
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 752 Session of
1971

Report of the Committee of Conference

To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 752, entitled:

~~"An act relating to home rule charters for municipalities.~~
GIVING MUNICIPALITIES THE RIGHT AND POWER TO ADOPT HOME RULE CHARTERS OR ONE OF SEVERAL OPTIONAL PLANS OF GOVERNMENT AND TO EXERCISE THE POWERS AND AUTHORITY OF LOCAL SELF-GOVERNMENT SUBJECT TO CERTAIN RESTRICTIONS AND LIMITATIONS; PROVIDING PROCEDURES FOR SUCH ADOPTION AND DEFINING THE EFFECT THEREOF."

respectfully submit the following bill as our report:

PAUL W. MAHADY

STANLEY M. NOSZKA

CLARENCE F. MANBECK

(Committee on the part of the Senate.)

JOSEPH F. BONETTO

SAMUEL RAPPAPORT

KENNETH B. LEE

(Committee on the part of the House of Representatives.)

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AN ACT

1 Giving municipalities the right and power to adopt home rule
2 charters or one of several optional plans of government and
3 to exercise the powers and authority of local self-government
4 subject to certain restrictions and limitations; providing
5 procedures for such adoption and defining the effect thereof.

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

8 ARTICLE I

9 PRELIMINARY PROVISION

10 Section 101. This act shall be known and may be cited as the
11 "Home Rule Charter and Optional Plans Law."

12 Section 102. As used in this act:

13 "Government study commission" or "commission" means the body
14 composed of electors of the municipality elected under the
15 provisions of this act.

16 "Councilman" means county commissioner, city councilman,
17 borough councilman, town councilman, township commissioner in a
18 township of the first class, and supervisor in a township of the
19 second class.

20 "Election officials" means the county boards of elections.

21 "Electors" means the registered voters of any municipality
22 involved in proceedings relating to the adoption and repeal of
23 optional forms of government.

24 "Governing body" or "municipal council" or "council" means
25 boards of county commissioners, city councils, borough or
26 incorporated town councils, commissioners of townships of the
27 first class, and supervisors of townships of the second class as
28 their successor forms of government.

29 "Home rule charter" means a written document defining the
30 powers, the structure, privileges, rights and duties of the
31 municipal government and limitations thereon. The charter shall

1 also provide for the composition and election of the governing
2 body, which in all cases shall be chosen by popular elections.

3 "Local municipality" means a city, borough, incorporated town
4 or township.

5 "Municipality" means a county, city, borough, incorporated
6 town or township.

7 "Optional forms" means a general description including both
8 home rule charters and optional plans.

9 "Optional plans" means optional municipal powers, procedures
10 and administrative structures as provided by this act.

11 ARTICLE II

12 PROCEDURE FOR ADOPTION OF A HOME RULE CHARTER

13 OR OPTIONAL PLAN OF GOVERNMENT

14 A. Government Study Commission

15 Section 201. (a) Whenever authorized by ordinance of the
16 governing body, or upon petition of the registered voters of any
17 municipality to the county board of electors of the county
18 wherein the municipality is located, an election shall be held
19 in the municipality upon one of the following questions:

20 (1) "Shall a government study commission of (seven, nine or
21 eleven) be elected to study the charter and form of government
22 of the municipality, to study and consider the advisability of
23 adoption of an optional form of government and to recommend
24 whether or not an optional plan of government should be
25 adopted."

26 (2) "Shall a government study commission of (seven, nine or
27 eleven) be elected to study the charter and form of government
28 of the municipality, to study and draft a home rule charter and
29 to recommend whether or not a home rule charter should be
30 adopted."

1 (3) "Shall a government study commission of (seven, nine or
2 eleven) be elected to study the charter and plan of government
3 of the municipality, to study and consider the advisability of
4 adoption of an optional plan of government or a home rule
5 charter and to recommend whether or not an optional form of
6 government or a home rule charter should be adopted."

7 The petition calling for such election shall be in the form
8 required by subsection (b) hereof, and shall be signed by
9 electors of the municipality comprising five per cent of the
10 number of electors voting for the Office of Governor in the last
11 gubernatorial general election within the municipality.

12 Within five days after the final enactment of an ordinance
13 authorizing such election, the municipal clerk or secretary
14 shall file a certified copy of the ordinance with the county
15 board of elections, together with a copy of the question to be
16 submitted to the electors. At the next municipal or general or
17 primary election occurring not less than sixty days after the
18 filing of the ordinance or the petition with the county election
19 board, it shall cause the appropriate question above stated to
20 be submitted to the electors of the municipality as other
21 questions are submitted under the provisions of the Pennsylvania
22 Election Code.

23 (b) A petition under this section shall be filed at least
24 sixty-four days prior to the municipal or general election, and
25 the petition and the proceedings therein shall be in the manner
26 and subject to the provisions of the election laws which relate
27 to the signing, filing and adjudication of nomination petitions
28 in so far as such provisions are applicable, except that no
29 petition shall be signed or circulated prior to sixty days
30 before the last day on which such petition may be filed.

1 Section 202. A governmental study commission of seven, nine
2 or eleven members as designated in the question shall be elected
3 by the qualified voters at the same election the question is
4 submitted to the electors. Candidates for the office of
5 government study commissioner shall be nominated and placed upon
6 the ballot containing the question in the manner provided by and
7 subject to the provisions of the Pennsylvania Election Code
8 which relate to the nomination of candidates nominated by
9 nomination papers filed for other offices elective by the voters
10 of a municipality, except that they shall be nominated and
11 listed without any political designation or slogan, and, no
12 nomination paper shall be signed or circulated prior to sixty
13 days before the last day on which papers may be filed. Each
14 voter shall be instructed to vote on the question and,
15 regardless of the manner of his vote on the question, to vote
16 for the designated number of members of a government study
17 commission who shall serve if the question is or has been
18 determined in the affirmative.

19 Section 203. (a) Candidates for the government study
20 commission shall be registered voters of the municipality. They
21 may be nominated by nomination papers signed by a number of
22 qualified electors of the municipality equal at least to two per
23 cent of the largest entire vote cast for any municipal officer
24 elected at the last preceding municipal election in the
25 municipality or two hundred registered voters whichever is less
26 and filed with the county board of elections not less than
27 forty-four days prior to the date of the election.

28 (b) Each nominating paper shall set forth the names, places
29 of residence, and post office addresses of the candidate or
30 candidates thereby nominated, that the nomination is for the

1 office of government study commissioner, and that the signers
2 are legally qualified to vote for such candidate or candidates.
3 Every voter signing a nominating paper shall add to his
4 signature his place of residence, post office address and street
5 number, if any. No voter shall sign a nomination paper or papers
6 for more than the designated number of candidates.

7 (c) Each nominating paper shall, before it may be filed with
8 the county board of elections, contain an acceptance of such
9 nomination in writing, signed by the candidate or candidates
10 therein nominated, upon or annexed to such paper, or if the same
11 person or persons be named in more than one paper, upon or
12 annexed to one of such papers. Such acceptance shall certify
13 that the candidate is a registered voter of the municipality,
14 that the nominee consents to stand as a candidate at the
15 election, and that if elected he agrees to take office and
16 serve.

17 (d) Each nominating paper shall be verified by an oath or
18 affirmation of one or more of the signers thereof, taken and
19 subscribed before a person qualified under the laws of
20 Pennsylvania to administer an oath, to the effect that the paper
21 was signed by each of the signers thereof in his proper
22 handwriting, that the signers are, to the best knowledge and
23 belief of the affiant, registered voters of the municipality,
24 and that the nomination paper is prepared and filed in good
25 faith for the sole purpose of endorsing the person or persons
26 named therein for election as stated in the paper.

27 Section 204. The result of the votes cast for and against
28 the question as to the election of a government study commission
29 shall be returned by the election officers, and a canvass of
30 such election had, as is provided by law in the case of other

1 public questions put to the voters of a single municipality. The
2 votes cast for members of the commission shall be counted, and
3 the result thereof returned by the election officers, and a
4 canvass of such election had, as is provided by law in the case
5 of election of members of municipal council or board. The
6 designated number of candidates receiving the greatest number of
7 votes shall be elected and shall constitute the commission:
8 Provided, That if a majority of those voting on said question
9 shall vote against the election of a commission, none of the
10 candidates shall be elected. If two or more candidates for the
11 last seat shall be equal in number of votes, they shall draw
12 lots to determine which one shall be elected.

13 Section 205. As soon as possible and in any event no later
14 than fifteen days after its certification of election, the
15 government study commission shall organize and hold its first
16 meeting and elect one of its members as chairman, another member
17 as vice chairman, fix its hours and place of meeting, and adopt
18 such rules for the conduct of its business as it may deem
19 necessary and advisable. A majority of the members of said
20 commission shall constitute a quorum for the transaction of
21 business, but no recommendation of said commission shall have
22 any legal effect unless adopted by a majority of the whole
23 number of the members of the commission.

24 Section 206. In case of any vacancy in the government study
25 commission, the remaining members of such commission shall fill
26 it by appointing thereto some other properly qualified elector.

27 Section 207. It shall be the function and duty of the
28 government study commission to study the form of government of
29 the municipality, to compare it with other available forms under
30 the laws of this State, to determine whether or not in its

1 judgment the government of the municipality could be
2 strengthened, made more clearly responsible or accountable to
3 the people, or whether its operation could become more
4 economical or efficient under a changed form of government.

5 Section 208. Members of the government study commission
6 shall serve without compensation, but shall be reimbursed by the
7 municipality for their necessary expenses incurred in the
8 performance of their duties. Council shall appropriate moneys
9 necessary for such purpose.

10 Within the limits of such appropriations and other public and
11 privately contributed funds and services as shall be made
12 available to it, the commission may appoint one or more
13 consultants and clerical and other assistants to serve at the
14 pleasure of the commission and may fix a reasonable compensation
15 to be paid such consultants and clerical and other assistants.

16 Section 209. The government study commission shall hold one
17 or more public hearings, may hold private hearings and sponsor
18 public forums, and generally shall provide for the widest
19 possible public information and discussion respecting the
20 purposes and progress of its work.

