

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 77

Session of
2003

INTRODUCED BY HERMAN, BAKER, BELFANTI, CAPPELLI, COSTA,
CREIGHTON, DeLUCA, GEIST, HARHAI, HARPER, HENNESSEY,
LESCOVITZ, MACKERETH, MELIO, R. MILLER, NAILOR, NICKOL,
RUBLEY, SANTONI, SAYLOR, SOLOBAY, STERN, T. STEVENSON, SURRA,
TIGUE, WILT AND YOUNGBLOOD, JANUARY 29, 2003

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 29, 2003

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions
3 relating to consolidation or merger, for initiative of
4 electors seeking consolidation or merger without home rule;
5 providing for initiative of electors seeking consolidation or
6 merger with a new home rule charter; further providing for
7 conduct of referenda and for consolidation or merger
8 agreement; and making editorial changes.

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

11 Section 1. The definition of "initiative" in section 732 of
12 Title 53 of the Pennsylvania Consolidated Statutes is amended
13 and the section is amended by adding definitions to read:

14 § 732. Definitions.

15 The following words and phrases when used in this subchapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Commission." A board of members elected under the
19 provisions of section 735.1 (relating to initiative of electors

1 seeking consolidation or merger with new home rule charter) to
2 consider the advisability of the adoption of a new home rule
3 charter for the proposed consolidated or merged municipality
4 and, if advisable, to draft and recommend a new home rule
5 charter to the electorate.

6 * * *

7 "Electors." The registered voters of a municipality involved
8 in proceedings relating to the adoption and repeal of optional
9 forms of government.

10 * * *

11 "Initiative." The filing with applicable election officials
12 of a petition containing a proposal for a referendum to be
13 placed on the ballot of the next election. The petition shall
14 be:

15 (1) Filed not later than the 13th Tuesday prior to the
16 next election in which it will appear on the ballot.

17 (2) Signed by voters comprising 5% [of the persons] of
18 the number of electors voting for the office of Governor in
19 the last gubernatorial general election in the municipality
20 where the proposal will appear on the ballot.

21 (3) Placed on the ballot by election officials in a
22 manner fairly representing the content of the petition for
23 decision by referendum at the election.

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

25 * * *

26 "New home rule charter." A written document that defines the
27 powers, structure, privileges, rights and duties of the proposed
28 consolidated or merged municipality, the limitations thereon and
29 that provides for the composition and election of the governing
30 body chosen by popular elections.

1 * * *

2 Section 2. Sections 734(b)(4) and 735 of Title 53 are
3 amended to read:

4 § 734. Joint agreement of governing bodies.

5 * * *

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

8 * * *

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

1 this subchapter shall be construed as authorizing a
2 municipality adopting a home rule charter or optional plan of
3 government pursuant to this subchapter to exercise powers not
4 granted to a municipality adopting a home rule charter or an
5 optional plan of government pursuant to [the Home Rule
6 Charter and Optional Plans Law] Subpart E of Part III.

7 * * *

8 § 735. Initiative of electors seeking consolidation or merger
9 without new home rule charter.

10 (a) General rule.--In order for consolidation or merger
11 proceedings to be initiated by petition of electors, petitions
12 containing signatures of at least 5% of the number of electors
13 voting for the office of Governor in the last gubernatorial
14 general election in each municipality proposed to be
15 consolidated or merged shall be filed with the county board of
16 elections of the county in which the municipality, or the
17 greater portion of its territory, is located.

18 (b) Notice to governing bodies affected.--When election
19 officials find that a petition is in proper order, they shall
20 send copies of the initiative petition without the signatures
21 thereon to the governing bodies of each of the municipalities
22 affected by the proposed consolidation or merger.

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

24 (1) The name of the municipality from which the signers
25 of the petition were obtained.

26 (2) The names of the municipalities proposed to be
27 consolidated or merged.

28 (3) The name of the consolidated or merged municipality.

29 (4) The type and class of the consolidated or merged
30 municipality.

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

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

30 (7) The number of districts or wards, if any, into which

1 the consolidated or merged municipality will be divided for
2 the purpose of electing all or some members of its governing
3 body.

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

14 Section 3. Title 53 is amended by adding a section to read:

15 § 735.1. Initiative of electors seeking consolidation or merger
16 with new home rule charter.

