, in the case of an optional plan of government, has
25 been selected and approved by the governing body of each of
26 the municipalities to be consolidated or merged from among
27 the options provided for in [the Home Rule Charter and
28 Optional Plans Law] Subpart E of Part III or, in the case of
29 a home rule charter, has been formulated and approved by the
30 governing body of each of the municipalities to be

consolidated or merged; provided, however, that nothing in this subchapter shall be construed as authorizing a municipality adopting a home rule charter or optional plan of government pursuant to this subchapter to exercise powers not granted to a municipality adopting a home rule charter or an optional plan of government pursuant to [the Home Rule Charter and Optional Plans Law] Subpart E of Part III.

* * *

§ 735. Initiative of electors seeking consolidation or merger without new home rule charter.

(a) General rule.--In order for consolidation or merger proceedings to be initiated by petition of electors, petitions containing signatures of at least 5% of the number of electors voting for the office of Governor in the last gubernatorial general election in each municipality proposed to be consolidated or merged shall be filed with the county board of elections of the county in which the municipality, or the greater portion of its territory, is located.

(b) Notice to governing bodies affected.--When election officials find that a petition is in proper order, they shall send copies of the initiative petition without the signatures thereon to the governing bodies of each of the municipalities affected by the proposed consolidation or merger.

(c) Contents.--A petition shall set forth:

(1) The name of the municipality from which the signers of the petition were obtained.

(2) The names of the municipalities proposed to be consolidated or merged.

(3) The name of the consolidated or merged municipality.

(4) The type and class of the consolidated or merged

1 municipality.

2 (5) Whether a consolidated or merged municipality shall
3 be governed solely by the code and other general laws
4 applicable to the kind and class of the consolidated or
5 merged municipality; whether it shall be governed by a home
6 rule charter or optional plan of government previously
7 adopted pursuant to the † act of April 13, 1972 (P.L.184, <—
8 No.62), known as the Home Rule Charter and Optional Plans
9 Law, ‡ OR Subpart E of Part III (relating to home rule and <—
10 optional plan government), by one of the municipalities to be
11 consolidated or merged; or whether it shall be governed by an
12 optional plan of government that has not been previously
13 adopted in accordance with †the Home Rule Charter and <—
14 Optional Plans Law‡ OR Subpart E of Part III by any of the <—
15 municipalities to be consolidated or merged, but which has
16 been selected from among the options provided for in [the
17 Home Rule Charter and Optional Plans Law] Subpart E of Part
18 III and is identified in the petition; provided, however,
19 that nothing in this subchapter shall be construed as
20 authorizing a municipality adopting an optional plan of
21 government pursuant to this subchapter to exercise powers not
22 granted to a municipality adopting an optional plan of
23 government pursuant to [the Home Rule Charter and Optional
24 Plans Law] Subpart E of Part III.

25 (6) In the case of a merger, where the surviving
26 municipality is a city which had previously adopted an
27 optional charter pursuant to the act of July 15, 1957
28 (P.L.901, No.399), known as the Optional Third Class City
29 Charter Law, whether the resulting merged municipality will
30 continue to operate under the optional charter.

1 (7) The number of districts or wards, if any, into which
2 the consolidated or merged municipality will be divided for
3 the purpose of electing all or some members of its governing
4 body.

5 (d) Filing of petition.--The consolidation or merger
6 petition shall be filed with the election officials not later
7 than the 13th Tuesday prior to the next primary, municipal or
8 general election. The petition and proceedings on the petition
9 shall be conducted in the manner and subject to the provisions
10 of the election laws which relate to the signing, filing and
11 adjudication of nomination petitions insofar as the provisions
12 are applicable, except that no referendum petition shall be
13 signed or circulated prior to the 20th Tuesday before the
14 election, nor later than the 13th Tuesday before the election.

15 Section 3. Title 53 is amended by adding a section to read:

16 § 735.1. Initiative of electors seeking consolidation or merger
17 with new home rule charter.

18 (a) General rule.--In order for a commission and
19 consolidation or merger proceedings to be initiated by petition
20 of electors, petitions containing signatures of at least 5% of
21 the number of electors voting for the office of Governor in the
22 last gubernatorial general election in each municipality
23 proposed to be consolidated or merged shall be filed with the
24 county board of elections of the county in which the
25 municipality, or the greater portion of its territory, is
26 located.

