

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1429 Session of 2010

INTRODUCED BY EICHELBERGER, MUSTO, M. WHITE, WOZNIAK, MENSCH, PICCOLA, FOLMER, ALLOWAY, WARD, D. WHITE, EARLL, WAUGH, BRUBAKER, ARGALL AND BOSCOLA, JUNE 28, 2010

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 6, 2010

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for consolidations
3 and mergers.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Sections 732, 733, 734, 735, 735.1 and 737 of
7 Title 53 of the Pennsylvania Consolidated Statutes are amended
8 to read:

9 ~~§ 732. Definitions.~~

10 ~~The following words and phrases when used in this subchapter~~
11 ~~shall have the meanings given to them in this section unless the~~
12 ~~context clearly indicates otherwise:~~

13 ~~"Commission." A board of members elected under the~~
14 ~~provisions of section 735.1 (relating to initiative of electors~~
15 ~~seeking consolidation or merger with new home rule charter) to~~
16 ~~consider the advisability of the adoption of a new home rule~~
17 ~~charter for the proposed consolidated or merged municipality~~

1 ~~and, if advisable, to draft and recommend a new home rule~~
2 ~~charter to the electorate.~~

3 ~~"Consolidated or merged municipality." A municipal entity~~
4 ~~resulting from successful consolidation or merger proceedings~~
5 ~~under this subchapter.~~

6 ~~"Consolidation." The combination of two or more~~
7 ~~municipalities which results in the termination of the existence~~
8 ~~of each of the municipalities to be consolidated and the~~
9 ~~creation of a new municipality which assumes jurisdiction over~~
10 ~~all of the municipalities which have been terminated.~~

11 ~~"Contiguous territory." A territory of which a portion abuts~~
12 ~~the boundary of another municipality, including territory~~
13 ~~separated from the exact boundary of another municipality by a~~
14 ~~street, road, railroad or highway or by a river or other natural~~
15 ~~or artificial stream of water.~~

16 ~~"Election officials." The county boards of election.~~

17 ~~"Electors." The registered voters of a municipality involved~~
18 ~~in proceedings relating to the adoption and repeal of optional~~
19 ~~forms of government.~~

20 ~~"Governing body." The council in cities, boroughs and~~
21 ~~incorporated towns; the board of commissioners in counties of~~
22 ~~the third, fourth, fifth, sixth, seventh and eighth classes and~~
23 ~~townships of the first class; the board of supervisors in~~
24 ~~townships of the second class; or the legislative policymaking~~
25 ~~body in home rule municipalities.~~

26 ~~"Initiative." The filing with applicable election officials~~
27 ~~of a petition containing a proposal for a referendum to be~~
28 ~~placed on the ballot of the next election. The petition shall~~
29 ~~be:~~

30 ~~(1) Filed not later than the 13th Tuesday prior to the~~

1 ~~next election in which it will appear on the ballot.~~

2 ~~(2) Signed by voters comprising 5% of the number of~~
3 ~~electors voting for the office of Governor in the last~~
4 ~~gubernatorial general election in the municipality where the~~
5 ~~proposal will appear on the ballot.~~

6 ~~(3) Placed on the ballot by election officials in a~~
7 ~~manner fairly representing the content of the petition for~~
8 ~~decision by referendum at the election.~~

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

10 ~~"Merger." The combination of two or more municipalities~~
11 ~~which results in the termination of the existence of all but one~~
12 ~~of the municipalities to be merged with the surviving~~
13 ~~municipality absorbing and assuming jurisdiction over the~~
14 ~~municipalities which have been terminated.~~

15 ~~"Municipality." Every county other than a county of the~~
16 ~~first class, second class and second class A, every city other~~
17 ~~than a city of the first or second class, and every borough,~~
18 ~~incorporated town, township and home rule municipality other~~
19 ~~than a home rule municipality which would otherwise be a city of~~
20 ~~the first or second class.~~

21 ~~"New home rule charter." A written document that defines the~~
22 ~~powers, structure, privileges, rights and duties of the proposed~~
23 ~~consolidated or merged municipality, the limitations thereon and~~
24 ~~that provides for the composition and election of the governing~~
25 ~~body chosen by popular elections.~~

26 ~~"Referendum." A vote seeking approval by a majority of~~
27 ~~electors voting on a question of consolidation or merger placed~~
28 ~~on the ballot by initiative or otherwise.~~

29 § 733. Procedure for consolidation or merger.