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

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

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

2 (1) The name of the municipality from which the signers
3 of the petition were obtained.

4 (2) The names of the municipalities proposed to be
5 consolidated or merged.

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

7 (4) The petition question which shall read as follows:

8 Shall a Government Study Commission of (seven, nine
9 or eleven) members be elected to study the issue of
10 consolidation or merger of (municipalities to be
11 consolidated or merged); to provide a recommendation
12 on consolidation or merger; to consider the
13 advisability of the adoption of a new home rule
14 charter; and to draft a new home rule charter, if
15 recommended in the report of the commission?

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

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

21 (2) The petition and proceedings on the petition shall
22 be conducted in the manner and subject to the provisions of
23 the election laws which relate to the signing, filing and
24 adjudication of nomination petitions insofar as the
25 provisions are applicable, except that no referendum petition
26 shall be signed or circulated prior to the 20th Tuesday
27 before the election, nor later than the 13th Tuesday before
28 the election.

29 (3) At the next general, municipal or primary election
30 occurring not less than the 13th Tuesday after the filing of

1 the petition with the county board of elections, it shall
2 cause the appropriate question to be submitted to the
3 electors of each of the municipalities proposed to be
4 consolidated or merged in the same manner as other questions
5 are submitted under the act of June 3, 1937 (P.L.1333,
6 No.320), known as the Pennsylvania Election Code.

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

8 (1) A commission of seven, nine or eleven members, as
9 designated in the question, shall be elected by the qualified
10 voters at the same election the question is submitted to the
11 electors.

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

24 (3) Each elector shall be instructed to vote on the
25 question and, regardless of the manner of his vote on the
26 question, to vote for the designated number of members of the
27 commission who shall serve if the question is or has been
28 determined in the affirmative.

29 (4) If an insufficient number of nominating papers is
30 filed to fill all of the designated positions on the

1 commission, the question of establishing the commission shall
2 be placed on the ballot and, unless a sufficient number of
3 commission members are elected by receiving at least as many
4 votes as signatures are required to file a nominating
5 petition, then the question of creating the commission shall
6 be deemed to have been rejected.

7 (f) Nomination of candidates.--

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

20 (2) Each nomination paper shall set forth the name,
21 place of residence and post office address of the candidate
22 thereby nominated, that the nomination is for the office of
23 commissioner and that the signers are legally qualified to
24 vote for the candidate. An elector may not sign nomination
25 papers for more candidates for the commission than he could
26 vote for at the election. Every elector signing a nomination
27 paper shall write his place of residence, post office address
28 and street number, if any, on the petition.

29 (3) Each nomination paper shall, before it may be filed
30 with the county board of elections, contain under oath of the

1 candidate an acceptance of the nomination in writing, signed
2 by the candidate therein nominated, upon or annexed to the
3 paper, or, if the same person be named in more than one
4 paper, upon or annexed to one of the papers. The acceptance
5 shall certify that the candidate is an elector, that the
6 nominee consents to run as a candidate at the election and
7 that, if elected, the candidate agrees to take office and
8 serve.

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

18 (g) Results of election.--

19 (1) The result of the votes cast for and against the
20 question as to the election of a commission and consolidation
21 and merger proceedings shall be returned by the election
22 officers, and a canvass of the election had, as is provided
23 by law in the case of other public questions put to the
24 electors. The votes cast for members of the commission shall
25 be counted and the result returned by the county board of
26 electors of the county in which the municipality, or the
27 greater portion of its territory, is located, and a canvass
28 of the election had, as is provided by law in the case of
29 election of members of municipal councils or boards. The
30 designated number of candidates receiving the greatest number

1 of votes shall be elected and shall constitute the
2 commission. If a majority of those voting on the question
3 vote against the election of the commission, none of the
4 candidates shall be elected. If two or more candidates for
5 the last seat shall be equal in number of votes, they shall
6 draw lots to determine which one shall be elected.

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

16 (h) Oath of office of members of commission.--

17 (1) As soon as possible and in any event no later than
18 ten days after its certification of election, the members of
19 a commission elected on a countywide basis shall, before a
20 judge of a court of common pleas, make oath to support the
21 Constitution of the United States and the Constitution of
22 Pennsylvania and to perform the duties of the office with
23 fidelity.