27 (b) Notice to governing bodies affected.--When election
28 officials find that a petition is in proper order, they shall
29 send copies of the initiative petition without the signatures
30 thereon to the governing bodies of each of the municipalities

1 affected by the proposed consolidation or merger.

2 (c) Contents.--A petition shall set forth:

3 (1) The name of the municipality from which the signers
4 of the petition were obtained.

5 (2) The names of the municipalities proposed to be
6 consolidated or merged.

7 (3) The number of persons to compose the commission.

8 (4) The petition question which shall read as follows:

9 Shall a Government Study Commission of (seven, nine
10 or eleven) members be elected to study the issue of
11 consolidation or merger of (municipalities to be
12 consolidated or merged); to provide a recommendation
13 on consolidation or merger; to consider the
14 advisability of the adoption of a new home rule
15 charter; and to draft a new home rule charter, if
16 recommended in the report of the commission?

17 (d) Filing of petition and duty of election board.--

18 (1) A commission and consolidation or merger proceedings
19 petition under this section shall be filed with the election
20 officials not later than the 13th Tuesday prior to the next
21 primary, municipal or general election.

22 (2) The petition and proceedings on the petition shall
23 be conducted in the manner and subject to the provisions of
24 the election laws which relate to the signing, filing and
25 adjudication of nomination petitions insofar as the
26 provisions are applicable, except that no referendum petition
27 shall be signed or circulated prior to the 20th Tuesday
28 before the election, nor later than the 13th Tuesday before
29 the election.

30 (3) At the next general, municipal or primary election

1 occurring not less than the 13th Tuesday after the filing of
2 the petition with the county board of elections, it shall
3 cause the appropriate question to be submitted to the
4 electors of each of the municipalities proposed to be
5 consolidated or merged in the same manner as other questions
6 are submitted under the act of June 3, 1937 (P.L.1333,
7 No.320), known as the Pennsylvania Election Code.

8 (e) Election of members of commission.--

9 (1) A commission of seven, nine or eleven members, as
10 designated in the question, shall be elected by the qualified
11 voters at the same election the question is submitted to the
12 electors.

13 (2) Each candidate for the office of member of the
14 commission shall be nominated and placed upon the ballot
15 containing the question in the manner provided by and subject
16 to the provisions of the Pennsylvania Election Code, which
17 relate to the nomination of a candidate nominated by
18 nomination papers filed for other offices elective by the
19 voters. Each candidate shall be nominated and listed without
20 any political designation or slogan and no nomination paper
21 shall be signed or circulated prior to the 13th Tuesday
22 before the election nor later than the tenth Tuesday before
23 the election. No signature shall be counted unless it bears a
24 date within this period.

25 (3) Each elector shall be instructed to vote on the
26 question and, regardless of the manner of his vote on the
27 question, to vote for the designated number of members of the
28 commission who shall serve if the question is or has been
29 determined in the affirmative.

30 (4) If an insufficient number of nominating papers is

1 filed to fill all of the designated positions on the
2 commission, the question of establishing the commission shall
3 be placed on the ballot and, unless a sufficient number of
4 commission members are elected by receiving at least as many
5 votes as signatures are required to file a nominating
6 petition, then the question of creating the commission shall
7 be deemed to have been rejected.

8 (f) Nomination of candidates.--

9 (1) All candidates for a commission shall be electors.
10 Each candidate shall be nominated from the area of the
11 proposed consolidated or merged municipality by nomination
12 papers signed by a number of electors equal at least to 2% of
13 the number of electors voting for the office of Governor in
14 the last gubernatorial general election in each municipality
15 proposed to be consolidated or merged or 200 electors from
16 each municipality, whichever is less, and filed with the
17 county board of elections of the county in which the
18 municipality, or the greater portion of its territory, is
19 located not later than the tenth Tuesday prior to the date of
20 the election.

21 (2) Each nomination paper shall set forth the name,
22 place of residence and post office address of the candidate
23 thereby nominated, that the nomination is for the office of
24 commissioner and that the signers are legally qualified to
25 vote for the candidate. An elector may not sign nomination
26 papers for more candidates for the commission than he could
27 vote for at the election. Every elector signing a nomination
28 paper shall write his place of residence, post office address
29 and street number, if any, on the petition.

