
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1177 Session of
2013

INTRODUCED BY LUCAS, MILLARD AND CALTAGIRONE, APRIL 15, 2013

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 27, 2014

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for initiative of
3 electors seeking consolidation or merger with new home rule
4 charter-; PROVIDING FOR A HOTEL ROOM RENTAL TAX IN CERTAIN <--
5 THIRD CLASS COUNTIES; AND MAKING AN EDITORIAL CHANGE.

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

8 Section 1. Section ~~735.1(e)~~ 735.1(A), (C), (d)(3), (e)(3), <--
9 (g)(1) and (1)(6) and (7) of Title 53 of the Pennsylvania
10 Consolidated Statutes are amended and subsection (1) is amended
11 by adding a paragraph to read:

12 § 735.1. Initiative of electors seeking consolidation or merger
13 with new home rule charter.

14 (A) GENERAL RULE.--IN ORDER FOR A COMMISSION AND <--
15 CONSOLIDATION OR MERGER PROCEEDINGS TO BE INITIATED BY PETITION
16 OF ELECTORS, PETITIONS CONTAINING SIGNATURES OF AT LEAST 5% OF
17 THE NUMBER OF ELECTORS VOTING FOR THE OFFICE OF GOVERNOR IN THE
18 LAST GUBERNATORIAL GENERAL ELECTION IN EACH MUNICIPALITY
19 PROPOSED TO BE CONSOLIDATED OR MERGED SHALL BE FILED WITH THE

1 COUNTY BOARD OF ELECTIONS OF THE COUNTY IN WHICH THE
2 MUNICIPALITY, OR THE GREATER PORTION OF ITS TERRITORY, IS
3 LOCATED. THE PETITION SHALL SET FORTH:

4 (1) THE NAME OF THE MUNICIPALITY FROM WHICH THE SIGNERS
5 OF THE PETITION WERE OBTAINED.

6 (2) THE NAMES OF THE MUNICIPALITIES PROPOSED TO BE
7 CONSOLIDATED OR MERGED.

8 (3) AN ESTIMATED COST OF THE STUDY COMMISSION.

9 (4) THE NUMBER OF PERSONS TO COMPOSE THE COMMISSION.

10 (5) THE PETITION QUESTION WHICH SHALL READ AS FOLLOWS:

11 SHALL A GOVERNMENT STUDY COMMISSION OF (SEVEN, NINE
12 OR ELEVEN) MEMBERS BE ELECTED TO STUDY THE ISSUE OF
13 CONSOLIDATION OR MERGER OF (MUNICIPALITIES TO BE
14 CONSOLIDATED OR MERGED); TO PROVIDE A RECOMMENDATION
15 ON CONSOLIDATION OR MERGER; TO CONSIDER THE
16 ADVISABILITY OF THE ADOPTION OF A NEW HOME RULE
17 CHARTER; AND TO DRAFT A NEW HOME RULE CHARTER, IF
18 RECOMMENDED IN THE REPORT OF THE COMMISSION?

19 (6) THE PETITION SHALL ALSO INCLUDE THE FOLLOWING
20 STATEMENT:

21 ONLY MUNICIPALITIES VOTING IN THE AFFIRMATIVE ON THE
22 QUESTION WILL BE HELD RESPONSIBLE FOR THE COSTS OF
23 THE STUDY COMMISSION.

24 * * *

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

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26 (1) The name of the municipality from which the signers
27 of the petition were obtained.

28 (2) The names of the municipalities proposed to be
29 consolidated or merged.

30 ~~(2.1) An estimated cost of the study commission.~~

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

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

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

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11 ~~(5) The petition shall also include the following~~

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12 statement:

13 ~~Only municipalities voting in the affirmative on the~~
14 ~~question will be held responsible for the costs of~~
15 ~~the study commission.~~

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

17 * * *

18 (3) At the next general, municipal or primary election
19 occurring not less than the 13th Tuesday after the filing of
20 the petition with the county board of elections, it shall
21 cause the appropriate question and statement listed under
22 subsection (c) (4) and (5) SUBSECTION (A) (5) AND (6) to be

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23 submitted to the electors of each of the municipalities
24 proposed to be consolidated or merged in the same manner as
25 other questions are submitted under the act of June 3, 1937
26 (P.L.1333, No.320), known as the Pennsylvania Election Code.

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

28 * * *

29 (3) Each elector shall be instructed to vote on the
30 question and, regardless of the manner of his vote on the

1 question, to vote for the designated number of members of the
2 commission who shall serve if the question is or has been
3 determined in the affirmative by the majority of the whole of
4 those voting in all the municipalities impacted by the
5 consolidation or merger.