30 (a) General rule.--Two or more municipalities may be

1 consolidated or merged into a single municipality, whether
2 within the same or different counties, if each of the
3 municipalities is contiguous to at least one of the other
4 consolidating or merging municipalities and if together the
5 municipalities would form a consolidated or merged municipality.
6 Consolidation or merger may be commenced by one of the
7 following:

8 (1) Joint agreement of the governing bodies of the
9 municipalities proposed for consolidation or merger approved
10 by ordinance followed by approval by the electorate of the
11 joint agreement.

12 (2) Initiative of electors.

13 (3) One or more of the municipalities using a joint
14 agreement followed by approval by the electorate of the joint
15 agreement and one or more of the municipalities using
16 initiative of electors.

17 (b) Combination of joint agreement and initiative.--When
18 consolidation or merger is commenced by a combination of joint
19 agreements and initiatives, the initiative petition and
20 municipal joint agreement shall be materially consistent.

21 (c) Approval of home rule charter or optional plan.--At the
22 same time that voters approve or disapprove the consolidation or
23 merger of two or more municipalities, voters may approve or
24 disapprove a new home rule charter or an optional plan under
25 Subpart E of Part III (relating to home rule and optional plan
26 government) that will govern the newly formed municipality
27 resulting from the merger or consolidation. The same ballot may
28 contain a question to consolidate or merge two or more
29 municipalities and a question to adopt a home rule charter or an
30 optional plan.



1 (D) STUDY OF HOME RULE CHARTER OR OPTIONAL PLAN.--EXCEPT AS
2 PROVIDED IN SECTIONS 734 (RELATING TO JOINT AGREEMENT OF
3 GOVERNING BODIES) AND 735.1 (RELATING TO INITIATIVE OF ELECTORS
4 SEEKING CONSOLIDATION OR MERGER WITH NEW HOME RULE CHARTER), THE
5 PROCEDURE PROVIDED FOR IN SUBSECTION (C) SHALL NOT BE UTILIZED
6 UNLESS THE SAME HOME RULE CHARTER OR OPTIONAL PLAN HAS BEEN
7 RECOMMENDED BY A GOVERNMENT STUDY COMMISSION ELECTED IN
8 ACCORDANCE WITH CH. 29 SUBCH. B (RELATING TO PROCEDURE FOR
9 ADOPTION OF HOME RULE CHARTER OR OPTIONAL PLAN OF GOVERNMENT) IN
10 EACH OF THE MUNICIPALITIES TO BE MERGED OR CONSOLIDATED.
11 NOTWITHSTANDING ANY LIMITATIONS ON THE POWERS AND DUTIES OF
12 GOVERNMENT STUDY COMMISSIONS PROVIDED IN CH. 29 SUBCH. B, THE
13 COMMISSIONS MAY STUDY AND RECOMMEND A HOME RULE CHARTER OR
14 OPTIONAL PLAN THAT WOULD BE ADOPTED BY THE CONSOLIDATED OR
15 MERGED MUNICIPALITIES CONCURRENTLY WITH THE STUDY OF THE ISSUE
16 OF CONSOLIDATION OR MERGER OF THE MUNICIPALITIES.

17 § 734. Joint agreement of governing bodies.

18 (a) General rule.--The governing body of each municipality
19 proposed to be consolidated or merged shall enter into a joint
20 agreement under the official seal of each municipality to
21 consolidate or merge into one municipality.

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

24 (1) The name of each municipality that is a party to the
25 agreement.

26 (2) The name and the territorial boundaries of the
27 consolidated or merged municipality.

28 (3) The type and class of the consolidated or merged
29 municipality.

30 (4) Whether a consolidated or merged municipality shall

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

27 (5) The number of districts or wards, if any, into which
28 the consolidated or merged municipality will be divided for
29 the purpose of electing all or some members of its governing
30 body, and the boundaries of wards or districts shall be

1 established to achieve substantially equal representation.