30 (3) Each nomination paper shall, before it may be filed

1 with the county board of elections, contain under oath of the
2 candidate an acceptance of the nomination in writing, signed
3 by the candidate therein nominated, upon or annexed to the
4 paper, or, if the same person be named in more than one
5 paper, upon or annexed to one of the papers. The acceptance
6 shall certify that the candidate is an elector, that the
7 nominee consents to run as a candidate at the election and
8 that, if elected, the candidate agrees to take office and
9 serve.

10 (4) Each nomination paper shall be verified by an oath
11 of one or more of the signers, taken and subscribed before a
12 person qualified under the laws of this Commonwealth to
13 administer an oath, to the effect that the paper was signed
14 by each of the signers in his proper handwriting, that the
15 signers are, to the best knowledge and belief of the affiant,
16 electors and that the nomination paper is prepared and filed
17 in good faith for the sole purpose of endorsing the person
18 named therein for election as stated in the paper.

19 (g) Results of election.--

20 (1) The result of the votes cast for and against the
21 question as to the election of a commission and consolidation
22 and merger proceedings shall be returned by the election
23 officers, and a canvass of the election had, as is provided
24 by law in the case of other public questions put to the
25 electors. The votes cast for members of the commission shall
26 be counted and the result returned by the county board of
27 electors of the county in which the municipality, or the
28 greater portion of its territory, is located, and a canvass
29 of the election had, as is provided by law in the case of
30 election of members of municipal councils or boards. The

1 designated number of candidates receiving the greatest number
2 of votes shall be elected and shall constitute the
3 commission. If a majority of those voting on the question
4 vote against the election of the commission, none of the
5 candidates shall be elected. If two or more candidates for
6 the last seat shall be equal in number of votes, they shall
7 draw lots to determine which one shall be elected.

8 (2) If, in accordance with subsection (e)(4), there has
9 been an insufficient number of nominating papers filed to
10 fill all of the designated positions on the commission and a
11 sufficient number of commission members are not elected by
12 receiving at least as many votes as signatures are required
13 to file a nominating petition, the question as to the
14 election of a commission and consolidation and merger
15 proceedings shall be deemed to have been rejected and shall
16 fail and none of the candidates shall be elected.

17 ~~(h) Oath of office of members of commission.~~ <—

18 ~~(1) As soon as possible and in any event no later than~~
19 ~~ten days after its certification of election, the members of~~
20 ~~a commission elected on a countywide basis shall, before a~~
21 ~~judge of a court of common pleas, make oath to support the~~
22 ~~Constitution of the United States and the Constitution of~~
23 ~~Pennsylvania and to perform the duties of the office with~~
24 ~~fidelity.~~

25 ~~(2) As soon as possible and in any event no later than~~

26 (H) OATH OF OFFICE OF MEMBERS OF COMMISSION.--AS SOON AS <—
27 POSSIBLE AND IN ANY EVENT NO LATER THAN ten days after its
28 certification of election, the members of a commission elected
29 on other than a countywide basis shall, before a JUDGE OR A <—
30 district justice, make oath to support the Constitution of the

1 United States and the Constitution of Pennsylvania and to
2 perform the duties of the office with fidelity.

3 (i) First meeting of commission.--

4 (1) As soon as possible and in any event no later than
5 15 days after its certification of election, a commission
6 shall organize and hold its first meeting and elect one of
7 its members chairman and another member vice chairman, fix
8 its hours and place of meeting and adopt rules for the
9 conduct of business it deems necessary and advisable.

10 (2) A majority of the members of the commission shall
11 constitute a quorum for the transaction of business, but no
12 recommendation of the commission shall have any legal effect
13 unless adopted by a majority of the whole number of the
14 members of the commission.

15 (j) Vacancies.--In case of a vacancy in a commission, the
16 remaining members of the commission shall fill it by appointing
17 thereto some other properly qualified elector.

18 (k) Function and duty of commission.--

19 (1) A commission shall study the issue of consolidation
20 or merger of the municipalities.