6 * * *

7 (g) Results of election.--

8 (1) The result of the votes cast for and against the
9 question as to the election of a commission and consolidation
10 and merger proceedings shall be returned by the election
11 officers, and a canvass of the election had, as is provided
12 by law in the case of other public questions put to the
13 electors. The votes cast for members of the commission shall
14 be counted and the result returned by the county board of
15 electors of the county in which the municipality, or the
16 greater portion of its territory, is located, and a canvass
17 of the election had, as is provided by law in the case of
18 election of members of municipal councils or boards. If a
19 majority of the whole in the municipalities proposed to be
20 consolidated or merged vote in the affirmative on the
21 question, then the commission shall be formed to study the
22 issue of consolidation or merger and to make recommendations
23 as set forth in the question. The designated number of
24 candidates receiving the greatest number of votes shall be
25 elected and shall constitute the commission. If a majority of
26 [those] the whole in the municipalities voting on the
27 question vote against the election of the commission, none of
28 the candidates shall be elected. If two or more candidates
29 for the last seat shall be equal in number of votes, they
30 shall draw lots to determine which one shall be elected.

1 * * *

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

3 * * *

4 (6) No later than 15 days after the submission of a
5 budget in accordance with paragraphs (4) or (5), a joint
6 public hearing of the commission and the governing bodies of
7 the municipalities shall be held. The governing bodies of the
8 municipalities to be consolidated or merged may, by
9 agreement, modify any budget submitted by the commission. A
10 governing body of a municipality to be consolidated or merged
11 may approve appropriations to the commission in conformity
12 with its share of the modified budget as determined in
13 accordance with paragraph (7) or (7.1). Any unreasonable
14 modification of the budget may be subject to an action as
15 provided in paragraph (8) in the court of common pleas of any
16 county wherein a municipality to be consolidated or merged
17 lies.

18 (7) [The] If a majority in each of the municipalities to
19 be consolidated or merged vote in favor of establishing a
20 commission, the municipalities [to be consolidated or merged]
21 may, by agreement, determine the share that each municipality
22 shall appropriate to fund the estimated budget of the
23 commission. If no agreement as to the respective amount that
24 each municipality shall appropriate is reached, each
25 municipality shall appropriate funds equal to its pro rata
26 share of the total estimated budget of the commission based
27 upon its share of population to the total population of the
28 municipalities to be consolidated or merged.

29 (7.1) When a commission is formed to study consolidation
30 or merger by a vote of the whole in the municipalities

1 considering the question, the municipalities that vote in the
2 affirmative shall be responsible for funding the budget of
3 the commission. Any municipalities that vote in the negative
4 on the question shall not be responsible for the budget costs
5 of the commission.

6 * * *

7 SECTION 2. THE HEADING OF SECTION 8721 OF TITLE 53 IS <--
8 AMENDED TO READ:

9 § 8721. HOTEL ROOM RENTAL IN COUNTIES OF THE SECOND CLASS AND
10 SECOND CLASS A.

11 * * *

12 SECTION 3. TITLE 53 IS AMENDED BY ADDING A SECTION TO READ:
13 § 8722. HOTEL ROOM RENTAL TAX IN CERTAIN THIRD CLASS COUNTIES.

14 (A) GENERAL RULE.--A COUNTY MAY, BY ORDINANCE, IMPOSE A TAX
15 WHICH SHALL BE KNOWN AS A HOTEL ROOM RENTAL TAX ON THE
16 CONSIDERATION RECEIVED BY EACH OPERATOR OF A HOTEL WITHIN THE
17 COUNTY FROM EACH TRANSACTION OF RENTING A ROOM OR ROOMS TO
18 ACCOMMODATE TRANSIENTS. THE TAX SHALL BE COLLECTED BY THE
19 OPERATOR FROM THE PATRON OF THE ROOM AND PAID OVER TO THE COUNTY
20 WHERE THE HOTEL IS LOCATED AS PROVIDED UNDER THIS SECTION.

21 (B) RATE.--THE RATE OF THE TAX IMPOSED UNDER THIS SECTION
22 SHALL NOT EXCEED 5%.

23 (C) COLLECTION.--THE TREASURER OF EACH COUNTY ELECTING TO
24 IMPOSE THE TAX AUTHORIZED UNDER THIS SECTION SHALL COLLECT THE
25 TAX AND DEPOSIT THE REVENUES RECEIVED FROM THE TAX IN A SPECIAL
26 FUND ESTABLISHED FOR THAT PURPOSE. SUBSEQUENT TO THE DEDUCTION
27 FOR ADMINISTRATIVE COSTS ESTABLISHED IN SUBSECTION (F), THE
28 COUNTY SHALL DISTRIBUTE TO THE RECOGNIZED TOURIST PROMOTION
29 AGENCY ALL REVENUES RECEIVED FROM THE TAX NOT LATER THAN 60 DAYS
30 AFTER RECEIPT OF THE TAX REVENUES. THE REVENUES FROM THE SPECIAL

1 FUND SHALL BE USED BY THE RECOGNIZED TOURIST PROMOTION AGENCY
2 FOR ANY OR ALL OF THE FOLLOWING PURPOSES:

3 (1) CONVENTION PROMOTION.