21 Section 210. (a) The government study commission shall
22 report its findings and recommendations to the citizens of the
23 municipality within nine calendar months from the date of its
24 election except that it shall be permitted an additional three
25 months if it elects to prepare and submit a proposed home rule
26 charter. It shall publish or cause to be published sufficient
27 copies of its final report for public study and information, and
28 shall deliver to the municipal clerk or secretary sufficient
29 copies of the report to supply it to any interested citizen upon
30 request. If the commission shall recommend the adoption of a

1 home rule charter or any of the optional plans of government as
2 authorized in this act, the report shall contain the complete
3 plans as recommended.

4 (b) There shall be attached to each copy of the report of
5 the commission, as a part thereof, a statement sworn to by the
6 members of the commission listing in detail the funds, goods,
7 materials and services, both public and private, used by the
8 commission in the performance of its work and the preparation
9 and filing of the report. In addition, the list shall identify
10 specifically the supplier of each item thereon.

11 (c) A copy of the final report of the commission with its
12 findings and recommendations shall be filed with the Department
13 of Community Affairs.

14 Section 211. (a) The government study commission shall be
15 discharged upon the filing of its report: Provided, That if the
16 commission's recommendations require further procedure on the
17 part of the municipal council or board or the people of the
18 municipality, the commission shall not be discharged until a
19 copy of the report has been certified to the county board of
20 elections. Any time before such procedure has been finally
21 concluded but not later than one year from the date of the
22 publication of its final report, the commission may modify or
23 change any recommendation set forth in said final report by
24 publishing an amended report.

25 (b) Whenever a commission issues an amended report pursuant
26 to subsection (a) above, such amended report shall supersede the
27 final report and such final report shall cease to have any legal
28 effect under this act.

29 (c) The procedure to be taken under the amended report shall
30 be governed by all provisions of Article II of this act

1 applicable to the final report of a commission submitted
2 pursuant to section 210 of this act.

3 Section 212. The government study commission shall report
4 and recommend in accordance with the question presented to the
5 electorate as provided in section 201:

6 (1) that a referendum shall be held to submit to the
7 qualified voters of the municipality the question of adopting
8 one of the optional plans of government authorized by this act
9 to be specified by the commission; or

10 (2) that a referendum shall be held to submit to the
11 qualified voters of the municipality the question of adopting a
12 home rule charter as prepared by the commission and as
13 authorized by this act; or

14 (3) that the form of government of the municipality shall
15 remain unchanged; or

16 (4) such other action as it may deem advisable consistent
17 with its functions as set forth in this article.

18 Section 213. (a) If the government study commission report,
19 shall recommend the amendment of any of the optional plans of
20 government set forth in this act, except the optional county
21 plan provided in Article X, the report of the commission may
22 specify that (i) the municipal council shall consist of three,
23 five, seven or nine members (except that under the small
24 municipality plan as provided for in Article IX, and under the
25 optional county plan as provided in Article X, the number of
26 councilmen shall be as provided in section 911 and section 1002,
27 respectively); and (ii) the treasurer, where such office is
28 provided, shall be elected by the voters.

29 If a commission report, initiative petition or ordinance
30 shall recommend any optional plan, except for the optional

1 county plan set forth in Article X, it may specify that the then
2 existing basis for electing councilmen shall be changed to an
3 at-large, district, or combination at-large and district basis.

4 If a commission report, initiative petition or ordinance
5 shall recommend the adoption of the council-manager form of
6 government, it may specify that the mayor be elected directly by
7 the voters of the municipality rather than by council.

8 If a commission report, initiative petition or ordinance for
9 a county shall recommend the adoption of any of the optional
10 plans, except the optional county plan set forth in Article X of
11 this act, it may specify that the sheriff be elected directly by
12 the voters of the county as provided in Article XI of this act.

13 In all cases, except for the council-manager plan set forth
14 in Article VIII, the commission report, initiative petition or
15 ordinance shall specify whether the executive (mayor) of the
16 municipality shall be called "Executive" or "Mayor."

17 (b) If the commission shall recommend the adoption of a home
18 rule charter, it shall specify the number to be on the municipal
19 council, all offices to be filled by election, and whether
20 elections shall be on an at-large, district, or combination
21 district and at-large basis.

22 (c) Notwithstanding any other provisions of this act, if an
23 approved home rule charter or optional plan of government or
24 other form of government adopted pursuant to the provisions of
25 this act shall specify that the election of the municipal
26 council shall be on an at-large, district, or combination
27 district and at-large basis, which basis differs from the
28 existing basis and therefore requires eliminating districts or
29 establishing revised or new districts, then election of
30 municipal officials shall not take place on the new basis until

1 the municipal election following the next primary election
2 taking place later than one hundred eighty days after the
3 election at which the referendum on the question of a new form
4 of government has been approved by the electorate. The new form
5 of government shall not go into effect until the first Monday in
6 January following the election of municipal officials on the new
7 basis. New or revised districts shall be established by the
8 court of common pleas in the county within ninety days from the
9 date of approval by the electorate of a new form of government.

10 Section 214. The question to be submitted to the voters for
11 the adoption of a home rule charter or any of the optional plans
12 of government authorized by this act shall be submitted in the
13 following form or such part thereof as shall be applicable.

14 "Shall the Home Rule Charter contained
15 in the report, dated _____
16 of the Government Study Commission, prepared Yes
17 in accordance with the Home Rule Charter and
18 Optional Plans Law, be adopted by the
19 _____?" No

20 (insert type and name of municipality)

21 or

22 "Shall _____,
23 (insert name of plan)
24 including recommendations pertaining to
25 optional provisions contained in the Yes
26 report of the Government Study Commission,
27 dated _____, as

28 authorized by the Home Rule Charter and No
29 Optional Plans Law, be adopted by the
30 _____?"

1 (insert type and name of municipality)

2 or

3 "Shall the (Home Rule Charter)

4 (Optional Plan) of the

5 _____

6 (insert type and name of municipality)

7 be repealed, and the form of government Yes

8 recommended in the report of the Government

9 Study Commission, dated _____,

10 be adopted as authorized by the Home Rule

11 Charter and Optional Plans Law?" No

12 or

13 "Shall an Optional Plan for the

14 _____

15 (insert type and name of municipality)

16 be amended as specified in the Yes

17 report of the Government Study Commission

18 filed with the election

19 officials of the County of

20 _____, on _____

21 (insert name of county) (insert date)

22 as authorized by the Home Rule Charter and

23 Optional Plans Law?" No

24 Section 215. If the government study commission shall

25 recommend that the question of adopting a home rule charter or

26 one of the optional plans of government authorized by this act

27 shall be submitted to the voters of the municipality, it shall

28 be the duty of the municipal clerk or secretary, within five

29 days thereafter, to certify a copy of the commission's report to

30 the county election board, which shall cause the question of

1 adoption or rejection to be placed upon the ballot or voting
2 machines at such time as the commission shall in its report
3 specify. The commission may cause the question to be submitted
4 to the people at the next primary, municipal or general
5 election, occurring not less than sixty days following the
6 filing of a copy of the commission's report with the county
7 board of elections, at such time as the commission's report
8 shall direct. At such election, the question of adopting that
9 form of government recommended by the commission shall be
10 submitted to the voters of the municipality by the county board
11 of elections in the same manner as other questions are submitted
12 to the voters of a municipality under the provisions of the
13 Pennsylvania Election Code. The commission shall frame the
14 question to be placed upon the ballot as herein provided, and if
15 it deems appropriate an interpretative statement to accompany
16 such question.

17 Section 216. (a) No ordinance may be passed and no petition
18 may be filed for the election of a government study commission
19 pursuant to section 201 of this act while proceedings are
20 pending under any other petition or ordinance filed or passed
21 under the authority of this act, nor on the same question if it
22 has been defeated within four years after an election shall have
23 been held pursuant to any such ordinance or petition passed or
24 filed.

25 (b) For the purpose of this section, proceedings shall be
26 considered as having started (i) in the case of an ordinance
27 upon the final vote of council in favor of the ordinance,
28 notwithstanding the fact that the ordinance cannot take effect
29 until a certain number of days thereafter; or (ii) in the case
30 of a petition, as soon as it is properly signed by one-third of

1 the number of registered voters required for such petition and
2 written notice thereof filed in the office of the county board
3 of elections and in the office of the municipal clerk or
4 secretary, who shall cause the same to be immediately posted in
5 a conspicuous place in said office, open to public inspection.

6 Section 217. Whenever the legally qualified voters of any
7 municipality by a majority of those voting on the question vote
8 in favor of adopting a change in their form of government
9 pursuant to this act, the proposed form shall take effect
10 according to its terms and the provisions of this act.

11 Section 218. The voters of any municipality which has
12 adopted a home rule charter or an optional plan of government
13 pursuant to this act may not vote on the question of changing
14 the form of government until five years after the home rule
15 charter or optional plan became effective.

16 Section 219. For the purposes of this act, each of the
17 optional forms of government provided by this act and each of
18 said optional forms as modified by any available provisions
19 concerning size of council, election of municipal officials, the
20 basis for electing councilmen, is hereby declared to be a
21 complete and separate form of government provided by the
22 Legislature for submission to the voters of the municipality.

23 B. Amendment of Existing Charter or Optional Form

24 Section 221. The procedure for amending a home rule charter
25 or optional plan of government shall be the same as for the
26 adoption of a home rule charter or optional plan of government,
27 except that an optional plan of government may be amended
28 through the initiative procedure as hereinafter provided for in
29 this act.

30 C. Amendment of Optional Plan by Initiative

Petition or Ordinance and Referendum

Section 231. A referendum on the question of amendment of an optional plan of government may be initiated by electors of the municipality, and a referendum on the question of amendment of an optional plan of government may be initiated by an ordinance of the governing body. A proposal for amendment of an optional plan shall be limited to the additional options provided for in section 213 of this act.

Section 232. A petition containing a proposal for referendum on the question of amending an optional plan of government signed by electors comprising five per cent of the number of electors voting for the Office of Governor in the last gubernatorial general election in the municipality, or an ordinance of the municipal governing body proposing amendment of an optional plan, may be filed with the election officials at least ninety days prior to the next primary, municipal or general election. The name and address of the person filing the petition shall be clearly stated on the petition.

The election officials shall review the initiative petition as the number and qualifications of signers. If the petition appears to be defective, the election officials shall immediately notify the persons filing the petition of the defect. When the election officials find that the petition as submitted is in proper order, they shall send copies of the initiative petition without signatures thereon to the governing body of the municipality and to the Secretary of Community Affairs. The initiative petition as submitted to the election officials, along with a list of signatories, shall be open to inspection in the office of the election officials.