21 (2) The commission shall study the advisability of a new
22 home rule charter form of government for the proposed
23 consolidated or merged municipality and compare it with other
24 available forms under the laws of this Commonwealth and
25 determine in its judgment which form of government is more
26 clearly responsible or accountable to the people and its
27 operation more economical and efficient.

28 (3) If a new home rule charter is found to be the most
29 advisable form of government for the proposed consolidated or
30 merged municipality, the commission shall:

1 (i) Draft and recommend to the electorate a new home
2 rule charter for the proposed consolidated or merged
3 municipality containing a transitional plan and schedule
4 applicable to elected officers; Provided, However, That
5 nothing in this section shall be construed as authorizing
6 a consolidated or merged municipality adopting a new home
7 rule charter pursuant to this section to exercise powers
8 not granted to a municipality adopting a home rule
9 charter pursuant to Part III, Subpt. E (relating to home
10 rule and optional plan government).

11 (ii) If the new home rule charter calls for all or
12 any part of the governing body of the consolidated or
13 merged municipality to be elected on a district or ward
14 basis, prepare and set forth, as an appendix to the new
15 home rule charter:

16 (A) The district or ward boundaries established
17 to achieve substantially equal representation.

18 (B) The district or ward designation by number.

19 (C) The number of members of the municipal
20 governing body to be elected from each district or
21 ward.

22 (iii) Prepare and suggest for adoption by the
23 governing body of the newly consolidated or merged
24 municipality recommendations concerning:

25 (A) The disposition of assets that may be
26 surplus or unneeded as a result of the consolidation
27 or merger.

28 (B) The liquidation, assumption or other
29 disposition of existing indebtedness of the
30 consolidated or merged municipalities.

1 (C) A legally consistent uniform tax system to
2 be implemented throughout the consolidated or merged
3 municipality which provides the revenue necessary to
4 fund required municipal services.

5 (D) Ordinances to be uniformly enforced
6 throughout the consolidated or merged municipality,
7 which may be adopted by the new governing body of the
8 consolidated or merged municipality at its
9 organizational meeting; Provided, That codification
10 of all ordinances shall be completed as specified in
11 section 740 (relating to procedures).

12 (1) Compensation, personnel and commission budget.--

13 (1) Members of the commission shall serve without
14 compensation, but shall be reimbursed by the municipalities
15 proposed to be consolidated or merged for their necessary
16 expenses incurred in the performance of their duties.

17 (2) The commission may appoint one or more consultants
18 and clerical and other assistants to serve at the pleasure of
19 the commission and may fix reasonable compensation therefor
20 to be paid the consultants and clerical and other assistants.

21 (3) In accordance with this subsection, the commission
22 shall prepare and submit to the governing body of each of the
23 municipalities being considered for consolidation or merger,
24 budget estimates of the amount of money necessary to meet the
25 expenditures to be incurred by the commission in the carrying
26 out of its functions in accordance with this section,
27 including, but not limited to, reasonable estimations of the
28 necessary expenses of commission members, compensation of
29 consultants, clerical personnel and other assistants and
30 other expenditures incident to work of the commission.

1 (4) The commission shall prepare and submit an initial
2 budget submission that estimates expenses for the first nine-
3 month phase of the commission's work. The initial budget
4 estimate shall be submitted as soon as possible and in any
5 event no later than 45 days after the commission's
6 certification of election.

7 (5) If, during the first nine-month phase of its work,
8 the commission elects to prepare and submit a new home rule
9 charter for the proposed consolidated or merged municipality,
10 a final budget shall be submitted to the governing body of
11 each of the municipalities being considered for consolidation
12 or merger that estimates expenses to be incurred in the
13 completion of the commission's work.

14 (6) No later than 15 days after the submission of a
15 budget in accordance with paragraphs (4) or (5), a joint
16 public hearing of the commission and the governing bodies of
17 the municipalities shall be held. The governing bodies of the
18 municipalities to be consolidated or merged may, by
19 agreement, modify any budget submitted by the commission. A
20 governing body of a municipality to be consolidated or merged
21 may approve appropriations to the commission in conformity
22 with its share of the modified budget, as determined in
23 accordance with paragraph (7). Any unreasonable modification
24 of the budget may be subject to an action as provided in
25 paragraph (8) in the court of common pleas of any county
26 wherein a municipality to be consolidated or merged lies.