24 (2) As soon as possible and in any event no later than
25 ten days after its certification of election, the members of
26 a commission elected on other than a countywide basis shall,
27 before a district justice, make oath to support the
28 Constitution of the United States and the Constitution of
29 Pennsylvania and to perform the duties of the office with
30 fidelity.

1 (i) First meeting of commission.--

2 (1) As soon as possible and in any event no later than
3 15 days after its certification of election, a commission
4 shall organize and hold its first meeting and elect one of
5 its members chairman and another member vice chairman, fix
6 its hours and place of meeting and adopt rules for the
7 conduct of business it deems necessary and advisable.

8 (2) A majority of the members of the commission shall
9 constitute a quorum for the transaction of business, but no
10 recommendation of the commission shall have any legal effect
11 unless adopted by a majority of the whole number of the
12 members of the commission.

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

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

17 (1) A commission shall study the issue of consolidation
18 or merger of the municipalities.

19 (2) The commission shall study the advisability of a new
20 home rule charter form of government for the proposed
21 consolidated or merged municipality and compare it with other
22 available forms under the laws of this Commonwealth and
23 determine in its judgment which form of government is more
24 clearly responsible or accountable to the people and its
25 operation more economical and efficient.

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

29 (i) Draft and recommend to the electorate a new home
30 rule charter for the proposed consolidated or merged

1 municipality containing a transitional plan and schedule
2 applicable to elected officers; Provided, However, That
3 nothing in this section shall be construed as authorizing
4 a consolidated or merged municipality adopting a new home
5 rule charter pursuant to this section to exercise powers
6 not granted to a municipality adopting a home rule
7 charter pursuant to Part III, Subpt. E (relating to home
8 rule and optional plan government).

9 (ii) If the new home rule charter calls for all or
10 any part of the governing body of the consolidated or
11 merged municipality to be elected on a district or ward
12 basis, prepare and set forth, as an appendix to the new
13 home rule charter:

14 (A) The district or ward boundaries established
15 to achieve substantially equal representation.

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

17 (C) The number of members of the municipal
18 governing body to be elected from each district or
19 ward.

20 (iii) Prepare and suggest for adoption by the
21 governing body of the newly consolidated or merged
22 municipality recommendations concerning:

23 (A) The disposition of assets that may be
24 surplus or unneeded as a result of the consolidation
25 or merger.

26 (B) The liquidation, assumption or other
27 disposition of existing indebtedness of the
28 consolidated or merged municipalities.

29 (C) A legally consistent uniform tax system to
30 be implemented throughout the consolidated or merged

1 municipality which provides the revenue necessary to
2 fund required municipal services.

3 (D) Ordinances to be uniformly enforced
4 throughout the consolidated or merged municipality,
5 which may be adopted by the new governing body of the
6 consolidated or merged municipality at its
7 organizational meeting; Provided, That codification
8 of all ordinances shall be completed as specified in
9 section 740 (relating to procedures).

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

11 (1) Members of the commission shall serve without
12 compensation, but shall be reimbursed by the municipalities
13 proposed to be consolidated or merged for their necessary
14 expenses incurred in the performance of their duties.

15 (2) The commission may appoint one or more consultants
16 and clerical and other assistants to serve at the pleasure of
17 the commission and may fix reasonable compensation therefor
18 to be paid the consultants and clerical and other assistants.

19 (3) In accordance with this subsection, the commission
20 shall prepare and submit to the governing body of each of the
21 municipalities being considered for consolidation or merger,
22 budget estimates of the amount of money necessary to meet the
23 expenditures to be incurred by the commission in the carrying
24 out of its functions in accordance with this section,
25 including, but not limited to, reasonable estimations of the
26 necessary expenses of commission members, compensation of
27 consultants, clerical personnel and other assistants and
28 other expenditures incident to work of the commission.

29 (4) The commission shall prepare and submit an initial
30 budget submission that estimates expenses for the first nine-

1 month phase of the commission's work. The initial budget
2 estimate shall be submitted as soon as possible and in any
3 event no later than 45 days after the commission's
4 certification of election.