4 (2) MARKETING THE AREA SERVED BY THE AGENCY AS A LEISURE
5 TRAVEL DESTINATION.

6 (3) MARKETING THE AREA SERVED BY THE AGENCY AS A
7 BUSINESS TRAVEL DESTINATION.

8 (4) USING ALL APPROPRIATE MARKETING TOOLS TO ACCOMPLISH
9 THESE PURPOSES, INCLUDING, BUT NOT LIMITED TO, ADVERTISING,
10 PUBLICITY, PUBLICATIONS, DIRECT MARKETING, DIRECT SALES AND
11 PARTICIPATION IN INDUSTRY TRADE SHOWS.

12 (5) PROJECTS OR PROGRAMS THAT ARE DIRECTLY AND
13 SUBSTANTIALLY RELATED TO TOURISM WITHIN THE COUNTY, AUGMENT
14 AND DO NOT UNDULY COMPETE WITH PRIVATE SECTOR TOURISM EFFORTS
15 AND IMPROVE AND EXPAND THE COUNTY AS A DESTINATION MARKET.

16 (6) ANY OTHER TOURISM MARKETING OR PROMOTION PROGRAM
17 DEEMED NECESSARY BY THE RECOGNIZED TOURIST PROMOTION AGENCY.

18 (D) TAX YEAR.--EACH TAX YEAR FOR ANY TAX IMPOSED UNDER THIS
19 SECTION SHALL RUN CONCURRENTLY WITH THE COUNTY'S FISCAL YEAR.

20 (E) REPORT.--AN AUDITED REPORT ON THE INCOME AND
21 EXPENDITURES INCURRED BY A RECOGNIZED TOURIST PROMOTION AGENCY
22 RECEIVING ANY REVENUES FROM THE TAX AUTHORIZED UNDER THIS
23 SECTION SHALL BE SUBMITTED ANNUALLY BY THE RECOGNIZED TOURIST
24 PROMOTION AGENCY TO THE COUNTY COMMISSIONERS.

25 (F) ADMINISTRATIVE FEE.--FOR THE PURPOSES OF DEFRAYING COSTS
26 ASSOCIATED WITH THE COLLECTION OF THE TAX IMPOSED UNDER THIS
27 SECTION AND OTHERWISE PERFORMING ITS OBLIGATIONS UNDER THIS
28 SECTION, A COUNTY IS HEREBY AUTHORIZED TO DEDUCT AND RETAIN AN
29 ADMINISTRATIVE FEE FROM THE TAXES COLLECTED HEREUNDER. SUCH
30 ADMINISTRATIVE FEE SHALL BE ESTABLISHED BY THE COUNTY BUT SHALL

1 NOT EXCEED IN ANY TAX YEAR THE LESSER OF:

2 (1) TWO PERCENT OF ALL TAXES COLLECTED UNDER THIS
3 SECTION; OR

4 (2) FIFTY THOUSAND DOLLARS, WHICH AMOUNT SHALL BE
5 ADJUSTED ANNUALLY, BEGINNING ONE YEAR AFTER THE DATE OF
6 ENACTMENT, BY THE THE PERCENTAGE GROWTH IN THE CONSUMER PRICE
7 INDEX FOR ALL URBAN CONSUMERS AS DETERMINED BY THE UNITED
8 STATES DEPARTMENT OF LABOR.

9 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
10 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
11 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

12 "CONSIDERATION." RECEIPTS, FEES, CHARGES, RENTALS, LEASES,
13 CASH, CREDITS, PROPERTY OF ANY KIND OR NATURE OR OTHER PAYMENT
14 RECEIVED BY OPERATORS IN EXCHANGE FOR OR IN CONSIDERATION OF THE
15 USE OR OCCUPANCY BY A TRANSIENT OF A ROOM OR ROOMS IN A HOTEL
16 FOR A TEMPORARY PERIOD.

17 "COUNTY." ANY COUNTY OF THE THIRD CLASS HAVING A POPULATION
18 UNDER THE 2010 FEDERAL DECENNIAL CENSUS IN EXCESS OF 430,000
19 RESIDENTS BUT LESS THAN 440,000 RESIDENTS.