27 (7) The municipalities to be consolidated or merged may,
28 by agreement, determine the share that each municipality
29 shall appropriate to fund the estimated budget of the
30 commission. If no agreement as to the respective amount that

1 each municipality shall appropriate is reached, each
2 municipality shall appropriate funds equal to its pro rata
3 share of the total estimated budget of the commission based
4 upon its share of population to the total population of the
5 municipalities to be consolidated or merged.

6 (8) The commission may bring an action in the court of
7 common pleas of the county where a municipality is located
8 requesting that the court determine whether the municipality
9 has failed to reasonably modify an estimated budget or to
10 appropriate moneys in accordance with this subsection. The
11 court may provide appropriate relief, including, but not
12 limited to, ordering appropriation of funds in accordance
13 with the budget:

- 14 (i) as submitted by the commission or as modified by
15 the municipalities; or
16 (ii) as modified by the court.

17 (9) In all cases, the costs and fees of any action
18 brought by the commission under this subsection shall be paid
19 by the municipality or municipalities named as defendants.

20 (10) A municipality shall be entitled to a proportionate
21 reimbursement or offset of its share of the budget by any
22 publicly or privately contributed funds or services made
23 available to the commission.

24 (m) Hearings and public forums.--A commission shall hold one
25 or more public hearings and sponsor public forums and generally
26 shall provide for the widest possible public information and
27 discussion respecting the purposes and progress of its work.

28 (n) Report of findings and recommendations.--

29 (1) A commission shall report its findings and
30 recommendations to the citizens of the proposed consolidated

1 or merged municipalities within nine months from the date of
2 its election except that it shall be permitted an additional
3 nine months if it elects to prepare and submit a proposed new
4 home rule charter and an additional two months if it chooses
5 to provide for the election of its governing body by
6 districts. It shall publish or cause to be published
7 sufficient copies of its final report for public study and
8 information and shall deliver to the municipal clerk or
9 secretary of each municipality proposed to be consolidated or
10 merged sufficient copies of the report to supply it to any
11 interested citizen upon request. If the commission recommends
12 the adoption of a new home rule charter, the report shall
13 contain the complete plan as recommended.

14 (2) There shall be attached to each copy of the report
15 of the commission, as a part thereof, a statement sworn to by
16 the members of the commission listing in detail the funds,
17 goods, materials and services, both public and private, used
18 by the commission in the performance of its work and the
19 preparation and filing of the report and identifying
20 specifically the supplier of each item thereon.

21 (3) A copy of the final report of the commission with
22 its findings and recommendations shall be filed with the
23 Department of Community and Economic Development.

24 (4) All the records, reports, tapes, minutes of meetings
25 and written discussions of the commission shall, upon its
26 discharge, be turned over to the municipal clerk or secretary
27 of each municipality proposed to be consolidated or merged
28 for permanent safekeeping and made available for public
29 inspection at any time during regular business hours.

30 (o) Discharge of petition and amended reports.--

1 (1) A commission shall be discharged upon the filing of
2 its report, but, if the commission's recommendations require
3 further procedure in the form of a referendum on the part of
4 the electors, the commission shall not be discharged until
5 the procedure has been concluded. At any time prior to 60
6 days before the date of the referendum, the commission may
7 modify or change any recommendation set forth in the final
8 report by publishing an amended report.

9 (2) Whenever the commission issues an amended report
10 pursuant to paragraph (1), the amended report shall supersede
11 the final report and the final report shall cease to have any
12 legal effect.

13 (3) The procedure to be taken under the amended report
14 shall be governed by the provisions of this subpart
15 applicable to the final report of the commission submitted
16 pursuant to subsection (n).

17 (p) Types of action recommended.--A commission shall report
18 and recommend in accordance with this section:

19 (1) That a referendum shall be held that submits to the
20 electors the question of consolidating or merging the named
21 municipalities under a new home rule charter as prepared by
22 the commission.

23 (2) That no referendum shall be held because
24 consolidation or merger of the named municipalities under a
25 new home rule charter is not recommended by the commission.

