
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1330 Session of
2011

INTRODUCED BY WOZNIAK, ALLOWAY, SOLOBAY AND FERLO,
NOVEMBER 10, 2011

REFERRED TO LOCAL GOVERNMENT, NOVEMBER 10, 2011

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," providing
4 for the dissolution of nonviable boroughs; and making
5 editorial changes.

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

8 Section 1. Article III heading of the act of February 1,
9 1966 (1965 P.L.1656, No.581), known as The Borough Code, is
10 amended and the article is amended by adding a subdivision
11 heading to read:

12 ARTICLE III

13 ANNULMENT OF CHARTERS [AND], CHANGE OF CORPORATE NAMES, AND
14 DISSOLUTION

15 (a) Annulment of Charter or Change of Corporate Names

16 Section 2. Article III of the act is amended by adding a
17 subdivision to read:

18 (b) Dissolution of Nonviable Boroughs

19 Section 311. Definitions.

1 The following words and phrases when used in this subdivision
2 shall have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Coordinator." The coordinator designated for the borough in
5 accordance with the act of July 10, 1987 (P.L.246, No.47), known
6 as the Municipalities Financial Recovery Act.

7 "Department." The Department of Community and Economic
8 Development of the Commonwealth.

9 "Municipalities Financial Recovery Act." The act of July 10,
10 1987 (P.L.246, No.47), known as the Municipalities Financial
11 Recovery Act.

12 "Township." A township of the second class.

13 "Secretary." The Secretary of Community and Economic
14 Development.

15 Section 312. Petition for dissolution.

16 (a) Petition.--Any ten registered electors of a borough that
17 satisfies the requirements of subsection (b) may present to the
18 court of common pleas a petition requesting the court to issue a
19 determination that the borough is no longer viable as an
20 independent municipal corporation and shall be dissolved, its
21 charter annulled and its territory to revert to and become a
22 part of the township from which it was taken, subject to the
23 township's government and control.

24 (b) Conditions.--No borough shall be the subject of a
25 petition under subsection (a) unless:

26 (1) the borough is distressed in accordance with the
27 Municipalities Financial Recovery Act as of the date of the
28 petition and has remained distressed for ten years prior to
29 the date of the petition;

30 (2) the borough has lost 50% or more of its population

1 over the course of five consecutive decennial censuses
2 immediately preceding the date of the petition; and

3 (3) the territory comprising the borough was formerly
4 contained within a township.

5 Section 313. Filing of petition, notice and exceptions.

6 (a) Filing and notice.--Upon presentation to the court, the
7 petition shall be filed with the clerk of courts and notice of
8 the filing shall immediately thereafter be given in a newspaper
9 of general circulation in the county, once a week for four
10 consecutive weeks, and once in the county legal journal, if any,
11 during the four-week period. The notice shall provide the date
12 the petition was filed and specify that exceptions to the
13 petition may be filed within 45 days of the date of the
14 petition. Notice shall also be provided by certified mail,
15 return receipt requested, to the following:

16 (1) The governing body of the borough.

17 (2) The governing body of the township into which the
18 borough territory would be absorbed.

19 (3) The coordinator.

20 (4) The secretary.

21 (b) Responsibility of petitioners.--Notice in accordance
22 with this section and all costs related thereto shall be
23 provided by the petitioners.

24 (c) Exceptions.--Exceptions to the petition may be filed by
25 any of the following:

26 (1) A resident of the borough.

27 (2) The governing body of the township into which the
28 territory of the borough would be absorbed.

29 (3) Any creditor or bondholder of the borough.

30 (4) Any collective bargaining unit or contractor of the

1 borough.

2 Section 314. Hearing and notice.

3 (a) Hearing.--No later than 60 days after the date of the
4 filing of the petition, the court shall conduct a hearing on the
5 petition and exceptions. Notice of the hearing shall be provided
6 by the court to those receiving notice under section 313(a) and
7 to all other parties that have filed exceptions in accordance
8 with section 313(c).

9 (b) Proceedings.--The petitioners and those receiving notice
10 under this section, with the exception of the coordinator, shall
11 be parties to the proceedings, and shall be entitled to present
12 testimony or other evidence relevant to the nonviability of the
13 borough or relevant to exceptions timely filed, provided that
14 the court, in its discretion, may consolidate testimony related
15 to similar exceptions. The coordinator, or another designee of
16 the secretary, shall testify to the progress of the borough
17 under the recovery plan in accordance with the Municipalities
18 Financial Recovery Act and render an opinion regarding the
19 viability of the borough. The court may receive additional
20 evidence relevant to the matter, including, but not limited to,
21 evidence relating to:

22 (1) The effect of dissolution on the township into which
23 the borough territory would be absorbed.

24 (2) Additional plans, proceedings or strategies that
25 could ensure that the borough remain viable.

26 (3) The effect of the dissolution on any bonds, other
27 obligations or agreements of the borough.

28 (c) Additional evidence.--If the court determines that there
29 is a need for additional investigation, it may request the
30 parties or the coordinator to provide such additional evidence

1 as may be necessary for a decree in accordance with section 315.

2 (d) Costs and fees.--Court costs and filing fees associated
3 with proceedings under this subdivision shall be paid by the
4 petitioners subject to reimbursement in accordance with section
5 318.

