

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1385 Session of
2023

INTRODUCED BY JAMES, FREEMAN, SAPPEY, SMITH-WADE-EL AND MOUL,
JUNE 12, 2023

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 12, 2023

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in general provisions relating to home
3 rule and optional plan government, further providing for
4 definitions, providing for appointment of government study
5 commission in distressed municipality and further providing
6 for first meeting of commission, for function and duty of
7 commission, for hearings and public forums, for report of
8 findings and recommendations, for limitation on enactment of
9 ordinance or filing of petition and for limitation on
10 municipal powers.

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

13 Section 1. The definition of "government study commission"
14 or "commission" in section 2902 of Title 53 of the Pennsylvania
15 Consolidated Statutes is amended and the section is amended by
16 adding a definition to read:

17 § 2902. Definitions.

18 Subject to additional definitions contained in subsequent
19 provisions of this subpart which are applicable to specific
20 provisions of this subpart, the following words and phrases when
21 used in this subpart shall have the meanings given to them in
22 this section unless the context clearly indicates otherwise:

1 * * *

2 "Distressed municipality." A municipality that has adopted
3 and is implementing an active recovery plan adopted under
4 section 245, 246 or 256 of the act of July 10, 1987 (P.L.246,
5 No.47), known as the Municipalities Financial Recovery Act.

6 * * *

7 "Government study commission" or "commission." The body
8 elected or appointed under the provisions of Subchapter B
9 (relating to procedure for adoption of home rule charter or
10 optional plan of government).

11 * * *

12 Section 2. Title 53 is amended by adding a section to read:
13 § 2914.1. Appointment of government study commission in
14 distressed municipality.

15 (a) General rule.--The council of a distressed municipality
16 may, by resolution, vote to organize a government study
17 commission under this section if the recovery plan adopted by
18 the distressed municipality recommends that the distressed
19 municipality consider the adoption of a home rule charter or
20 amendment of an existing home rule charter.

21 (b) Membership.--A government study commission organized
22 under subsection (a) shall be composed as follows:

23 (1) Each member of the council or a designee of the
24 member.

25 (2) In the case of a municipality with an elected mayor
26 that is not a member of council, the mayor or the mayor's
27 designee.

28 (3) The coordinator appointed under the act of July 10,
29 1987 (P.L.246, No.47), known as the Municipalities Financial
30 Recovery Act, shall serve as an ex officio member of the

1 commission.

2 (c) Oath of office of members.--As soon as possible and in
3 any event no later than 30 days after a resolution to organize
4 under subsection (a), the members of the commission under
5 subsection (a) shall make an oath in the same manner provided
6 under section 2915 (relating to oath of office of members of
7 commission).

8 (d) Applicability.--Except as otherwise provided, sections
9 2911 (relating to submission of question for election of
10 government study commission), 2912 (relating to election of
11 members of commission), 2913 (relating to nomination of
12 candidates), 2914 (relating to results of election) and 2915 may
13 not apply to a government study commission organized under this
14 section.

15 (e) Termination of distressed status.--The subsequent
16 termination of distressed status of a distressed municipality
17 may not have any effect on an existing government study
18 commission under subsection (a).

19 Section 3. Sections 2916(a), 2918, 2920, 2921(a) and (c),
20 2927 and 2962(b) and (i) of Title 53 are amended to read:

21 § 2916. First meeting of commission.

22 (a) Procedure.--As soon as possible and in any event no
23 later than 15 days after its certification of election or
24 appointment under section 2914.1 (relating to appointment of
25 government study commission in distressed municipality), as
26 applicable, the government study commission shall organize and
27 hold its first meeting and elect one of its members chairman and
28 another member vice chairman, fix its hours and place of meeting
29 and adopt rules for the conduct of its business it deems
30 necessary and advisable.

* * *

§ 2918. Function and duty of commission.

(a) General rule.--The government study commission shall study the form of government of the municipality to compare it with other available forms under the laws of this Commonwealth and determine whether or not in its judgment the government could be strengthened or made more clearly responsible or accountable to the people or whether its operation could become more economical or efficient under a changed form of government.

(b) Duties in distressed municipality.--In addition to the requirements of subsection (a), a government study commission under section 2914.1 (relating to appointment of government study commission in distressed municipality), shall study and consider the following:

(1) The recommendations within the distressed municipality's recovery plan.

(2) The municipal services currently provided by the distressed municipality that should be provided under a changed form of government.

(3) The sources of fiscal and managerial dysfunction that exist under the municipality's current form of government that could be improved under a changed form of government.

§ 2920. Hearings and public forums.

(a) General rule.--The government study commission shall hold one or more public hearings, may hold private hearings and sponsor public forums and generally shall provide for the widest possible public information and discussion respecting the purposes and progress of its work.