26 (3) That the named municipalities consider such other
27 action as the commission recommends and deems advisable
28 consistent with its functions as set forth in this section.

29 (q) Specificity of recommendations.--

30 (1) If a commission recommends the adoption of a new

1 home rule charter, it shall specify the number OF MEMBERS to <—
2 be on the governing body, all offices to be filled by
3 election and whether elections shall be on an at-large,
4 district or combination district and at-large basis.

5 (2) Notwithstanding any other provisions of this
6 subpart, if an approved new home rule charter adopted
7 pursuant to the provisions of this subpart specifies that the
8 election of the governing body should be on an at-large,
9 district or combination district and at-large basis and the
10 basis recommended differs from the existing basis and
11 therefore requires the elimination of districts or the
12 establishment of revised or new districts, then election of
13 municipal officials shall not take place on the new basis
14 until the municipal election following the next primary
15 election taking place more than 180 days after the election
16 at which the referendum on the question of a consolidation or
17 merger and new home rule charter has been approved by the
18 electorate. The consolidation or merger and new home rule
19 charter shall not go into effect until the first Monday in
20 January following the election of municipal officials on the
21 new basis as provided in section 738 (relating to
22 effectuation of consolidation or merger). New or revised
23 districts shall be established by the commission and included
24 in the proposed charter.

25 (r) Form of question on consolidation or merger and new home
26 rule charter.--If a commission recommends consolidation or
27 merger and the adoption of a new home rule charter for the
28 municipalities to be consolidated or merged, the question to be
29 submitted to the voters for the adoption of consolidation or
30 merger and a new home rule charter shall be submitted in the

1 following form or such part as shall be applicable.

2 Shall the municipalities of (insert names of
3 municipalities consolidating or merging) be (insert
4 consolidated or merged) to become (insert name of new
5 municipality, type and class of municipality) under a new
6 home rule charter contained in the report, dated (insert
7 date), of the commission?

8 (s) Submission of question on consolidation or merger and
9 new home rule charter.--If a commission recommends that the
10 question of adopting consolidation or merger and a new home rule
11 charter authorized by this subpart should be submitted to the
12 electors, the municipal clerk or secretary of each municipality
13 proposed to be consolidated or merged shall, within five days
14 thereafter, certify a copy of the commission's report to the
15 county board of elections of the county in which the
16 municipality, or the greater portion of its territory, is
17 located, which shall cause the question of adoption or rejection
18 to be placed upon the ballot or voting machines at the time as
19 the commission specifies in its report. The commission may cause
20 the question to be submitted to the electors at the next
21 primary, municipal or general election occurring not less than
22 60 days following the filing of a copy of the commission's
23 report with the county board of elections, at the time the
24 commission's report directs. At the election, the question of
25 adopting consolidation or merger and a new home rule charter
26 recommended by the commission shall be submitted to the electors
27 by the county board of elections in the same manner as other
28 questions are submitted to the electors under the Pennsylvania
29 Election Code. The commission shall frame the question to be
30 placed upon the ballot as provided for in subsection (r) and, if

1 it deems appropriate, an interpretative statement to accompany
2 the question.

3 (t) Amendment of new home rule charter.--The procedure for
4 amending the new home rule charter of the consolidated or merged
5 municipality created under this subpart shall be through the
6 initiative procedure and referendum or ordinance of the
7 governing body as provided for in Subchapter C of Chapter 29
8 (relating to amendment of existing charter or optional plan).

9 (u) General powers and limitation of consolidated or merged
10 municipality under new home rule charter.--Nothing in this
11 section shall be construed as authorizing a consolidated or
12 merged municipality adopting a new home rule charter to exercise
13 powers not granted to a municipality adopting a home rule
14 charter pursuant to Subpart E of Part III.

15 (V) DEFINITION.--AS USED IN THIS SECTION, THE TERM
16 "MUNICIPALITY" SHALL NOT INCLUDE A COUNTY OF ANY CLASS.

<—

17 Section 4. Sections 736, 737, 738, 739(a), 740(a) and 741 of
18 Title 53 are amended to read:

19 § 736. Conduct of referenda.