Section 233. A referendum on the question of the amendment

1 of an optional plan of government shall be held when the
2 election officials find that the initiative petition or
3 ordinance of the governing body is in proper order, and the
4 referendum shall be governed by the provisions of the
5 Pennsylvania Election Code. The election officials shall cause
6 the question to be submitted to the electors of the municipality
7 at the next primary, general or municipal election occurring not
8 less than sixty days following the filing of the initiative
9 petition or ordinance with the election board. At such election,
10 the question shall be submitted to the voters in the same manner
11 as other questions are submitted under the provisions of the
12 Pennsylvania Election Code. The election board shall frame the
13 question to be placed upon the ballot.

14 D. Conduct of Election

15 Section 241. All elections provided for in this act shall be
16 conducted by the election officials for such municipality in
17 accordance with the Pennsylvania Election Code. The election
18 officials shall count the votes cast and make return thereof to
19 the county board of elections. The result of any such election
20 shall be computed by the county board of elections in the same
21 manner as is provided by law for the computation of similar
22 returns. Certificates of the result of any such election shall
23 be filed by the county board of elections with the municipal
24 council or board of the municipality and with the Secretary of
25 the Commonwealth, and with the Secretary of Community Affairs.

26 Section 242. At least thirty days' notice of each election
27 herein provided for shall be given by the clerk or secretary of
28 the municipality. A copy of such notice shall be posted at each
29 polling place of the municipality on the day of the election,
30 and shall be published in at least one newspaper of general

1 circulation in the municipality once a week for three
2 consecutive weeks during the period of thirty days prior to the
3 election.

4 ARTICLE III

5 GENERAL POWERS AND LIMITATIONS OF A
6 HOME RULE CHARTER MUNICIPALITY

7 Section 301. A municipality which has adopted a home rule
8 charter may exercise any powers and perform any function not
9 denied by the Constitution of Pennsylvania, by its home rule
10 charter or by the General Assembly at any time. All grants of
11 municipal power to municipalities governed by a home rule
12 charter under this act, whether in the form of specific
13 enumeration or general terms, shall be liberally construed in
14 favor of the municipality.

15 Section 302. (a) The home rule charter adopted in accordance
16 with the provisions of this act shall not give any power or
17 authority to the municipality contrary to, or in limitation or
18 enlargement of powers granted by acts of the General Assembly
19 which are applicable to a class or classes of municipalities on
20 the following subjects:

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

24 (2) The procedures in the exercise of the powers of eminent
25 domain, and the assessment of damages and benefits for property
26 taken, injured or destroyed.

27 (3) Boundary changes of municipalities.

28 (4) Regulation of public schools.

29 (5) The registration of electors and the conduct of
30 elections.

1 (6) The fixing of subjects of taxation.

2 (7) The fixing of the rates of nonproperty or personal taxes
3 levied upon nonresidents.

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 proprietary or
9 private business except as authorized by the General Assembly,
10 (ii) exercise powers contrary to, or in limitation or
11 enlargement of powers granted by acts of the General Assembly
12 which are applicable in every part of the Commonwealth, (iii) be
13 given the power to diminish the rights or privileges of any
14 former municipal employe entitled to benefits or any present
15 municipal employe in his pension or retirement system, (iv)
16 enact or promulgate any ordinance or regulation with respect to
17 definitions, sanitation, safety, health, standards of identity
18 or labeling pertaining to the manufacture, processing, storage,
19 distribution and sale of any foods, goods or services subject to
20 any Commonwealth laws or regulations unless such municipal
21 ordinance or regulation is uniform in all respects with such
22 Commonwealth laws and regulations. Nothing herein contained
23 shall be construed to in any way affect the power of any
24 municipality to enact and enforce ordinances relating to
25 building codes or any other safety, sanitation or health
26 regulation pertaining thereto, nor (v) enact any provision
27 inconsistent with any statute heretofore enacted by the General
28 Assembly affecting the rights, benefits or working conditions of
29 any employe of a political subdivision of the Commonwealth.

30 (c) Acts of the General Assembly in effect on the effective

1 date of this act that are uniform and applicable throughout the
2 Commonwealth shall remain in effect and shall not be changed or
3 modified by this act. Acts of the General Assembly enacted after
4 the effective date of this act that are uniform and applicable
5 throughout the Commonwealth shall supersede any municipal
6 ordinance or resolution on the same subject.

7 (d) No municipality which adopts a home rule charter shall
8 at any time thereunder determine duties, responsibilities or
9 requirements placed upon businesses, occupations and employers,
10 including the duty to withhold, remit or report taxes or
11 penalties levied or imposed upon them or upon persons in their
12 employment, except as expressly provided by acts of the General
13 Assembly, which are applicable in every part of the Commonwealth
14 or which are applicable to all municipalities or to a class or
15 classes of municipalities.

16 (e) No municipality shall enact any ordinance or take any
17 other action dealing with the regulation of the transfer,
18 ownership, transportation or possession of firearms.

19 (f) Nothing contained herein shall limit or take away any
20 right of a municipality which adopts a home rule charter from
21 levying any tax which it had the power to levy had it not
22 adopted a home rule charter.

23 Section 303. No county which has adopted a home rule charter
24 shall at any time thereafter exercise within any municipality in
25 the county, a power or function being exercised by that
26 municipality on the date of the adoption of the county home rule
27 charter, except under all of the following conditions:

28 (1) The exercise of such power or function by the county
29 shall be authorized by ordinance of the governing body of the
30 county, which ordinance in addition to such other filings as may

1 be required by law, shall, within thirty days of its enactment,
2 be filed with the clerk or secretary of each local municipality
3 within the county.

4 (2) The transfer of a power or function to the county from
5 any local municipality within the county, as authorized by such
6 ordinance, shall not become effective for at least fifteen
7 months from the date of adoption of such ordinance.

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

28 In the event the county determines there is insufficient
29 interest or that it is not feasible to establish the proposed
30 municipal function or power as provided for in the ordinance

1 passed by the county, the county may repeal the county ordinance
2 prior to the effective date of the ordinance.

3 (4) The governing body of any local municipality may by
4 ordinance, subsequent to the time limit for action as set forth
5 in clause (3) of this section, request the county to be included
6 in a municipal power or function being exercised by the county:
7 Provided, however, That the county may specify the terms and
8 conditions for acceptance or denial of the power or function
9 requested by the local municipality to be exercised by the
10 county, which shall be subject to court review if the local
11 municipality determines that the terms and conditions as set
12 forth by the county are unreasonable.

13 (5) No assessment, tax, fee or levy in the nature thereof
14 made by the governing body of a county in support of the
15 exercise of a power or function as authorized by ordinance of
16 the county, shall be applicable in any municipality within the
17 county which is providing the same municipal power or function.

18 (6) If the electors of a municipality by referendum vote to
19 exclude the municipality from the exercise of a power or
20 function by the county, a petition may not be initiated nor may
21 a referendum be held on the same question more often than every
22 five years thereafter.

23 (7) A local municipality may, by action of the governing
24 body, or by initiative and referendum, withdraw from a power or
25 function which it was exercising at the date of the adoption of
26 the county home rule charter which it transferred to a county,
27 provided it again assumes and exercises the power or function
28 but may not vote on the question of withdrawing sooner than four
29 years from the time the county assumed the power or function of
30 the local municipality.

1 Section 304. Municipalities adopting a home rule charter
2 shall have the power to sue and be sued, to have a corporate
3 seal, to contract and be contracted with, to buy, sell, lease,
4 hold and dispose of real and personal property, to appropriate
5 and expend moneys, and to adopt, amend and repeal such
6 ordinances and resolutions as may be required for the good
7 government thereof.

8 Section 305. The municipal clerk or secretary of the
9 municipality shall forthwith cause the new charter as approved
10 by the qualified electors to be recorded in the ordinance books
11 of the municipality. He shall also file a certified copy thereof
12 in the office of the Secretary of the Commonwealth, with the
13 Secretary of the Department of Community Affairs, and with the
14 county board of elections.

15 Section 306. All elective officials of the municipality in
16 office at the time of the adoption of a home rule charter shall
17 continue in office until their terms expire.

18 Section 307. The procedure for repeal of a home rule charter
19 shall be the same as for adoption of a home rule charter.
20 Whenever the electors of any municipality, by a majority vote of
21 those voting on the question, vote in favor of repeal of a home
22 rule charter and the establishment of a particular form of
23 government, such municipality shall be governed under the form
24 of government selected by the electors, from the first Monday of
25 January following the municipal election at which the elective
26 officials of the form of government selected by the electors
27 shall have been elected. The government study commission shall
28 provide in its report for the new form of government to be
29 established.

30 The elective officials of the municipality under a new form

1 of government selected by the electors shall be elected at the
2 first municipal election held after the referendum on the repeal
3 of a home rule charter or at such later date as may be specified
4 by the commission in its report.

5 ARTICLE IV

6 GENERAL PROVISIONS AND LIMITATIONS FOR

7 OPTIONAL PLAN MUNICIPALITIES

8 Section 401. Upon the adoption by the qualified voters of
9 any municipality of any of the optional plans of government as
10 set forth in this act, the municipality shall thereafter be
11 governed by the plan adopted and by the provisions of general
12 law applicable to that class or classes of municipality except
13 as otherwise provided herein. Unless and until the municipality
14 should adopt another form of government as provided by law, the
15 plan adopted and the provisions of general law applicable to
16 that class or classes of municipality shall become law in the
17 municipality at the time fixed by this act. All acts and parts
18 of acts, local, special, or general, affecting the organization,
19 government and powers of such municipality which are not
20 inconsistent or in conflict herein, shall remain in full force
21 until modified or repealed as provided by law.

22 Section 402. The municipal clerk or secretary of the
23 municipality shall forthwith cause the new plan of government as
24 approved by the qualified electors to be recorded in the
25 ordinance book of the municipality. He shall also file a
26 certified copy thereof in the office of the Secretary of the
27 Commonwealth, with the Secretary of the Department of Community
28 Affairs, and with the county board of elections.

