

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 752

Session of
1971

INTRODUCED BY MAHADY, REIBMAN, W. E. FLEMING, FRAME AND
MURPHY, MAY 25, 1971

REFERRED TO LOCAL GOVERNMENT, MAY 25, 1971

AN ACT

1 Relating to home rule charters for municipalities.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 ARTICLE I

5 SHORT TITLE AND DEFINITIONS

6 Section 101. Short Title.--This act shall be known and may
7 be cited as the "Municipal Home Rule Charter Act."

8 Section 102. Definitions.--As used in this act:

9 (1) "Home rule" means that relationship between a
10 municipality and the Commonwealth, wherein the municipality
11 shall enjoy the fullest authority to determine the form,
12 organization, procedures and process of its government, subject
13 only to limitations imposed by the Constitution, by general law
14 or by its charter.

15 (2) "Home rule charter" means a written document, adopted by
16 the people through referendum, constituting the inhabitants of
17 the municipality a body politic and corporate, defining the

1 powers, class of municipality and the structure, privileges,
2 rights and duties of the municipal government and limitations
3 thereon. The charter shall also provide for the composition and
4 election of the governing body as established therein and not
5 limited to the definition in clause (4) of this section, which
6 in all cases shall be chosen by popular election.

7 (3) "Municipality" means a county, city, borough,
8 incorporated town or township.

9 (4) "Governing body" means a board of county commissioners,
10 city council and mayor, borough or incorporated town council and
11 mayor, commissioners of a township of the first class, and
12 supervisors of a township of the second class, as defined in
13 existing law.

14 (5) "Electors" means the registered voters of a
15 municipality.

16 (6) "Home Rule Charter Commission" means the body composed
17 of electors of the municipality elected under the provisions of
18 this act.

19 (7) "Election officials" means the county boards of
20 elections, except in Philadelphia, where "election officials"
21 shall be the city board of elections.

ARTICLE II

MUNICIPAL REFERENDUM ORDINANCE

24 Section 201. Referendum Ordinance.--The governing body of a
25 municipality may, by ordinance, provide for a referendum on the
26 question of framing of a home rule charter.

27 Section 202. Filing of Referendum Ordinance.--(a) The
28 referendum ordinance shall be filed with the election officials
29 at least ninety days prior to the next primary or general
30 election.

1 (b) When the ordinance is filed with the election officials,
2 copies of the referendum ordinance shall be immediately filed
3 with the Secretary of Community Affairs.

4 Section 203. Notice to Governing Body of Referendum Date.--
5 The election officials shall notify the governing body of the
6 municipality of the date set for the referendum election on the
7 proposal at least thirty days before the election.

ARTICLE III

INITIATIVE

10 Section 301. Proposal by Electors.--A referendum on the
11 question of framing of a home rule charter may be initiated by
12 electors of the municipality.

13 Section 302. Initiative Petition; Filing.--A petition
14 containing a proposal for referendum on the question of framing
15 a home rule charter signed by electors comprising five per cent
16 of the number of electors voting for the office of Governor in
17 the last gubernatorial general election may be filed with the
18 election officials at least ninety days prior to the next
19 primary or general election.

20 The name and address of the person filing the petition shall
21 be clearly stated on the petition.

22 Section 303. Review of Initiative Petition.--The election
23 officials shall, within ten days after filing, review the
24 initiative petition as to the number and qualification of
25 signers. If the petition appears to be defective, the election
26 officials shall immediately notify the person filing the
27 petition of the defect.

28 Section 304. Petition as Public Record.--The initiative
29 petition as submitted to the election officials along with the
30 list of signatories shall be open to public inspection in the

1 office of the election officials.

2 Section 305. Distribution of Petition.--When the election
3 officials find that the petition as submitted is in proper
4 order, they shall send copies of the initiative petition without
5 the signatures thereon to the governing body of the municipality
6 and to the Secretary of Community Affairs.

ARTICLE IV

REFERENDUM

9 Section 401. Referendum; Procedure.--(a) A referendum on the
10 question of the framing of a home rule charter shall be held
11 when authorized by ordinance of the governing body of a
12 municipality in accordance with Article II of this act, or when
13 initiated by electors of the municipality in accordance with
14 Article III of this act.

15 (b) The procedure for the referendum shall be governed by
16 the act of June 3, 1937 (P.L.1333), known as the "Pennsylvania
17 Election Code."

18 Section 402. Placing Question on Ballot.--When the election
19 officials find that the ordinance authorized by the governing
20 body of the municipality, or the initiative petition as submitted
21 by the electors meets the requirements of this act, they shall
22 place the proposal on the ballot in a manner fairly representing
23 the content of the ordinance or of the initiative petition for
24 decision by referendum at the proper election.