6 Section 315. Decree.

7 (a) Issuance.--The court shall issue a decree granting the
8 petition unless it shall find, by clear and convincing evidence,
9 that:

10 (1) the borough should continue to exist as a separate
11 municipal corporation because of a reasonable expectation
12 that the borough is or will become viable in accordance with
13 the current recovery plan or a reasonable alternative; or

14 (2) the dissolution of the borough will seriously
15 jeopardize the fiscal viability of the township into which
16 the borough territory would be absorbed.

17 (b) Grant of petition.--A decree granting the petition shall
18 be filed with the recorder of deeds, the department, the
19 Department of Transportation and the planning commission of the
20 county or counties within which the township lies. The decree
21 shall specify a date of transition no later than 90 days
22 following the date of the decree.

23 (c) Denial of petition.--A decree denying the petition shall
24 be filed with the recorder of deeds. No petition requesting the
25 dissolution of the borough that is the subject of the decree may
26 be brought again within a period of two years of the date of the
27 decree.

28 (d) Termination of status and notice.--Upon receipt of the
29 decree by the department, the secretary shall terminate the
30 status of the borough as distressed pursuant to section 253 of

1 the Municipalities Financial Recovery Act. The secretary shall
2 notify all creditors of the borough that the borough has been
3 dissolved, and the township will assume all liabilities of the
4 borough upon the date of transition.

5 Section 316. Existing government preserved temporarily and
6 transition.

7 (a) Transition.--The borough shall continue to be governed
8 as before the dissolution until the date of transition specified
9 in the decree, at which time the government of the borough shall
10 cease and terminate, its charter shall be annulled and its
11 territory shall revert to and become a part of the township from
12 which it was taken, subject to the township's government and
13 control. The governing bodies of the borough and the township
14 shall cooperate in assuring transition by the date specified in
15 the decree. Between the filing of the decree and the date of
16 transition, the borough shall not enact any ordinance, enter
17 into any new contract or assume any new debt unless the action
18 is necessary for transition and approved by the governing body
19 of the township. Upon transition:

20 (1) The property and assets of the borough, including
21 all uncollected taxes and liens, may be converted into cash
22 by the township supervisors solely for the payment of the
23 outstanding indebtedness of the borough, but any moneys not
24 needed for this purpose shall revert to the township.
25 Township taxes on persons residing or employed in, and
26 property contained within, that portion of the township
27 formerly included within the limits of the borough may be
28 reserved by the township to be used exclusively for the
29 payment of outstanding indebtedness of the borough not
30 otherwise paid as provided in this paragraph.

1 (2) The township shall be the successor to the title to
2 all property, all obligations, liabilities, agreements,
3 grants and privileges of the borough existing or accruing
4 immediately prior to the date of transition. The title to
5 real estate vested in the township shall not revert or be in
6 any way impaired by reason of the dissolution of the borough.
7 Nothing in this subdivision shall be construed as authorizing
8 the impairment of any contractual rights existing prior to
9 the date of transition.

10 (3) The persons and property within that portion of the
11 township formerly included within the limits of the borough
12 shall be subject to the ordinances, codes, regulations and
13 rules of the township, provided that any lot, structure or
14 use of property that was lawful prior to transition shall be
15 considered nonconforming for any township ordinance enacted
16 in accordance with the act of July 31, 1968 (P.L.805,
17 No.247), known as the Pennsylvania Municipalities Planning
18 Code.

19 (b) Employees.--Subsequent to the date of transition, the
20 township may, in accordance with existing contracts or
21 arbitration award provisions and consistent with applicable
22 laws, reduce the number of uniformed and nonuniformed employees
23 to avoid overstaffing and duplication of positions in the
24 township. If the township determines in its discretion that it
25 is necessary to increase the number of uniformed or nonuniformed
26 employees, employees shall be reinstated in the order of their
27 seniority if they had been previously furloughed.

28 (c) Collective bargaining provisions.--Nothing in this
29 section shall prohibit a township from exercising its powers and
30 responsibilities pursuant to provisions of law related to

1 collective bargaining, including, but not limited to, the act of
2 June 24, 1968 (P.L.237, No.111), referred to as the Policemen
3 and Firemen Collective Bargaining Act, and the act of July 23,
4 1970 (P.L.563, No.195), known as the Public Employe Relations
5 Act.

6 Section 317. Priority in economic assistance and financial aid.

7 Any township that is the subject of a decree under this
8 subdivision shall:

9 (1) Be considered an eligible municipality for purposes
10 of economic assistance as that term is used in Subchapter E
11 of Chapter 2 of the Municipalities Financial Recovery Act for
12 a period not to exceed five years from the date of the
13 decree. Upon receipt of the decree as provided in section
14 315, the secretary shall notify all Commonwealth agencies of
15 the township's priority status.

16 (2) Be eligible for grants and loans pursuant to Chapter
17 3 of the Municipalities Financial Recovery Act without
18 establishing that an emergency exists. However, any funds
19 received shall be used exclusively for costs associated with
20 the process of transition and shall be subject to the
21 limitations provided in section 303 of the Municipalities
22 Financial Recovery Act.

23 Section 318. Court costs and filing fees.

24 The granting of a petition shall entitle the petitioners to
25 reimbursement for filing fees and court costs paid in
26 proceedings pursuant to this subdivision. In no event shall
27 attorney fees be eligible for reimbursement. Notwithstanding any
28 provision of law to the contrary, the department shall provide
29 reimbursement from the Municipalities Financial Recovery
30 Revolving Aid Fund created under section 301(c) of the

1 Municipalities Financial Recovery Act.

2 Section 3. This act shall take effect immediately.