29 Section 403. The general grant of municipal power contained
30 in this article is intended to confer the greatest power of self

1 government consistent with the Constitution of this Commonwealth
2 and with the provisions of and the limitations prescribed by
3 this act. Any specific enumeration of municipal powers
4 contained in this act or in any other laws will not be construed
5 in any way to limit the general description of power contained
6 in this article, and any such specifically enumerated municipal
7 powers shall be construed as in addition and supplementary to
8 the powers conferred in general terms by this article. All
9 grants of municipal power to municipalities governed by an
10 optional plan under this act, whether in the form of specific
11 enumeration or general terms, shall be liberally construed in
12 favor of the municipality.

13 Section 404. The optional plan of any municipality adopted
14 in accordance with this act shall not give any power or
15 authority to diminish any rights or privileges of any present
16 municipal employe in his pension or retirement system. No
17 municipality shall exercise any powers or authority beyond the
18 municipal limits except such as are conferred by an act of the
19 General Assembly, and no municipality shall engage in any
20 proprietary or private business except as authorized by the
21 General Assembly.

22 ARTICLE V

23 OPTIONAL PLAN: EXECUTIVE (MAYOR) - COUNCIL PLAN A

24 A. Form of Government: Elected Officials

25 Section 501. The form of government provided in this article
26 shall be known as the "Mayor-Council Plan A" and shall, together
27 with the laws applicable to that class of municipality and
28 Articles IV and XII of this act, govern any municipality the
29 voters of which have adopted it pursuant to this act.

30 Section 502. Each municipality hereunder shall be governed

1 by an elected council, an elected executive who may be called
2 mayor, as determined by the government study commission, an
3 elected district attorney in the case of counties and, when
4 recommended by the government study commission and adopted by
5 the voters, an elected treasurer, an elected controller, and by
6 such other officers and employes as may be duly appointed
7 pursuant to this article, general law or ordinance.

8 Section 503. The executive (mayor), the treasurer, if
9 elected, the district attorney in the case of counties and the
10 controller, if elected, shall be elected by the voters of the
11 municipality at a regular municipal election, and shall serve
12 for a term of four years beginning on the first Monday of
13 January next following his election.

14 Section 504. The council shall consist of five members,
15 unless pursuant to the authority granted under section 213 of
16 this act, the municipality shall be governed by a council of
17 three, seven or nine members. Members of the council shall be
18 elected at-large by the voters of the municipality, unless,
19 pursuant to the authority granted under section 213 of this act,
20 members shall be elected on a district basis in which each
21 district is as equal in population as is feasible, or on a
22 combination at-large and district basis as determined by the
23 charter study commission, or as specified in an initiative
24 petition or ordinance of the governing body under the provisions
25 of section 231 through section 233 of this act, at a regular
26 municipal election and shall serve for a term of four years,
27 except as hereinafter provided for those first elected beginning
28 on the first Monday of January next following their elections.

29 Section 505. At the first municipal election following the
30 adoption by a municipality of this plan, councilmen shall be

1 elected and shall serve for the terms as provided in section
2 1262 of this act.

3 B. Council

4 Section 511. The legislative power of the municipality as
5 provided by laws applicable to that class of municipality shall
6 be exercised by the municipal council, except as may otherwise
7 be provided for by the provisions of this act.

8 Section 512. On the first Monday of January following the
9 regular municipal election, the members of council shall
10 assemble at the usual place of meeting and organize and elect a
11 president from among its members, who shall preside at its
12 meetings and perform such other duties as council may prescribe,
13 and a vice president, who shall preside in the absence of the
14 president. If the first Monday is a legal holiday, the meeting
15 shall be held on the first day following.

16 Section 513. The council, in addition to such other powers
17 and duties as may be conferred upon it by general law, may
18 require any municipal officer, in its discretion, to prepare and
19 submit sworn statements regarding his official duties in the
20 performance thereof, and may otherwise investigate the conduct
21 of any department, office or agency of the municipal government.

22 Section 514. A municipal clerk or secretary shall be
23 appointed in the manner set forth in the Administrative Code as
24 provided in section 1246 of this act. The municipal clerk or
25 secretary shall serve as clerk of the council, keep its minutes
26 and records of its proceedings, maintain and compile its
27 ordinances and resolutions as this act requires, and perform
28 such functions as may be required by law or by local ordinance.
29 The municipal clerk shall, prior to his appointment, have been
30 qualified by training or experience to perform the duties of the

1 office.

2 C. Executive (Mayor) and Administration

3 Section 521. The executive power of the municipality shall
4 be exercised by the executive (mayor).

5 Section 522. The executive (mayor) shall enforce the plan
6 and ordinances of the municipality and all general laws
7 applicable thereto. He shall, annually, report to the council
8 and the public on the work of the previous year and on the
9 condition and requirements of the municipal government and
10 shall, from time to time, make such recommendations for action
11 by the council as he may deem in the public interest. He shall
12 supervise all of the departments of the municipal government,
13 and shall require each department to make an annual and such
14 other reports of its work as he may deem desirable.

15 Section 523. (a) Ordinances adopted by the council shall be
16 submitted to the executive (mayor) and he shall, within ten days
17 after receiving any ordinance, either approve the ordinance by
18 affixing his signature thereto, or return it to the council by
19 delivering it to the municipal clerk together with a statement
20 setting forth his objections thereto or to any item or part
21 thereof. No ordinance or any item or part thereof shall take
22 effect without the executive's (mayor's) approval, unless the
23 executive (mayor) fails to return an ordinance to the council
24 within ten days after it has been presented to him, or unless
25 council upon reconsideration thereof on or after the third day
26 following its return by the executive (mayor) shall by a vote of
27 a majority plus one of the members resolve to override the
28 executive's (mayor's) veto.

29 (b) The executive (mayor) may attend meetings of council and
30 may take part in discussions of council but shall have no vote

1 except in the case of a tie on the question of filling a vacancy
2 in the council, in which case he may cast the deciding vote.

3 Section 524. (a) The executive (mayor) shall designate any
4 department head, to act as executive (mayor) whenever the
5 executive (mayor) shall be prevented, by absence from the
6 municipality, disability, or other cause, from attending to the
7 duties of his office. During such time the person so designated
8 by the executive (mayor) shall possess all the rights, powers,
9 and duties of the executive (mayor). Whenever the executive
10 (mayor) shall have been unable to attend to the duties of his
11 office for a period of sixty consecutive days for any of the
12 above stated reasons, a member of council shall be appointed by
13 the council as acting executive (mayor), who shall succeed to
14 all the rights, powers and duties of the executive (mayor) or
15 the then acting executive (mayor), until he shall return or his
16 disability shall cease.

17 (b) The municipality may have a department of administration
18 and shall have such other departments as council may establish
19 by ordinance. All of the administrative functions, powers and
20 duties of the municipality, other than those vested in the
21 office of the clerk, treasurer, if elected, and controller,
22 shall be allocated and assigned among and within such
23 departments.

24 (c) Each department shall be headed by a director who shall
25 be appointed by the executive (mayor) with the advice and
26 consent of the council. Each municipality shall also have a
27 solicitor who shall be appointed by the executive (mayor) with
28 the advice and consent of the council. Each department head and
29 the solicitor shall serve during the term of office of the
30 executive (mayor) appointing him, and until the appointment and

1 qualification of his successor. No member of municipal council
2 shall head a department.

3 (d) The executive (mayor) may, in his discretion, remove any
4 department head after notice and an opportunity to be heard.
5 Prior to removing a department head, the executive (mayor) shall
6 first file written notice of his intention with the council, and
7 such removal shall become effective on the twentieth day after
8 the filing of such notice.

9 (e) Department heads shall appoint subordinate officers and
10 employes within their departments under procedures established
11 in section 1222 of this act.

12 Section 525. Where a department of administration is
13 established, it shall be headed by a director. He shall be
14 chosen solely on the basis of his executive and administrative
15 qualifications with special reference to his actual experience
16 in, or his knowledge of, accepted practice in respect to the
17 duties of his office as hereinafter set forth. At the time of
18 his appointment, he need not be a resident of the municipality
19 or State. He shall have, exercise and discharge the functions,
20 powers and duties of the department. The department, under the
21 direction and supervision of the executive (mayor), shall:

- 22 (1) Assist in the preparation of the budget;
- 23 (2) Administer a centralized purchasing system;
- 24 (3) Establish and administer a centralized personnel system;
- 25 (4) Establish and maintain a centralized accounting system
26 which shall be so designed as to accurately reflect the assets,
27 liabilities, receipts, and expenditures of the municipality;
- 28 (5) Perform such other duties as council may prescribe
29 through an administrative code or as the executive (mayor) shall
30 direct.

1 D. Budget

2 Section 531. The municipal budget shall be prepared by the
3 executive (mayor) with the assistance of the director of the
4 department of administration, or other officer designated by the
5 executive (mayor).

6 Section 532. The budget shall be in such form as is required
7 by council, and shall have appended thereto a detailed analysis
8 of the various items of expenditure and revenue. The budget as
9 submitted and adopted must be balanced. Council may reduce any
10 item or items in the executive's (mayor's) budget by a vote of a
11 majority of the council, but an increase in any item or items
12 therein shall become effective only upon an affirmative vote of
13 a majority plus one of the members of council.

14 Council shall, upon the introduction of the proposed budget,
15 fix a date for adoption thereof, which shall except as otherwise
16 provided be not later than the thirty-first day of December
17 immediately following.

18 Section 533. During the month of January next following any
19 municipal election, the executive (mayor) may submit an amended
20 budget to council and council shall consider it in the same
21 manner as provided in section 532, but final consideration of
22 the amended budget shall be completed by February 15 of the same
23 year.

24 Section 534. Council shall have the power to amend the
25 budget during the month of January next following any municipal
26 election. Final adoption of the amended budget shall be
27 completed by February 15 of the same year.

28 ARTICLE VI

29 OPTIONAL PLAN: EXECUTIVE (MAYOR) - COUNCIL PLAN B

30 Section 601. The form of government provided in this article

1 shall be known as the "Executive (Mayor) - Council Plan B" and
2 shall, together with Articles IV, V, and XII, with the exception
3 of subsection 524 (b), govern any municipality, the voters of
4 which have adopted it pursuant to this act.