25 Section 403. Date of Election.--The election officials shall
26 certify the date for the referendum, and shall so notify the
27 governing body of the municipality at least thirty days prior to
28 such date.

29 Section 404. Public Notice of Referendum.--At least thirty
30 days' notice of the referendum shall be given by proclamation of

1 the mayor of the city, borough, or incorporated town, or of the
2 chairman of the board of county commissioners, the president of
3 the board of township commissioners, or of the chairman of the
4 board of township supervisors, as the case may be. A copy of
5 such proclamation shall be posted at each polling place of the
6 municipality on the day of the election, and shall be published
7 once in at least one newspaper of general circulation in the
8 municipality during the thirty-day period prior to the election.

9 Section 405. Limits of Referenda.--(a) A referendum on the
10 question of framing or repeal of a home rule charter shall not
11 be submitted to the electors more often than once in five years.

12 (b) When an initiative petition or referendum ordinance is
13 filed, the election officials shall ascertain that the question
14 has not been submitted to the electors within a period of five
15 years before the next primary or general election. The five-year
16 period shall not be computed by exact dates but by years
17 elapsing between primary or general elections. If it is found
18 that such an initiative or ordinance was so submitted, they
19 shall notify the person who filed the petition or the governing
20 body, and refuse to place the question on the ballot.

21 Section 406. Results of Election.--The election officials
22 shall certify the result of the referendum to the governing
23 body.

ARTICLE V

ELECTION OF HOME RULE CHARTER COMMISSION

26 Section 501. Election of Commission.--(a) If a referendum
27 for the framing of a home rule charter is approved by a majority
28 of votes of the electors voting thereon, the governing body
29 shall within thirty days of certification of the result of the
30 referendum election submit to the election officials a petition

1 to provide for the election of a Home Rule Charter Commission.

2 (b) The petition shall designate the number of members, not
3 less than five, or more than fifteen, to be elected on the Home
4 Rule Charter Commission.

5 (c) The election shall be held at the next primary or
6 general election not less than ninety days from the date of the
7 referendum.

8 Section 502. Nomination of Candidates.--Candidates for
9 membership on the Home Rule Charter Commission shall be electors
10 of the municipality. Each shall be nominated by nomination
11 papers signed by one thousand registered electors of the
12 municipality or by a number of electors equal to at least two
13 per cent of the largest vote cast for any elected officer of the
14 municipality elected at the last preceding municipal election,
15 whichever is lesser. Their nomination shall be in the manner
16 provided by and subject to the provisions of the act of June 3,
17 1937 (P.L.1333), known as the "Pennsylvania Election Code,"
18 which relate to the nomination of candidates nominated by
19 nomination papers filed by political bodies for other offices
20 elected by the voters of the municipality, except that
21 candidates shall be nominated and listed without political
22 designation or slogan. Nomination papers shall not be circulated
23 prior to thirty days before the last day on which such papers
24 shall be filed, and shall be filed with the election officials
25 not less than forty-four days prior to the date of the election.

26 Section 503. Election Returns.--The result of the votes cast
27 for members of the Home Rule Charter Commission shall be
28 returned by the election officials to the governing body and to
29 the Secretary of Community Affairs.

30 Section 504. Membership of Commission.--The candidates

1 receiving the greatest number of votes shall be elected, and
2 shall constitute the Home Rule Charter Commission.

3 If two or more candidates shall be equal and greatest in
4 number of votes, they shall draw lots to determine which one
5 shall be elected.

ARTICLE VI

ORGANIZATION AND DUTIES OF HOME RULE

CHARTER COMMISSION

9 Section 601. Organization of Commission.--No later than
10 fifteen days after the certification of election of a majority
11 of the members, the Home Rule Charter Commission shall organize
12 and hold its first meeting. It shall elect one of its members as
13 chairman, and another one as secretary. It shall adopt such
14 rules for the conduct of its business as it may deem advisable.

15 A majority of the members of the Home Rule Charter Commission
16 shall constitute a quorum for the transaction of business; but,
17 no recommendation of said commission shall have any legal effect
18 unless adopted by a majority of the total number of members of
19 the commission.

20 A vacancy in the Home Rule Charter Commission shall be filled
21 by an elector appointed by the remaining members of the
22 commission.

23 From all appropriations made to it by the governing body of
24 the municipality and privately contributed funds and services
25 made available to it, the Home Rule Charter Commission may
26 appoint consulting, clerical and other assistants to serve at
27 its pleasure, and may fix a reasonable compensation for such
28 services.

29 Prior to discharge, the Home Rule Charter Commission shall
30 file an account signed by all members under oath with the

1 prothonotary of the county covering the period of commission
2 services showing (i) sources and amounts of appropriations and
3 contributions from all sources, including services rendered and
4 (ii) all expenses.