20 "HOTEL." A HOTEL, MOTEL, INN, GUESTHOUSE OR OTHER STRUCTURE
21 WHICH HOLDS ITSELF OUT BY ANY MEANS, INCLUDING ADVERTISING,
22 LICENSE, REGISTRATION WITH AN INNKEEPERS' GROUP, CONVENTION
23 LISTING ASSOCIATION, TRAVEL PUBLICATION OR SIMILAR ASSOCIATION
24 OR WITH A GOVERNMENT AGENCY, AS BEING AVAILABLE TO PROVIDE
25 OVERNIGHT LODGING FOR CONSIDERATION TO PERSONS SEEKING TEMPORARY
26 ACCOMMODATION; ANY PLACE WHICH ADVERTISES TO THE PUBLIC AT LARGE
27 OR ANY SEGMENT THEREOF THAT IT WILL PROVIDE BEDS, SANITARY
28 FACILITIES OR OTHER SPACE FOR A TEMPORARY PERIOD TO MEMBERS OF
29 THE PUBLIC AT LARGE; OR ANY PLACE RECOGNIZED AS A HOSTELRY. THE
30 TERM DOES NOT INCLUDE ANY PORTION OF A FACILITY THAT IS DEVOTED

1 TO PERSONS WHO HAVE AN ESTABLISHED PERMANENT RESIDENCE OR A
2 COLLEGE OR UNIVERSITY STUDENT RESIDENCE HALL OR ANY PRIVATE
3 CAMPGROUND OR ANY CABINS, PUBLIC CAMPGROUNDS OR OTHER FACILITIES
4 LOCATED ON STATE LAND.

5 "OPERATOR." ANY INDIVIDUAL, PARTNERSHIP, NONPROFIT OR
6 PROFIT-MAKING ASSOCIATION OR CORPORATION OR OTHER PERSON OR
7 GROUP OF PERSONS WHO MAINTAIN, OPERATE, MANAGE, OWN, HAVE
8 CUSTODY OF OR OTHERWISE POSSESS THE RIGHT TO RENT OR LEASE
9 OVERNIGHT ACCOMMODATIONS IN A BUILDING TO THE PUBLIC FOR
10 CONSIDERATION.

11 "PATRON." ANY PERSON WHO PAYS THE CONSIDERATION FOR THE
12 OCCUPANCY OF A ROOM OR ROOMS IN A HOTEL.

13 "PERMANENT RESIDENT." ANY PERSON WHO HAS OCCUPIED OR HAS THE
14 RIGHT TO OCCUPY A ROOM OR ROOMS IN A HOTEL AS A PATRON OR
15 OTHERWISE FOR A PERIOD EXCEEDING 30 CONSECUTIVE DAYS.

16 "RECOGNIZED TOURIST PROMOTION AGENCY." THE NONPROFIT
17 CORPORATION, ORGANIZATION, ASSOCIATION OR AGENCY WHICH IS
18 ENGAGED IN PLANNING AND PROMOTING PROGRAMS DESIGNED TO STIMULATE
19 AND INCREASE THE VOLUME OF TOURIST, VISITOR AND VACATION
20 BUSINESS WITHIN COUNTIES SERVED BY THE AGENCY AS THAT TERM IS
21 PROVIDED UNDER THE ACT OF JULY 4, 2008 (P.L.621, NO.50), KNOWN
22 AS THE TOURISM PROMOTION ACT.

23 "ROOM." A SPACE IN A BUILDING SET ASIDE FOR USE AND
24 OCCUPANCY BY PATRONS, OR OTHERWISE, FOR CONSIDERATION, HAVING AT
25 LEAST ONE BED OR OTHER SLEEPING ACCOMMODATIONS PROVIDED.

26 "TEMPORARY RESIDENT." ANY PERSON WHO HAS OCCUPIED OR HAS THE
27 RIGHT TO OCCUPY A ROOM OR ROOMS IN A HOTEL AS A PATRON OR
28 OTHERWISE FOR A PERIOD OF TIME NOT EXCEEDING 30 CONSECUTIVE
29 DAYS.

30 "TRANSACTION." THE ACTIVITY INVOLVING THE OBTAINING BY A

1 TRANSIENT OR PATRON OF THE USE OR OCCUPANCY OF A HOTEL ROOM FROM
2 WHICH CONSIDERATION EMANATES TO THE OPERATOR UNDER AN EXPRESSED
3 OR IMPLIED CONTRACT.

4 "TRANSIENT." ANY PERSON WHO OBTAINS AN ACCOMMODATION IN ANY
5 HOTEL FOR THE PERSON BY MEANS OF REGISTERING AT THE FACILITY FOR
6 THE TEMPORARY OCCUPANCY OF A ROOM FOR THE PERSONAL USE OF THAT
7 PERSON BY PAYING TO THE OPERATOR OF THE FACILITY A FEE IN
8 CONSIDERATION THEREFOR.

9 Section 2 4. This act shall take effect in 60 days.

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