5 Section 602. The municipality shall have a department of
6 administration and shall have such other departments as council
7 may establish by ordinance. All of the administrative functions,
8 powers and duties of the municipality, other than those vested
9 in the office of the clerk, treasurer, if elected, and
10 controller, shall be allocated and assigned among and within
11 such departments except that the functions specified in section
12 525 of this act shall be assigned to the department of
13 administration.

14 Section 603. It is the intent and purpose of Executive
15 (Mayor) - Council Plan B to mandate the establishment of a
16 department of administration.

17 ARTICLE VII

18 OPTIONAL PLAN: EXECUTIVE (MAYOR) - COUNCIL PLAN C

19 Section 701. The form of government provided in this article
20 shall be known as the "Executive (Mayor) - Council Plan C" and
21 shall, together with Articles IV, V and XII with the exception
22 of section 522 of this act, govern any municipality, the voters
23 of which have adopted it pursuant to this act.

24 Section 702. The executive (mayor) shall enforce the plan
25 and ordinances of the municipality and all general laws
26 applicable thereto. He shall, annually, report to the council
27 and the public on the work of the previous year and on the
28 condition and requirements of the municipal government and
29 shall, from time to time, make such recommendations for action
30 by the council as he may deem in the public interest.

1 Section 703. The executive (mayor) shall appoint, with the
2 advice and consent of the council, a managing director who shall
3 exercise supervision over all activities of the departments of
4 government and who shall be the contact officer between the
5 mayor and such departments. The managing director shall make
6 periodic reports with such recommendations as he deems
7 appropriate to the executive (mayor) concerning the affairs of
8 municipal government and particularly of those departments under
9 his jurisdiction.

10 The executive (mayor) may, in his discretion, remove a
11 managing director after notice and an opportunity to be heard.
12 Prior to removing a managing director, the executive (mayor)
13 shall first file written notice of his intention with the
14 council, and such removal shall become effective on the
15 twentieth day after the filing of such notice.

16 ARTICLE VIII

17 OPTIONAL PLAN: COUNCIL-MANAGER PLAN

18 A. Form of Government: Elected Officials

19 Section 801. The form of government provided in this article
20 shall be known as the "Council-Manager Plan" and shall, together
21 with Articles IV and XII, govern any municipality, the voters of
22 which have adopted this plan pursuant to this act.

23 Section 802. Each municipality under this article shall be
24 governed by an elected council one member of which shall be an
25 elected mayor chosen as provided in sections 213 and 811, an
26 elected district attorney in the case of counties, an appointed
27 municipal manager, and, when recommended by the charter
28 commission and adopted by the voters an elected treasurer, an
29 elected controller and by such other officers and employes as
30 may be duly appointed pursuant to this article, general law or

1 ordinance.

2 Section 803. The district attorney in the case of counties
3 and the treasurer and controller, if provided for and if
4 elected, shall be elected by the voters of the municipality at a
5 regular municipal election, and shall serve for a term of four
6 years beginning the first Monday of January next following his
7 election.

8 Section 804. The municipal council shall consist of five
9 members unless, pursuant to the authority granted under section
10 213 of this act, the municipality shall be governed by a council
11 of three, seven or nine members. Members of the municipal
12 council shall be elected, at large, by the voters of the
13 municipality, unless, pursuant to the authority granted under
14 section 213 of this act, members shall be elected on a district
15 basis in which each district is as equal in population as is
16 feasible, or on a combination at large and district basis as
17 determined by the charter study commission or as specified in an
18 initiative petition or ordinance of the governing body under the
19 provisions of section 231 through section 233 of this act, at a
20 regular municipal election, and shall serve for a term of four
21 years, except as hereinafter provided for those first elected,
22 beginning on the first Monday of January next following their
23 election.

24 Section 805. At the first municipal election following the
25 adoption by a municipality of this charter plan, councilmen
26 shall be elected and shall serve for the terms as provided in
27 section 1262 of this act.

28 B. Council

29 Section 811. (a) On the first Monday of January following
30 the regular municipal election, the members of the municipal

1 council shall assemble at the usual place of meeting and
2 organize and choose one of their number as mayor unless
3 otherwise provided. The mayor shall be chosen by ballot by
4 majority vote of all members of the municipal council. If the
5 members shall be unable, within five ballots to be taken within
6 two days of said organization meeting, to elect a mayor, then
7 the member who in the election for members of the municipal
8 council received the greatest number of votes shall be the
9 mayor. Should such person decline to accept the office, then the
10 person receiving the next highest vote shall be the mayor, and
11 so on, until the office is filled. The mayor shall preside at
12 all meetings of the municipal council and shall have a voice and
13 vote in its proceedings.

14 (b) On the recommendation of the government study commission
15 as provided in section 213, or as specified in an initiative
16 petition or ordinance of the governing body as authorized by
17 section 231 through section 233 of this act, the mayor shall be
18 elected directly by the voters of the municipality at the
19 regular municipal election in lieu of being chosen as provided
20 in subsection (a) of this section.

21 Section 812. A municipal clerk or secretary shall be
22 appointed in the manner set forth in the Administrative Code as
23 provided in section 1246 of this act. The municipal clerk or
24 secretary shall serve as clerk of the council, keep its minutes
25 and records of its proceedings, maintain and compile its
26 ordinances and resolutions as this act requires, and perform
27 such functions as may be required by law or by local ordinance.
28 The municipal clerk shall, prior to his appointment, have been
29 qualified by training or experience to perform the duties of the
30 office.

1 Section 813. (a) All powers as provided by laws applicable
2 to that class of municipality shall be vested in the municipal
3 council, except as otherwise provided by this article, and the
4 council shall provide for the exercise thereof and for the
5 performance of all duties and obligations imposed on the
6 municipality by law.

7 (b) The council shall by ordinance adopt an administrative
8 code defining the responsibilities of the municipal departments
9 and agencies as it deems necessary and proper for the efficient
10 conduct of municipal affairs.

11 (c) The municipal council shall appoint a municipal manager.
12 The office of municipal manager and municipal clerk or secretary
13 may be held by the same person.

14 (d) The council may make investigations into the affairs of
15 the municipality and the conduct of any municipal department,
16 office or agency.

17 (e) The municipal council shall continue or create, and
18 determine and define, the powers and duties of such executive
19 and administrative departments, boards, and offices, in addition
20 to those provided for herein, as it may deem necessary for the
21 proper and efficient conduct of the affairs of the municipality
22 including the office of deputy manager. Any department, board or
23 office so continued or created may, at any time, be abolished by
24 the municipal council. No member of municipal council shall head
25 an administrative department.

26 (f) It is the intention of this article that the municipal
27 council shall act in all matters as a body, and it is contrary
28 to the spirit of this article for any of its members to seek
29 individually to influence the official acts of the municipal
30 manager, or any other officer, or for the council or any of its

1 members to direct or request the appointment of any person to,
2 or his removal from office, or to interfere in any way with the
3 performance by such officers of their duties. The council and
4 its members shall deal with the administrative service solely
5 through the municipal manager and shall not give orders to any
6 subordinates of the municipal manager, either publicly or
7 privately. Nothing herein contained shall prevent the municipal
8 council from appointing committees or commissions of its own
9 members or of citizens to conduct investigations into the
10 conduct of any officer or department, or any matter relating to
11 the welfare of the municipality, and delegating to such
12 committees or commissions such powers of inquiry as the
13 municipal council may deem necessary.

14 C. Municipal Manager

15 Section 821. The municipal manager shall be chosen by the
16 council on the basis of his executive and administrative
17 qualifications. At the time of his appointment, he need not be a
18 resident of the municipality or State. The municipal manager
19 shall not hold any elective governmental office.

20 Section 822. The municipal manager shall be appointed for an
21 indefinite term, and may be removed by a majority vote of the
22 council. At least thirty days before such removal shall become
23 effective, the council shall notify the municipal manager of its
24 decision to remove him from office, by a majority vote of its
25 members, stating the reasons for his removal. The municipal
26 manager may reply in writing and may request a public hearing,
27 which shall be held not earlier than twenty days nor later than
28 thirty days after the filing of such request. After such public
29 hearing, if one be requested, and after full consideration, the
30 council by majority vote of its members may adopt a final

1 resolution of removal. By the preliminary resolution, the
2 council may suspend the municipal manager from duty, but may, in
3 any case, cause to be paid him forthwith any unpaid balance of
4 his salary and thereafter his salary for the next three calendar
5 months.

6 Section 823. The municipal manager may designate a qualified
7 administrative officer of the municipality to perform his duties
8 during his temporary absence or disability. In the event of his
9 failure to make such designation, or if the absence or
10 disability continues more than thirty days, the council may
11 appoint an officer of the municipality to perform the duties of
12 the manager during such absence or disability until he shall
13 return or his disability shall cease.

14 Section 824. The municipal manager shall:

15 (1) Be the chief executive and administrative official of
16 the municipality.

17 (2) Execute all laws and ordinances of the municipality.

18 (3) Appoint and have power to remove department heads, a
19 deputy manager, if one be authorized by council, and appoint
20 subordinate officers and employes under procedures established
21 in section 1222 of this act.

22 (4) Negotiate contracts for the municipality, subject to the
23 approval of the municipal council, make recommendations
24 concerning the nature and location of municipal improvements,
25 and execute municipal improvements as determined by the
26 municipal council.

27 (5) Assure that all terms and conditions imposed in favor of
28 the municipality or its inhabitants in any statute, public
29 utility franchise or other contract are faithfully kept and
30 performed, and upon knowledge of any violation, call the same to

1 the attention of the municipal council.

2 (6) Prepare agenda for and attend all meetings of the
3 municipal council with the right to take part in the
4 discussions, but without the right to vote.

5 (7) Make such recommendations to the council concerning
6 policy formulation as he deems desirable and keep the council
7 and the public informed as to the conduct of municipal affairs.

8 (8) Prepare and submit the annual budget to the council
9 together with such explanatory comment as he may deem desirable,
10 and administer the council approved budget.

11 (9) Perform such other duties as may be required of the
12 municipal manager by ordinance or resolution of the municipal
13 council.

14 (10) Be responsible to the council for carrying out all
15 policies established by it and for the proper administration of
16 all affairs of the municipality within the jurisdiction of the
17 council.