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

8 (7) Terms for:

9 (i) The disposition of existing assets of each
10 municipality.

11 (ii) The liquidation of existing indebtedness of
12 each municipality.

13 (iii) The assumption, assignment or disposition of
14 existing liabilities of each municipality, either
15 jointly, separately or in certain defined proportions, by
16 separate rates of taxation within each of the constituent
17 municipalities until consolidation or merger becomes
18 effective pursuant to section 738 (relating to
19 effectuation of consolidation or merger).

20 (iv) The implementation of a legally consistent
21 uniform tax system throughout the consolidated or merged
22 municipality which provides the revenue necessary to fund
23 required municipal services.

24 (8) The governmental organization of the consolidated or
25 merged municipality insofar as it concerns elected officers.

26 (9) A transitional plan and schedule applicable to
27 elected officers.

28 (10) The common administration and enforcement of
29 ordinances enforced uniformly within the consolidated or
30 merged municipality.

1 (c) Transitional planning committee.--In preparing and
2 adopting a joint agreement, the governing bodies of the
3 municipalities may appoint a transitional planning committee
4 composed of residents of the respective municipalities, ←
5 INCLUDING NOT MORE THAN ONE OF WHOM MAY BE A MEMBER OF THE
6 GOVERNING BODY OF EACH MUNICIPALITY, to study and make
7 recommendations to the governing bodies regarding transitional
8 plans and schedules, common administration and uniform
9 enforcement of ordinances, consolidation and merger of
10 departments and staff and other matters of concern to the
11 governing bodies. The transitional planning committee, if
12 created, shall continue for a maximum of six months after the
13 effective date of the consolidation or merger to advise the new
14 governing body of the consolidated or merged municipality on
15 merging budgets, staffing and operations.

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

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

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

1 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 name of the consolidated or merged municipality.

8 (4) The type and class of the consolidated or merged
9 municipality.

10 (5) 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 an
20 optional plan of government that has not been previously
21 adopted in accordance with [the Home Rule Charter and
22 Optional Plans Law or] Subpart E of Part III by any of the
23 municipalities to be consolidated or merged, but which has
24 been selected from among the options provided for in Subpart
25 E of Part III and is identified in the petition; provided,
26 however, that nothing in this subchapter shall be construed
27 as authorizing a municipality adopting an optional plan of
28 government pursuant to this subchapter to exercise powers not
29 granted to a municipality adopting an optional plan of
30 government pursuant to Subpart E of Part III.

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

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

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

21 § 735.1. Initiative of electors seeking consolidation or merger
22 with new home rule charter.

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

1 located.

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

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

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

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

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

13 (4) The petition question which shall read as follows:
14 Shall a Government Study Commission of (seven, nine
15 or eleven) members be elected to study the issue of
16 consolidation or merger of (municipalities to be
17 consolidated or merged); to provide a recommendation
18 on consolidation or merger; to consider the
19 advisability of the adoption of a new home rule
20 charter; and to draft a new home rule charter, if
21 recommended in the report of the commission?

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

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

27 (2) The petition and proceedings on the petition shall
28 be conducted in the manner and subject to the provisions of
29 the election laws which relate to the signing, filing and
30 adjudication of nomination petitions insofar as the

1 provisions are applicable, except that no referendum petition
2 shall be signed or circulated prior to the 20th Tuesday
3 before the election, nor later than the 13th Tuesday before
4 the election.

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

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

14 (1) A commission of seven, nine or eleven members, as
15 designated in the question, shall be elected by the qualified
16 voters at the same election the question is submitted to the
17 electors.

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

30 (3) Each elector shall be instructed to vote on the

1 question and, regardless of the manner of his vote on the
2 question, to vote for the designated number of members of the
3 commission who shall serve if the question is or has been
4 determined in the affirmative.

5 (4) If an insufficient number of nominating papers is
6 filed to fill all of the designated positions on the
7 commission, the question of establishing the commission shall
8 be placed on the ballot and, unless a sufficient number of
9 commission members are elected by receiving at least as many
10 votes as signatures are required to file a nominating
11 petition, then the question of creating the commission shall
12 be deemed to have been rejected.