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

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

25 (7) The municipalities to be consolidated or merged may,
26 by agreement, determine the share that each municipality
27 shall appropriate to fund the estimated budget of the
28 commission. If no agreement as to the respective amount that
29 each municipality shall appropriate is reached, each
30 municipality shall appropriate funds equal to its pro rata

1 share of the total estimated budget of the commission based
2 upon its share of population to the total population of the
3 municipalities to be consolidated or merged.

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

12 (i) as submitted by the commission or as modified by
13 the municipalities; or

14 (ii) as modified by the court.

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

18 (10) A municipality shall be entitled to a proportionate
19 reimbursement or offset of its share of the budget by any
20 publicly or privately contributed funds or services made
21 available to the commission.

22 (m) Hearings and public forums.--A commission shall hold one
23 or more public hearings and sponsor public forums and generally
24 shall provide for the widest possible public information and
25 discussion respecting the purposes and progress of its work.

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

27 (1) A commission shall report its findings and
28 recommendations to the citizens of the proposed consolidated
29 or merged municipalities within nine months from the date of
30 its election except that it shall be permitted an additional

1 nine months if it elects to prepare and submit a proposed new
2 home rule charter and an additional two months if it chooses
3 to provide for the election of its governing body by
4 districts. It shall publish or cause to be published
5 sufficient copies of its final report for public study and
6 information and shall deliver to the municipal clerk or
7 secretary of each municipality proposed to be consolidated or
8 merged sufficient copies of the report to supply it to any
9 interested citizen upon request. If the commission recommends
10 the adoption of a new home rule charter, the report shall
11 contain the complete plan as recommended.

12 (2) There shall be attached to each copy of the report
13 of the commission, as a part thereof, a statement sworn to by
14 the members of the commission listing in detail the funds,
15 goods, materials and services, both public and private, used
16 by the commission in the performance of its work and the
17 preparation and filing of the report and identifying
18 specifically the supplier of each item thereon.

19 (3) A copy of the final report of the commission with
20 its findings and recommendations shall be filed with the
21 Department of Community and Economic Development.

22 (4) All the records, reports, tapes, minutes of meetings
23 and written discussions of the commission shall, upon its
24 discharge, be turned over to the municipal clerk or secretary
25 of each municipality proposed to be consolidated or merged
26 for permanent safekeeping and made available for public
27 inspection at any time during regular business hours.

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

29 (1) A commission shall be discharged upon the filing of
30 its report, but, if the commission's recommendations require

1 further procedure in the form of a referendum on the part of
2 the electors, the commission shall not be discharged until
3 the procedure has been concluded. At any time prior to 60
4 days before the date of the referendum, the commission may
5 modify or change any recommendation set forth in the final
6 report by publishing an amended report.

7 (2) Whenever the commission issues an amended report
8 pursuant to paragraph (1), the amended report shall supersede
9 the final report and the final report shall cease to have any
10 legal effect.

11 (3) The procedure to be taken under the amended report
12 shall be governed by the provisions of this subpart
13 applicable to the final report of the commission submitted
14 pursuant to subsection (n).

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

17 (1) That a referendum shall be held that submits to the
18 electors the question of consolidating or merging the named
19 municipalities under a new home rule charter as prepared by
20 the commission.

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

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

27 (q) Specificity of recommendations.--

28 (1) If a commission recommends the adoption of a new
29 home rule charter, it shall specify the number to be on the
30 governing body, all offices to be filled by election and

1 whether elections shall be on an at-large, district or
2 combination district and at-large basis.

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

23 (r) Form of question on consolidation or merger and new home
24 rule charter.--If a commission recommends consolidation or
25 merger and the adoption of a new home rule charter for the
26 municipalities to be consolidated or merged, the question to be
27 submitted to the voters for the adoption of consolidation or
28 merger and a new home rule charter shall be submitted in the
29 following form or such part as shall be applicable.

30 Shall the municipalities of (insert names of

1 municipalities consolidating or merging) be (insert
2 consolidated or merged) to become (insert name of new
3 municipality, type and class of municipality) under a new
4 home rule charter contained in the report, dated (insert
5 date), of the commission?