18 D. Budget

19 Section 825. The municipal manager shall submit to council
20 his recommended budget, together with such explanatory comment
21 or statement as he may deem desirable. The budget shall be in
22 such form as is required by council for municipal budgets, and
23 shall in addition have appended thereto detailed analysis of the
24 various items of expenditure and revenue. The budget as
25 submitted and adopted must be balanced. Council shall upon
26 introduction of the proposed budget fix a date for adoption
27 thereof which shall be not later than the thirty-first day of
28 December immediately following.

29 Section 826. During the month of January next following any
30 municipal election, council may request the manager to submit an

1 amended budget to council which shall consider it in the same
2 manner as provided in section 825, except that final adoption of
3 the amended budget shall not be later than February 15 of the
4 same year.

5 ARTICLE IX

6 OPTIONAL PLAN: SMALL MUNICIPALITY PLAN

7 A. Form of Government:

8 Elected Officials

9 Section 901. The form of government provided in this article
10 shall be known as the "Small Municipality Plan." It may be
11 adopted by any municipality having a population of less than
12 seven thousand five hundred inhabitants by the last Federal
13 census. The plan together with Articles IV and XII of this act
14 shall govern any municipality the voters of which have adopted
15 it pursuant to this act.

16 Section 902. Each municipality shall be governed by an
17 elected executive (mayor) and councilmen, an elected district
18 attorney in the case of counties and such other officers as
19 shall be appointed pursuant to this article, general law or
20 ordinance.

21 B. Council

22 Section 911. The council shall consist of the executive
23 (mayor), who shall be elected at large, and two councilmen
24 unless pursuant to the authority granted under section 213 of
25 this act the municipality shall be governed by an executive
26 (mayor) and four councilmen, an executive (mayor) and six
27 councilmen, or an executive (mayor) and eight councilmen.
28 Members of the council shall be elected at large, unless,
29 pursuant to the authority granted under section 213 of this act,
30 members shall be elected on a district basis in which each

1 district is as equal in population as is feasible, or on a
2 combination at large and district basis as determined by the
3 charter study commission or as specified in an initiative
4 petition or ordinance of the governing body under the provisions
5 of section 231 through section 233 of this act, at a regular
6 municipal election by the voters of the municipality and shall
7 serve a term of four years beginning on the first Monday in
8 January next following their election, except as hereinafter
9 provided for those first elected.

10 Section 912. On the first Monday of January following the
11 regular municipal election, the members of the council shall
12 assemble at the usual place of meeting and organize. The
13 executive (mayor) shall preside at all meetings of the council
14 and shall have a voice and vote on its proceedings. The council
15 shall select from among its members a president of the council
16 who shall serve in place of the executive (mayor) in the event
17 of his absence or disability.

18 Section 913. The legislative power of the municipality shall
19 be exercised by the council, except as may be otherwise provided
20 by general law. A majority of the whole number of the council
21 shall constitute a quorum for the transaction of business, but a
22 smaller number may meet and adjourn from time to time.

23 Section 914. (a) A municipal clerk or secretary shall be
24 appointed in the manner set forth in the Administrative Code, as
25 provided in section 1246 of this act. The municipal clerk or
26 secretary shall serve as clerk of the council, keep its minutes
27 and records of its proceedings, maintain and compile its
28 ordinances and resolutions as this act requires, and perform
29 such functions as may be required by law. The clerk shall, prior
30 to his appointment, have been qualified by training or

1 experience to perform the duties of the office.

2 (b) The council may consistent with acts of the General
3 Assembly applicable to that class or classes of municipality
4 provide for the manner of appointment of a solicitor, any
5 planning board, zoning board of adjustment, zoning hearing board
6 or personnel board in the municipality and may create
7 commissions and other bodies with advisory powers.

8 C. Executive (Mayor) and Administration

9 Section 921. The executive power of the municipality shall
10 be exercised by the executive (mayor). It shall be his duty to
11 see that all laws and ordinances in force and effect within the
12 municipality are observed. He shall address the council and
13 report to the residents annually, and at such other times as he
14 may deem desirable, on the condition of the municipality and
15 upon its problems of government. The executive (mayor) shall
16 also appoint a finance committee of the council, which shall
17 consist of one or more councilmen, and may appoint and designate
18 other committees of council of similar composition.

19 Section 922. The executive (mayor) shall appoint subordinate
20 officers and employes with the advice and consent of council
21 under procedures established in section 1222 of this act, except
22 that in municipalities commonly known as counties, the office of
23 prothonotary and clerk of courts, register of wills and clerk of
24 orphans court shall be filled by appointment by the president
25 judge of the appropriate court with advice and consent of a
26 majority of the council.

27 D. Budget

28 Section 941. The municipal budget shall be prepared by the
29 executive (mayor) and shall be submitted to council in a form as
30 is required by council. The budget as submitted and adopted must

1 be balanced. Council shall upon introduction of the proposed
2 budget, fix a date for adoption thereof which shall be not later
3 than the thirty-first day of December immediately following.

4 Section 942. During the month of January next following any
5 municipal election, the executive (mayor), upon his own
6 initiative or at the request of council, may submit an amended
7 budget to council, which shall consider it in the same manner as
8 provided in section 941, except final adoption of the amended
9 budget shall not be later than February 15 of the same year.

10 ARTICLE X

11 OPTIONAL PLAN: OPTIONAL COUNTY PLAN

12 A. Form of Government: Elected Officials

13 Section 1001. The form of government provided in this
14 article shall be known as the "Optional County Plan" and shall,
15 together with Articles IV and XII govern any county, the voters
16 of which have adopted this plan pursuant to this act. This
17 option shall be available only to those municipalities commonly
18 known as "counties."

19 Section 1002. (a) The county officers are:

- 20 (1) County Commissioners,
- 21 (2) Controller or Auditors,
- 22 (3) District Attorneys,
- 23 (4) Public Defenders,
- 24 (5) Treasurers,
- 25 (6) Sheriffs,
- 26 (7) Registers of Wills,
- 27 (8) Recorders of Deeds,
- 28 (9) Prothonotaries,
- 29 (10) Clerks of the Courts.

30 (b) County officers, except for public defenders who shall

1 be appointed as provided by law, shall be elected at the
2 municipal elections and shall hold their offices for the term of
3 four years, beginning on the first Monday of January next after
4 their election, and until their successors shall be duly
5 qualified; all vacancies shall be filled in such manner as may
6 be provided by law.

7 (c) County officers shall be paid only by salary as provided
8 by law for services performed for the county or any other
9 governmental unit. Fees incidental to the conduct of any county
10 office shall be payable directly to the county or the
11 Commonwealth, or as otherwise provided by law.

12 (d) Three county commissioners shall be elected in each
13 county. In the election of these officers each qualified elector
14 shall vote for not more than two persons, and the three persons
15 receiving the highest number of votes shall be elected.

16 (e) The coroner or medical examiner shall be a statutory
17 office elected at the municipal election and shall hold the
18 office for the term of four years beginning on the first Monday
19 of January next after election, and until their successors shall
20 be duly qualified; shall be paid only by salary as provided by
21 law; all vacancies shall be filled in such manner as may be
22 provided by law.

23 (f) Jury commissioners shall be statutory officers and shall
24 be elected at the municipal election and shall hold their office
25 for the term of four years beginning on the first Monday of
26 January next after election and until their successors shall be
27 duly qualified; the salary board shall fix their salary;
28 vacancies shall be filled by the president judge of the court of
29 common pleas.

30 Section 1003. All county officers may exercise those powers

1 granted by general law to county offices of the class of county
2 to which it belongs.

3 ARTICLE XI

4 ADDITIONAL COUNTY OPTION; ELECTED SHERIFF

5 Section 1101. A government study commission created and
6 constituted as provided in Article II of this act for the
7 municipality commonly known as counties, or an initiative
8 petition or ordinance of the governing body as authorized by
9 section 231 through section 233 of this act, may recommend and
10 cause to be placed on the ballot as a part of the question
11 submitted to the voters for approval, additional options as part
12 of the optional plans as set forth in Article V, Executive
13 (Mayor) - Council Plan A; Article VI Executive (Mayor) - Council
14 Plan B; Article VII Executive (Mayor) - Council Plan C; Article
15 VIII Council-Manager Plan; or Article IX, Small Municipalities
16 Plan, providing for the election of the county sheriff.

17 Section 1102. If the optional plan, including an additional
18 option or options as provided in section 1101, is approved by
19 the voters, the county shall be governed by the provisions of
20 the article providing the basic optional plan and by the
21 provisions of Articles IV and XII of this act, except that the
22 elected sheriff shall be subject to the provisions pertaining to
23 that office as provided in Article X of this act.

24 ARTICLE XII

25 GENERAL PROVISIONS COMMON TO OPTIONAL PLANS

26 A. Officers and Employes

27 Section 1201. In any case where a municipal officer or
28 official elected or appointed knows or by the exercise of
29 reasonable diligence could know that he is interested to any
30 appreciable degree, either directly or indirectly, in any

1 contract for the sale or furnishing of any personal property for
2 the use of the municipality, or for any services to be rendered
3 for such municipality involving the expenditure by the
4 municipality of more than three hundred dollars (\$300) in any
5 year, he shall notify council thereof, and any such contract
6 shall not be passed and approved by council except by an
7 affirmative vote of at least three-fourths of the members
8 thereof. In case the interested officer is a member of council,
9 he shall refrain from voting upon said contract. The provisions
10 of this section shall not apply to cases where such officer or
11 official is an employe of the person, firm or corporation to
12 which money is to be paid in a capacity with no possible
13 influence on the transaction and in which he cannot possibly be
14 benefited thereby, either financially or in any other material
15 manner. Any officer or officials who shall knowingly violate the
16 provisions of this section shall be liable to the municipality
17 upon his bond, if any, or personally, to the extent of the
18 damage shown to be sustained thereby by the municipality, to
19 ouster from office, and shall be guilty of a misdemeanor; and
20 upon conviction thereof, shall be sentenced to pay a fine not
21 exceeding five hundred dollars (\$500), or imprisonment not
22 exceeding one year, or both.

23 Section 1202. No officer or employe shall accept or receive,
24 directly or indirectly, from any person operating within the
25 territorial limits of a municipality any interurban railway, bus
26 line, street railway, gas works, waterworks, electric light or
27 power plant, heating plant, telegraph line, telephone exchange
28 or other business using or operating under a public franchise,
29 any frank, free pass, free ticket or free service, or accept or
30 receive, directly or indirectly, from any person, any other

1 service upon terms more favorable than is granted to the public
2 generally, except that such prohibition of free transportation
3 shall not apply to policemen or firemen in uniform. Nor shall
4 any free service to the municipal officials heretofore provided
5 by any franchise or ordinance be affected by this section.