20 (a) Duty to place on ballot.--Following initiation of
21 proceedings for consolidation or merger by the procedures set
22 forth either in section 734 (relating to joint agreement of
23 governing bodies) or 735 (relating to initiative of electors
24 seeking consolidation or merger without new home rule charter),
25 the question of consolidation or merger as set forth in the
26 joint agreement or initiative petition shall be placed before
27 the electors of each of the municipalities proposed to be
28 consolidated or merged. A referendum shall be held at the first
29 primary, municipal or general election occurring at least 13
30 weeks after either:

1 (1) the date of the general agreement entered into under
2 the provisions of section 734; or

3 (2) the date of filing of the petition filed under the
4 provisions of section 735.

5 (a.1) Referenda under section 735.1.--Referenda authorized
6 under section 735.1 (relating to initiative of electors seeking
7 consolidation or merger with new home rule charter) shall be
8 placed on the ballot in accordance with section 735.1(d)(3) and
9 (s).

10 (b) Approval.--[Consolidation] Pursuant to sections 734, 735
11 and 735.1 consolidation or merger shall not be effective unless
12 the referendum question is approved by a majority of the
13 electors voting in each of the municipalities in which the
14 referendum is held. If in any one of the municipalities in which
15 the referendum is held a majority vote in favor of consolidation
16 or merger does not result, the referendum shall fail and
17 consolidation or merger shall not take place. The same question
18 in accordance with sections 734 or 735, or the same question
19 described in the proposal for consolidation or merger with a new
20 home rule charter in accordance with section 735.1 described in
21 the consolidation or merger proposal shall not be voted on again
22 for a period of five years.

23 (c) Subsequent referenda.--The five-year moratorium on
24 voting the same consolidation or merger question as provided in
25 subsection (b) shall be deemed not to apply to any subsequent
26 referendum question involving a consolidation or merger of any
27 combination of two or more contiguous municipalities if the
28 referendum question differs or is dissimilar in any way from a
29 previous referendum question which was not approved as provided
30 for in subsection (b).

1 § 737. Consolidation or merger agreement.

2 (a) Form.--Upon favorable action by the electorate on
3 consolidation or merger, in cases where consolidation or merger
4 was initiated by petition of electors under section 735
5 (relating to initiative of electors seeking consolidation or
6 merger without new home rule charter), the governing bodies of
7 the municipalities to be consolidated or merged shall meet
8 within 60 days after the certification of the favorable vote and
9 shall within a reasonable time after certification make a
10 consolidation or merger agreement as follows:

11 (1) If the governing body, or part of the governing
12 body, of the consolidated or merged municipality is to be
13 elected on a district or ward basis, the agreement shall set
14 forth the district or ward boundaries and the district or
15 ward designation, by number, and the number of members of the
16 municipal governing body to be elected from each district or
17 ward. The boundaries of the districts or wards shall be
18 established to achieve substantially equal representation.

19 (2) The agreement shall set forth terms for:

20 (i) The disposition of the existing assets of each
21 municipality.

22 (ii) The liquidation of the existing indebtedness of
23 each municipality.

24 (iii) The assumption, assignment and disposition of
25 the existing liabilities of each municipality, either
26 jointly, separately or in certain defined proportions, by
27 separate rates of taxation within each of the constituent
28 municipalities until consolidation or merger becomes
29 effective pursuant to section 738 (relating to
30 effectuation of consolidation or merger).

1 (3) The agreement shall set forth the governmental
2 organization of the consolidated or merged municipality
3 insofar as it concerns elected officers and shall contain a
4 transitional plan and schedule applicable to elected
5 officers.

6 (4) The agreement shall provide for common
7 administration and uniform enforcement of ordinances within
8 the consolidated or merged municipality.

9 (5) The agreement shall also provide, consistent with
10 existing law, for the implementation of a uniform tax system
11 throughout the consolidated or merged municipality which
12 shall provide the revenue necessary to fund required
13 municipal services.

14 (b) Filing.--A copy of the consolidation or merger agreement
15 under this section or the joint agreement under section 734
16 (relating to joint agreement of governing bodies) after approval
17 by the electorate shall be filed with the Department of
18 Community [Affairs] and Economic Development, the Department of
19 Transportation, the Governor's Office of Policy Development or
20 its successor, the Department of Education, the State Tax
21 Equalization Board and the Legislative Data Processing
22 Committee. A copy shall also be filed with the court of common
23 pleas and the board of county commissioners of the county or
24 counties in which municipalities affected are located.