5 The members of the Home Rule Charter Commission shall serve
6 without compensation, but may be reimbursed by the municipality
7 for their necessary expenses incurred in the performance of
8 their duties and as allocated by the governing body.

9 All necessary or proper expenses of the Home Rule Charter
10 Commission shall be paid by the municipality.

11 Section 602. Duties.--It shall be the duty of the Home Rule
12 Charter Commission (i) to study the government of the
13 municipality, (ii) to compare it with the government of other
14 municipalities, including other forms of government, and (iii)
15 to draw up a proposed home rule charter within one year from the
16 date of its election.

17 Section 603. Public Hearings.--The Charter Commission shall
18 hold one or more public hearings, may sponsor public forums, and
19 generally shall provide for the widest possible public
20 information and discussion respecting the purposes and progress
21 of its work.

22 Section 604. Proposed Charter.--The Home Rule Charter
23 Commission shall publish or cause to be published sufficient
24 copies of the proposed home rule charter for public study and
25 information, and shall deliver to the governing body of the
26 municipality sufficient copies of the proposed home rule charter
27 to supply it to any interested citizen or body of citizens upon
28 request. It shall also file copies of the proposed home rule
29 charter with the Secretary of Community Affairs.

30 Section 605. Submission of Charter to Electors.--The Home

1 Rule Charter Commission shall certify to the election officials
2 the question of adopting the proposed home rule charter that
3 shall be submitted to the electorate of the municipality at the
4 next primary or general election. The Home Rule Charter
5 Commission shall frame the question to be placed on the ballot,
6 and, if it deems proper, an interpretative statement to
7 accompany such question.

8 Section 606. Discharge of Commission.--The Home Rule Charter
9 Commission shall be discharged by the governing body of the
10 municipality upon the filing of the proposed home rule charter
11 question with the election officials.

ARTICLE VII

ADOPTION, AMENDMENT AND REPEAL OF

←

A HOME RULE CHARTER

15 Section 701. Effective Date of Charter.--Whenever the
16 electors of any municipality, by a majority vote of those voting
17 on the question, vote in favor of adopting the proposed home
18 rule charter at any election held for that purpose, such
19 municipality shall be governed under the provisions of the
20 adopted home rule charter from the first Monday of January
21 following the next succeeding municipal election held at least
22 ninety days after the election at which the home rule charter
23 was adopted.

24 Section 702. Election of Municipal Officials.--The elective
25 officials of the municipality required by the adopted home rule
26 charter shall be elected at the first municipal election held at
27 least ninety days after the referendum election at which the
28 home rule charter was adopted.

29 Section 703. Terms of Incumbent Officials.--All elective
30 officials of the municipality in office at the time of the

1 adoption of a home rule charter shall continue in office until
2 the home rule charter shall go into effect.

3 Section 704. Amendment of a Charter.--(a) Amendment of a
4 home rule charter shall be by referendum. A proposal to amend
5 shall be submitted to the electorate in accordance with
6 provision for a referendum for the framing of a home rule
7 charter contained in Articles II or III and in Article IV of
8 this act, except for section 405.

9 (b) A referendum on the question of amendment of a home rule
10 charter shall not be submitted to the electorate more often than
11 once in one year.

12 (c) The effective date of amendment shall be as provided in
13 section 701 of this act for the effective date of a home rule
14 charter if it affects a term of office, otherwise on the
15 effective date stated therein.

16 Section 705. Minimum Duration of Charter.--The electors of
17 any municipality which have adopted a home rule charter under
18 the provisions of this act shall not vote on the repeal of a
19 home rule charter or adoption of another form of government for
20 five years after the adopted home rule charter has taken effect.

21 Section 706. Repeal of a Charter.--The procedure for a
22 referendum on the question of repealing a home rule charter
23 shall be as provided in Articles II or III and in Article IV of
24 this act. The ordinance or initiative petition shall set forth
25 the form of government the municipality shall be governed under
26 in the event the home rule charter shall be repealed.

27 Section 707. Form of Government after Repeal.--Whenever the
28 electors of any municipality, by a majority vote of those voting
29 on the question, vote in favor of repeal of a home rule charter
30 and the establishment of a particular form of government, such

1 municipality shall be governed under the form of government
2 selected by the electors, from the first Monday of January
3 following the municipal election at which the elective officials
4 of the form of government selected by the electors shall have
5 been elected.

6 Section 708. Election of Officials after Repeal.--The
7 elective officials of the municipality establishing a form of
8 government selected by the electors shall be elected at the
9 first municipal election held after the referendum on the repeal
10 of a home rule charter and the establishment of a particular
11 form of government.