6 Section 1203. No candidate for office, appointment or
7 employment and no officer, appointee or employe in any
8 municipality shall, directly or indirectly, give or promise any
9 person any office, position, employment, benefit or anything of
10 value for the purpose of influencing or obtaining the political
11 support, aid or vote of any person, under the penalty of being
12 disqualified to hold the office or employment to which he may be
13 or may have been elected or appointed.

14 Section 1204. If any person hereafter elected or appointed
15 to any office or position in a municipality governed under this
16 act shall, after lawful notice or process, wilfully refuse or
17 fail to appear before any court, any legislative committee, or
18 the Governor, or having appeared shall refuse to testify or to
19 answer any question regarding the property, government or
20 affairs of the municipality, or regarding his nomination,
21 election, appointment or official conduct on the ground that his
22 answer would tend to incriminate him, or shall refuse to waive
23 immunity from prosecution on account of any such matter in
24 relation to which he may be asked to testify, may be removed
25 from office by the council of the municipality in its
26 discretion.

27 B. Treasurer

28 Section 1211. (a) Under any of the optional plans as set
29 forth in this act, except for the plan set forth in Article X -
30 Optional County Plan, the office of municipal treasurer may be

1 omitted, or may be filled by appointment as recommended by the
2 charter commission and adopted by the voters. If the office of
3 municipal treasurer is to be filled by appointment, the
4 appointment shall be made in accordance with the appointment
5 procedures for other department heads.

6 (b) The municipal treasurer, if elected, shall perform such
7 functions and duties and have such powers relating to the
8 collection, receiving, safekeeping and payment over of public
9 moneys including municipal, county, institution district and
10 school district taxes as provided by general law and shall have
11 such other functions, powers and duties as may be assigned to
12 him by the executive of the municipality.

13 C. Appointment Power and Personnel

14 Section 1221. The appointment power of the chief executive
15 of the municipality under any of the plans authorized by this
16 act shall include the appointment of members of boards and
17 commissions authorized by this act, by general law now or
18 hereafter enacted, or by action of municipal council. All such
19 appointments shall be with the advice and consent of a majority
20 of municipal council.

21 Section 1222. Appointments and promotions of subordinate
22 officers and employes within departments shall be made by the
23 department head on the basis of a personnel system which shall
24 include written procedures for appointment and promotion based
25 on merit and fitness as demonstrated by examination or other
26 evidence of position competence. The personnel system shall be
27 governed by personnel rules which shall be prepared by the
28 executive (mayor) or manager and submitted to the municipal
29 council which shall adopt them with or without amendments unless
30 otherwise provided for or arrived at by collective bargaining.

1 The personnel rules may provide for:

2 (1) The classification of all municipal positions, based on
3 the duties, authority and responsibility of each position, with
4 adequate provision for reclassification of any position whenever
5 warranted by change of circumstances.

6 (2) A pay plan for all municipal positions.

7 (3) Methods for determining the merit and fitness of
8 candidates for appointment or promotion.

9 (4) The policies and procedures regulating reduction in
10 force and disciplinary action, including suspension and removal
11 of employes.

12 (5) The hours of work, and provisions for sick and vacation
13 leave and holidays, and provisions for overtime compensation.

14 (6) Grievance procedures, including procedures for the
15 hearing of grievances.

16 (7) Other practices and procedures necessary to the
17 administration of the municipal personnel system.

18 D. Filling Vacancies in Elected Office

19 Section 1231. This section shall apply to the filling of
20 vacancies in elected office in all optional plans and options
21 except those set forth in Article X - Optional County Plan, and
22 Article XI - Additional County Options.

23 Section 1232. (a) If a vacancy exists in the municipal
24 council, the municipal council shall, by a majority of its
25 remaining members, fill such vacancy, within thirty days
26 thereafter, by electing a qualified person to serve until that
27 first Monday of January when his successor who shall have been
28 elected by the qualified electors at the next municipal
29 election, occurring at least fifty days after such vacancy
30 exists, is duly sworn into office for the remainder of the term

1 of the person originally elected to said office.

2 In case vacancies should exist whereby the offices of a
3 majority or more members of the municipal council become vacant,
4 the remaining members shall fill such vacancies, one at a time,
5 giving each new appointee such reasonable notice of his
6 appointment as will enable him to meet and act with the then
7 qualified member or members of the municipal council in making
8 further appointments until a bare majority of members of
9 municipal council members have been qualified, whereupon the
10 said members shall fill the remaining vacancies at a meeting
11 attended by the said majority members of municipal council, such
12 appointees to receive a majority of the votes of the members
13 present at any such meeting. The person or persons selected to
14 fill such vacancy or vacancies shall hold their offices as
15 herein provided.

16 If, by reason of a tie vote, or otherwise, such vacancy shall
17 not have been filled by the remaining members of municipal
18 council within the time as limited herein, the court of common
19 pleas, upon the petition of ten or more qualified electors,
20 shall fill such vacancy by the appointment of a qualified
21 person, for the portion of the unexpired term as above provided.

22 (b) If a vacancy occurs in the office of executive (mayor),
23 municipal treasurer, if elected, municipal controller, if
24 elected, county district attorney, if elected, or county
25 sheriff, if elected, the municipal council shall fill such
26 vacancy, within thirty days thereafter, by choosing an executive
27 (mayor), a municipal treasurer, a municipal controller, a county
28 district attorney or a county sheriff, as the case may be, to
29 serve until his successor is elected by the qualified electors
30 at the next municipal election, occurring at least fifty days

1 after such vacancy occurs, and is duly sworn into office. The
2 person so elected shall serve from the first Monday of January
3 next succeeding his election for the remainder of the term of
4 the person originally elected to such office.

5 If, by reason of a tie vote or otherwise, a vacancy in the
6 office of executive (mayor), treasurer, controller, county
7 district attorney, or county sheriff shall not have been filled
8 by council within the time as limited herein, the court of
9 common pleas, upon petition of ten or more qualified electors,
10 shall fill such vacancy by the appointment of a qualified person
11 for the portion of the unexpired term as herein provided.

12 E. Legislation by Council

13 Section 1241. The council shall, by ordinance or resolution,
14 designate the time of holding regular meetings which shall be at
15 least monthly. The executive (mayor) or the president of
16 council, as the case may be, may and, upon written request of a
17 majority of the members of the council, shall call a special
18 meeting of the council. In the call, he shall designate the
19 purpose of the special meeting and no other business shall be
20 considered. All meetings of the council shall be open to the
21 public. The municipal clerk or secretary shall keep a journal
22 of its proceedings and record the minutes of every meeting.

23 Section 1242. (a) Council shall determine its own rules of
24 procedure, not inconsistent with ordinance or statute. A
25 majority of the whole number of members of the council shall
26 constitute a quorum, and no ordinance shall be adopted by the
27 council without the affirmative vote of a majority of all the
28 members of the council.

29 (b) Each ordinance or resolution shall be presented and
30 considered as determined by council rules of procedure. The

1 vote upon every motion, resolution or ordinance shall be taken
2 by roll call and the yeas and nays shall be entered on the
3 minutes. The minutes of each meeting shall be signed by the
4 officer presiding at such meeting and by the municipal clerk or
5 secretary.

6 (c) Council shall adopt by ordinance an administrative code
7 which shall provide for the establishment and filling of
8 additional administrative offices which it shall deem necessary,
9 and shall provide for administrative procedures not otherwise
10 provided for in this act or by general law.

11 (d) The compensation of the controller and treasurer shall
12 be fixed by the council.

13 Section 1243. (a) Except as may otherwise be provided in
14 this act all ordinances shall be adopted and published as
15 provided by law: Provided, however, That any ordinance may
16 incorporate by reference any standard technical regulation or
17 code, official or unofficial, which need not be so published
18 whenever ten copies of said regulations or code have been placed
19 on file in the office of the municipal clerk or secretary and in
20 the office of the body or department charged with the
21 enforcement of said ordinance.

22 (b) No ordinance other than the local budget ordinance shall
23 take effect less than ten days after its final passage by
24 council and approval by the executive (mayor) where such
25 approval is required, unless the council shall adopt a
26 resolution declaring an emergency and at least a majority plus
27 one of all the members of the council vote in favor of such
28 resolution.

29 Section 1244. The municipal clerk or secretary shall record
30 all ordinances and resolutions adopted by council and at the

1 close of each year, with the advice and assistance of the
2 municipal solicitor, shall bind, compile or codify all the
3 ordinances and resolutions, or true copies thereof, of the
4 municipality which then remain in force and effect. He shall
5 also properly index the record books, compilation or
6 codification of ordinances and resolutions.

7 Section 1245. No rule or regulation made by any department,
8 officer, agency or authority of the municipality, except such as
9 relates to the organization or internal management of the
10 municipal government or a part thereof, shall take effect until
11 it is filed either with the municipal clerk or secretary or in
12 such other manner as may be provided by ordinance. The council
13 shall provide for the prompt publication of such rules and
14 regulations.

15 Section 1246. The council shall cause to be prepared and
16 pass as an ordinance an administrative code which shall provide
17 for the manner of appointment of a solicitor, clerk or
18 secretary, and may create commissions and other bodies with
19 advisory powers, and may provide additional provisions relating
20 to the internal structure of the municipality as long as the
21 provisions of the administrative code are not in conflict with
22 any of the provisions of this law applicable to the
23 municipality.

24 F. Audit and Control

25 Section 1251. The council shall provide by separate
26 ordinance or in the administrative code for the exercise of a
27 control function in the management of the finances of the
28 municipality by the municipal controller or, in the case of the
29 optional plan set forth in Article X, the Optional County Plan,
30 by the controller or auditors.

1 Section 1252. The council may provide for annual post audits
2 of all accounts by an independent auditor who shall be a
3 certified public accountant, registered in Pennsylvania, or a
4 firm of certified public accountants so registered.