(b) Coordinator hearing.--In addition to any hearings and

forums conducted under subsection (a), a government study commission under section 2914.1 (relating to appointment of government study commission in distressed municipality) shall hold a public hearing within 30 days after the publication of its findings and recommendations in section 2921 (relating to report of findings and recommendations) and request that the recovery coordinator provide testimony as to the suitability of the proposals to address the causes of fiscal distress in the municipality.

§ 2921. Report of findings and recommendations.

(a) General rule.--The government study commission shall report its findings and recommendations to the citizens of the municipality within nine months from the date of its election, or appointment, except that it shall be permitted an additional nine months if it elects to prepare and submit a proposed home rule charter and an additional two months if it chooses to elect its municipal council by districts. It shall publish or cause to be published sufficient copies of its final report for public study and information and shall deliver to the municipal clerk or secretary sufficient copies of the report to supply it to any interested citizen upon request. If the commission recommends the adoption of a home rule charter or any of the optional plans of government as authorized in this subpart, the report shall contain the complete plans as recommended.

* * *

(c) Filing [copy with Department of Community and Economic Development] copies.--A copy of the final report of the commission with its findings and recommendations shall be filed with the Department of Community and Economic Development and the Local Government Commission.

1 * * *

2 § 2927. Limitation on enactment of ordinance, resolution or
3 filing of petition.

4 (a) General rule.--An ordinance may not be passed and a
5 petition may not be filed for the election of a government study
6 commission pursuant to section 2911 (relating to submission of
7 question for election of government study commission) and a
8 resolution may not be adopted for the appointment of a
9 government study commission under section 2914.1 (relating to
10 appointment of government study commission in distressed
11 municipality) while proceedings are pending under any other
12 petition [~~or~~], ordinance or resolution filed or passed under the
13 authority of this subpart nor on the same question if it has
14 been defeated within four years after an election has been held
15 pursuant to any such ordinance or petition passed or filed.

16 (b) Time for commencement of proceedings.--For the purpose
17 of this section, proceedings shall be considered as having
18 started:

19 (1) In the case of an ordinance, upon the final vote of
20 council in favor of the ordinance, notwithstanding the fact
21 that the ordinance cannot take effect until a certain number
22 of days thereafter.

23 (2) In the case of a petition, as soon as it is properly
24 signed by one-third of the number of registered voters
25 required for the petition and written notice thereof filed in
26 the office of the county board of elections and in the office
27 of the municipal clerk or secretary, who shall cause the
28 notice to be immediately posted in a conspicuous place in the
29 office, open to public inspection.

30 (3) In the case of a resolution, upon the adoption of

1 the resolution.

2 § 2962. Limitation on municipal powers.

3 * * *

4 (b) Taxing power.--Unless prohibited by the Constitution of
5 Pennsylvania, the provisions of this subpart or any other
6 statute or its home rule charter, a municipality which has
7 adopted a home rule charter shall have the power and authority
8 to enact and enforce local tax ordinances upon any subject of
9 taxation granted by statute to the class of municipality of
10 which it would be a member but for the adoption of a home rule
11 charter at any rate of taxation determined by the governing
12 body. No home rule municipality shall establish or levy a rate
13 of taxation upon nonresidents which is greater than the rate
14 which a municipality would have been authorized to levy on
15 nonresidents but for the adoption of a home rule charter. The
16 governing body shall not be subject to any limitation, other
17 than a provision of the home rule charter, on the rates of
18 taxation imposed upon residents.

19 * * *

20 (i) Establishment of rates of taxation.--No provision of
21 [this subpart or any other statute] law shall limit a
22 municipality which adopts a home rule charter from establishing
23 its own rates of taxation upon all authorized subjects of
24 taxation except [those specified in subsection (a)(7)] as
25 provided in this section.

26 * * *

27 Section 4. The amendment of 53 Pa.C.S. § 2962 shall apply to
28 any home rule charter provision existing on the effective date
29 of this section and limiting the rate of taxation on residents
30 as follows:

1 (1) The amendment shall not affect the validity of any
2 rate of taxation in the fiscal year of, or any fiscal year
3 prior to, the effective date of this section.

4 (2) The amendment shall not prohibit any rate of
5 taxation in any fiscal year in excess of any rate limitation
6 contained in a charter but not in excess of the rate levied
7 on the effective date of this section absent a charter
8 amendment after the effective date of this section imposing
9 rate limitations.

10 Section 5. This act shall take effect as follows:

11 (1) The following provisions shall take effect
12 immediately:

13 (i) Section 4 of this act.

14 (ii) This section.

15 (2) The remainder of this act shall take effect in 60
16 days.