ARTICLE VIII

HOME RULE CHARTER POWERS

AND LIMITATIONS

15 Section 801. Municipal Powers.--A municipality which has
16 adopted a home rule charter may exercise any power and perform
17 any function not denied by the Constitution of Pennsylvania, by
18 its home rule charter or by the General Assembly at any time.
19 All grants of municipal power to municipalities governed by a
20 home rule charter under this act, whether in the form of
21 specific enumeration or general terms, shall be liberally
22 construed in favor of the municipality.

23 Section 802. Powers of a County Adopting a Home Rule
24 Charter.--No county which has adopted a home rule charter shall
25 at any time thereafter exercise within any municipality in the
26 county, a power or function being exercised by that municipality
27 on the date of the adoption of the county home rule charter or
28 which may be subsequently included in a local municipality
29 adopting a home rule charter, except under all of the following
30 conditions:

1 (1) The exercise of such power or function by the county
2 shall be authorized by ordinance of the governing body of the
3 county, which ordinance in addition to such other filings as may
4 be required by law, shall, within thirty days of its enactment,
5 be filed with the clerk or secretary of each municipality within
6 the county.

7 (2) The transfer of a power or function to the county from
8 any municipality within the county, as authorized by such
9 ordinance, shall not become effective for at least one year from
10 the date of adoption of such ordinance.

11 (3) Within ninety days from the adoption of such ordinance,
12 the governing body of any municipality, exercising on the date
13 of the adoption of the county home rule charter any power or
14 function authorized by ordinance of the county to be exercised
15 by the county, may elect by ordinance to be excluded from the
16 county exercise of such power or function. Within sixty days
17 after the date of adoption by the governing body of a
18 municipality of an ordinance excluding such municipality from
19 the exercise by the county of a power or function, the qualified
20 voters of such municipality may initiate a petition requiring
21 that the question of exclusion from the exercise of such power
22 or function by the county be submitted to a referendum of the
23 qualified voters of the municipality at a special election to be
24 held on the date of the next ensuing primary, municipal or
25 general election not less than sixty days after the filing of
26 the initiative petition with the county board of elections. The
27 initiative and referendum procedures set forth in Articles III
28 and IV shall be followed, except where the same may be
29 inconsistent with any of the provisions of this section.

30 (4) No tax or fee levied by the governing body of a county

1 in support of the exercise of a power or function as authorized
2 by ordinance of the county, shall be applicable in any
3 municipality within the county which, as provided in clause (3)
4 of section 802, has determined to be excluded from the exercise
5 of such power or function by the county.

6 (5) If the electors of a municipality by referendum, as
7 provided in clause (3) of section 802, vote to exclude the
8 municipality from the exercise of a power or function by the
9 county, a petition may not be initiated nor may a referendum be
10 held on the same question more often than every two years
11 thereafter.

12 (6) The manner in which a municipality may withdraw from a
13 power or function provided in the home rule charter adopted by a
14 county shall be determined in the ordinance adopted by the
15 county or set forth in the county home rule charter.

16 Section 803. Limits on Powers.--(a) The home rule charter
17 adopted in accordance with the provisions of this act shall not
18 give any power or authority to the municipality contrary to, or
19 in limitation or enlargement of powers granted by acts of the
20 General Assembly which are applicable to a class or classes of
21 municipalities on the following subjects:

22 (1) The filing and collection of municipal and tax claims or
23 liens and the sale of real or personal property in satisfaction
24 thereof.

25 (2) The procedures in the exercise of the power of eminent
26 domain.

27 (3) The assessment of damages and benefits for property
28 taken, injured or destroyed.

29 (4) Boundary changes of municipalities.

30 (5) Regulation of public schools.

1 (6) The registration of electors and the conduct of
2 elections.

3 (7) The fixing of rates and subjects of taxation.

4 (8) The assessment of real or personal property and persons
5 for taxation purposes.

6 (9) Defining or providing for the punishment of any felony
7 or misdemeanor.

8 (b) No municipality shall (i) engage in any private business
9 except as authorized by the General Assembly, (ii) exercise
10 powers contrary to, or in limitation or enlargement of powers
11 granted by acts of the General Assembly which by their expressed
12 terms are applicable in every part of the Commonwealth, or
13 applicable to all municipalities, or classes of municipalities
14 expressly including home rule charter municipalities, nor (iii)
15 be given the power to diminish the rights or privileges of any
16 present municipal employe in his pension or retirement system.

ARTICLE IX

REPEALS AND EFFECTIVE DATE

19 Section 901. Repeals.--All acts and parts of acts, general,
20 local and special, are repealed in so far as they are
21 inconsistent herewith.

22 Section 902. Effective Date.--This act shall take effect
23 immediately.