5 G. Transition to Optional Charter Plan

6 Section 1261. Whenever the electors of a municipality adopt
7 any of the optional plans provided by this act at any election
8 for that purpose, such municipality shall be governed under the
9 provisions of such plan, the provisions of general law
10 applicable to that class of municipality and this act from the
11 first Monday in January following the next succeeding municipal
12 election, except as provided in section 213 (c) of this act.

13 Section 1262. (a) Any elected municipal official in office
14 at the time of the adoption of any optional plan provided by
15 this act shall continue in office only until the new plan of
16 government goes into effect as provided in section 1261, except
17 as otherwise provided in subsections (c) and (d) of this
18 section.

19 (b) At the municipal election next succeeding the adoption
20 of one of the optional plans provided for in this act, if four
21 or less councilmen are elected, they shall serve for terms of
22 four years. If five are elected, the four successful candidates
23 receiving the highest percentage of the votes cast for the
24 office to which they are elected shall serve for terms of four
25 years, and the candidate receiving the next highest percentage
26 of votes shall serve for a term of two years. If six or more
27 councilmen are elected, the five candidates receiving the
28 highest percentage of the votes cast for the office to which
29 they are elected shall serve for terms of four years, and the
30 remaining successful candidates receiving the next highest

1 percentage of votes shall serve for terms of two years.

2 Thereafter, all councilmen shall be elected for terms of four
3 years.

4 (c) If an elected municipal treasurer or elected municipal
5 controller or elected county district attorney or elected county
6 sheriff is in office at the time of the adoption of an optional
7 plan under the provisions of this act, a treasurer or controller
8 or district attorney or sheriff, as the case may be, shall not
9 be elected or appointed to take office until after the
10 resignation, death, removal or expiration of the term of said
11 treasurer, controller, district attorney or sheriff.

12 At the expiration of the term of said treasurer, controller,
13 district attorney or sheriff in office at the time of the
14 adoption of an optional plan under the provisions of this act, a
15 treasurer, controller, district attorney or sheriff, as the case
16 may be, shall be elected or appointed for the full term for said
17 office as provided by the optional plan adopted.

18 (d) Any member of a municipal governing body in office at
19 the time of the adoption of an optional plan shall remain in
20 office, continuing as an at-large or district councilman, as the
21 case may be, until the expiration of his term in office, and
22 shall receive the compensation provided by law at that time:
23 Provided, That if that councilman was elected on an at-large
24 basis, the newly adopted optional plan provides for a total
25 number of at-large councilmen equal to or exceeding the total
26 number of at-large councilmen under the existing form of
27 government; or, if that councilman was elected on a district
28 basis, the district from which that councilman was elected
29 remains unchanged and continues to encompass the exact same
30 geographical area under the newly adopted optional plan as under

1 the existing form of government, and the number of councilmen to
2 be elected from that district under the newly adopted optional
3 plan is equal to or exceeds the number elected from that
4 district under the existing form of government. Any such
5 councilman may, by writing filed with the municipal treasurer,
6 direct that any portion of his annual compensation for serving
7 in office be returned to the municipal treasury. For the
8 purpose of this section, an executive or mayor who is also a
9 member of the council under an existing plan shall be considered
10 as a member of the council, and after the new plan goes into
11 effect, his duties shall be only those of a member of council as
12 prescribed by the new plan.

13 (e) At the municipal election next succeeding the adoption
14 of one of the optional plans provided for in this act, the
15 number of councilmen prescribed by the terms in the plan less
16 the number of councilmen then in office whose terms do not
17 expire on the first Monday of January next following, as may be
18 determined by the foregoing subsection (d), shall be elected.

19 (f) If any vacancies in council occurring by reason of
20 resignation, death or removal shall exist ninety days or more
21 before such election, they shall be filled for the remainder of
22 the term of the person originally elected to that office.

23 Section 1263. (a) The annual compensation of the executive
24 (mayor) and councilmen elected to their offices in the year
25 prior to the transition year under any of the optional plans,
26 except the Optional County Plan set forth in Article X, adopted
27 pursuant to this act, shall be established by the commission as
28 part of its recommendations or by the initiative petition or
29 ordinance of the governing body authorized by section 231
30 through section 233 of this act.

1 (b) The compensation of the executive (mayor), councilmen,
2 controller, and treasurer elected to their offices subsequent to
3 the transition year to any of the optional plans set forth in
4 this act, except for the plan set forth in Article X, the
5 Optional County Plan, shall be fixed by ordinance of council
6 finally passed or adopted at least two days prior to the last
7 day fixed by law for candidates to withdraw their names from
8 nominating petitions previous to the day of the municipal
9 election. After such compensation is once fixed by ordinance,
10 only an increase or decrease thereof need be fixed by such
11 ordinance.

12 Section 1264. On the effective date of an optional plan
13 adopted pursuant to this act, all ordinances and resolutions of
14 the municipality to the extent that they are not inconsistent
15 with the provisions of this act shall remain in full force and
16 effect until modified or repealed as provided by law.

17 Section 1265. (a) On the effective date of an optional plan
18 adopted pursuant to this act, all appointive offices then
19 existing in such municipality shall be abolished and the terms
20 of all appointed officers shall immediately cease and terminate:
21 Provided, That nothing in this section shall be construed to
22 abolish the office or terminate the terms of office of any
23 alderman or constable or of any official or employe now
24 protected by any tenure of office or civil service law, or of
25 any policeman or fireman, whether or not protected by a tenure
26 of office law.

27 (b) Provisions for officers and for the organization and
28 administration of the municipal government under the optional
29 plan may be made by resolution pending the adoption of
30 ordinances, but any such resolution shall expire not later than

1 sixty days after the effective date of the optional plan.

2 Section 1266. All actions and proceedings of a legislative,
3 executive or judicial character, which are pending upon the
4 effective date of an optional plan adopted pursuant to this act,
5 may continue and the appropriate officer or employe under such
6 optional plan shall be substituted for the officer or employe
7 theretofore exercising or discharging the function, power or
8 duty involved in such action or proceeding.

9 H. Repeal of an Optional Plan

10 Section 1271. The procedure for repeal of an optional plan
11 shall be the same as for adoption of an optional plan as
12 provided in Article II of this act, excluding the procedure
13 provided in section 231 through section 233 of this act.

14 Whenever the electors of any municipality, by a majority vote of
15 those voting on the question, vote in favor of repeal of an
16 optional plan and the establishment of a particular form of
17 government, such municipality shall be governed under the form
18 of government selected by the electors, from the first Monday of
19 January following the municipal election at which the elective
20 officials of the form of government selected by the electors
21 shall have been elected. The government study commission shall
22 provide in its report for the new form of government to be
23 established.

24 It is not the intent of this section to prohibit or limit in
25 any way utilizing the procedure provided in section 231 through
26 section 233 of this act to amend an optional plan.

27 ARTICLE XIII

28 GENERAL

29 Section 1301. This act shall not apply to any city of the
30 first class or to any county of the first class.

1 Section 1302. No local municipality within a county shall
2 supersede or exercise any power, function or service presently
3 exercised by said county.

4 Section 1303. Each municipality which does not adopt a home
5 rule charter or an optional plan of government under the
6 provisions of this act, shall retain its existing form of
7 government as provided in the code under which it operates, or
8 under general law, or under the Constitution of Pennsylvania.

9 Section 1304. In case the electors of any municipality
10 disapprove a proposal to adopt a home rule charter or an
11 optional plan of government the municipality shall retain its
12 existing form of government.

13 Section 1305. A municipality assuming a function previously
14 performed by another municipality under the terms of this act
15 shall also assume all the indebtedness and obligations of the
16 municipality relating to the function. If property,
17 indebtedness, or obligations of another municipality not within
18 the boundaries of the municipality assuming the function is
19 involved, the governing bodies of the party municipalities shall
20 make an adjustment and apportionment of all public property
21 involved.

22 The adjustment and apportionment as made shall be reduced to
23 writing, and shall be filed with the court of common pleas of
24 the county, and a copy shall also be filed with the Department
25 of Community Affairs.

26 In case the municipalities cannot make an amicable adjustment
27 and apportionment of the property, obligations and indebtedness
28 within six months after the function is assumed any of the
29 municipalities may present a petition to the court of common
30 pleas. The court shall then appoint three disinterested

1 commissioners, all residents and taxpayers of the county, but
2 none residing in or owners of real estate in the municipalities,
3 who, after hearing, notice of which shall be given to the
4 municipalities as the court shall direct, shall make report to
5 the court making an adjustment and apportionment of all the
6 property as well as the obligations or indebtedness. The report
7 shall state the amount that shall be due and payable from each
8 municipality, the forms of payment and the amount of obligations
9 and indebtedness that shall be assumed by each.

10 The commissioners shall give the municipalities at least five
11 days' written notice of the filing of their report. Unless
12 exceptions are filed to such report within thirty days after the
13 date of the filing, the report shall be confirmed by the court
14 absolutely. Any sum awarded by the report shall be a legal and
15 valid claim in its favor against the municipality charged. Any
16 property real or personal given to a municipality shall become
17 its property. Any claim or indebtedness charged against the
18 municipality may be collected from it.

19 If exceptions are filed to the report of the commissioners,
20 the court shall dispose of the same, taking testimony therein if
21 it deems the same advisable. The court shall enter its decree
22 confirming the award of the commissioners, or modifying the same
23 as to it appears just and proper.

24 The commissioners shall be allowed such compensation and
25 expenses for their services as the court shall fix. The costs of
26 the proceedings, including the compensation and expenses of the
27 commissioners, shall be apportioned by the court between the
28 municipalities as it deems proper.

29 In case a municipality or part of a municipality is located
30 in two or more counties, the court of common pleas of the county

1 where the larger part of the municipality assuming the function
2 is located shall have exclusive jurisdiction over the
3 proceedings.

4 Section 1306. Any city which began proceedings before the
5 effective date of this act under the act of July 15, 1957
6 (P.L.901), known as the "Optional Third Class City Charter Law,"
7 may adopt an optional plan thereunder and function under the
8 provisions of that act.

9 Section 1307. All acts and parts of acts are repealed in so
10 far as they are inconsistent herewith.

11 Section 1308. If any provision of this act, or the
12 application of such provision to any person or circumstances,
13 shall be held invalid, the remainder of the act and the
14 application of such provision to persons or circumstances other
15 than those as to which it is held invalid, shall not be affected
16 thereby.

17 Section 1309. This act shall take effect immediately.