6 (s) Submission of question on consolidation or merger and
7 new home rule charter.--If a commission recommends that the
8 question of adopting consolidation or merger and a new home rule
9 charter authorized by this subpart should be submitted to the
10 electors, the municipal clerk or secretary of each municipality
11 proposed to be consolidated or merged shall, within five days
12 thereafter, certify a copy of the commission's report to the
13 county board of elections of the county in which the
14 municipality, or the greater portion of its territory, is
15 located, which shall cause the question of adoption or rejection
16 to be placed upon the ballot or voting machines at the time as
17 the commission specifies in its report. The commission may cause
18 the question to be submitted to the electors at the next
19 primary, municipal or general election occurring not less than
20 60 days following the filing of a copy of the commission's
21 report with the county board of elections, at the time the
22 commission's report directs. At the election, the question of
23 adopting consolidation or merger and a new home rule charter
24 recommended by the commission shall be submitted to the electors
25 by the county board of elections in the same manner as other
26 questions are submitted to the electors under the Pennsylvania
27 Election Code. The commission shall frame the question to be
28 placed upon the ballot as provided for in subsection (r) and, if
29 it deems appropriate, an interpretative statement to accompany
30 the question.

1 (t) Amendment of new home rule charter.--The procedure for
2 amending the new home rule charter of the consolidated or merged
3 municipality created under this subpart shall be through the
4 initiative procedure and referendum or ordinance of the
5 governing body as provided for in Subchapter C of Chapter 29
6 (relating to amendment of existing charter or optional plan).

7 (u) General powers and limitation of consolidated or merged
8 municipality under new home rule charter.--Nothing in this
9 section shall be construed as authorizing a consolidated or
10 merged municipality adopting a new home rule charter to exercise
11 powers not granted to a municipality adopting a home rule
12 charter pursuant to Subpart E of Part III.

13 Section 4. Sections 736, 737, 738, 739(a), 740(a) and 741 of
14 Title 53 are amended to read:

15 § 736. Conduct of referenda.

16 (a) Duty to place on ballot.--Following initiation of
17 proceedings for consolidation or merger by the procedures set
18 forth either in section 734 (relating to joint agreement of
19 governing bodies) or 735 (relating to initiative of electors
20 seeking consolidation or merger without new home rule charter),
21 the question of consolidation or merger as set forth in the
22 joint agreement or initiative petition shall be placed before
23 the electors of each of the municipalities proposed to be
24 consolidated or merged. A referendum shall be held at the first
25 primary, municipal or general election occurring at least 13
26 weeks after either:

27 (1) the date of the general agreement entered into under
28 the provisions of section 734; or

29 (2) the date of filing of the petition filed under the
30 provisions of section 735.

1 (a.1) Referenda under section 735.1.--Referenda authorized
2 under section 735.1 (relating to initiative of electors seeking
3 consolidation or merger with new home rule charter) shall be
4 placed on the ballot in accordance with section 735.1(d)(3) and
5 (s).

6 (b) Approval.--[Consolidation] Pursuant to sections 734, 735
7 and 735.1 consolidation or merger shall not be effective unless
8 the referendum question is approved by a majority of the
9 electors voting in each of the municipalities in which the
10 referendum is held. If in any one of the municipalities in which
11 the referendum is held a majority vote in favor of consolidation
12 or merger does not result, the referendum shall fail and
13 consolidation or merger shall not take place. The same question
14 in accordance with sections 734 or 735, or the same question
15 described in the proposal for consolidation or merger with a new
16 home rule charter in accordance with section 735.1 described in
17 the consolidation or merger proposal shall not be voted on again
18 for a period of five years.

19 (c) Subsequent referenda.--The five-year moratorium on
20 voting the same consolidation or merger question as provided in
21 subsection (b) shall be deemed not to apply to any subsequent
22 referendum question involving a consolidation or merger of any
23 combination of two or more contiguous municipalities if the
24 referendum question differs or is dissimilar in any way from a
25 previous referendum question which was not approved as provided
26 for in subsection (b).

27 § 737. Consolidation or merger agreement.

28 (a) Form.--Upon favorable action by the electorate on
29 consolidation or merger, in cases where consolidation or merger
30 was initiated by petition of electors under section 735

(relating to initiative of electors seeking consolidation or merger without new home rule charter), the governing bodies of the municipalities to be consolidated or merged shall meet within 60 days after the certification of the favorable vote and shall within a reasonable time after certification make a consolidation or merger agreement as follows:

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

(2) The agreement shall set forth terms for:

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

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

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

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

1 officers.