25 § 738. Effectuation of consolidation or merger.

26 Municipalities consolidated or merged shall continue to be
27 governed as before consolidation or merger until the date
28 stipulated in the transitional plan and schedule provided for in
29 sections 734 (relating to joint agreement of governing bodies)
30 and 737 (relating to consolidation or merger agreement)[. New],

1 or the transitional plan provided for by a study commission
2 pursuant to section 735.1 (relating to initiative of electors
3 seeking consolidation or merger with new home rule charter).
4 Subject to the provisions of section 735.1(q), new officials
5 required to be elected shall take office on the first Monday of
6 January following the municipal election designated in the
7 transitional plan and schedule. At that municipal election, the
8 necessary officers of the consolidated or merged municipality
9 shall be elected in accordance with the terms of the general law
10 affecting municipalities of the kind or class of the
11 consolidated or merged municipality or, in case of a
12 consolidated or merged municipality operating under a home rule
13 charter or optional plan of government, in accordance with the
14 charter or optional plan or with general law affecting home rule
15 or optional plan municipalities, as applicable. The officers
16 elected at that municipal election shall be elected for terms of
17 office under the plan and schedule set forth in the
18 consolidation or merger agreement authorized by section 734 or
19 737, or the transitional plan provided for by a commission
20 pursuant to section 735.1, as the case may be. They shall take
21 office as officers of the consolidated or merged municipality on
22 the first Monday of January following the municipal election at
23 which they were elected, and upon assumption of office, the
24 consolidated or merged municipality shall begin to function and
25 the former municipalities consolidated or merged into it shall
26 be abolished.

27 § 739. Effect of transition on employees of consolidated or
28 merged municipality.

29 (a) Transition.--As of the date when a consolidated or
30 merged municipality shall begin to function, except for those

1 officers and employees which are protected by any tenure of
2 office, civil service provisions or collective bargaining
3 agreement, all appointive offices and positions then existing in
4 all former municipalities involved in the consolidation or
5 merger shall be subject to the terms of the consolidation or
6 merger agreement or transitional plan as provided for in section
7 735.1 (relating to initiative of electors seeking consolidation
8 or merger with new home rule charter). Provisions shall be made
9 for instances in which there is duplication of positions,
10 including, but not limited to, chief of police or manager, and
11 for other matters such as varying length of employee contracts,
12 different civil service regulations in the constituent
13 municipalities and differing ranks and position classifications
14 for similar positions.

15 * * *

16 § 740. Procedures.

17 (a) Ordinance book.--After consolidation becomes effective,
18 a new ordinance book shall be used by the municipality, and,
19 except for a municipality consolidated or merged under section
20 735.1 (relating to initiative of electors seeking consolidation
21 or merger with new home rule charter), the first document to be
22 recorded in it shall be the consolidation agreement.

23 * * *

24 § 741. Court review of transitional plan.

25 [After] (a) General rule.--Except as provided in subsection
26 (b), after the approval of a referendum pursuant to section 736
27 (relating to conduct of referenda), any person who is a resident
28 of a municipality to be consolidated or merged may petition the
29 court of common pleas to order the appropriate municipal
30 governing bodies to:

1 (1) implement the terms of a transitional plan and
2 schedule adopted pursuant to section 734 (relating to joint
3 agreement of governing bodies) or 737 (relating to
4 consolidation or merger agreement); or

5 (2) adopt or amend a transitional plan or schedule if
6 the court finds that the failure to do so will result in the
7 unreasonable perpetuation of the separate forms and
8 classifications of government existing in the affected
9 municipalities prior to the approval of the referendum.

10 (b) Exception.--After consolidation or merger pursuant to
11 section 735.1 (relating to initiative of electors seeking
12 consolidation or merger with new home rule charter), any person
13 who is a resident of the newly consolidated or merged
14 municipality may petition the court of common pleas to order the
15 governing body of that municipality to act to accept or provide
16 alternatives to the recommendations of the commission in
17 accordance with section 735.1(k)(3)(iii).

18 Section 5. This act shall take effect in 60 days.