

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 776**      Session of  
1995

INTRODUCED BY DELP, BRIGHTBILL AND SALVATORE, MARCH 17, 1995

REFERRED TO URBAN AFFAIRS AND HOUSING, MARCH 17, 1995

AN ACT

1 Amending the act of July 15, 1957 (P.L.901, No.399), entitled  
 2 "An act giving cities of the third class the right and power  
 3 to adopt one of several plans of optional charters and to  
 4 exercise the powers and authority of local self-government  
 5 subject to certain restrictions and limitations; providing  
 6 procedures for such adoption and defining the effect  
 7 thereof," further providing for the filling of vacancies in  
 8 council and office of mayor.

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

11 Section 1. Section 406 of the act of July 15, 1957 (P.L.901,  
 12 No.399), known as the Optional Third Class City Charter Law,  
 13 amended November 30, 1959 (P.L.1618, No.593), is amended to  
 14 read:

15 Section 406. (a) [If a vacancy exists in the city council,  
 16 the city council shall, by a majority of its remaining members,  
 17 fill such vacancy, within thirty days thereafter, by electing a  
 18 qualified person to serve until that first Monday of January  
 19 when his successor who shall have been elected by the qualified  
 20 electors at the next municipal election, occurring at least  
 21 thirty days after such vacancy exists, is duly sworn into office

1 for the remainder of the term of the person originally elected  
2 to said office.

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

22 If, at any time, vacancies should occur or exist in the  
23 membership of all members of city council, the court of common  
24 pleas shall appoint a city council, of persons properly  
25 qualified, who shall serve as herein provided.] If a vacancy  
26 exists in the city council, whether as to the office of mayor or  
27 one or more of the other members of council, the position shall  
28 remain vacant until being filled by a qualified person elected  
29 by the qualified electors at the next regularly scheduled  
30 primary or general election that falls at least sixty days after

1 the vacancy occurs. A majority of remaining members shall  
2 constitute a quorum and a majority of those present at a meeting  
3 shall be sufficient to take official action.

4 If at any time vacancies should occur or exist in the  
5 membership of all five members of city council, the court of  
6 common pleas shall appoint a city council, including a mayor, of  
7 persons properly qualified who shall serve until the persons  
8 elected by the qualified electors at the next regularly  
9 scheduled primary or general election that falls at least sixty  
10 days after the original vacancy occurs are certified as the  
11 winners of said election and sworn into office.

12 The person or persons selected to fill such vacancies shall  
13 hold their offices until the person or persons elected by the  
14 qualified electors at the next regularly scheduled primary or  
15 general election that falls at least sixty days after the  
16 original vacancy occurs are certified as the winners of said  
17 election and sworn into office.

18 Interested legally qualified residents of the third class  
19 city shall petition to have their names placed on the ballot to  
20 fill a vacancy on city council, or in the mayor's office, by  
21 collecting the signatures of at least one hundred other  
22 qualified electors of the city.

23 (b) If a vacancy occurs in the office of [mayor,] city  
24 treasurer or city controller, the city council shall fill such  
25 vacancy, within thirty days thereafter, by choosing [a mayor,] a  
26 city treasurer or a city controller, as the case may be, to  
27 serve until his successor is elected by the qualified electors  
28 at the next municipal election, occurring at least two hundred  
29 days after such vacancy occurs, and is duly sworn into office.  
30 The person so elected shall serve from the first Monday of

1 January next succeeding his election for the remainder of the  
2 term of the person originally elected to such office.

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

10 Section 2. This act shall take effect in 60 days.