13 (f) Nomination of candidates.--

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

26 (2) Each nomination paper shall set forth the name,
27 place of residence and post office address of the candidate
28 thereby nominated, that the nomination is for the office of
29 commissioner and that the signers are legally qualified to
30 vote for the candidate. An elector may not sign nomination

1 papers for more candidates for the commission than he could
2 vote for at the election. Every elector signing a nomination
3 paper shall write his place of residence, post office address
4 and street number, if any, on the petition.

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

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

23 (g) Results of election.--

24 (1) The result of the votes cast for and against the
25 question as to the election of a commission and consolidation
26 and merger proceedings shall be returned by the election
27 officers, and a canvass of the election had, as is provided
28 by law in the case of other public questions put to the
29 electors. The votes cast for members of the commission shall
30 be counted and the result returned by the county board of

1 electors of the county in which the municipality, or the
2 greater portion of its territory, is located, and a canvass
3 of the election had, as is provided by law in the case of
4 election of members of municipal councils or boards. The
5 designated number of candidates receiving the greatest number
6 of votes shall be elected and shall constitute the
7 commission. If a majority of those voting on the question
8 vote against the election of the commission, none of the
9 candidates shall be elected. If two or more candidates for
10 the last seat shall be equal in number of votes, they shall
11 draw lots to determine which one shall be elected.

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

21 (h) Oath of office of members of commission.--[As soon as
22 possible and in any event no]

23 (1) No later than ten days after its certification of
24 election, the members of a commission elected on a countywide
25 basis shall, before a judge of the court of common pleas in
26 the county where the election was held, make oath to support
27 the Constitution of the United States and the Constitution of
28 Pennsylvania and to perform the duties of the office with
29 fidelity.

30 (2) No later than ten days after its certification of

1 election, the members of a commission elected on other than a
2 countywide basis shall, before a judge or a [district
3 justice] magisterial district judge, make oath to support the
4 Constitution of the United States and the Constitution of
5 Pennsylvania and to perform the duties of the office with
6 fidelity.

7 (i) First meeting of commission.--

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

14 (2) A majority of the members of the commission shall
15 constitute a quorum for the transaction of business, but no
16 recommendation of the commission shall have any legal effect
17 unless adopted by a majority of the whole number of the
18 members of the commission.

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

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

23 (1) A commission shall study the issue of consolidation
24 or merger of the municipalities.

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

1 operation more economical and efficient.

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

5 (i) Draft and recommend to the electorate a new home
6 rule charter for the proposed consolidated or merged
7 municipality containing a transitional plan and schedule
8 applicable to elected officers, provided, however, that
9 nothing in this section shall be construed as authorizing
10 a consolidated or merged municipality adopting a new home
11 rule charter pursuant to this section to exercise powers
12 not granted to a municipality adopting a home rule
13 charter pursuant to Subpart E of Part III (relating to
14 home rule and optional plan government).

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

20 (A) The district or ward boundaries established
21 to achieve substantially equal representation.

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

23 (C) The number of members of the municipal
24 governing body to be elected from each district or
25 ward.

26 (iii) Prepare and suggest for adoption by the
27 governing body of the newly consolidated or merged
28 municipality recommendations concerning:

29 (A) The disposition of assets that may be
30 surplus or unneeded as a result of the consolidation

1 or merger.

2 (B) The liquidation, assumption or other
3 disposition of existing indebtedness of the
4 consolidated or merged municipalities.

5 (C) A legally consistent uniform tax system to
6 be implemented throughout the consolidated or merged
7 municipality which provides the revenue necessary to
8 fund required municipal services.

9 (D) Ordinances to be uniformly enforced
10 throughout the consolidated or merged municipality,
11 which may be adopted by the new governing body of the
12 consolidated or merged municipality at its
13 organizational meeting, provided that codification of
14 all ordinances shall be completed as specified in
15 section 740 (relating to procedures).

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

17 (1) Members of the commission shall serve without
18 compensation but shall be reimbursed by the municipalities
19 proposed to be consolidated or merged for their necessary
20 expenses incurred in the performance of their duties.

21 (2) The commission may appoint one or more consultants
22 and clerical and other assistants to serve at the pleasure of
23 the commission and may fix reasonable compensation therefor
24 to be paid the consultants and clerical and other assistants.