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

5 (5) The agreement shall also provide, consistent with
6 existing law, for the implementation of a uniform tax system
7 throughout the consolidated or merged municipality which
8 shall provide the revenue necessary to fund required
9 municipal services.

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

21 § 738. Effectuation of consolidation or merger.

22 Municipalities consolidated or merged shall continue to be
23 governed as before consolidation or merger until the date
24 stipulated in the transitional plan and schedule provided for in
25 sections 734 (relating to joint agreement of governing bodies)
26 and 737 (relating to consolidation or merger agreement)[. New],
27 or the transitional plan provided for by a study commission
28 pursuant to section 735.1 (relating to initiative of electors
29 seeking consolidation or merger with new home rule charter).
30 Subject to the provisions of section 735.1(q), new officials

1 required to be elected shall take office on the first Monday of
2 January following the municipal election designated in the
3 transitional plan and schedule. At that municipal election, the
4 necessary officers of the consolidated or merged municipality
5 shall be elected in accordance with the terms of the general law
6 affecting municipalities of the kind or class of the
7 consolidated or merged municipality or, in case of a
8 consolidated or merged municipality operating under a home rule
9 charter or optional plan of government, in accordance with the
10 charter or optional plan or with general law affecting home rule
11 or optional plan municipalities, as applicable. The officers
12 elected at that municipal election shall be elected for terms of
13 office under the plan and schedule set forth in the
14 consolidation or merger agreement authorized by section 734 or
15 737, or the transitional plan provided for by a commission
16 pursuant to section 735.1, as the case may be. They shall take
17 office as officers of the consolidated or merged municipality on
18 the first Monday of January following the municipal election at
19 which they were elected, and upon assumption of office, the
20 consolidated or merged municipality shall begin to function and
21 the former municipalities consolidated or merged into it shall
22 be abolished.

23 § 739. Effect of transition on employees of consolidated or
24 merged municipality.

25 (a) Transition.--As of the date when a consolidated or
26 merged municipality shall begin to function, except for those
27 officers and employees which are protected by any tenure of
28 office, civil service provisions or collective bargaining
29 agreement, all appointive offices and positions then existing in
30 all former municipalities involved in the consolidation or

1 merger shall be subject to the terms of the consolidation or
2 merger agreement or transitional plan as provided for in section
3 735.1 (relating to initiative of electors seeking consolidation
4 or merger with new home rule charter). Provisions shall be made
5 for instances in which there is duplication of positions,
6 including, but not limited to, chief of police or manager, and
7 for other matters such as varying length of employee contracts,
8 different civil service regulations in the constituent
9 municipalities and differing ranks and position classifications
10 for similar positions.

11 * * *

12 § 740. Procedures.

13 (a) Ordinance book.--After consolidation becomes effective,
14 a new ordinance book shall be used by the municipality, and,
15 except for a municipality consolidated or merged under section
16 735.1 (relating to initiative of electors seeking consolidation
17 or merger with new home rule charter), the first document to be
18 recorded in it shall be the consolidation agreement.

19 * * *

20 § 741. Court review of transitional plan.

21 [After] (a) General rule.--Except as provided in subsection
22 (b), after the approval of a referendum pursuant to section 736
23 (relating to conduct of referenda), any person who is a resident
24 of a municipality to be consolidated or merged may petition the
25 court of common pleas to order the appropriate municipal
26 governing bodies to:

27 (1) implement the terms of a transitional plan and
28 schedule adopted pursuant to section 734 (relating to joint
29 agreement of governing bodies) or 737 (relating to
30 consolidation or merger agreement); or

1 (2) adopt or amend a transitional plan or schedule if
2 the court finds that the failure to do so will result in the
3 unreasonable perpetuation of the separate forms and
4 classifications of government existing in the affected
5 municipalities prior to the approval of the referendum.

6 (b) Exception.--After consolidation or merger pursuant to
7 section 735.1 (relating to initiative of electors seeking
8 consolidation or merger with new home rule charter), any person
9 who is a resident of the newly consolidated or merged
10 municipality may petition the court of common pleas to order the
11 governing body of that municipality to act to accept or provide
12 alternatives to the recommendations of the commission in
13 accordance with section 735.1(k)(3)(iii).

14 Section 5. This act shall take effect in 60 days.