25 (3) In accordance with this subsection, the commission
26 shall prepare and submit, to the governing body of each of
27 the municipalities being considered for consolidation or
28 merger, budget estimates of the amount of money necessary to
29 meet the expenditures to be incurred by the commission in the
30 carrying out of its functions in accordance with this

1 section, including, but not limited to, reasonable
2 estimations of the necessary expenses of commission members,
3 compensation of consultants, clerical personnel and other
4 assistants and other expenditures incident to work of the
5 commission.

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

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

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

1 wherein a municipality to be consolidated or merged lies.

2 (7) The municipalities to be consolidated or merged may,
3 by agreement, determine the share that each municipality
4 shall appropriate to fund the estimated budget of the
5 commission. If no agreement as to the respective amount that
6 each municipality shall appropriate is reached, each
7 municipality shall appropriate funds equal to its pro rata
8 share of the total estimated budget of the commission based
9 upon its share of population to the total population of the
10 municipalities to be consolidated or merged.

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

19 (i) as submitted by the commission or as modified by
20 the municipalities; or

21 (ii) as modified by the court.

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

25 (10) A municipality shall be entitled to a proportionate
26 reimbursement or offset of its share of the budget by any
27 publicly or privately contributed funds or services made
28 available to the commission.

29 (m) Hearings and public forums.--A commission shall hold one
30 or more public hearings and sponsor public forums and generally

1 shall provide for the widest possible public information and
2 discussion respecting the purposes and progress of its work.

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

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

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

26 (3) A copy of the final report of the commission with
27 its findings and recommendations shall be filed with the
28 Department of Community and Economic Development.

29 (4) All the records, reports, tapes, minutes of meetings
30 and written discussions of the commission shall, upon its

1 discharge, be turned over to the municipal clerk or secretary
2 of each municipality proposed to be consolidated or merged
3 for permanent safekeeping and made available for public
4 inspection at any time during regular business hours.

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

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

14 (2) Whenever the commission issues an amended report
15 pursuant to paragraph (1), the amended report shall supersede
16 the final report, and the final report shall cease to have
17 any legal effect.

18 (3) The procedure to be taken under the amended report
19 shall be governed by the provisions of this subpart
20 applicable to the final report of the commission submitted
21 pursuant to subsection (n).

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

24 (1) That a referendum shall be held that submits to the
25 electors the question of consolidating or merging the named
26 municipalities under a new home rule charter as prepared by
27 the commission.

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

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

4 (q) Specificity of recommendations.--

5 (1) If a commission recommends the adoption of a new
6 home rule charter, it shall specify the number of members to
7 be on the governing body, all offices to be filled by
8 election and whether elections shall be on an at-large,
9 district or combination district and at-large basis.

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

30 (r) Form of question on consolidation or merger and new home

1 rule charter.--If a commission recommends consolidation or
2 merger and the adoption of a new home rule charter for the
3 municipalities to be consolidated or merged, the question to be
4 submitted to the voters for the adoption of consolidation or
5 merger and a new home rule charter shall be submitted in the
6 following form or such part as shall be applicable:

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

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

1 by the county board of elections in the same manner as other
2 questions are submitted to the electors under the Pennsylvania
3 Election Code. The commission shall frame the question to be
4 placed upon the ballot as provided for in subsection (r) and, if
5 it deems appropriate, an interpretative statement to accompany
6 the question.

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

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

19 [(v) Definition.--As used in this section, the term
20 "municipality" shall not include a county of any class.]

21 § 737. Consolidation or merger agreement.

22 (a) Form.--Upon favorable action by the electorate on
23 consolidation or merger, in cases where consolidation or merger
24 was initiated by petition of electors under section 735
25 (relating to initiative of electors seeking consolidation or
26 merger without new home rule charter), the governing bodies of
27 the municipalities to be consolidated or merged shall meet
28 [within 60 days] as deemed necessary after the certification of
29 the favorable vote and shall within [a reasonable time] one year
30 after certification [make] enter into a consolidation or merger

1 agreement as follows:

2 (1) If the governing body, or part of the governing
3 body, of the consolidated or merged municipality is to be
4 elected on a district or ward basis, the agreement shall set
5 forth the district or ward boundaries and the district or
6 ward designation, by number, and the number of members of the
7 municipal governing body to be elected from each district or
8 ward. The boundaries of the districts or wards shall be
9 established to achieve substantially equal representation.

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

11 (i) The disposition of the existing assets of each
12 municipality.

13 (ii) The liquidation of the existing indebtedness of
14 each municipality.

15 (iii) The assumption, assignment and disposition of
16 the existing liabilities of each municipality, either
17 jointly, separately or in certain defined proportions, by
18 separate rates of taxation within each of the constituent
19 municipalities until consolidation or merger becomes
20 effective pursuant to section 738 (relating to
21 effectuation of consolidation or merger).

22 (3) The agreement shall set forth the governmental
23 organization of the consolidated or merged municipality
24 insofar as it concerns elected officers and shall contain a
25 transitional plan and schedule applicable to elected
26 officers.

27 (4) The agreement shall provide for common
28 administration and uniform enforcement of ordinances within
29 the consolidated or merged municipality.

30 (5) The agreement shall also provide, consistent with

1 existing law, for the implementation of a uniform tax system
2 throughout the consolidated or merged municipality which
3 shall provide the revenue necessary to fund required
4 municipal services.

5 (6) The agreement shall mandate full implementation of
6 the consolidation or merger plan within four years following
7 the date of certification.

8 (b) Filing.--[A] Within 30 days following certification of
9 electorate approval by the county boards of election, a copy of
10 the consolidation or merger agreement under this section or the
11 joint agreement under section 734 (relating to joint agreement
12 of governing bodies) [after approval by the electorate] shall be
13 filed with the Department of Community and Economic Development,
14 the Department of Transportation, the Governor's Office of
15 Policy Development or its successor, the Department of
16 Education, the State Tax Equalization Board and the Legislative
17 Data Processing Committee. A copy shall also be filed with the
18 court of common pleas and the board of county commissioners of
19 the county or counties in which municipalities affected are
20 located.

21 ~~Section 2. Title 53 is amended by adding a section to read:~~ ←
22 ~~§ 742. Financial assistance.~~

23 ~~(a) Commonwealth Municipalities Consolidation and Merger~~ ←
24 ~~Program. There is established within the department a financial~~
25 ~~assistance program to be known as the Commonwealth~~
26 ~~Municipalities Consolidation and Merger Program. The purpose of~~
27 ~~the program will be to provide, under guidelines to be issued by~~
28 ~~the department and from moneys appropriated, from time to time,~~
29 ~~by the General Assembly, loans and grants to municipalities to~~
30 ~~be used for the following:~~

~~(1) to help defray the costs of study and implementation of consolidations and mergers;~~

~~(2) to help defray the costs associated with home rule optional form of government commissions;~~

~~(3) to help defray the costs of transitioning to the merged or consolidated municipalities; and~~

~~(4) to provide financial support for economic and community development assistance in the merged or consolidated municipalities.~~

~~(b) Priority under existing programs. In addition to any funding provided under subsection (a), a consolidated or merged~~

~~(A) PRIORITY UNDER EXISTING PROGRAMS.~~ ←

~~(1) A CONSOLIDATED OR MERGED municipality shall receive priority for economic and community development assistance under existing Commonwealth programs for a period not to exceed five years from the date of the merger or consolidation.~~

~~(1) (2) Funds awarded to a consolidated or merged municipality shall only be released upon concurrence by the department that the program to be funded is consistent with the implementation of the merger or consolidation initiative.~~ ←

~~(2) (3) Upon receiving the certified copy of the election results, ballot question and transition plan under section 737(b) (relating to consolidation of merger agreement), the department shall notify all Commonwealth agencies of the consolidated or merged municipality's eligibility for priority status under this section.~~ ←

~~(3) Nothing in this section shall be construed to alter~~ ←

~~(B) CONSTRUCTION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALTER the priority of economic and community~~ ←

1 ~~development assistance approved and encumbered by any~~
2 ~~Commonwealth agency on the effective date of this section.~~

3 ~~(c) Definition. As used in this section, "department" shall~~
4 ~~mean the Department of Community and Economic Development of the~~
5 ~~Commonwealth.~~

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